

# Public Document Pack



**Committee:** Planning Committee  
**Date:** Thursday 13 April 2017  
**Time:** 4.00 pm  
**Venue:** Bodicote House, Bodicote, Banbury, OX15 4AA

## Membership

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

## Substitutes

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

## 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 - 24)**

To confirm as a correct record the Minutes of the meeting of the Committee held on 16 March 2017.

**6. Chairman's Announcements**

To receive communications from the Chairman.

**Planning Applications**

7. **Land West Of M40 Adj To A4095, Kirtlington Road, Chesterton** (Pages 27 - 53)  
**16/01780/F**
8. **Church Leys Field, Blackthorn Road, Ambrosden** (Pages 54 - 83) **16/02370/F**
9. **Land South of and Adjoining Bicester Services, Oxford Road, Bicester**  
(Pages 84 - 119) **16/02505/OUT**
10. **OS Parcel 2200 Adjoining Oxford Road North Of Promised Land Farm, Oxford Road, Bicester** (Pages 120 - 154) **16/02586/OUT**
11. **OS Parcel 0005 South Of Hill Farm And North Of West Hawthorn Road, Ambrosden** (Pages 155 - 178) **16/02611/OUT**
12. **Rookery Barn, 66 Lower End, Piddington, Bicester, OX25 1QD**  
(Pages 179 - 194) **17/00133/F**
13. **9 Deers Close, Bodicote, Banbury, OX15 4EA** (Pages 195 - 204) **17/00257/F**

## **Review, Monitoring and Other Reports**

14. **Changes to the designation regime for local planning authorities** (Pages 205 - 231)

Report of Head of Development Management

### **Purpose of report**

This report outlines government changes to the designation regime for local planning authorities.

### **Recommendations**

1.1 The meeting is recommended:

To note the report.

15. **Appeals Progress Report** (Pages 232 - 235)

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](mailto: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](mailto:aaron.hetherington@cherwellandsouthnorthants.gov.uk), 01295 227956

**Ian Davies**  
**Interim Head of Paid Service**

Published on Wednesday 5 April 2017

## Cherwell District Council

### Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 16 March 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 D M Pickford  
Councillor Lynn Pratt  
Councillor Barry Richards  
Councillor Nigel Simpson  
Councillor Les Sibley
- Substitute Members: Councillor Ken Atack (In place of Councillor G A Reynolds)  
Councillor Barry Wood (In place of Councillor Richard Mould)
- Apologies for absence: Councillor Richard Mould  
Councillor G A Reynolds  
Councillor Nicholas Turner
- Officers: Bob Duxbury, Team Leader (Majors)  
Jenny Barker, Bicester Development Manager  
Caroline Ford, Principal Planning Officer  
Nat Stock, Team Leader (Others)  
Matt Chadwick, Planning Officer  
Nigel Bell, Team Leader - Planning / Deputy Monitoring Officer  
Aaron Hetherington, Democratic and Elections Officer

#### 163 **Declarations of Interest**

#### **7. Proposed Himley Village North West Bicester, Middleton Stoney Road, Bicester, Oxfordshire.**

Councillor D M Pickford, Non Statutory Interest, as a member of Bicester Town Council which was consulted on the application.

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

Councillor Lynn Pratt, Non Statutory Interest, as a member of Bicester Town Council which was consulted on the application.

**9. 60-62 Broad Street, Banbury, OX16 5BL.**

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

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

Councillor Andrew Beere, Non Statutory Interest, as a member of Banbury Town Council which was consulted on the application.

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

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

**10. The Hill, Dover Avenue, Banbury, OX16 0JE.**

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

Councillor Andrew Beere, Non Statutory Interest, as a member of Banbury Town Council which was consulted on the application.

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

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

Councillor Colin Clarke, Declaration, as a member of Banbury Town Council which was 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 Hannah Banfield, Non Statutory Interest, as a member of Banbury Town Council which was consulted on the application.

Councillor Ken Atack, 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.

**11. Former garage Block adjacent and South East of 2 Fenny Compton Road, Claydon.**

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

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 Ken Atack, 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.

**12. Land to the rear of The Methodist Church, The Fairway, Banbury.**

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

Councillor Andrew Beere, Non Statutory Interest, as a member of Banbury Town Council which was consulted on the application.

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

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

Councillor Colin Clarke, Declaration, as a member of Banbury Town Council which was 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 Hannah Banfield, Non Statutory Interest, as a member of Banbury Town Council which was consulted on the application.

Councillor Ken Atack, 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.

**13. Cherwell District Council, Former Offices, Old Place Yard, Bicester.**

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

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 Bicester Town Council which was 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 Ken Atack, 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.

**14. OS Parcels 4083 And 6882 Adjoining And North Of Broken Furrow, Warwick Road, Banbury.**

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

Councillor Andrew Beere, Non Statutory Interest, as a member of Banbury Town Council which was consulted on the application.

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

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

Councillor Colin Clarke, Declaration, as a member of Banbury Town Council which was 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 Hannah Banfield, Non Statutory Interest, as a member of Banbury Town Council which was consulted on the application.

Councillor Ken Atack, 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.

**15. OS Parcels 4083 And 6882 Adjoining And North Of Broken Furrow, Warwick Road, Banbury.**

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

Councillor Andrew Beere, Non Statutory Interest, as a member of Banbury Town Council which was consulted on the application.

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

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

Councillor Colin Clarke, Declaration, as a member of Banbury Town Council which was 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 Hannah Banfield, Non Statutory Interest, as a member of Banbury Town Council which was consulted on the application.

Councillor Ken Atack, 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.

164 **Requests to Address the Meeting**

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

165 **Urgent Business**

There were no items of urgent business.

166 **Minutes**

The Minutes of the meeting held on 16 February 2017 were agreed as a correct record and signed by the Chairman.

167 **Chairman's Announcements**

The Chairman made the following announcement:

1. Under the Openness of Local Government Bodies Regulations 2014, members of the public were permitted to film, broadcast and report on the meeting, subject to the efficient running of the meeting not being affected.

168 **Proposed Himley Village North West Bicester, Middleton Stoney Road, Bicester, Oxfordshire**

The Committee considered application 14/02121/OUT, an outline application for a development to provide up to 1,700 residential dwellings (Class C3), a retirement village (Class C2), flexible commercial floorspace (Classes A1, A2, A3, A4, A5, B1, C1 and D1), social and community facilities (Class D1), land to accommodate one energy centre and land to accommodate one new primary school (up to 2FE) (Class D1). Such development to include provision of strategic landscape, provision of new vehicular, cycle and pedestrian access routes, infrastructure and other operations (including demolition of farm buildings on Middleton Stoney Road) for Portfolio Property Partners Ltd. At the proposed Himley Village North West Bicester, Middleton Stoney Road, Bicester, Oxfordshire.

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

**Resolved**

That application 14/02121/OUT be approved subject to:

- i. Finalisation of a programme that has been received by the local authority, agreed and supported by Network Rail and the Local Highway Authority, that provides confirmation that the proposed road and tunnels under the railway at NW Bicester can be provided 2019/2020 prior to the issue of the planning permission.
- ii. The completion of a legal agreement in accordance with the attached Heads of Terms (annex to the Minutes as set out in the Minute Book), including delegation provided to Officers to negotiate the agreement, including the following requirement with regard to phasing;
- iii. The following set of conditions with delegation provided to the Head of Public Protection and Development Management to negotiate final amendments to the wording of conditions following a detailed review by Officers;

1. No more than 500 dwellings shall commence and be occupied until either;
  - a) The realigned Howes Lane and tunnel under the railway (as permitted under application 14/01968/F or such other application for the road and tunnel that has been approved) has been provided and is open to all traffic or;
  - b) The realigned Howes Lane and tunnel under the railway (as permitted under application 14/01968/F or such other application for the road and tunnel that has been approved) is subject to all necessary consents and approvals, such that there is certainty over the programme for its delivery and agreement is in place between the applicant and Cherwell District Council and the Local Highway Authority as to the phasing of the remaining 1200 dwellings and associated infrastructure the subject of application 14/02121/OUT
2. In the case of the reserved matters, application for approval shall be made for the first residential phase of development not later than the expiration of five years beginning with the date of this permission.
3. In the case of all other reserved matters, in respect of subsequent phases, application for approval shall be made not later than the expiration of seven years beginning with the date of this permission.
4. The development to which this permission relates shall be begun not later than the expiration of two years from the approval of the first residential phase reserved matter and for all other matters 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.
5. Except where otherwise stipulated by condition, the development shall be carried out in broad accordance with the following plans and documents:
  - Site Boundary Parameter Plan 1 (drawing number 592-PL-101 Rev B);
  - Demolitions Parameter Plan 2 (drawing number 592-PL-102 Rev B);
  - Land Use Parameter Plan 4 (drawing number 592-PL-103 Rev E);
  - Building Heights Parameter Plan 5 (drawing number 592-PL-104 Rev D);
  - Density Parameter Plan 6 (drawing number 592-PL-105 Rev D);
  - Landscape Parameter Plan 3 (drawing number 592-PL-106 Rev C);
  - Movement and Access Parameter Plan (drawing number 1665/75/04);
  - SUDs Parameter Plan (drawing number 1665/75/05 Rev B);
  - Document titled 'Storage Attenuation Volumes of Primary Swales (1665/76) dated July 2015;

- Tree Survey Report – document reference EED14995-100-R-7-1-3-TA dated January 2015 and accompanying appendices;
  - Sustainability and Energy Statement – document reference PENL2003 dated 17 December 2014
  - Surface Water Drainage Strategy and Flood Risk Assessment dated December 2014 and all additional correspondence relating to Drainage and Flood Risk.
6. Prior to the submission of the first reserved matters application, a phasing plan covering the entire site the subject of this application, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter each reserved matters application shall refer to a phase, phases, or part thereof identified in the approved phasing plan and development shall proceed in accordance with the approved phasing.
7. No more than 1700 dwellings falling within Use Class C3 shall be erected within the site.
8. No more than 100 dwellings falling within Use Class C2 shall be erected within the site.
9. No more than a total of 8,000sqm floor space shall be provided for the mixed uses set out in Table 1 and each use shall not exceed the maximum Gross Internal Area for that specified use. These uses shall only be provided within the areas of the site annotated for 'Other Uses and 'Social/ Community' on 'Land Use Parameter Plan 4' drawing number 592-PL-103 Rev E.

Table 1

Land Use	Maximum GIA (sqm)
Hotel (Class C1)	2,600sqm
Veterinary surgery (Class D1)	2,000sqm
Pub/ Community (Classes A4/ D1)	400sqm
Retail (Classes A1, A2, A3, A4, A5)	700sqm
Office (Class B1)	1,000sqm
Health facility (Class D1)	1,500sqm
Nursery (Class D1)	100sqm
Energy Centre (Sui Generis)	375sqm
Water treatment plant (Sui Generis)	450sqm

The approved uses shall remain within the Use Classes set out above as specified in the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 and for no other purpose(s) whatsoever.

10. No individual retail unit shall exceed 150 sq m in gross floor internal area with the exception of a single unit of a maximum of 300 sq m for a convenience store. Thereafter retail units shall not be amalgamated such that any individual unit exceeds 150 sq m or 300 sq m respectively.

Design

11. Prior to the submission of the first reserved matters application, an Urban Design Framework shall be submitted to and approved in writing by the Local Planning Authority. The Urban Design Framework shall set out the urban design approach for the site to include a regulating plan and supporting information to include;
- Details to provide continuity with adjacent development
  - Key approaches to deliver sustainable development that as a minimum meets the Eco Town PPS standards
  - Character areas for built form and green spaces and their key features
  - Indicative block size, structure and permeability
  - Movement network and streetscape including bus routes and stop locations
  - Public realm
  - Density and open space
  - Building heights
  - Key views, vista, landmarks, landscape character, trees and retained hedges
  - Legibility and diversity of built form and landscape
  - Adaptability
  - Play provision in accordance with Adopted Cherwell Local Plan Policy BSC 11

No reserved matters shall be submitted until the urban design framework has been approved in writing by the Local Planning Authority. All reserved matters applications and development shall thereafter be in accordance with the approved Urban Design Framework.

12. Prior to the submission of the first reserved matters application, a detailed masterplan for the area fronting the Middleton Stoney Road annotated as 'Other Uses' on Land Use Parameter Plan 4 drawing number 592-PL-103 Rev E, shall be submitted to and approved in writing by the Local Planning Authority. Reserved Matter applications for the area covered by the Masterplan shall be in accordance with the approved Masterplan. The masterplan shall show the location of each of the land uses, access and parking locations, key frontage and public space conditions and landscape principles.
13. Prior to the submission of the first reserved matter in each of the character areas containing built form, identified in the approved Urban Design Framework, a design code shall be provided for the whole of that character area which shall include;
- Street types, materials and details
  - Block Principles
  - Landscape, materials and details
  - Boundary treatments
  - Building types and Uses
  - Building heights
  - SUDS, parks and open spaces
  - Building Materials and Details

- Highway design details
- Parking Strategy

No reserved matters shall be submitted for that character area until the design code has been approved in writing by the Local Planning Authority. The development in the character area shall thereafter be in accordance with the approved design code.

14. Each reserved matter submission for built development shall be accompanied by details showing how Building for Life 12 has been used to inform the design process and that the scheme achieves Built for Life™.
15. In accordance with the parameter plans hereby approved, the following shall be provided:
  - A 20m Green Infrastructure strip (which shall not include residential gardens) shall be provided to the west of the boundary with Lovelynch House;
  - A 20m 'no build' buffer shall be provided to the north of the boundary with Lovelynch House;
  - A 30m 'no build' buffer (narrowing to a 20m along the northern section of the eastern boundary) shall be provided to the east of the boundary with Lovelynch House. This buffer shall include a 10m hedgerow buffer.

#### Dwellings

16. Prior to the submission of a reserved matters application for residential development a schedule of the market housing to be provided to meet local housing needs in each phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The market housing shall thereafter be provided in accordance with the approved schedule (and detailed reserved matter approval) unless otherwise agreed in writing by the Local Planning Authority.
17. All dwellings shall be provided with real time energy and travel information prior to occupation unless otherwise agreed in writing by the Local Planning Authority. Details for each phase shall be submitted to the Local Planning Authority and agreed in writing prior to the commencement of construction of dwellings.
18. Each reserved matters application shall be accompanied by a statement setting out how the design of buildings and the layout has taken account of future climate impacts, as identified in TSB research 'Future Climate Change Risks for NW Bicester', or any more recent assessment that has been published, and how the proposed development will be resilient to overheating, changing rainfall patterns and higher intensity storm events.
19. Prior to the commencement of each phase, those areas of the site that are subject to elevated levels of noise, principally from road traffic sources as set out in the Environmental Statement, shall be identified

and the dwellings that are constructed in these areas must be designed and constructed in such a manner that they contain elements of sound insulation that will ensure that the internal noise levels contained within BS 8233:2014 Table 4 can be achieved.

20. Noise levels from any mechanical plant and the energy centre shall not exceed the noise emission limits contained within table 10.15 of the Environmental Statement. Any reserved matters submission for the energy centre or for development that will include mechanical plant shall include details of how the noise emission limits for that development will be met.

#### Phase conditions

21. All phases of development shall be provided with high speed broad band (not less than 100mbs); such that on occupation of each building on the phase the occupiers can secure a high speed broad band connection.
22. No development shall commence on construction of any development approved by a reserved matter until a report has been submitted outlining how carbon emissions from the construction process and embodied carbon have been minimised. No work shall commence until the report has been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the plan.

#### Transport

23. Each reserved matters application shall include full details of the means of vehicular accesses between the land and the highway, including, position, layout, construction, drainage and vision splays. Thereafter, the means of access shall be constructed and retained in accordance with the approved details.
24. Each reserved matters application shall include full details of the means of footway and cycleway links between the land and the local highway network, including, position, layout, construction, drainage and street lighting. Thereafter, the means of footway and cycleway links shall be constructed and retained in accordance with the approved details.
25. The pedestrian and cycle routes shall be signed in accordance with details to be submitted to and agreed in writing by the Local Planning Authority prior to the first occupation of any dwellings. The signage shall then be provided for each route prior to its first use.
26. No development shall commence on a phase until a Construction Traffic Management Plan providing full details of the phasing of the construction of that phase has been submitted to and approved in writing by the Local Planning Authority (in consultation with the Local Highway Authority). This plan is to include wheel washing facilities, a restriction on construction & delivery traffic during the peak traffic

periods and an agreed route for HGV traffic to the development site. The approved Plan shall be implemented in full during the entire construction period of the phase.

27. Each reserved matter application shall be accompanied by a Travel Plan setting out how the development will enable at least 50 per cent of trips originating within the development to be made by non-car means, with the potential for this to increase over time to at least 60 per cent, in accordance with the Eco Towns PPS ET 11.2 (a). The Travel Plan shall be submitted to and agreed in writing by the Local Planning Authority prior to any occupations and the actions of the travel plan shall thereafter be delivered in accordance with the Travel Plan.

#### Contamination

28. 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.
29. If a potential risk from contamination is identified as a result of the work carried out under condition [28], 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.
30. If contamination is found by undertaking the work carried out under condition [29], 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.



31. If remedial works have been identified in condition [30], the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition [30]. 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.
32. Piling or any other foundation designs using penetrative methods within any area identified as being subject to risk from contamination shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater quality. The development shall be carried out in accordance with the approved details.
33. If, during development, contamination not previously identified 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 a remediation strategy has been submitted to the local planning authority. The remediation strategy shall detail how this unsuspected contamination shall be dealt with and written approval from the local planning authority shall be obtained. The remediation strategy shall be implemented as approved.
34. The development hereby permitted shall not be commenced until such time as a pollution prevention scheme to dispose of contaminated surface water has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

#### Biodiversity

35. No development shall commence on a phase unless or until an up to date ecological survey has been undertaken to establish changes in the presence, abundance and impact on bio diversity within that phase. The survey results, together with any necessary changes to the mitigation plan or method statement 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.
36. The retained hedges shall have a buffer a minimum of 20m in width comprising of 10m either side of the retained hedge except where they form part of a dark corridor where the buffers shall extend to a minimum width of 40m comprising of 20m either side of the retained hedge, and the woodlands shall have a buffer around their perimeter a minimum of 10m in width when measured from the canopy edge, unless otherwise agreed in writing by the Local Planning Authority. The hedge and woodland buffers shall be maintained as public open space and managed to maintain and create bio diversity.
37. No development shall commence on a phase until details of any existing hedgerow, or part thereof, to be removed, and proposals for

creation of new compensatory hedgerow, have been submitted to and approved in writing by the Local Planning Authority. The compensatory hedgerow shall be provided in accordance with the approved details.

38. No development shall commence on a phase until a scheme for the provision of protective fencing, to prevent damage during construction, for the retained hedgerows, trees, woodlands, ponds and areas of green space, has been submitted to and approved in writing by the Local Planning Authority. The approved fencing shall be installed in accordance with the approved plans prior to work commencing on site.
39. A protection area for Newts, a minimum of 50m in circumference, around the two ponds on the site and the land between them shall be provided in accordance with that shown on 'Landscape Parameter Plan 3' drawing number 592-PL-106 Rev C. No removal of suitable aquatic and terrestrial habitat within 250m of the breeding ponds shall be carried out unless otherwise agreed in writing by the Local Planning Authority.
40. Prior to the submission of the first reserved matters application, a Bio Diversity Strategy for the site shall be submitted and approved in writing by the local planning authority. Each reserved matter application shall be accompanied by a statement setting out how the proposed development will contribute to achieving the Bio Diversity Strategy and net biodiversity gain. The development shall be carried out in accordance with approved the biodiversity statement.
41. No development shall commence on a phase until a Landscape & Habitat Management Plan (LHMP) for that phase detailing both management and monitoring proposals for green space (excluding building curtilages) has been submitted to and approved in writing by the Local Planning Authority and thereafter the LHMP shall be implemented in accordance with the approved details.
42. No development shall commence on a phase until a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works in that phase do not adversely affect the existing biodiversity of the site and residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with approved CEMP.
43. No development shall commence on a phase until a Soil Resources Plan that details the soils present, proposed storage locations, handling methods and locations for reuse, within that phase, shall be submitted to and approved in writing by the local planning authority and thereafter the development shall be carried out in accordance with the approved plan.

44. No development shall commence on a phase until details of existing and proposed levels for that phase have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved levels.
45. Prior to the commencement of a phase, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions including details of tree protection 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 with all tree protection erected prior to development commencing on that phase.

#### Archaeology

46. Prior to any demolition on the site, the commencement of the development and any archaeological investigation, a professional archaeological organisation acceptable to the Local Planning Authority shall prepare a first stage archaeological Written Scheme of Investigation, relating to the application area, which shall be submitted to and approved in writing by the Local Planning Authority.
47. Prior to any demolition on the site (other than in accordance with the agreed Written Scheme of Investigation) and prior to the commencement of the development and following the approval of the first stage Written Scheme of Investigation referred to in condition [46], a programme of archaeological evaluation, investigation and recording of the application area shall be carried out by the commissioned archaeological organisation in accordance with the approved first stage Written Scheme of Investigation.

#### Outdoor Sport (The requirement for these conditions is being checked with Sport England)

48. No development shall commence until details for the phasing of the provision of the sports pitches has been submitted to and approved in writing by the Local Planning Authority [after consultation with Sport England]. The development hereby permitted shall not be carried out other than in accordance with the approved details.
49. No development shall commence on the provision of the sports pitches until details of the design and layout of the sports facilities serving that phase have been submitted to and approved in writing by the Local Planning Authority [after consultation with Sport England]. The sports facilities shall not be constructed other than substantially in accordance with the approved details.
50. The playing field/s and pitch/es shall be constructed and laid out in accordance with the standards and methodologies set out in the guidance note "Natural Turf for Sport" (Sport England, 2011), and shall be made available for use in accordance with the agreed phasing unless agreed in writing by the Local Planning Authority.

## Drainage

51. Prior to the commencement of development impact studies of the existing water supply infrastructure shall be submitted to, and approved in writing by, the local planning authority (in consultation with Thames Water). The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point.
52. Prior to the commencement of the development, a foul drainage strategy for conveyance and treatment, detailing any on and/or off site drainage works, shall be submitted to and approved by the local planning authority. 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. No dwelling shall be occupied until the foul drainage has been provided in accordance with the approved strategy.
53. Prior to the submission of the first reserved matters application, a full surface water strategy for the application site, in accordance with the Flood Risk Assessment hereby approved, shall be submitted to and approved in writing by the Local Planning Authority (in consultation with Oxfordshire County Councils Drainage Team & Natural England). The development shall be carried out in accordance with the approved Drainage Strategy.
54. In addition to the site wide detailed surface water drainage strategy, each reserved matters application shall be accompanied by a detailed surface water drainage scheme, to meet the flood risk, water quality, green infrastructure and biodiversity requirements of the site. The detailed surface water drainage scheme shall be in compliance with the approved Flood Risk Assessment, Surface Water Drainage Strategy and the Masterplan Surface Water Drainage Strategy and the approved site wide detailed surface water drainage strategy. No development shall commence until the detailed reserved matter surface water drainage scheme has been approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.
55. The development shall be constructed so as to achieve a demand for potable water that does not exceed 110 l/p/d and details of measures to be used to achieve this demand shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of each phase. The development shall be carried out in accordance with the details so approved.
56. Prior to the commencement of the development, details of the strategy to work towards water neutrality, in accordance with the Eco Towns PPS shall be submitted to and approved in writing by the Local Planning Authority. Each reserved matters application shall demonstrate how it meets the approved strategy.

## Employment

57. All non-residential buildings shall be constructed to BREEAM Excellent.
- Waste
58. Prior to the commencement of a phase, a Site Waste Management Plan, targeting zero waste to landfill, shall be submitted to and approved in writing by the Local Planning Authority. The approved Site Waste Management Plan shall thereafter be implemented in accordance with the approved details.
59. No waste shall be brought to the site for the purpose of use within any future energy centre.
60. Notwithstanding the submitted drawing titled 'Building Heights – Parameter Plan 5' (drawing number 592-PL-104 Rev D), the maximum height at the north of the site (indicated in dark orange) shall not exceed 17m.

169 **Barn, Bramshill Park Farm, Horley**

The Chairman advised the Committee that application 16/02355/F had been withdrawn by the applicant.

170 **60-62 Broad Street, Banbury, OX16 5BL**

The Committee considered application 16/02529/F for alterations to building and change of use to form retail units at ground floor level and 12 No self-contained flats over (re-submission of application 16/00292/F) for Mentor Inns LLP at 60-62 Broad Street, Banbury, OX16 5BL.

Rob Kinchin-Smith, Friends of the Grand Theatre, addressed the committee in objection to the application.

Mitchell Barnes, agent to the applicant, addressed the committee in support of the application.

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

**Resolved**

That application 16/02529/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 forms, Design and Access Statement, 1590 – LP – BP, 1590 – P – 10, 1590 – P – 11, 1590 – P – 12, 1590 – P – 13a, 1590 – P – 14 and 1590 – P – 15.
3. Prior to the commencement of the development hereby approved, a brick sample panel (minimum 1m<sup>2</sup> in size) shall be constructed on site which shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the development to be constructed of brick shall be constructed in strict accordance with the approved brick sample panel.
4. Prior to the commencement of the development hereby approved, samples of the slate to be used for the covering of the roof of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.
5. Prior to the commencement of the development hereby approved, samples of the render to be used for the walls of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.
6. Prior to the commencement of the development hereby approved, full details of the doors and windows, including a cross section and colour/finish, together with cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the door and windows shall be installed in accordance with the approved details.
7. Prior to the commencement of the development hereby approved, full design details of the shop fronts facing onto Broad Street, including details of materials and finished colour, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the shop fronts shall be finished in accordance with the approved details.
8. Prior to the commencement of the development hereby approved, full details of the rainwater goods servicing the development, including details of materials and finished colour, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the rainwater goods shall be installed in accordance with the approved details.
9. Prior to the commencement of the development hereby approved, a specialist acoustic consultant's report that demonstrates that internal noise levels do not exceed the levels specified (or gives details of mitigation measures required to achieve these levels) in the British Standard BS 8233:2014 'Guidance on Sound Insulation and Noise Reduction for Buildings', shall be submitted to and approved in writing by the Local Planning Authority. If required thereafter, and prior to the

first occupation of the dwellings affected by this condition, the dwellings affected by this condition shall be insulated and maintained in accordance with the approved details.

10. Prior to the commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) for the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the plan shall be implemented and operated in accordance with the approved details.
11. 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.
12. A Travel Information Pack, the details of which are to be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the development, shall be provided to every household.
13. 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
  - No private drainage into the public highway drainage system
14. No demolition (including the demolition of the auditorium) and no removal of internal features, shall be carried out until a binding contract for the whole of the consented development has been made and agreed in writing by the Council.
15. Notwithstanding the provisions of Schedule 2, Part 1, Class H of The Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, no radio or TV aerials, satellite dishes or other antennae shall be affixed to the front façade of the building without the prior express planning consent of the Local Planning Authority.

171 **The Hill, Dover Avenue, Banbury, OX16 0JE**

The Committee considered application 17/00197/CDC which sought consent to demolish the existing community centre accessed off Dover Avenue and rebuild a new community centre, 'The Hill', in Bretch Hill, Banbury for Cherwell District Council (Build Department).

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

**Resolved**

That permission for application 17/00197/CDC be 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.
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 forms, Design and Access Statement, 2016045 – A – D – 01 – 040 Rev A, 2016045 – A – D – 01 – 060 Rev A, 2016045 – A – P – 01 – 100, 2016045 – A – P – 01 – 120, 2016045 – A – P – 01 – 121, 2016045 – A – P – 01 – 122 and 2016045 – A – P – 01 – 123.
3. Prior to the commencement of the development hereby approved, samples of the brick, render and timber effect cladding to be used for the external walls of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.
4. Prior to the commencement of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-
  - (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
  - (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
  - (c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps.

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



5. Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the turning area and car parking spaces to be provided within the curtilage of the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the turning area and car parking spaces shall be constructed in accordance with the approved details and shall be retained for the parking and manoeuvring of vehicles at all times thereafter.
6. 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.
7. Prior to the commencement of the development hereby approved, a Construction Management Plan (CMP) for the site shall be submitted to and approved in writing by the Local Planning Authority. The submitted CMP shall include the following:
  - Details of the routing of construction traffic and delivery vehicles and associated signage.
  - Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.
  - Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
  - Details of the parking of site related vehicles (construction workers, traffic and delivery vehicles etc.) to be accommodated within the site.
  - Details of the arrangements for keeping local residents informed of site deliveries and other highway related impacts of the construction phase of development.

Thereafter, the CMP shall be implemented in accordance with the approved details and shall be adhered to throughout the construction phase of development.

8. Prior to the installation of any external lighting required in association with the approved development, full details of the siting, design and technical specification of the lighting shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the lighting shall be installed and retained in accordance with the approved details.
9. Prior to the installation of any external extraction or air conditioning equipment or any other fixed plant associated with the approved development, full details of the siting, design and technical specification of the plant and equipment shall be submitted and approved by the Local Planning Authority. Thereafter, the plant and

equipment shall be installed and retained in accordance with the approved details.

10. Prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of lead 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.
11. If contamination is found by undertaking the work carried out under condition 10, 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.
12. If remedial works have been identified in condition 11 the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 11. 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.
13. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

172

**Former garage Block adjacent and South East of 2 Fenny Compton Road, Claydon**

The Committee considered application 16/00560/DISC for the discharge of Conditions 6 (vehicle access consent) of 14/00099/CDC for Cherwell District Council – Mrs Fiona Brown at the Former garage Block adjacent and South East of 2 Fenny Compton Road, Claydon.

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

**Resolved**

That the Local Planning Authority considers that the details submitted pursuant to Condition 6 of planning permission 14/00099/CDC were acceptable, and as such it is recommended that the said conditions be discharged.

173 **Land to the rear of The Methodist Church, The Fairway, Banbury**

The Committee considered application 17/00017/DISC for the discharge of Conditions 12 (estate access construction details), 13 (parking and manoeuvring areas) and 15 (parking bay numbers) of 16/00313/CDC for Cherwell District Council at Land to the rear of The Methodist Church, The Fairway, Banbury.

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

**Resolved**

That the Local Planning Authority considered that the details submitted pursuant to Conditions 12, 13 and 15 of planning permission 16/00313/CDC were acceptable, and as such the said conditions be discharged.

174 **Cherwell District Council, Former Offices, Old Place Yard, Bicester**

The Committee considered application 17/00051/DISC for the Part discharge of condition 10 (Drainage Scheme) and discharge of condition 20 (Emergency and refuse vehicle turning on site) of 16/00043/F for Cherwell District Council at Cherwell District Council, Former Offices, Old Place Yard, Bicester.

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

**Resolved**

That authority be delegated to officers to determine application 17/00051/DISC once comments have been received from the Highway Authority.

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

The Committee considered application 17/00071/DISC for the discharge of condition 6 (Amended elevation design details) of 16/01484/CDC for Cherwell District Council at OS Parcels 4083 And 6882 Adjoining and North Of Broken Furrow, Warwick Road, Banbury.

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

**Resolved**

That authority be delegated to officers to determine the application 17/00071/DISC once satisfactory revised drawings have been received.

176

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

The Committee considered application 17/00076/DISC for discharge of Condition 6 (Amended Elevation Design Details) of 16/01485/CDC for Cherwell District Council at OS Parcels 4083 And 6882 Adjoining and North of Broken Furrow, Warwick Road, Banbury.

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

**Resolved**

That authority be delegated to officers to determine the application 17/00076/DISC once satisfactory revised drawings have been received.

177

**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 5.42 pm

Chairman:

Date:

## CHERWELL DISTRICT COUNCIL

### PLANNING COMMITTEE

13 April 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.

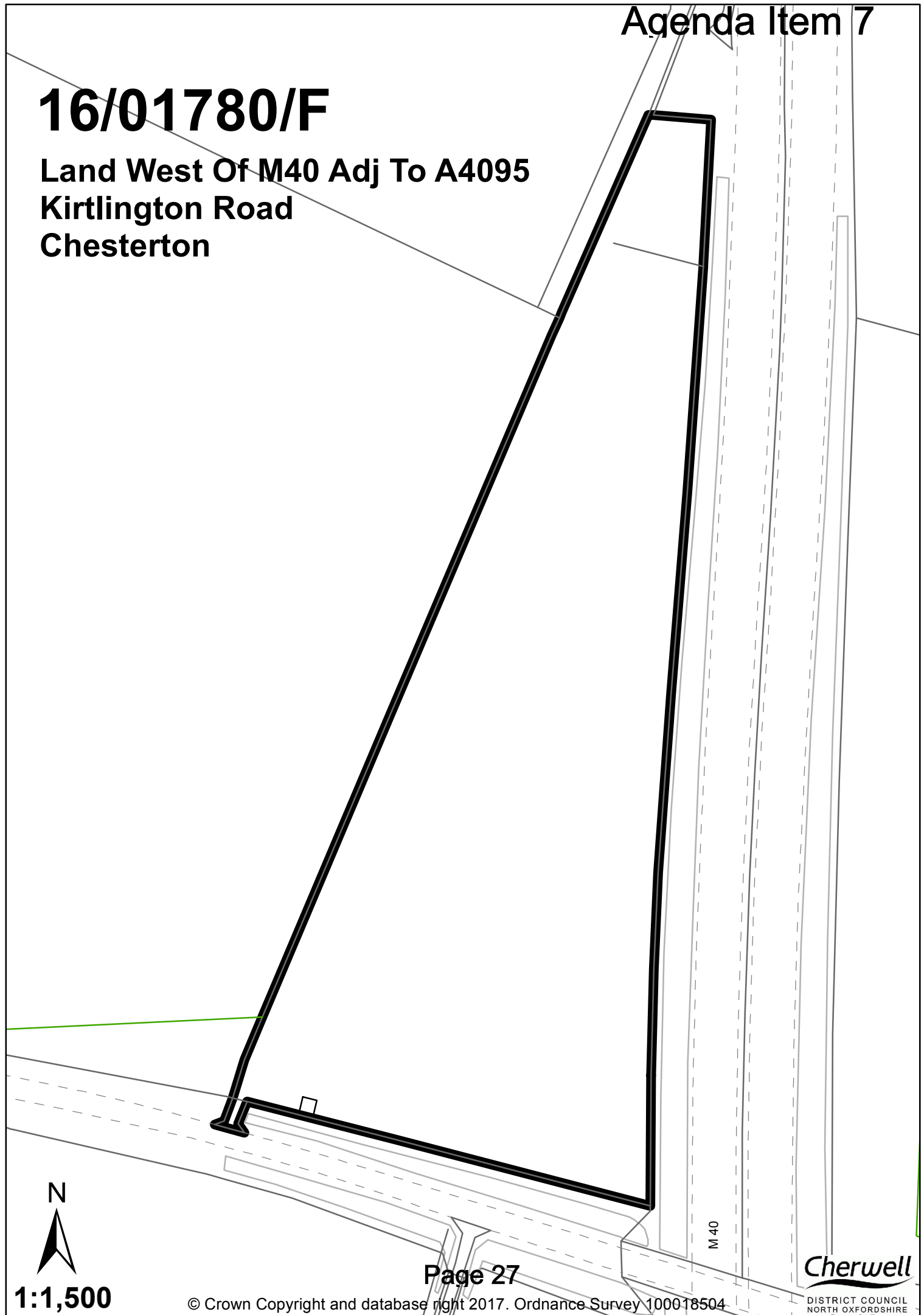
#### **Background Papers**

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

	<b>Site</b>	<b>Application No.</b>	<b>Ward</b>	<b>Recommendation</b>	<b>Contact Officer</b>
7	Land West Of M40 Adj To A4095 Kirtlington Road Chesterton	16/01780/F	Fringford And Heyfords	Approval	Stuart Howden
8	Church Leys Field Blackthorn Road Ambrosden	16/02370/F	Launton and Otmoor	Refusal	Matthew Parry
9	Land South of and Adjoining Bicester Services, Oxford Road, Bicester	16/02505/OUT	Bicester South and Ambrosden	Approval	Linda Griffiths
10	OS Parcel 2200 Adjoining Oxford Road North Of Promised Land Farm Oxford Road Bicester	16/02586/OUT	Fringford And Heyfords	Approval	Matthew Parry
11	OS Parcel 0005 South Of Hill Farm And North Of West Hawthorn Road Ambrosden	16/02611/OUT	Bicester South and Ambrosden	Refusal	Bob Duxbury
12	Rookery Barn 66 Lower End Piddington Bicester OX25 1QD	17/00133/F	Launton and Otmoor	Approval	Gemma Magnuson
13	9 Deers Close Bodicote Banbury OX15 4EA	17/00257/F	Adderbury, Bloxham and Bodicote	Approval	Matthew Coyne

**16/01780/F**

**Land West Of M40 Adj To A4095  
Kirtlington Road  
Chesterton**



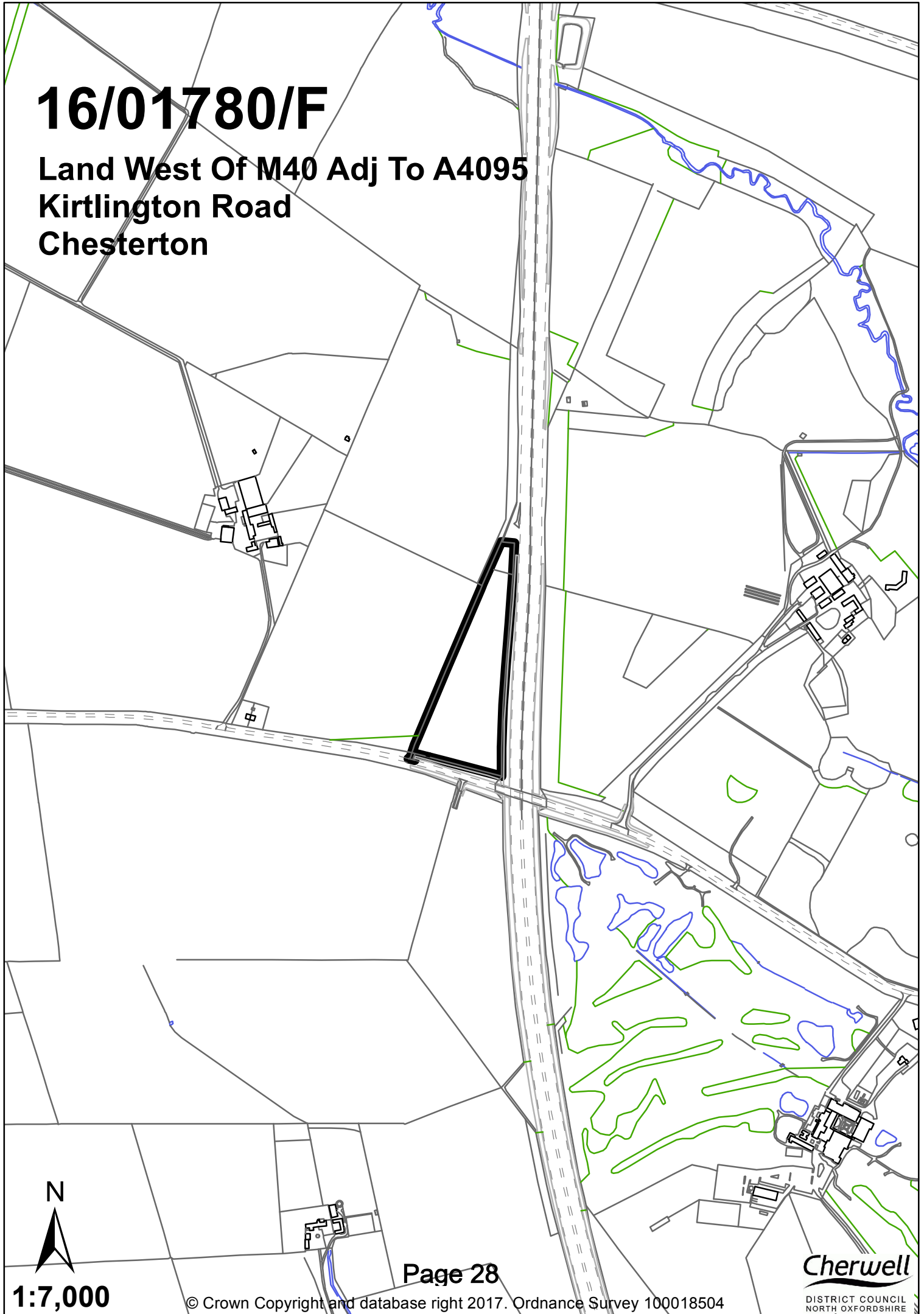
M40



**1:1,500**

# 16/01780/F

Land West Of M40 Adj To A4095  
Kirtlington Road  
Chesterton



N  
1:7,000



Kirtlington Road  
Chesterton

**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:** 2<sup>nd</sup> December 2016 **Extension of Time:** 17<sup>th</sup> February 2017

---

**Ward:** Fringford And Heyfords **Committee Date:** 13<sup>th</sup> April 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 serious 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 The bund and fence was subsequently removed from the proposal to reduce the impact of the development upon the character and appearance of the area, and the number of pitches was reduced to 8. Furthermore, a Flood Risk Assessment was submitted. Whilst the application remains for a permanent consent, the applicant also indicated a willingness to accept a temporary consent if a permanent consent is not acceptable to the Local Planning Authority; the merits of this are considered in the "Appraisal" section of this report.
- 2.9 The application then came before members at Planning Committee in February 2017. However, in response to a late objection submitted on behalf of a number of local residents which raised concerns about air quality, officers had again reported the application for deferral as the effects of the traffic emissions from the nearby M40 on potential future residents of the proposed development were not clear. The Council's Environmental Protection Officer commented on the air quality issue raised that "*At this stage we don't have information which*

*shows air quality is above an objective, but it is a strong possibility. If it is above an objective, the LPA would be placing resident's health at risk by permitting this application, even as a temporary consent.*" The Planning Committee resolved to defer the application on this basis in order for the applicants to provide evidence on the effects of traffic emissions from the M40 on potential future residents.

2.10 An Air Quality Assessment (AQA) was subsequently submitted to the Council by the applicants' agent. The AQA seeks to determine the effects of traffic emissions from the nearby M40 and A4095 on potential future residents of the proposed development and to therefore determine the site's suitability for the proposed use. The AQA concludes that background pollution concentrations at the application site are likely to be below the relevant UK Air Quality Strategy (UKAQS) concentrations, which are based on compliance with European Union limit values; this is considered further 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 47 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 rural character and appearance 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;
- Harm to the significance and setting of the Grade II listed barn within Fields Farm;
- 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;
- Additional cars at the school as a result of the proposal will make the hazard at pick-up and drop off times more serious;
- Noise to future residents as the site is located next to the M40 and the Noise assessment conducted on behalf of the applicants acknowledges this;
- A noise survey has been conducted by a third party outlining harm would be cause to the proposed residents of the site;
- Allowing the site as a temporary permission does not provide the opportunity to properly assess the site's impacts in relation to noise;
- Air pollution to future residents;
- It is not clear why the Air Quality Assessment does not take data from roadside monitors;
- 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;
- The application description should note that the proposal is for a temporary use;
- The use of a temporary consent is not in line with national policy, as set out in the PPG;
- The application is not valid because:
  - There are no drawings of static caravans;
  - No paper size is given on the plans;
  - No amended D&A has been submitted with the application;
  - There FRA is not available on public access and the public should be re-consulted;
  - There is no heritage statement is provided.

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) had 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 had 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 noise levels modelled for the outside amenity areas 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.
- In relation to air quality, an AQA has been submitted by the applicants' agent and this has been reviewed by the EPO. The EPO has no objections relating to air quality.
- 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 2016 (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)
- The UK Air Quality Strategy (UKAQS)
- Cherwell District Council Statement of Community Involvement (July 2016)

## 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;
- Heritage Impact;
- 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) 2016 (March 2017) outlines that at the 31<sup>st</sup> March 2015 the total number of authorised pitches in Cherwell for Gypsies and Travellers was 61. It states that the District currently has a -1-1 year land supply for accommodation of gypsies and travellers for the period 2016-2021 (down from 2.9 for the period 2015-2020) and a 1.6 year land supply for the period of 2017-2022. The AMR further outlines that there is an overall requirement of an additional 28 pitches over the plan period (taking into account all those that are anticipated to be lost in the period 2016-2021). It is worth highlighting that the 11 new pitches that were approved at Corner Cottage and The Stable Block in Mollington last year (ref: 16/01740/F and 16/01760/F) have been factored into the land supply in the AMR.

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 has been compounded with the closure of the Smith's traveller site (Newlands Caravan Park) at Bloxham on 31<sup>st</sup> January 2017; this will result in the loss of 36 previously authorised pitches and this has been factored into the latest AMR. 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 23<sup>rd</sup> 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 significant 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 a permanent consent 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 for significant additional harm in the future also weighs against the proposal.

#### Heritage Impact

- 8.28 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.

- 8.29 Paragraph 128 of the NPPF states that: *“In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.”*
- 8.30 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. 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.”*
- 8.31 Paragraph 134 of the NPPF 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 of the proposal, including securing its optimum viable use.”*
- 8.32 A third party has noted that a Heritage Statement should have been submitted alongside the application given the proximity of the site to a Grade II listed barn at Field Farm to the north west of the site. The third party also noted that the impact upon this Grade II listed barn should be considered by the Local Planning Authority. However, the site is approximately 350 metres from this heritage asset and an agricultural field separates these two entities. Furthermore, the site is visually separated from the listed building by existing buildings and landscaping. Overall, given this separation, officers consider that the proposed development on the site, including structures no more than single storey in scale, would not materially alter the way this barn is appreciated or experienced in a rural setting, and that a Heritage Statement is not necessary in this instance. Thus, it is considered that the proposal would not cause harm to the significance and setting of this Grade II listed barn.

#### Highways Safety

- 8.33 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.”*
- 8.34 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.

- 8.35 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.
- 8.36 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.
- 8.37 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.
- 8.38 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.
- 8.39 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.
- 8.40 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

- 8.41 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.
- 8.42 Paragraph 120 of the NPPF states that *“To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or Proposed Development to adverse effects from pollution, should be taken into account”*.

- 8.43 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.
- 8.44 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.”*
- 8.45 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.
- 8.46 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.
- 8.47 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. 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.
- 8.48 In an attempt 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 these 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.
- 8.49 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 British Standard limits for bedrooms at night. The EPO goes on to state that the levels of noise in the outside amenity area 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 Effects” on the health and wellbeing of residents of the new development which the Noise PPG and NPSE advises should be avoided.
- 8.50 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 Effects 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.



- 8.51 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 exposure to 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. A third party has also conducted a Noise Assessment Review and this concludes that the site would not be appropriate for a residential development of this nature and that it would likely fall within the Significant Observed Adverse Effect Level category of the PPG and NPSE.
- 8.52 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 Effects on the health and wellbeing of these proposed future occupiers. Government Guidance is that the effect of this level of noise is both noticeable and disruptive and so this impact should be avoided. This weighs significantly against the proposals.
- 8.53 Third parties have also raised concerns in relation to air pollution from vehicles using the M40 affecting the proposed residents of the development. The effects of the traffic emissions from the nearby M40 on potential future residents of the proposed development had not been properly addressed by the applicants, and if air quality were to be below acceptable legal limits, the LPA would be placing resident's health at risk by permitting this application, even as a temporary consent. Thus an AQA was requested by the LPA and this has now been submitted to the Council by the applicants' agent. The AQA seeks to determine the effects of traffic emissions from the nearby M40 and A4095 on potential future residents of the proposed development and to therefore determine the site's suitability for the proposed use.
- 8.54 The AQA uses modelling to assess the annual mean concentrations of oxides of nitrogen and fine particle matter on the site as a result of vehicular emissions. The model predicts that air pollution concentrations across the proposed development are likely to remain well below the relevant UK AQs concentrations, which are based on compliance with European Union limit values. The Council's EPO has assessed the AQA and has stated that they have no objections relating to air quality.
- 8.55 A third party has questioned why roadside monitors were not considered when measuring pollutants and that any assessment should use original data taken from the site in order to properly assess and predict conditions for occupants. Whilst this is acknowledged and on site monitoring would likely be more accurate, the Council's EPO has noted that they are content with the information provided on behalf of the applicants and is of the opinion that the model is a robust way of predicting air pollution concentrations across the proposed development. The EPO has also noted that on site monitoring would likely take a minimum period of three months for accuracy purposes. I see no reason to disagree with the EPO. It is worth noting that the M40 is sited to the east of the site and the predominant wind direction is west to east, and that the site is on higher ground to the M40. Given the above, it is considered that the proposed development is unlikely to cause materially detrimental levels of air pollution.

### Ecological Impact

- 8.56 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”*.
- 8.57 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.”*
- 8.58 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.
- 8.59 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

- 8.60 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.
- 8.61 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.
- 8.62 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.

- 8.63 A third party has noted that the FRA was not available on public access and that the public should be re-consulted once it is available. This matter has now been rectified and whilst it is not normally the case that it is appropriate to consult third parties on technical documents, those third parties who commented on the application have been re-consulted.

#### Other Matters

- 8.64 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.
- 8.65 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.
- 8.66 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.
- 8.67 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.
- 8.68 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.
- 8.69 A third party has stated that the applicant has failed to provide sufficient and correct details to make the application valid. This is because the application does not include plans of the static caravans and an amended Design and Access Statement, and because the size of the paper is not specified on the drawings. Static caravans vary in terms of their appearance and are not permanent structures and so can be changed over time. Moreover they are single storey in scale and the submitted site plan defines the footprint of these structures, providing sufficient

control over the size and siting of these structures. Therefore full details of such structures have not been requested. In relation to an amended Design and Access Statement to reflect the alterations to the proposal, this is not considered necessary in this case, but an amended Design and Access Statement has been received and is now available on Public Access. In relation to the specified paper size on the plans, whilst this would have been ideal, I see this no reason to invalidate this application in this instance, especially when a scale bar is provided on the plans which is adequate to determine the dimensions involved.

- 8.70 Regarding concerns raised about the consultation process, particularly following amendments made to the application, Cherwell Council's Statement of Community Involvement is clear that the decision on whom to consult or re-notify about amendments rests with the case officer. This is consistent with the guidance in the PPG which advises that the decision whether and whom to consult depends on a number of factors including the impact of the changes and whether the changes raise new or different issues that might reasonably result in those who were consulted originally commenting differently. In this case, officers have given due regard to the requests for further consultation and all those who originally commented on the application have now been given the opportunity to provide further comments on the additional and revised information.
- 8.71 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.
- 8.72 A third party has stated that the application description should highlight that permission is sought for a temporary period as this has been agreed prior to the re-consultation of the application. However, the application remains for a permanent consent and whilst the applicant has been made aware of the previous recommendation of officers to grant a temporary consent, the applicant has not agreed to the application or description of development being amended in this way. Therefore the Local Planning Authority considers that there is no requirement to state this in the application description.
- 8.73 A third party has also noted that a temporary consent should not be considered as it is not in line with national policy, as set out in the PPG, as the effects of the development are clear and this will not change in the intervening period. The third party goes on to note that there is no policy or supporting text within national guidance allowing a temporary permission in order to find more suitable sites. Whilst the advice in the PPG is acknowledged, the guidance in Paragraph 27 of the PPTS is considered to be more relevant for gypsy/traveller sites than the general advice in the PPG around the use of temporary consents. Paragraph 27 of the PPTS states that consideration should be given to temporary consents if a LPA cannot demonstrate an up-to-date 5 year supply of deliverable sites, and there is no presumption that a temporary grant of permission should be granted permanently.
- 8.74 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 significant 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 verified, to determine whether the mitigation proposed (bund or bund/fence) would in fact be adequate to make the site suitable in noise terms on a more permanent basis. 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;
- Site Plan at 1:2500 scale print at A4 submitted with the application;
- Cover Letter from Phillip Brown received by the LPA on 29<sup>th</sup> December 2016;
- Drawing titled 'Site Layout Plan' at 1:1000 Scale received from the applicants' agent by e-mail on 27<sup>th</sup> January 2017; and
- Drawing Number PBA4 received from the applicants' agent by e-mail on 30<sup>th</sup> 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 27<sup>th</sup> 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 13<sup>th</sup> April 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 temporary 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



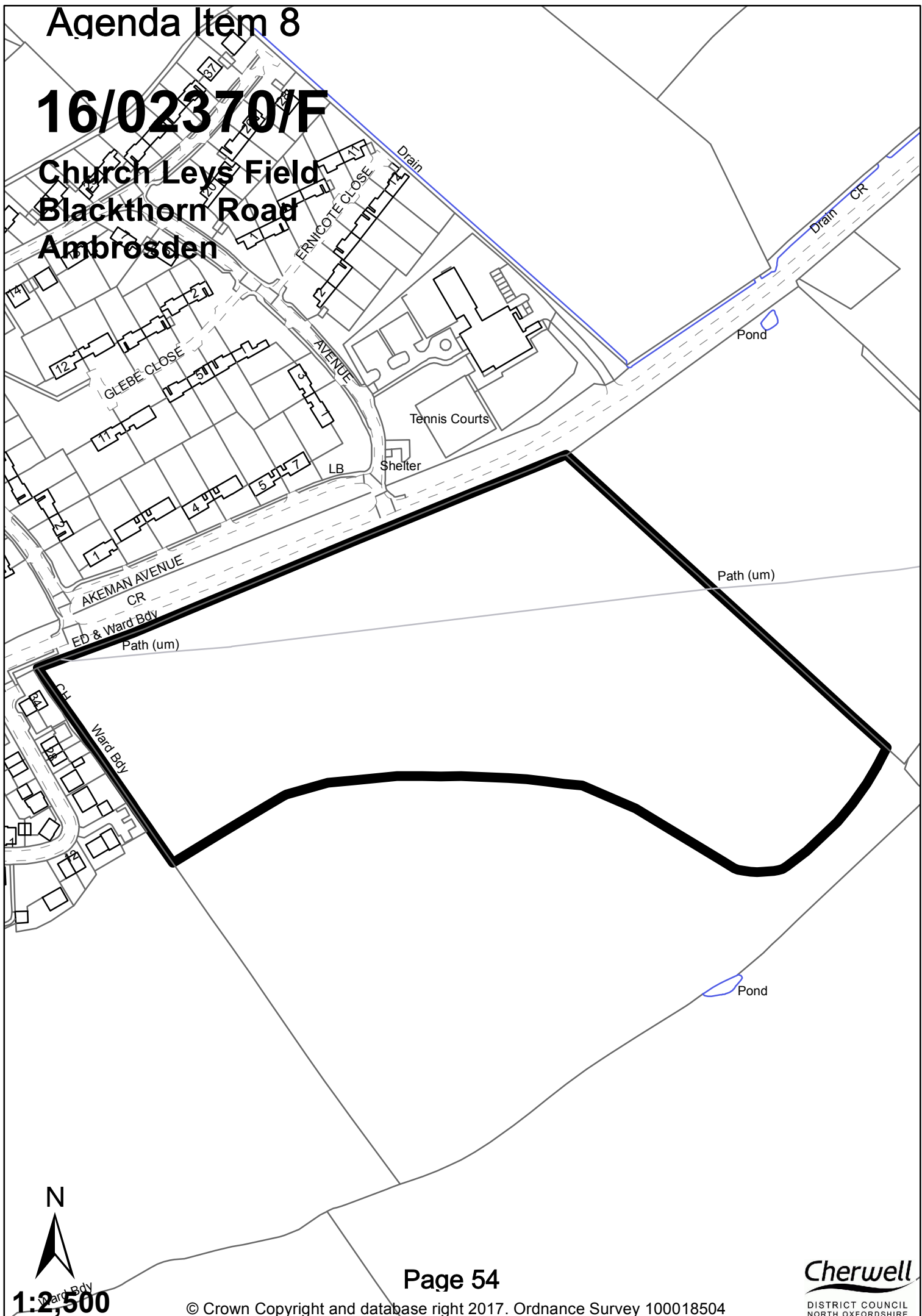
other person's rights are involved.

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](mailto: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.

# Agenda Item 8

## 16/02370/F

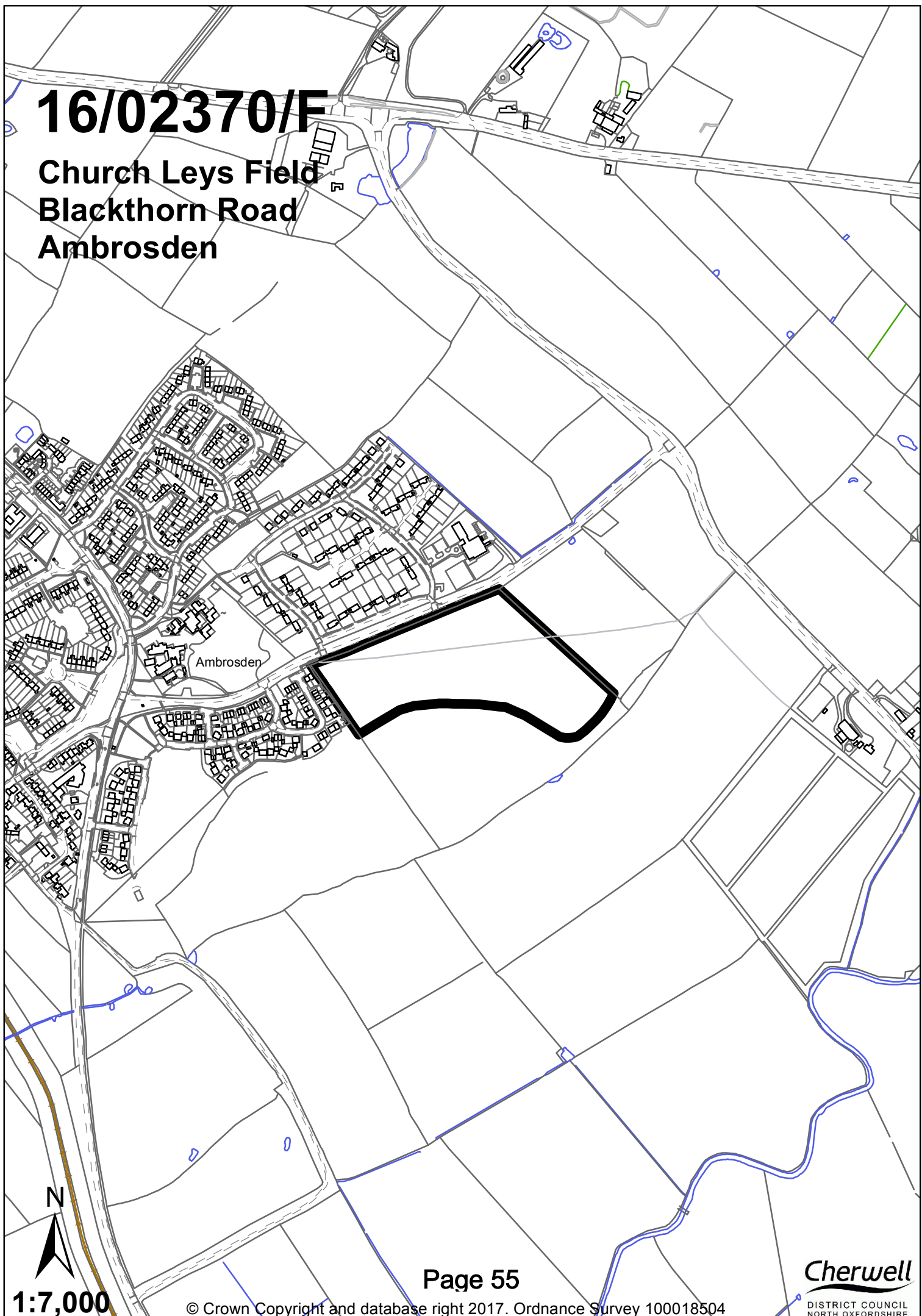
### Church Leys Field Blackthorn Road Ambrosden



1:2,500

# 16/02370/F

**Church Leys Field  
Blackthorn Road  
Ambrosden**



Ambrosden



**1:7,000**

**Applicant:** Bellway Homes Limited And Archstone Ambrosden Limited

**Proposal:** Erection of 85 dwellings with public open space, associated parking, landscaping, new vehicular accesses and servicing

**Ward:** Launton And Otmoor

**Councillors:** Cllr Tim Hallchurch  
Cllr Simon Holland  
Cllr David Hughes

**Reason for Referral:** Major development

**Expiry Date:** 10 March 2017

**Committee Date:** 13 April 2017

**Recommendation:** Refuse

---

## **1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site relates to 5.61ha of relatively flat arable land to the south of Blackthorn Road at the southeast of Ambrosden. Whilst adjacent to the established built up limits of the village the site actually lies within Blackthorn Parish despite this village being further to the southeast and separated by further farmland.
- 1.2. The site comprises arable farmland and which features varying densities of hedgerows and hedgerow trees along its northern, western and eastern boundaries. The southern boundary is not defined by a hedgerow and blends into another wider field parcel. The site features two farm vehicle accesses from Blackthorn Road – one is formed via a culverted ditch and gap in the hedgerow whilst the other features a metal field gate. There is a small naturally formed pond and cluster of surrounding vegetation in the site's north-eastern corner.
- 1.3. A public footpath passes through the site from its north-western boundary with Blackthorn Road across to the eastern boundary which then continues through further arable fields to Blackthorn village.
- 1.4. The site is not located in or in close proximity to any locally or statutorily designated heritage or landscape assets. The entirety of the site does however lie within an area designated for ecological protection and enhancement as the River Ray Conservation Target Area. Part of the site lies within areas found to be in Flood Zones 2 and 3 and so at higher risk of flooding.

## **2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. The application proposes 85 new dwellings on the site comprising a mixture of 2, 3, 4 and 5 bedroom house as well as 1 and 2 bedroom flats with all of the buildings being either 2 or 2 ½ storeys in height. The sole vehicular access is proposed mid-way along the site's northern boundary with Blackthorn Road before splitting into

estate roads serving the new dwellings. New built development is contained to the northern half of the site with the remainder proposed for public amenity space comprising a formal play area, balancing ponds, new tree planting and general open green space. The existing public footpath is proposed to be realigned so that it runs along the site's northern and eastern edges.

- 2.2. The application is made in full rather than in outline. As a result, the proposals must be considered exactly on the basis of the plans, drawings and documents submitted.

### **3. RELEVANT PLANNING HISTORY**

- 3.1. There is no planning history directly relevant to the proposal.

### **4. PRE-APPLICATION DISCUSSIONS**

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

<u>Application Ref.</u>	<u>Proposal</u>
15/00228/PREAPP	Pre-application advice - development of 95 dwellings with associated landscaping, public open space and servicing

- 4.2. In response to the pre-application enquiry officers raised concerns about the principle of residential development of the scale proposed given recent housing growth in Ambrosden as well as the wider housing delivery position in the rural areas under Policy Villages 2. Concern was also raised about connectivity with surrounding development, the unduly urban appearance of some of the proposed parking areas within the development and the need to preserve the public footpath on or close to its existing alignment.

### **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 was 12.01.2017, although comments received after this date and before finalising this report have also been taken into account. Two third party representations have been received and the comments raised are summarised as:

- Proposed plots 69 and 70 are too close to the adjacent house and garden of 24 Poppy Close in the new Springfield Farm development;
- This would cause a significant reduction in privacy for its occupants resulting from overlooking;
- The rear garden of 24 Poppy Close is well used by the whole family which includes a hot tub and raised decked area which would be susceptible to harmful overlooking;
- Five Acres Primary School is already operating close to capacity – the school requires expansion to match the expected intake resulting from this proposed development;
- It is essential that footways are provided linking the proposed development with Ambrosden Village to ensure pedestrians do not walk along the verge of Blackthorn Road and so that there is safe access to the primary school;
- The junction between Blackthorn Road and the B41011 has poor visibility and junction improvements should be considered.

5.2. 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.

### **Ambrosden Parish Council** – Objection

The scheme needs to be redesigned along the western boundary, on balance we consider enhancements to the village offered in particular replacement railings, addressing parking issues on Merton Road, funding sports pavilion and large open space outweigh the harm caused by additional development. The Parish would like to see revised plans for the south western corner and demonstration that a legal agreement can be provided to the Parish Council's satisfaction prior to removal of the objection.

### **Blackthorn Parish Council** – No objection but raise following comments:

When considering the application the Parish Council would ask that the planning officers do not look at this scheme in isolation, but consider all the additional building works which drain into the River Ray. As dredging of the River Ray has stopped and it is controlled, along with the River Cherwell, to protect Oxford from flooding, the risk of severe flooding in Blackthorn will rise with each additional building scheme.

In order that the two 'villages' do not merge together no further building should be permitted beyond this new building line towards Blackthorn. Provision should also be made for a new bus stop associated with the development and the proposals made by Blackthorn Parish Council to re-route the S5 through Blackthorn be considered as part of any consent which would provide it with a bus service that would link the two halves of the village.

### **Cherwell District Council (Internal Consultees):**

*Strategic Housing* - It is noted that there is 35% affordable housing being proposed on site that totals 85 units of which 30 are itemised as affordable in accordance with the requirements of the local plan, and there is a good mix of houses and flats making up this provision. However, there is no affordable housing tenure split identified, and there should be a mix of tenure within that affordable housing provision in the ratio of 70/30 rented and shared ownership or other low cost home ownership which should be agreed with this authority.

There is a good mix of houses and flats making up the affordable provision comprising of 1, 2, and 3 bed units. However I would like to see an increase in 2 bed houses and a reduction of 3 beds. The 2 x 1bed 2 person and 2 x 2bed 3 person apartments (plots 76-79) need to re-designed so that they are delivered as maisonettes with separate access.

The affordable units should be in clusters of no more than 10 units of one tenure and 15 units in all. Particular attention is drawn to plots 11-22 as this represents a cluster of 12 units and may need to altered, depending on affordable housing tenure type.

For clarification we would seek the following unit types and split;

Rent  
4x1b2p Maisonettes  
1x1b2p FOG  
2x2b4p maisonettes  
8x2b4pH  
6x3b5pH

SO  
7x2b4pH  
2x3b5pH

The affordable units will need to meet all of the requirements of the National Space Standards, and there appears to be a good level of lifetime homes provision within these units. However, to ensure that the authority is more in line with national standards we will now except the Lifetime Homes standard to be replaced by Building Regulations Requirements M4(2) on affordable housing units. If the applicant wishes to maintain the lifetime homes standards then this is also supported.

There appears to be sufficient car parking around the site, but it is not clear on plan where the allocation of the second car parking space relating to plot 38 (2 bed 4 person house) on the housing schedule is located and confirmation of this requirement is needed.

The registered provider that takes on the affordable housing will need to be agreed with the authority.

Recreation and Leisure – The following infrastructure is necessary to be secured to mitigate the impact of the development:

Sports Facilities Provision: Off-site contribution towards providing additional outdoor sports facilities capacity within the locality of Ambrosden. Based on 85 residential dwellings x 2.39 persons x £466.03 per person = £94,673.99.

Off-site contribution towards creating additional indoor sports facilities within the locality of Ambrosden. Based on 85 dwellings x 2.39 persons x £314.26 = £63,841.92.

Community Halls Provision: A contribution towards helping the local community hall accommodate an increase in capacity will be based on a sum per dwelling. These are:

Unit	Contribution
1 bed	£104.73
2 bed	£151.21
3 bed	£235.39
4+ bed	£323.70

Community Development: A contribution of £23,287.64 will be sought to support the establishment / strengthening of community infrastructure in Ambrosden.

Community Development Worker: Contribution to a community development worker to be considered based on the need to help new residents settle into their new community. A contribution of £36,402.32 based on 2016/17 figures (plus any additional inflation as appropriate) is based on a community development worker for 15 hours per week for 30 months.

Landscape Officers - The potential landscape and visual impact and effect will need to be mitigated with woodland mitigation planting on the southern boundary.

A BS5837 Tree survey is required to indicate the extents of the RPAs on the western boundary, because the proposed parking layouts and proximity of new housing is a constraint and a revised layout will be necessary because of this.

Planning obligation needed to secure provision and long term maintenance of public open space, play areas, SuDS features, ditch, existing trees and new woodland.

Ecologist - The survey has been undertaken in accordance with appropriate methodology and I generally agree with the assessment of the potential impact of the proposals on existing sites and species. As the site is part of the Ray Conservation Target Area (CTA), I would recommend that every effort is made to provide biodiversity gain as a result of the proposed works to support the habitats and species associated with the CTA in line with policy ESD11. As the proposals involve the loss of arable habitat, which is of low ecological value, and the habitats of high value in particular the boundary hedgerows, all trees and the pond in the north west corner are proposed to be retained, I agree with the conclusion of the report that the proposals are not considered to impact significantly on biodiversity. However there is potential for protected species to be impacted during construction, in particular nesting birds (including ground nesting species) and reptiles. Appropriate measures have been outlined in section 6.5 to safeguard protected species and we would recommend that full details (including a pre-commencement survey for badger) are provided via submission of a Construction Environmental Management Plan (CEMP) prior to commencement of any site clearance (please see condition below). The CEMP should include further checks of the trees, should any be affected by the works, including the trees with existing bat boxes in the north west of the site, should these be affected by works.

The habitat restoration and enhancement measures detailed in section 6.2 to 6.7 of the report are welcomed, including sensitive management of existing hedgerows and the proposed hedgerows, and sensitive management of the grassland and restoration of the existing pond. I don't necessarily agree with including a non-native dogwood species *Cornus stolonifera Flaviramea* in the species mix of the native hedgerow on the southern boundary of the site, and would recommend this is replaced by a native species local to the local landscape area. We would also recommend including a higher percentage of blackthorn in the hedgerow planting as the larval foodplant for the UK BAP Priority species brown and black hairstreak for which there are local records.

Just to note that the pond isn't shown on the Landscape Masterplan, however it is understood it will be retained within the development. If possible it would also be more beneficial if the SuDs basins were designed to be permanent water features (either to hold water all year round or most of the year round) for wildlife such as amphibians, reptiles, invertebrates etc. This would also contribute towards the Oxfordshire Biodiversity Action Plan Targets to create ponds within this CTA. Increased areas of wildflower grassland cut twice a year would also be recommended rather than proposed amenity grassland areas where possible. I note that Charlotte Watkins suggested contacting Christopher Williams at BBOWT who is the lead person for this CTA in case he has any valuable suggestions / comments on the landscaping and proposals. I would recommend that a combined ecological and landscaping scheme is secured by condition of any approval granted. The LEMP should identify who is responsible for the long-term management of the site to secure future appropriate management and monitoring. The LEMP should also include details of locations/types of bat and bird



boxes as an enhancement for these species in line with the NPPF and local plan policy with the aim of achieving a net gain in biodiversity.

Any lighting strategy should be sensitively designed to avoid the existing field boundary hedgerows and proposed hedgerow on the southern boundary to retain dark corridors for commuting/foraging bats. I would be happy to provide further comments on any lighting scheme submitted in future.

As such I would recommend that the following conditions be attached to any approval granted:

**K20 Landscape and Ecological Management Plan (LEMP)**

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

**K21 CEMP for Biodiversity**

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

**Oxfordshire County Council:**

**Transport - Objection**

- The version of TEMPRO used to take into account background traffic growth is out of date. Version 7 is now available. We are also not confident that version 7 takes appropriate account of the scale of traffic growth as a result of the unprecedented levels of development coming forward in Bicester. Traffic data from the council's updated SATURN model should be used to help assess the future performance of the Ploughley Road/A41 junction.
- Future year of 2022 for testing junctions not considered realistic – this should be 2024, five years after a realistic first occupation date of 2019 (as opposed 2017).
- It has not been possible to check the modelling of the assessed junctions as the full PICADY inputs and outputs have not been submitted with the application.
- Despite advice from the county council, the existing public right of way (PRoW) through the site has been diverted away from its current route. The applicant has not given adequate justification for the diversion let alone whether any investigation has been made about the likelihood of the success of the necessary separate process to allow the diversion. The surface treatment of the diverted PRoW is not suitable for the inevitable intensification of the footpath if the development goes ahead.
- The site access needs to make use of land that is neither highway nor in the control of the applicant – as indicated by the red line on the planning layout drawing. Until the applicant has clarified that they are in control of this land, the site access cannot be provided and as such the development should not be approved.
- To provide the necessary footway/cycleway on the south side of the road, no detail is given about its construction where it runs close to the highway ditch. This is significant given that construction will be needed outside of the highway – ownership is unclear in those locations.
- Tracking drawings for the layout have been completed for a refuse wagon that is not big enough. Latest advice from the council's Road Agreements Team is that an 11.4m long (4 axle) refuse wagon must be tracked.

The applicant has therefore not demonstrated that the development is compliant with the National Planning Policy Framework

Notwithstanding the above, in the event that the local planning authority is minded to grant planning permission, that the following be secured as well as conditions be imposed (list provided but not included below):

S106

- Updated Travel Plan with travel information packs for first residents will be needed.
- A contribution of £1,000 per additional dwelling i.e. total sum of £85,000 towards the improvement of public transport serving the site, to procure additional or improved services.
- £15,000 towards the improvement of the public footpath 131/7 to include the surface as it runs through the site, nearby signage and replacement of stiles with gates - as a result of the proposed development increasing its usage.
- £1,240 for the monitoring of the site's Residential Travel Plan.
- To secure the necessary off-site highway improvements – see S278 below.

S278:

To deliver:

- Access to the site from Blackthorn Road as shown on drawings WB03884 SK12 Rev F and WB03190 SK03.
- A 2.5m wide footway/cycleway along the southern side of Blackthorn Road from a point close to the site's western boundary as far as the junction of Ploughley Road as shown indicatively on drawing number WB03884 SK04 Rev A.
- Relocation of the start of the existing 30mph speed limit on Blackthorn Road to a point approximately 170m to the north east and for the speed limit change to be from 40mph to 50mph. Also, therefore, the removal of the section of 60mph speed limit to the north east of the proposed site access. The revised location of the 30/40mph speed limit transition would be accompanied by a village entry treatment. These proposals are shown indicatively on drawing number WB03884 SK13.

Education

The proposed development is expected to generate additional pressure on schools in the locality. The following financial contributions should be secured to mitigate the impact of the development:

Primary education:

£415,632 Section 106 required for the necessary expansion of permanent primary school capacity serving the area, at Five Acres Primary School in Ambrosden.

Secondary education:

£623,800 Section 106 required for the necessary expansion of permanent secondary school capacity serving the area, contributing to the cost of new secondary capacity planned for construction in Bicester.

Property

The majority of off-site infrastructure impacts cannot be mitigated due to pooling restrictions imposed through the CIL Regulations 2010. As library book stock is not considered to meet the definition of infrastructure, a financial contribution of £5,312.60 (index linked) should be secured to mitigate additional impact in this respect.

## **External Consultees**

Thames Water – No objection

With respect to foul water discharge, confirmation is required of the pumped flow from the proposed private pumping station to Officers Mess pumping station. This is needed to assess the impact on the downstream pumping station and network.

No concerns raised with regard to surface water run-off management.

Environment Agency – No comments received as of the date of writing this report.

## **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
- BSC2 - The Effective and Efficient Use of Land
- BSC3 - Affordable Housing
- BSC4 - Housing Mix
- BSC10 - Open Space, Outdoor Sport & Recreation Provision
- BSC11 - Local Standards of Provision - Outdoor Recreation
- BSC12 - Indoor Sport, Recreation and Community Facilities
- BSC9 - Public Services and Utilities
- ESD1 - Mitigating and Adapting to Climate Change
- ESD2 - Energy Hierarchy
- ESD3 - Sustainable Construction
- ESD5 - Renewable Energy
- ESD6 - Sustainable Flood Risk Management
- ESD7 - Sustainable Drainage Systems (SuDS)
- ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
- ESD11 - Conservation Target Areas
- ESD13 - Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built Environment
- ESD17 - Green Infrastructure
- VIL1 - Village Categorisation
- VIL2 - Distributing Growth Across the Rural Areas

### **CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)**

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

- C28 - Layout, design and external appearance of new development
- C31 - Compatibility of proposals in residential areas

### 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- DEFRA Circular 1/09

## 8. APPRAISAL

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

- Principle of Development;
- Access and Transport Impacts;
- Design, Layout and Appearance;
- Affordable Housing and Mix of Dwellings;
- Flood Risk and Drainage;
- Ecology;
- Trees/Landscaping;
- Impact on Neighbouring Properties;
- Quality of New Dwellings;
- Energy Efficiency/Sustainability
- On/Off Site Infrastructure.

#### Principle of Development

- 8.2 Through its planning policies the Cherwell Local Plan 2011-2031 Part 1 (CLPP1) recognises that new homes outside the largest settlements in the District will be further from the facilities, services, leisure, employment and transportation links necessary to achieve genuinely sustainable development. As a result, the CLPP1 seeks to limit new housing in the rural areas whilst concentrating new housing growth to Bicester, Banbury and to a lesser extent Heyford. Through its planning policies the CLPP1 seeks to ensure sustainable delivery of sufficient number of new homes to meet the objectively assessed needs of the District through to 2031 and as a result is consistent with national planning policy contained within the NPPF. Furthermore, as the supply of new homes within the District has recently been strong and is projected to be similarly strong over the next five year period, the Council can demonstrate in excess of a five year supply of housing with the consequence that the housing supply policies in the CLPP1 are up-to-date and attract full weight.
- 8.3 Policy Villages 1 categorises the villages of the District based on their respective sustainability merits to accommodate some housing growth. There are three categories – A, B and C – which relatively crudely classify villages based on their capacity to accommodate new housing by assessing matters such as their size and access to services, facilities, employment and public transport. Whilst the application site is technically in Blackthorn Parish, this is irrelevant for the purposes of considering its planning merits and officers consider that the proposed development would be part of the village of Ambrosden rather than Blackthorn. Policy Villages 1 classifies Ambrosden as a Category A settlement given that it is one of the larger villages in the District with a shop, post office, primary school and public house. It is also served by a commercially viable bus service that runs between Oxford and Bicester.
- 8.4 Policy Villages 1 however only provides policy support for conversions, infilling and minor residential development in the Category A settlements. As the application site

cannot reasonably be described as minor and is clearly outside the Ambrosden settlement boundaries, Policy Villages 1 does not provide support for the proposed development.

- 8.5 Policy Villages 2 however provides a general housing allocation of 750 dwellings (on top of those dwellings approved under Policy Villages 1) at Category A settlements from 2014-2031. It further adds that the sites comprising the 750 dwellings would be identified through preparation of development plan documents or, where applicable, the determination of applications for planning permission. As of 31<sup>st</sup> March 2016 a total of 538 dwellings had been completed under the provisions of Policy Villages 2 with extant but unimplemented planning permissions for a further 50 dwellings. A total of 588 dwellings have therefore been committed/delivered under the Policy Villages 2 allocation leaving only a residual figure of 162 over the remainder of the plan period.
- 8.6 Whilst Policy Villages 2 does not include specific requirements relating to phasing or distribution of the housing across the 24 Category A settlements, it has been established through recent appeal decisions that excessively early delivery of the rural housing allocation in the plan period together with overconcentration of housing in a small number of settlements would be prejudicial to the overall sustainable housing growth strategy inherent to Policy Villages 2 and the CLPP1 generally. With 24 rural settlements available to share in the benefits of new housing where needed, early delivery and overconcentration of new housing would remove the ability to be able to respond appropriately to housing needs in the future without creating a situation where there this would be in direct conflict with the development plan.
- 8.7 The provisions of Policy Villages 2 apply from the 1<sup>st</sup> April 2014. Since this date, 45 dwellings have been approved in Ambrosden with those currently being constructed. Whilst approved shortly prior to the 1<sup>st</sup> April 2014, the adjacent Springfield Farm development (which totals a further 90 dwellings) was recently constructed and therefore completed in a broadly contemporaneous time period which totals a further and is therefore considered to be material albeit not directly part of the 750 allocation. The approval and delivery of the proposed development would see a total of 130 dwellings provided in Ambrosden through Policy Villages 2 which – given that it is 1 of 24 Category A settlements – is a very substantial proportion of the total. If approved, the proposed development would be expected to take approximately two years to complete meaning that by 2019/20 there would only be a residual figure of 77 dwellings left to be provided across the 24 Category A settlements over the next 11 years of the plan period. This also assumes that no further planning permissions are granted in the intervening period under the provisions of Policy Villages 2. Planning application reference 16/02611/OUT also proposes residential development in Ambrosden (up to 130 dwellings) and is similarly scheduled to be reported to the 13<sup>th</sup> April Planning Committee. If both planning applications were to be approved, taken together the total allocation in Policy Villages 2 would be exceeded very early in the plan period and would see 260 of the allocated 750 homes delivered (i.e. 35%) in just one of the 24 Category A settlements. Officers suggest that this would be a highly undesirable position for the Council to find itself in and would fundamentally prejudice the housing growth strategy of the CLPP1.
- 8.8 For this reason officers have concluded that the scale, timing and location of the proposed development is therefore inappropriate bearing in mind the above and consequently in direct conflict with the objectives of the CLPP1 and Policy Villages 2.
- 8.9 In considering the acceptability of the principle of the proposed development, in addition to the strategy implicit within CLPP1 generally, it is specifically Policy Villages 2 that is the development plan policy of primary relevance. In this regard

there is a set of criteria against which planning application proposals need to be considered to determine whether they are suitable to deliver part of the rural housing allocation. Through its various chapters and heading this report will appraise the proposals against these criteria as well as other relevant considerations.

- 8.10 It is however necessary to consider that the proposed development involves direct loss of farmland that forms part of the open countryside and therefore has intrinsic beauty. Whilst not within an area of designated landscape value, such harm should not occur without benefits that clearly outweigh the environmental harm associated with its development. Indeed Policy C8 of the Cherwell Local Plan 1996 (CLP 1996) resists sporadic development into the open countryside in order to protect its attractive, open and rural character. Whilst this policy pre-dates the publication of the NPPF, it forms part of the development plan and has material (if not full weight) given that the Council has a 5+ year supply of housing. The proposals would evidently result in encroachment into the open countryside and as such they are in conflict with the requirements of Policy C8 of the CLP 1996.
- 8.11 Policy ESD13 of the CLPP1 is also material and resists undue visual intrusion into the countryside as well as development that is inconsistent with local character. Policy Villages 2 also includes an assessment criteria relating to whether development proposals would give rise to significant adverse landscape impacts. The Oxfordshire Wildlife and Landscape Study of 2004 (OWLS) is the most detailed and up to date assessment of landscape character types within the District. It defines the site as lying within the Alluvial Lowlands landscape type which is typified by flat arable and pastoral fields together with densely scattered hedgerow trees and a large number of ditches. Similarly, the Cherwell Landscape Assessment (1995) defines the site as lying within the Otmoor Lowlands landscape character area which it concludes is comprised primarily of flat, wet, low lying arable field network surrounded by ditches and hedges.
- 8.12 Broadly speaking, without being of intrinsically high landscape value, the application site is considered to complement the identified local landscape character given that it comprises a large open arable field, hedgerows, trees, ponds and ditches which in turn supports the rural character and setting of Ambrosden as a village. As a result, its development in the manner proposed would undoubtedly be harmful to local landscape character and the natural beauty of the countryside. Having regard to the strong housing supply position within the District and the amount of housing approved already under the provisions of Policy Villages 2, the benefits associated with delivery of further housing (notwithstanding other concerns about the proposals as expressed elsewhere in this report) is not considered to be sufficient to outweigh the unnecessary harm caused to the natural landscape as a result of its development. Consequently officers have found that the principle of the proposed development is also unacceptable in this regard.
- 8.13 In further considering matters of principle, Policy Villages 2 requires consideration to be given as to whether the proposals would result in the loss of best and most versatile agricultural land as defined in the NPPF. Such land is more agriculturally productive and the NPPF places importance on its retention. However, an agricultural land quality survey has been submitted as part of the planning application and has concluded that the site is not comprised of land that meets the NPPF definition of best and most versatile land. As such, there is no objection to the principle of developing the site in this respect.
- 8.14 In summary on matters of principle, officers have found that having regard to the amount and distribution of housing delivered and committed within Ambrosden and across the District's Category A, the scale, location and timing of the development proposed would be in conflict with the objectives and strategy for housing growth

inherent within the CLPP1 as well as Policy Villages 2. Together these seek to redistribute new housing away from the District's villages with only limited new housing provided at the 'more sustainable' villages over the plan period to meet residual need. Furthermore, the proposals would result in direct encroachment into the open countryside to the detriment of local landscape character and the inherent beauty of the natural landscape with such harm not being outweighed by the benefits of the scheme given the sufficient supply of new housing within the District. In this respect the proposals are therefore considered to be contrary to the requirements of Policies Villages 2 and ESD13 of the CLPP1 as well as Policy C8 of the CLP 1996.

#### Access and Transport Impacts

- 8.15 Policy SLE4 of the CLPP1 reflects national policy set out in the NPPF by requiring new development to facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling. It also seeks to resist development where it would have a severe traffic impact. The NPPF also adds that planning decisions should take account of whether safe and suitable access to development can be achieved for all people.
- 8.16 Vehicular access to the development is proposed to be directly onto Blackthorn Road approximately 150m to the east of the junction with Quintan Avenue. The site access road is shown to be 5.5m wide and the applicant has demonstrated that the appropriate visibility splays can be provided within the highway verge without the need for removal of vegetation to ensure safety for road users. After further investigation, it appears that all of the land necessary to construct the vehicular access is within either the control of the applicant or highway authority such that there are no doubts regarding its deliverability.
- 8.17 The applicant is proposing alterations to the speed limits along Blackthorn Road in the vicinity of the site access with the 30mph limit being extended to the northeast and then a change to 50mph (rather than 60mph). These would need to be the subject of a Traffic Regulation Order (TRO) made by the local highway authority and is a separate legal procedure with its own public consultation and decision process so its outcome is cannot be guaranteed. Nevertheless, the proposed access is shown to be safe even at current speed limits and so is considered to be acceptable in this regard even if the proposed speed limit changes were to fail. In the event of Members resolving to grant planning permission against officer recommendation, financial contributions should be sought through a planning obligation to fund the costs to OCC associated with the TRO procedure.
- 8.18 In order to achieve connectivity with the village, a new combined 2.5m wide footway/cycleway is proposed on the southern side of Blackthorn Road as far as its junctions with Ploughley Road. There appears to be sufficient space in the verge to deliver this. The application also proposed a short stretch of new footway/cycleway with dropped kerb that enables linkage with the housing development on the opposite side of Blackthorn Road. Subject to this pedestrian/cycle provision being secured by conditions and/or planning obligations, officers are satisfied that the proposed development would enable suitable pedestrian/cycle connectivity with surrounding development.
- 8.19 The proposed footway/cycleway described above would enable residents of the proposed development to reach the existing bus stops on Ploughley Road. The village is served by a commercially viable bus service (the S5 between Bicester and Oxford) and, if the application were to be approved, OCC has requested a financial contribution of £1000/dwelling (index linked) towards improving the frequency of the service to Ambrosden. This will ensure that the opportunities for residents to use

sustainable modes of transport are maximised in accordance with the requirements of Policy SLE4 of the CLPP1.

- 8.20 A public footpath runs from the northwest corner of the site in a diagonal alignment to the eastern boundary and then onwards towards Blackthorn village. The proposed development has been designed in such a way that a significant diversion of the public footpath is required so that it follows the field boundaries rather than its current direct alignment. This is a less convenient route for members of the public and also results in a significant change in its nature – users would follow the path in a corridor between houses on one side and the road on the other rather than the current more natural setting. Officers are not satisfied that due regard has been had to the desirability of preserving the public right of way in as close to its existing alignment as possible to provide either a similar or improved level of convenience and experience for users. In this respect the proposals are considered to be contrary to the requirements of Policy ESD15 of the CLPP1 as well as guidance contained in Circular 01/09. Having considered alternative permutations for the layout of a similar development, officers are confident that a more suitable and direct route is available that would both deliver an appropriate layout of development whilst also better preserving the amenities associated with the public footway. OCC as the local highway authority responsible for management of the public rights of way network support this position and similarly object to the proposals in this respect. Notwithstanding the above, if Members were minded to resolve to approve the application then a more robust surfacing would be needed for the diverted footpath due to expected increased use. Furthermore, a separate legal process is required to formally confirm the diversion of a public footpath and the Council cannot guarantee this outcome of this even if planning permission is granted. In the event that planning permission was to be granted, officers would recommend that a financial contribution of £15,000 is sought towards upgrades to the public footpath either side of the development to help it be more suitable and able to withstand additional use.
- 8.21 OCC has raised a number of queries regarding the design of some of the internal roads within the development. The roads indicated as proposed for adoption are generally considered to be acceptable in principle subject to later technical approval by OCC. Whilst OCC has commented that the roads have not been tracked on the basis of a sufficiently large refuse collection vehicle (11.4m), Cherwell District Council's bin lorries are only 10.5m in length and there is no suggestion that the proposed new roads are not capable of being safely navigable by such a vehicle.
- 8.22 The application has been accompanied by a travel plan. Officers welcome this and it generally sets out appropriate objectives but further refinement is necessary to include commitments such as distribution of travel information packs and a programme of review and actions. Nevertheless, if approved a condition could be imposed that requires the submission, approval and implementation of an updated travel plan.
- 8.23 Whilst officers are therefore satisfied that safe and suitable access can be provided to serve the proposed development and that it would sufficiently facilitate use of sustainable modes of travel, officers have concerns about the wider transport impact of the development. The Transport Assessment (TA) submitted alongside the application is not considered to be robust as it does not utilise up-to-date traffic modelling which should include expected background growth in traffic including that arising from committed developments. Furthermore, even the latest nationally endorsed traffic model (TEMPRO v7) may not accurately project traffic levels on the network in and around Bicester over the next few years given the unprecedented level of planned growth. As a result, OCC commissioned its own Bicester SATURN model. On re-running the traffic modelling there is identified to be severe congestion during peak hours at the junction between Ploughley Road and the A41 both at the



expected completion date of the development and particularly by 2024. The severe congestion would occur irrespective of whether the proposed development proceeds or not but the traffic generated by the proposed new homes would only exacerbate this severe impact. Increases in queueing at the junction not only further adversely affects existing drivers commuting times but also increases the prospect of drivers becoming impatient and taking unnecessary risks to exit the junction thereby prejudicing highway safety.

- 8.24 The applicant has not proposed any highway works that would mitigate the adverse impact on this junction. Nevertheless, a comprehensive re-engineering of this junction is unlikely to be proportionate to the impact of the proposed development and could well affect the overall financial viability of the scheme as well as the Council's ability to lawfully secure it through a s106 agreement. However, in the absence of a scheme of highway works that can be shown to effectively mitigate the impact of the proposed development, officers have concluded that the proposals would exacerbate existing severe traffic impacts on the local highway network and so should be resisted in accordance with the requirements of Policy SLE4 of the CLPP1 as well as national policy set out in the NPPF.

#### Design, Layout and Appearance

- 8.25 Policy ESD15 of the CLPP1 requires new development to complement and enhance the character of its context through sensitive siting, layout and high quality design. Furthermore, Policy ESD15 replicates national policy in the NPPF by requiring all new development proposals to be designed to improve the quality and appearance of an area and the way it functions. Policy ESD15 also requires new development to contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting the natural landscape setting. Policy ESD15 includes further requirements including that new development reflect local distinctiveness including through materials and design detailing whilst also promoting permeable and accessible places.
- 8.26 With respect to its northern edge, the proposed new housing would be set back from Blackthorn Road to ensure the existing hedgerow is preserved whilst enabling vehicular access to houses along the frontage via driveways that run parallel to the road. Broadly speaking this relationship is consistent with the existing approach at Springfield Farm development to the west. However, the detail of this proposed relationship is awkward and lacks clear definition to the rhythm of the layout of the houses. The cluster of bland looking affordable dwellings at the northwest of the site is shown to then make way to large detached homes set further back and served by parallel private drives. From there the houses are set back further still and the rhythm carved up by an internal road that causes greater gaps to development and thereby prevents a consistent relationship along the site frontage. As a result, whilst the principle of setting houses back from Blackthorn Road is considered to be appropriate and in keeping with the established approach, the weak and variable manner in which this is shown to be achieved fails to create a clear sense of character that would deliver an identifiable and legible character along the Blackthorn Road interface.
- 8.27 By contrast, the southern built development line is shown to jut backwards and forwards in a rather contrived fashion – partly to avoid development encroaching further into Flood Zone 3. Whilst awkward, this follows the wavy southern development line evident in the adjacent Springfield Farm development though the 2 or 3 plots in the southwest corner appear as a small bulge in the housing layout which is particularly contrived and does not complement the attempt at creating a more organic building line. The houses along the southern development edge are large detached structures though they are limited to two storeys whilst should avoid them appearing unduly prominent within wider landscape views. Being detached in

their form should also provide gaps between buildings and thus reduce the apparent density and visual mass of the development at its countryside edge.

- 8.28 To the western boundary the houses proposed are varied in form given their mixed affordable/private tenure. The scheme proposes predominantly rear gardens along the western boundary which would abut the existing boundary fence of the Springfield Farm development. A handful of mature trees are dotted along the boundary. For reasons discussed later in this report, some of the new houses and associated parking areas are proposed to be close to these existing trees which would lead to future pressure to carry out works to the trees thus prejudicing their long term health. The eastern boundary with the wider countryside sees predominantly short terraces of two storey affordable homes with tertiary estate roads to the front and associated parking. This does not present such a soft and low-key development edge which is disappointing.
- 8.29 Within the development, the layout itself has a distinctly suburban estate character and it is not clear how this approach would reinforce and enhance the character and morphology of the village. The development includes a significant number of private drive cul-de-sacs which are often in relatively central parts of the site and do not promote an integrated and permeable layout for both pedestrians and vehicles. There are also numerous circumstances of poor connectivity for pedestrians which in places could see occupants of some new houses having to walk circuitous routes to their houses due to poor connectivity of roads and paths. For example, occupants of Plots 1, 44 and 84 could not walk directly to their homes when walking from the village without needing to walk over grass strips between paths. This is not appropriate particularly if this is solely to ensure that they can remain private drives rather than be designed to OCC's highway adoption standards.
- 8.30 The development itself is dominated by large detached houses. The absence of a significant number of semi-detached and terraced homes prevents the ability to form character areas within the development and results in buildings that struggle to hold and define corners within the development as well as leads to a repetitive typology of building form. Where variations in building typology are used, this is generally in relation to the affordable dwellings which only serves to distinguish them from the private dwellings within the development. Furthermore, the scheme proposes large areas of unbroken frontage parking to serve the affordable dwellings which would not sit comfortably within the remainder of the low density detached development where front gardens are common. This is particularly the case with respect to the cluster of affordable housing found along the eastern site edge which creates an enclave of higher density housing segregated from the rest of the development and which would feature a noticeable change in building typology and a streetscene dominated by hardsurfacing.
- 8.31 The development also proposes the diversion of an existing public footpath that runs from the northwest corner through to a mid-point along the eastern boundary which then continues through neighbouring fields down to Blackthorn. The newly aligned public footpath is proposed to be rather unceremoniously routed from its current alignment so that it instead runs around the edge of the development along the site's northern and eastern boundaries. Officers concur with the views of OCC in finding this approach to be objectionable given that it clearly fails to respect this existing public route and officers see no reason why the development could not be designed to properly incorporate this existing site feature on a similar alignment so that it could be embraced in the interests of amenity and permeability rather than seek to relegate it outside of the main development on a far less commodious route. Officers do not accept that such an approach engenders accessible and permeable new development that respects existing routes contrary to the requirements of Policy ESD15 of the CLPP1 as well as Government guidance set out in Circular

01/09. Notwithstanding officers' position on this planning application, in the event that planning permission was to be granted, a footpath diversion order would still be required before any work took place to the public footpath and this follows a separate legal process, the result of which cannot be guaranteed.

- 8.32 The application proposes a number of house types – both private and affordable. A variety of external materials are also proposed including mainly a red brick, light/cream render as well as occasional reconstituted stone houses. Both Policy ESD15 of the CLPP1 as well as national policy in the NPPF promote the importance of local character and distinctiveness as part of good design. The applicant proposes a generically traditional style and form of house types as part of the development which unfortunately does not take the opportunities available to ensure that the development complements traditional vernacular architecture found within Cherwell District which is generally simple in style and design detailing. Whilst some other mid-twentieth century and more modern development is found in the immediate area, this is not reflective of traditional local architecture either and both current local and national planning policy attach great weight to the importance of reinforcing and complementing local character rather than setting the benchmark as replication of the nearby lowest common denominator.
- 8.33 The houses proposed within the development however demonstrate neither the incorporation of vernacular design detailing nor any consistency or rhythm to such detailing with the result that the development lacks architectural interest and integrity. The proposed affordable units are the poorest examples of this – some of the houses have awkwardly shallow roof pitches and many of them feature peculiar fenestration patterns both in terms of siting of windows as well as their sizes. Entrance doors are also often set strangely close to side walls leaving the front elevations appearing particularly unbalanced and incongruous. Perhaps by design or perhaps more deliberately, unlike some of the private dwellings none of the affordable units feature chimneys and so lack vertical interest to break up their bland form and details. The affordable units also do not see anything other than simple flat canopy porches which does not assist in breaking up the bland elevations. Whilst the siting of affordable dwellings in a prominent position in the northwest corner of the site would normally be welcomed, in this case the bland apartments proposed are inappropriate where instead a high quality locally distinctive building should be provided to deliver an appropriate gateway to the development and interface with the public realm. All of the proposed houses – both private and affordable - feature fascia and barge boards along the eaves/verges of the roof which, whilst common to houses on the Springfield Farm development, is not locally characteristic and could be easily omitted. A handful of the house types proposed along Blackthorn Road are also proposed to be 2 ½ storeys in height and these appear to have an extensive roof slope together with flat roof dormer windows that make them appear akin to townhouses and therefore incongruous amongst other proposed houses along Blackthorn Road.
- 8.34 In addition to the inappropriate design detailing, the proposed development also lacks legibility as a result of the seemingly random use of external materials and design features. A combination of three different external materials are proposed and with no clear sense of intention through which to create either distinct or subtle character areas together with transitions between streets. Brick switches to render and then to reconstituted stone simply to add variety rather than achieve a particular underlying cohesiveness to the design and layout. The development therefore lacks a simple legibility to its architectural approach that could help prevent it from appearing otherwise than as simply another low density generic suburban housing development. The same approach is evident in the use of the proposed canopy porches. Some houses are shown to feature GRP flat roof structures, some have faux half-timber gabled canopy porches and others have expansive hipped roof

structures. New streets and developments should be designed to have an appreciable and underlying set of architectural principles rather than a random smattering of house types that have been designed in isolation rather than to integrate collectively.

- 8.35 Consequently officers have significant concerns for the above reasons about the proposed design approach which it's considered would give rise to a poorly articulated relationship with Blackthorn Road and the wider countryside whilst failing to take the opportunities available to promote a cohesive and locally distinctive character to the architecture and built form of the new development. Furthermore, officers have substantial concerns regarding the proposal's failure to successfully incorporate existing important site features such as boundary trees and the public footpath as well as the overall lack of permeability within the development itself which fails to promote pedestrian movement and integration. Therefore officers have found that in this regard the proposals fail to accord with the requirements of Policy ESD15 of CLPP1, Policy C28 of the CLP 1996 as well as national policy and guidance set out in the NPPF and PPG.

#### Affordable Housing and Mix of Dwellings

- 8.36 Policy BSC3 of the CLPP1 requires 35% of new dwellings on housing developments of this size to be secured as affordable housing to contribute towards meeting local priority housing needs and delivering mixed and balanced communities. Whilst the Government is looking at increasing the scope of what constitutes affordable housing, adopted planning policy requires this to be a mix of social/affordable rent and intermediate tenure. The applicant is proposing 35% of the dwellings to be affordable units and this is welcomed.
- 8.37 Whilst the application identifies the proposed affordable units, it provides no detail on what tenure these dwellings would be and so it is not possible to assess whether each would be suitable to meet current housing need or prove viable for an Registered Provider (RP) to purchase. Furthermore, the proposed mix of affordable dwellings features a comparatively high proportion of 3 bedroom homes which is not reflective of current housing need which has seen a marked reduction in demand for larger houses in light of changes to housing benefit and associated under-occupancy charge – colloquially known as the 'bedroom tax'. The mix of affordable homes proposed is therefore not suitable to make the necessary contribution towards ensuring that those with priority housing needs in the District are met and as such the scheme is in conflict with the requirements of Policy BSC3 of the CLPP1 in this respect.
- 8.38 Policy ESD15 of the CLPP1 requires, inter alia, that new development achieves high quality design that delivers attractive and durable places to live in a way that promotes integrated, holistic communities. The Planning Practice Guidance (PPG) in paragraph ID: 26-039-20140306 provides additional design guidance with respect to housing developments and adds that *'in well-designed places affordable housing is not distinguishable from private housing by its design, nor is it banished to the least attractive part of the site'*. Officers however are concerned that a large proportion of the proposed affordable homes are unduly clustered within an enclave at the eastern edge of the site and therefore not well distributed within the development to help achieve a mixed and inclusive new community. Furthermore, as a result of the substantial predominance of large detached family housing as the private dwellings, the simple terraced and semi-detached affordable units will be particularly conspicuous rather than blend in. In comparison to the private dwellings the affordable units are also of a particularly bland design and feature little of the architectural detailing added to the private dwellings such as chimneys, quoins, mono or dual pitched canopy porches, decorative brick bands etc. Whilst officers recognise that alternative parking arrangements are often proposed for affordable

dwellings given that RPs prefer not to have garages given the additional maintenance cost, the treatment of some of the proposed car parking is also rather at odds with the approach taken for the market homes given the large areas of unbroken frontage parking. This further distinguishes the market homes from the affordable homes and contributes towards the failure to successfully integrate all tenures of housing to form a cohesive new community. In this respect officers are also unsatisfied with the affordable housing provision proposed which is considered to be in conflict with the requirements of Policy ESD15 of the CLPP1 as well as Government guidance.

- 8.39 Policy BSC4 of the CLPP1 reflects national policy set out in paragraph 50 of the NPPF by providing for a mix of housing to meet current and projected future need. 75% of the proposed market housing is however 4+ bedrooms in size whereas the conclusions derived from the Oxfordshire SHMA indicate that the need in Cherwell District over the next 15-20 years is predominantly for 2 and 3 bedroom dwellings as set out in the supporting text to Policy BSC4. The large family homes that are proposed are also detached houses, often with double garages, which is far removed from the smaller more affordable dwellings that are in greatest need.
- 8.40 Consequently officers have found that both the size and type of market and affordable homes proposed would not respond to the identified housing needs of the District contrary to the requirements of Policies BSC3 and BSC4 and national policy set out in paragraph 50 of the NPPF. Any benefits associated with the provision of new housing are therefore also reduced given that the proposed housing does not make a significant contribution to addressing local need.

#### Flood Risk and Drainage

- 8.41 Policy ESD6 of the CLPP1 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.
- 8.42 A site-specific Flood Risk Assessment (FRA) has been submitted alongside the application. The Environment Agency's flood maps indicate that none of the proposed new homes are within a higher risk flood zone. However, such mapping is not based on detailed hydraulic flood modelling and neither does it take into account flooding from other sources than rivers and canals. The FRA indicates that a small handful of new dwellings are located within Flood Zone 2 (1 in 1000 year flood event) and two dwellings are within Flood Zone 3 (1 in 100 year flood event). The applicant recognises this and proposes level for level flood compensation storage by essentially undertaking ground works that would see flood risk increase elsewhere within the site to ensure the new homes previously in Flood Zones 2 and 3 are in Flood Zone 1 (i.e. less than 1 in 1000 year flood risk). This is a commonly adopted approach though no consultation response has been received from the Environment Agency to confirm that they are satisfied with the detail of the work proposed.
- 8.43 However, the starting point is to avoid development in higher risk flood zones and steer new development to lower risk flood zones. In accordance with both Policy ESD6 of the CLPP1 as well as the NPPF (using guidance in the PPG), it is necessary to apply a Sequential Test to determine whether there are suitable alternative sites at lower risk of flooding to accommodate the development and the area to apply the Sequential Test across needs to be defined by local circumstances having regard to the specifics of the proposal as well as development plan policies. The applicant has not attempted to assess the availability of other sites or considered the application of the Sequential Test. The PPG (Reference ID: 7-034-20140306) however states that it is the developer's responsibility to justify with

evidence what area of search has been used as part of making the application. Officers are of the view that there will no doubt be countless other suitable and available sites elsewhere across the Category A settlements that are not wholly or partly within Flood Zones 2 or 3. Furthermore, given that the Council can demonstrate 5+ years of housing supply within the District, there is no overriding reason to take a light-touch approach to considering the area of search or conclude that the needs of new housing outweigh the potential vulnerability to flooding. Given that the proposed development is considered to fail to pass the Sequential Test there is no need to apply the Exception Test to those dwellings within Flood Zone 3 as there is considered to be no demonstrated and overriding need for the dwellings to be located in such a flood zone.

- 8.44 In summary on this matter, whilst there is no evidence that the proposals would increase flood risk outside the development, some of the proposed dwellings would be susceptible to flooding in major storm events and thus within higher risk flood zones. Whilst the proposal to apply flood compensation storage is recognised, the starting point is to avoid new development in such higher risk flood zones rather than reconfigure the land to reduce flood risk in parts of a site. New development should therefore avoid development in Flood Zones 2 and 3 in preference of sites in Flood Zones 1. Officers consider it to be likely that there are a whole host of other sites at lower risk of flooding across Category A villages that might be suitable and available to accommodate residential development and therefore no need to propose new homes in areas at high risk of flooding particularly given the sufficient supply of housing in the District at the present time.

#### Ecology

- 8.45 Policy ESD10 of the CLPP1 seeks the protection and enhancement of biodiversity and the natural environment including trees, valuable ecological habitat and priority/protected species. This is reflective of national policy set out in the NPPF which, inter alia, seeks net gains for nature through the planning system. Policy Villages 2 is also material in this respect as one of its criteria for assessment of rural housing developments is whether the proposals would avoid significant adverse impact on wildlife assets. The Council also has statutory duties to both have regard to the purpose of conserving biodiversity as well as considering whether adequate provision is made for the preservation or planting of trees.
- 8.46 The entirety of the site also lies within the designated River Ray Conservation Target Area (CTA) and Policy ESD11 resists development that would be at odds with the purposes of the designation whilst also requiring biodiversity enhancement to help achieve the objectives of the CTA.
- 8.47 An ecology report has been submitted as part of the application and has been undertaken in accordance with appropriate methodology. As the proposals involve the loss of arable habitat which is of low ecological value and the retention of habitats of higher value (in particular the boundary hedgerows, all trees and the pond in the north east corner) the proposals should not have a significant adverse impact on biodiversity. However there is the potential for protected species to be impacted during construction, in particular nesting birds (including ground nesting species) and reptiles. Appropriate measures have been outlined in section 6.5 of the submitted ecology report to safeguard protected species though full details would be needed by condition (a Construction Ecological Management Plan) if planning permission was to be granted. On the subject of trees on and off the site, whilst it is the proposed intention to safeguard all existing trees, there remains some doubt about the potential implications for a number of the Oak and Ash trees along the western boundary given their proximity to some of the new development. Harm to these trees would reduce higher value habitat on the site and diminish ecological

benefits. This matter will however be covered in more detail in the next section of this report.

- 8.48 As the site is part of the River Ray CTA, the proposals should make every effort to provide biodiversity gain to support the habitats and species associated with the CTA in line with the requirements of Policy ESD11. The habitat restoration and enhancement measures detailed in section 6.2 to 6.7 of the ecology report are welcomed, including sensitive management of existing hedgerows and the proposed hedgerows, and sensitive management of the grassland and restoration of the existing pond. If planning permission was to be granted, conditions requiring details of a soft landscape scheme would be required to ensure the proposed new planting is appropriate to sustain/enhance the species found in the CTA.
- 8.49 In line with planning policy objectives to enhance biodiversity within the RTA, the balancing ponds/basins should be designed to be permanent water features (either to hold water all year round or at least most of the year round) for wildlife such as amphibians, reptiles, invertebrates etc. This would also contribute towards the Oxfordshire Biodiversity Action Plan Targets to create ponds within this CTA. Further details of the ponds could be secured by condition as part of requirements for approval of a surface water drainage scheme to serve the development. With respect to the public amenity space proposed to the southern half of the development, increased areas of wildflower grassland cut twice a year would also be recommended in place of some of the amenity grassland areas where possible. In order to achieve suitable long term management of retained and new habitats on the site, a combined ecological and landscaping scheme (LEMP) would need to be secured by condition if planning permission was to be granted. The LEMP should identify responsibility for the long-term management of the site to secure future appropriate management and monitoring. The LEMP should also include details of locations/types of bat and bird boxes as an enhancement for these species in line with the NPPF and local plan policy with the aim of achieving a net gain in biodiversity.
- 8.50 Artificial lighting is inevitable as part of a development of this size and nature. In order to ensure the effect on nocturnal wildlife is minimised, a lighting strategy would be needed to be secured by condition to ensure that it is sensitively designed to retain dark corridors for commuting/foraging bats.
- 8.51 In conclusion on the subject of ecological impacts, officers are satisfied that subject to conditions, habitat can be conserved and enhanced as part of the development to achieve a net gain in biodiversity in accordance with the requirements of Policies ESD10 and ESD11 of the CLPP1 as well as national policy contained in the NPPF.

#### Trees/Landscaping

- 8.52 Policy ESD15 of the CLPP1 requires new development to respect local topography and landscape features including significant trees, hedgerows and views. Policy ESD10 has similar requirements including the objective of protecting existing trees as well as increasing the number of trees overall within the District.
- 8.53 As already detailed previously, the vast majority of important soft landscape features are proposed to be retained as part of the development both in the interests of the character and appearance of the area as well as nature conservation. To achieve vehicular access to the development the existing central gap in the hedgerow along Blackthorn Road will need to be widened hence some loss of this landscape feature. However, a similarly sized gap further to the northeast is proposed to be closed up with new native hedgerow planting which should mitigate the impact.

- 8.54 As the southern extent of the application site is not delineated by a hedgerow (as the site is part of a larger field) there is the opportunity to include further native hedgerow planting whilst also softening the visual impact of the development in views from the countryside to the south. Such new planting would need to be secured via a condition requiring the submission, approval and implementation of a scheme of landscaping.
- 8.55 However, a number of mature Oak and Ash trees are located along the western boundary with the adjacent Springfield Farm residential development. Plots 69 and 70 feature gardens that would be significantly overshadowed by the canopies of these trees and which would see them under pressure to be lopped or even felled in the future. Furthermore, rather significant areas of hardsurfacing are proposed within the root protection areas of these trees and even if no-dig construction methods were used, this would cover a significant area and the resultant relationship would be poor. For this reason officers are concerned that the proposals would not properly safeguard existing features of landscape value contrary to the requirements of Policies ESD10 and ESD15 of the CLPP1.

#### Impact on Neighbouring Properties

- 8.56 Policy ESD15 of the CLPP1 requires consideration to be given to the amenity of both existing and future occupants of buildings as part of development proposals. Policy C30 of the CLP 1996 has similar requirements. These reflect one of the core planning principles set out in the NPPF – namely that the planning system should seek to secure a good standard of amenity for all occupants of land and buildings.
- 8.57 It is only at the site's western boundary that the proposed development would be adjacent to existing residential development. These existing homes are part of the Springfield Farm development and constructed in the last 2-3 years. In the main, the new dwellings along the western boundary are proposed to be separated from existing houses by a generous distance which should ensure no materially harmful loss of privacy, light or outlook for occupants of the existing dwellings. Whilst plots 73-75 are closer to the boundary they are orientated parallel to adjacent existing houses and so there is no opportunity for direct overlooking.
- 8.58 Plots 69 and 70 do however get a little closer to the western boundary and, as mentioned previously, are in close proximity to existing trees. Nevertheless, even these new dwellings are separated by approximately 25m from the rear wall of the nearest existing property – No. 24 Poppy Close. Given that the new houses are typical two storey homes, this exceeds the 22m back-to-back distances expected as part of residential developments having regard to the Council's Home Extensions and Alterations Design Guide. There are also existing mature trees separating the new and existing dwellings which should provide some additional screening albeit officers have raised some concerns about the implications for a couple of these trees in the long term but even if this is the case, this should not be sufficient to make the proposed relationships between the new and existing houses unacceptable.
- 8.59 Consequently officers have concluded that the proposed development adequately safeguards established residential amenity in accordance with the requirements of Policy ESD15 of the CLPP1, Policy C30 of the CLP 1996 and national policy set out in the NPPF.

#### Quality of New Dwellings

- 8.60 Policy ESD15 of the CLPP1 together with Policy C30 of the CLP 1996 require acceptable standards of amenity as part of new development. A review of the plans and drawings indicates that all new proposed homes would provide sufficient quality and quantity of internal floorspace to provide reasonable living conditions for future



occupants. Furthermore, all homes are shown to be served by private gardens and whilst a handful of the gardens shown to serve some of the affordable dwellings are a little small, they are still considered to be proportionate and appropriate to the houses they serve particularly given the proximity to a large new area of public amenity space as part of the development. Plots 71 and 72 constitute 1 bedroom flats and together share a very small private garden. However, given the size of the dwellings, likely nature of occupants as well as the close proximity to the large new public amenity area, this level of private outdoor space is considered to be acceptable. All new homes are also shown to be served by dedicated parking spaces (either on-plot or parking court) at a level proportionate to the size of the dwellings together with visitor car parking opportunities throughout the development. All new homes also have sufficient space for the provision of bin and cycle storage facilities in rear gardens to avoid unsightly clutter along streets.

- 8.61 Consequently officers have concluded that the standard of living conditions proposed as part of the new development is appropriate and in accordance with the requirements of development plan policies.

#### Energy Efficiency/Sustainability

- 8.62 Policy ESD3 of the CLPP1 is no longer up-to-date with national planning policy given the cancelling of zero carbon national policy as well as Code for Sustainable Homes (CfSH). However, building regulations are in the process of incorporating the energy performance standards inherent to Level 4 of the CfSH though this is not yet the case. In the meantime, and in accordance with the relevant Written Ministerial Statement, officers are recommending that development should achieve energy performance equivalent to the former Code Level 4. If planning permission was to be granted, a condition would be needed to this effect.

- 8.63 Policy ESD3 is however still up-to-date with respect to water efficiency. This requires new homes to be designed to achieve a limit of 110 litres/person/day. A condition would be required to this effect in the event that planning permission was to be granted.

#### On/Off Site Infrastructure

- 8.64 Policy INF1 of the CLPP1 requires development proposals to demonstrate that infrastructure requirements can be met to mitigate the impacts of the development including the provision of transport, education, health, social and community facilities.

- 8.65 With respect to on-site infrastructure, Policy BSC11 of CLPP1 requires the provision of general public amenity space as well as a Local Area of Play (LAP) and Local Equipped Area of Play (LEAP). The applicant has proposed a large area of public amenity space which satisfies the requirements of Policy BSC11 in this regard. However is not quite clear what specific type of play facility is proposed. Officers would expect to see a combined LAP/LEAP to serve a residential development of this size to ensure that there are the facilities necessary to serve the new children across a spread of age groups. Such provision would need to be secured through a legal agreement together with arrangements for future maintenance. There is no suggestion that the applicant is unwilling to provide this. It is also worthy of note that on some of the plans it is suggested that access across the proposed public amenity space is occasionally expected for farm vehicles to enable entry to an adjoining field. Officers are not satisfied that this is a suitable arrangement and could see public greenspace damaged by heavy farm vehicles which could prevent enjoyment and use by members of the public as well as maintenance liabilities. Officers therefore suggest that in the event that planning permission was to be granted that such public amenity space be secured only on the basis that it is free from encumbrances and inappropriate wayleaves/easements.

- 8.66 Policies BSC10 and BSC12 of the CLPP1 also require new residential developments to mitigate their impact on off-site indoor and outdoor sports provision in the local area where they would have an adverse impact on existing capacity. Officers have identified projects within the locality of Ambrosden for which financial contributions would need to be secured if planning permission was to be granted.
- 8.67 There is a vacant site for a community hall on the adjacent Springfield Farm development. A sum of approximately £22k was secured from that development together with the land. However, this leaves a substantial shortfall to the actual cost of such a facility together with initial maintenance costs. Seeking financial contributions in line with the Council's draft Planning Obligations SPD would deliver only about another £25k – still far short of the cost of the project. As a result, a community hall would still not exist and the development would not, in officers' view, mitigate itself in this regard. For this reason officers would recommend that if Members were minded to grant planning permission against officer recommendation that a financial contribution equivalent to the full residual sum for the community hall be sought in order to properly mitigate the impact of the proposed development. This would be likely to be in the order of £200,000. The applicant has not made a commitment to make such a contribution. The Council's Recreation and Leisure team has also sought a contribution towards the cost of a member of staff at the community hall. However, it has been established through a number of appeal decisions that such a cost is not appropriate to secure through a planning obligation given that it is not a capital project and officers therefore recommend that no such contribution is secured.
- 8.68 OCC has concluded that the proposed development would give rise to a need for increased capacity at the nearby Five Acres Primary School as well as additional demand for secondary school places. For this reason, in the event that planning permission was to be granted, OCC is seeking financial contributions towards capital projects in this respect to ensure increased capacity is delivered. OCC is also seeking a financial contribution towards increasing book stock at local libraries to serve the new population.
- 8.69 A combination of on and off site infrastructure needs to be secured through a legal agreement to mitigate the impact of the proposed development. Whilst the applicant has indicated support for provision of some of the above infrastructure, this has not been discussed in detail or informally agreed. Without the above infrastructure being secured through a legal agreement the proposed development would not deliver an appropriate quality of new residential development for its occupants and would have an unacceptable impact on existing public/community infrastructure and should be resisted.

#### Planning Obligation(s)

- 8.70 Where on and off site infrastructure/measures need to be secured through a planning obligation (i.e. legal agreement) they must meet statutory tests set out in regulation 122 of the Community Infrastructure Ley (CIL) Regulations 2010 (as amended). These tests are that each obligation must be:
- a) necessary to make the development acceptable in planning terms;
  - b) directly related to the development;
  - c) fairly and reasonably related in scale and kind to the development.
- 8.71 Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. To do so would potentially render any decision susceptible to legal challenge. In short, these tests exist to ensure that local planning authorities do not seek disproportionate and/or unjustified infrastructure or financial contributions as part of deciding to grant planning permission. The statutory

tests also ensure that planning permissions cannot lawfully be 'bought' by developers offering unrelated, disproportionate but nonetheless attractive contributions to try to achieve a planning permission that would otherwise not be granted. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them to ensure that any decision reached is lawful.

8.72 Having regard to the above and notwithstanding officers' recommendation for refusal, in the event that Members were to resolve to grant planning permission, the following items would in officers' view need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to mitigate the impact of the proposed development:

Cherwell District Council

- Provision of public amenity space and future maintenance arrangements;
- Provision of a combined LAP/LEAP together with future maintenance arrangements;
- Maintenance arrangements for on-site trees, hedgerows, ponds, ditches and drainage features;
- Provision of 35% affordable housing together with 70:30 tenure split between affordable/social rented and intermediate housing;
- Financial contributions towards improvements to off-site indoor and outdoor sports facilities;
- Financial contribution providing the full residual sum necessary (currently undetermined) to complete the construction of a new community/village hall facility on adjacent Springfield Farm development.

Oxfordshire County Council

- Financial contributions towards increasing primary and secondary education capacity in the local area;
- Financial contribution to increase local library book stock;
- Secure £1000/dwelling (index linked) towards improving the frequency of the local bus service;
- Financial contributions to cover the legal costs associated with making TROs;
- Financial contribution towards the costs of monitoring the Travel Plan;
- £15,000 towards improvement of public footpath 131/7;
- To secure entry into a s278 agreement (Highways Act 1980) to deliver new vehicular access, combined footway/cycleway and speed limit changes together with associated village entry treatments.

8.73 In addition to the above, the applicants have offered to provide further financial contributions towards replacement railings elsewhere in the village and a scheme to alleviate on-street parking problems on Merton Road. These have apparently been discussed directly with Ambrosden Parish Council. Officers consider these financial contributions to be neither necessary to make the development acceptable in planning terms nor directly related to the impact of the proposed development. As such, they would not meet the statutory tests of a planning obligation and to attach weight to these offers would therefore be unlawful. Nevertheless, whilst Members cannot have regard to them in their decision making, if Committee were to resolve to approve the application then they could be secured within the legal agreement.

8.74 In its representation Blackthorn Parish Council asked the Council to have regard to the potential ability to seek funds towards diversion of the S5 bus service as part of considering this application so that it routes through Blackthorn. However, not only would OCC be likely to object to diverting this 'express' service through a small village (and therefore slowing its journey time) it is not clear how such a diversion

would be directly related to mitigating the impact of this proposed development. Consequently officers do not recommend that this is taken any further.

#### Other Matters

- 8.75 The proposed development has the potential to attract New Homes Bonus of £480,643 over 4 years under current arrangements for the Council. Local finance considerations such as this can be material in the determination of planning applications. A local finance consideration includes, inter alia, a grant or other financial assistance that would or could be provided to a relevant authority by a Minister of the Crown such as New Homes Bonus. However, Government guidance set out in the PPG is clear that whether a local finance consideration is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. Government guidance goes on to state that *'it would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body.'*
- 8.76 In the case of the proposed development, it is not clear how the New Homes Bonus payment would either directly or indirectly make the development acceptable in planning terms. As a result it should not be afforded material weight in the determination of this application. In any event, officers do not think it appropriate that the harmful impacts of a development should be balanced against direct financial gain for the Council and to do so would jeopardise public confidence in the planning system.

### **9. PLANNING BALANCE AND CONCLUSION**

- 9.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise. For reasons already explained in this report, the proposed development would lead to unnecessary development of open countryside and the overprovision of new housing in a single rural settlement early in the plan period to the detriment of the sustainable housing growth strategy of the development plan. Furthermore, the proposals are not considered to result in high quality design that respects the character and appearance of its context and would unjustifiably result in new housing in areas of higher risk of flooding. Moreover, the proposed development has been found to exacerbate existing severe congestion on the local road network without proposing adequate mitigation and fails to commit to adequately mitigate its impact on other local public infrastructure. For this reason, the proposals are considered to be in conflict with the overall development plan and numerous specific planning policies within it. For this reason and in accordance with relevant legislation, planning permission should be refused unless material considerations indicate otherwise.
- 9.2 As current central Government planning policy, the NPPF is a material planning consideration of significant weight. The NPPF reinforces the plan-led system and reaffirms that the starting point is to refuse planning permission where a proposal is contrary to the development plan. The CLPP1 was produced, examined and adopted post publication of the NPPF and both its strategy and planning policies are therefore up-to-date. Moreover, as the District can demonstrate a minimum five year supply of housing delivery, the housing supply policies within the CLPP1 are also up-to-date and full weight must be afforded to them. As the proposals have been found to be in conflict with an up-to-date development plan, paragraph 14 of the NPPF is not engaged and so the harm identified does not need to significantly outweigh benefits in order to justify refusal.
- 9.3 Nevertheless, the NPPF is still a material planning consideration and it is necessary to consider where national policy within it would indicate coming to a different

decision than to follow the provisions of the development plan and refuse planning permission. At its heart the NPPF includes a presumption in favour of sustainable development and as such there may be occasions where a proposal is in conflict with the development plan but nonetheless considered to be sustainable given that it delivers a combination of environmental, social and economic benefits that outweigh its harm. Recent court judgements have however concluded that such a case must be compelling and supported by very clear evidence in order to justify overriding conflict with an up-to-date development plan given that this represents the adopted sustainable growth strategy for an area.

- 9.4 The proposals would generate some economic benefits by providing construction employment and add a new population to the local economy. The development would also add to the civilian community of the village which would add to community cohesion given the current the lack of integration resulting from the large military community. It would also add to the supply of housing and genuine weight should be attached to this though given the generous supply of housing in the District the weight should not be significant. Whilst new on-site play areas and amenity spaces as well as financial contributions towards off-site improvements would be sought, these have not yet been committed to by the applicant and in any event would technically only mitigate impact and not deliver benefits though the wider public may benefit from use of a new community hall and improved surface to the public footpath. New Homes Bonus would also be received from the Government which could potentially deliver some local social, economic and/or environmental benefits dependent on how the Council would choose to spend such funds. Some net ecological benefits could be delivered too through securing provision and management of new habitat on the site which would assist in the objectives for the designation of the River Ray CTA.
- 9.5 The proposals would however result in significant environmental, economic and social harm for reasons already discussed in this report. Officers' consider that such harm would substantially outweigh the abovementioned benefits associated with the development such that the proposals cannot be considered sustainable. As a result, the presumption in favour of sustainable development inherent within the NPPF does not apply in relation to these development proposals with the result that there is no reason for departing from the development plan. As a consequence, and in the absence of any other material planning considerations indicating to the contrary, planning permission should be refused.

## **10. RECOMMENDATION**

- 10.1 The Planning Committee should resolve to refuse to grant planning permission for the following reasons:

1 That cumulatively with other recently approved/delivered new housing developments, the proposed development would cause the level, scale and intensity of new housing growth in the village of Ambrosden to be inappropriate and significantly prejudicial to the objectives of the strategy inherent within the Cherwell Local Plan 2011-2031 Part 1 and Policy Villages 2 to distribute limited housing growth across the rural areas over the plan period to enable all settlements to participate in sustainable growth.

2 Having regard to the District's strong housing supply and delivery position both generally within the urban and rural areas, the proposals would result in the unnecessary development of greenfield land forming part of the open countryside and are therefore detrimental to the intrinsic natural beauty of the countryside. The proposals therefore conflict with the requirements of Policy Villages 2 and ESD13 of the Cherwell Local Plan 2011-2031 Part 1 as well as Policy C8 of the Cherwell Local

Plan 1996 and Government guidance contained in the National Planning Policy Framework.

3 The proposed development would result in an inappropriate over provision of large detached family homes that does not respond to objectively identified housing need within the District. The proposals thus fail to deliver a suitable size and type of new market homes on the site contrary to the requirements of Policy BSC4 of the Cherwell Local Plan 2011-2031 Part 1 as well as Government guidance in the National Planning Policy Framework. The proposals also fail to provide a sufficient mix of affordable housing to meet the priority housing needs of the District and fail to provide any detail on the proposed tenure mix thus preventing an assessment of the suitability of intermediate and rented affordable units for future transfer to a Registered Provider. Consequently the proposals also fail to accord with the requirements of Policy BSC3 of the Cherwell Local Plan 2011-2031 Part 1 in this regard.

4 The proposed development would result in a poor quality distribution of affordable housing throughout the site as well as such housing being overtly distinguishable from the open market dwellings by virtue of their form and appearance which in this case is only exacerbated by the predominance of large market housing throughout the development. Consequently the proposals would fail to help achieve mixed, balanced and inclusive communities contrary to the requirements of Policy BSC3 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 as well as Government guidance set out in the National Planning Policy Framework and Planning Practice Guidance.

5 The proposals would result in a number of new dwellings being located within land identified to be in Flood Zones 2 and 3. The applicant has not submitted any information to demonstrate that the proposals would accord with either the sequential or exception tests. Notwithstanding this, given the Council's ability to demonstrate at least a five year supply of housing as well as the inevitable availability of other sites in the immediate rural areas, the development in the higher risk flood zones cannot be considered to be justified and thus is in conflict with the requirements of Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1 as well as Government guidance set out in the National Planning Policy Framework.

6 In the absence of a robust Transport Assessment and lack of proposed off-site highway improvements, the proposals must be assumed to give rise to additional traffic at the Ploughley Road/A41 junction which would compound existing severe traffic congestion and thus have a further adverse impact on the safety and operability of this junction to the detriment of drivers and other users of the local road network. In this regard the proposals are therefore found to be contrary to the requirements of Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1 as well as Government guidance contained in the National Planning Policy Framework.

7 The proposed development would result in the significant and circuitous diversion of an existing public right of way rather than seek to incorporate it successfully within the development. The proposals thus fail to safeguard the existing public right of way to the detriment of public amenity and the promotion of permeable and access places. In this respect the proposals are in conflict with the requirements of Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 as well as Government guidance contained in the Planning Practice Guidance as well as DEFRA Circular 1/09.

8 As a result of the lack of a clear consistent frontage of new development on Blackthorn Road, proximity to existing trees and vegetation along the western boundary, lack of permeability of roads/streets, absence of creating legibility through

inappropriate use of design detailing and external materials as well as large unbroken areas of frontage hardsurfacing, the proposed development fails to respect and complement the character of its context to create inclusive and high quality design contrary to the requirements of Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Policy C28 of the Cherwell Local Plan 1996 and Government guidance set out in the National Planning Policy Framework.

9 Having regard in particular to the external appearance of the proposed affordable units, the proposed development fails to take the opportunities available to promote and enhance local architectural character and distinctiveness and in the case of the apartments of Plots 76-79 proposes a large poor articulated and bland building in a highly prominent position within the site. Moreover, many of the proposed market homes continue aspects of the inappropriate design detailing and thus also fail to take the opportunity available to reinforce established positive local character contrary to the requirements of Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 as well as Government guidance set out in the National Planning Policy Framework.

10 In the absence of a satisfactory completed legal agreement, the development fails to adequately provide for on and off-site infrastructure necessary to mitigate its impact including in terms of provision/maintenance of the following: affordable housing, play and public amenity facilities, indoor/outdoor sports facilities, community facilities, access and transport mitigation, on-site drainage features, primary and secondary education and library book stock. As a consequence the proposed development would lead to unacceptable on-site conditions as well as significant adverse impact on wider public infrastructure to the detriment of the local community contrary to the requirements of Policies BSC9 and INF1 of the Cherwell Local Plan 2011-2031 Part 1 as well as Government guidance in the National Planning Policy Framework.

CASE OFFICER: Matthew Parry

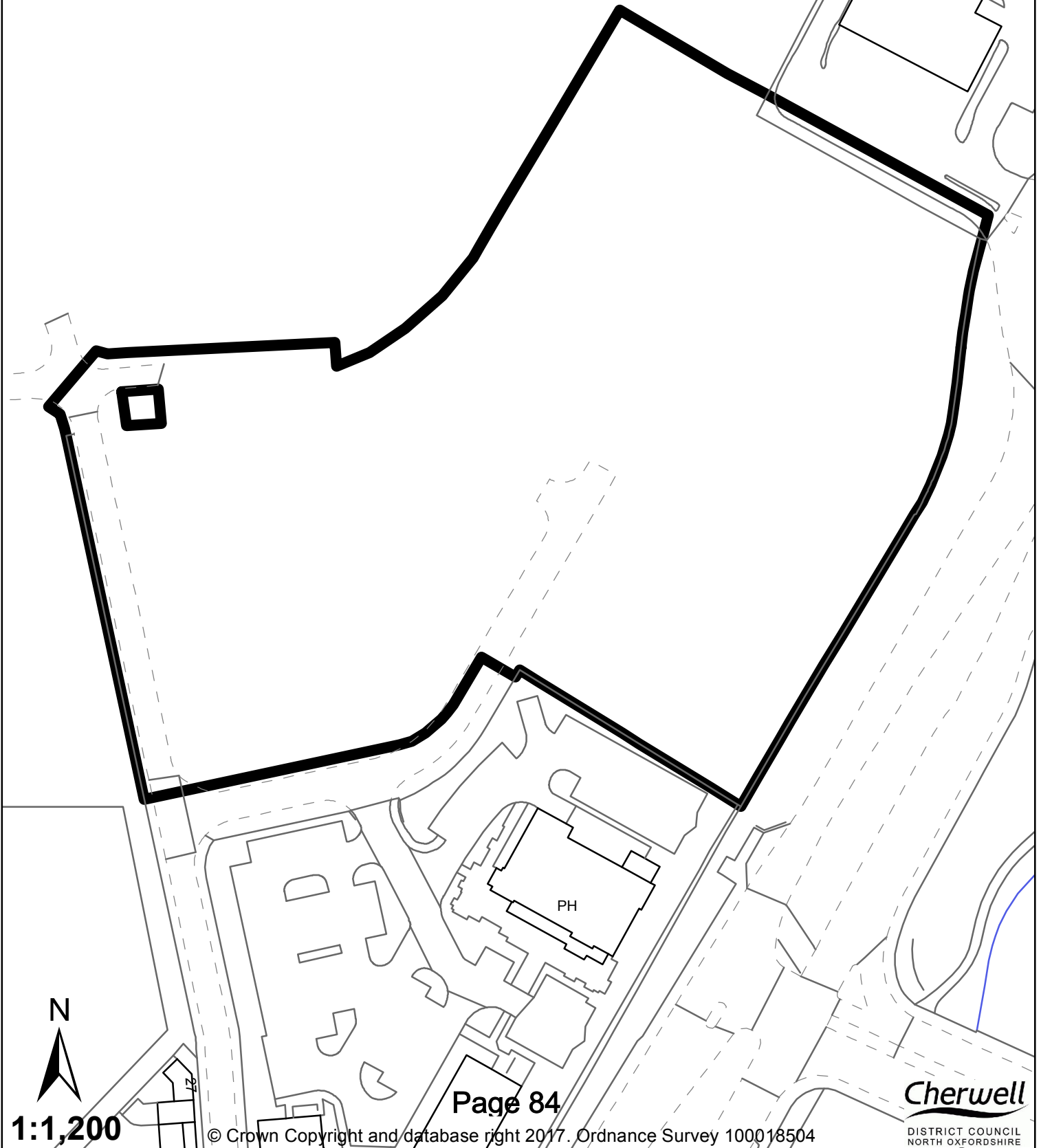
TEL: 01295 221837

# Agenda Item 9

## 16/02505/OUT

Land South Of And  
Adjoining Bicester Services  
Oxford Road  
Bicester

Service Area



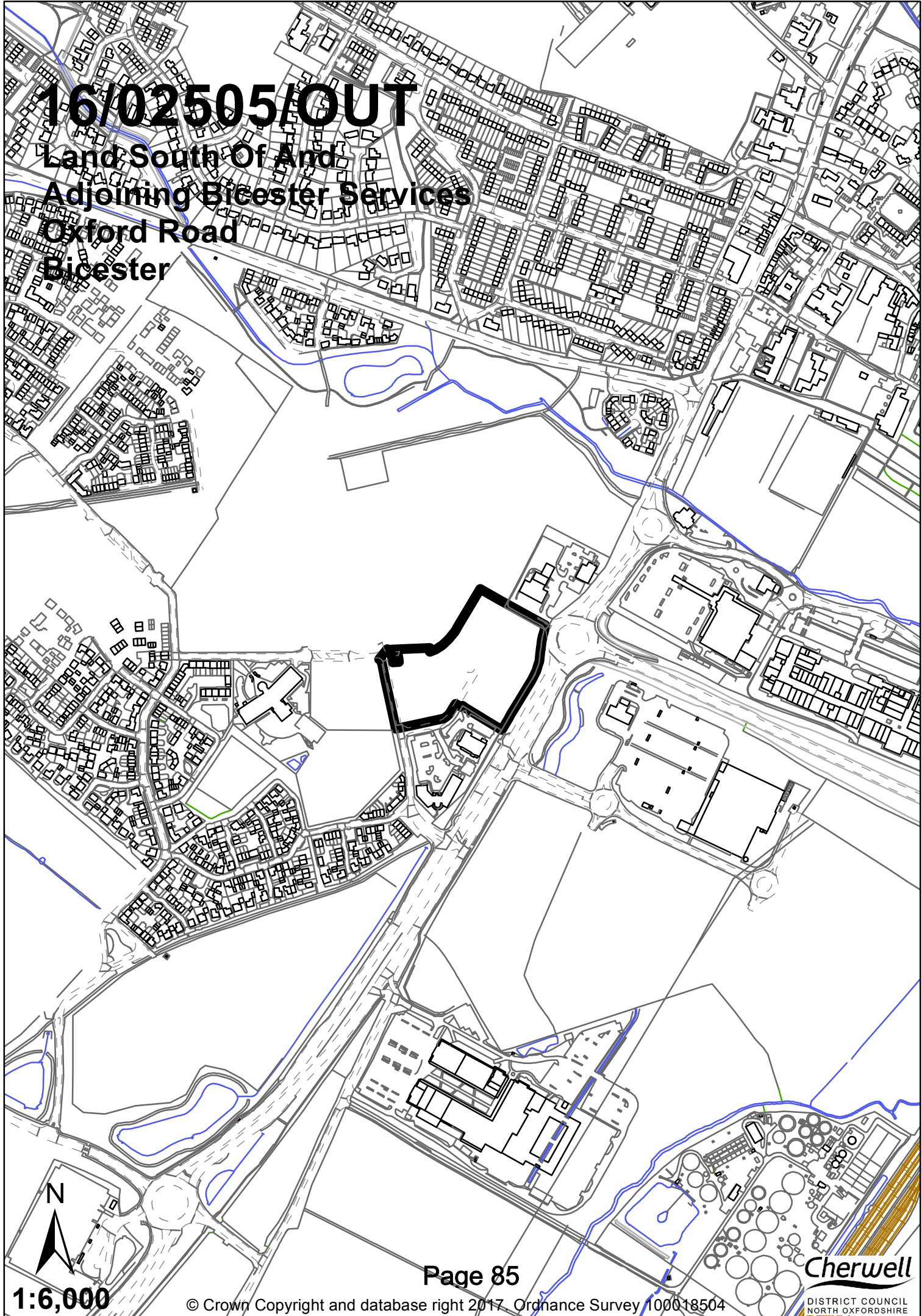
1:1,200

© Crown Copyright and database right 2017. Ordnance Survey 100018504



# 16/02505/OUT

Land South Of And  
Adjoining Bicester Services  
Oxford Road  
Bicester



**Site Address:** Land South of and  
Adjoining Bicester Services, Oxford Road,  
Bicester

**16/02505/OUT**

**Ward:** Bicester South and  
Ambrosden

**District Councillor:** Councillor Anderson, Councillor  
Cotter, Councillor Sames

**Case Officer:** Linda Griffiths

**Recommendation:** Approval

**Committee Date:** 13<sup>th</sup> April 2017

**Applicant:** CPG Development Projects Ltd

**Application Description:** Bicester Gateway (Kingsmere – Retail) four Class A1 (retail) units, one Class A3 (Café/restaurants) unit, a Class D2 (gym) unit, surface level car parking, access, servicing and associated works

## **1. Site Description and Proposed Development**

- 1.1 The application site extends to 2.28 hectares and is part of the development at South West Bicester which is situated between the Middleton Stoney and Oxford Roads. The whole site was granted outline planning permission subject to conditions and a Section 106 Agreement for the erection of up to 1585 dwellings, employment, education, health village, employment and supporting infrastructure in June 2008 (06/00967/OUT refers). A land use proposals plan approved as part of the original outline conditions identified this site as part of the employment zone which was also to include the hotel development.
- 1.2 Adjoining the site to the north is the Bicester Service Station, which comprises a petrol filling station together with a Burger King and Little Chef food outlets. The eastern boundary is bounded by the A41, the southern boundary by the Premier Inn and Brewers Fayre Public House and to the west by the primary school and residential development associated with South West Bicester development, now known as Kingsmere.
- 1.3 The site will be accessed via the new signalised junction onto the A41 serving the development and the new access road off the main spine road which currently serves the Premier Inn Hotel and Brewers Fayre Public House. Servicing of retail block A is proposed via the Esso Service Station roundabout and service road.

The application site is roughly rectangular in shape, is relatively flat and has no features of note. The A41 signalised junction is one of the key entrances into the development and has been designed to form an urban square with buildings to its perimeter framing this space. The application is in outline, but only landscaping is reserved, all other matters are to be considered as part of this submission.

The application seeks consent for the erection of 3 large retail units in a single block A and a smaller retail unit and A3 unit with gym above in a smaller unit B, totalling 9,244 sqm of floorspace. A central car park indicates the provision of 345 car parking spaces.

## **2. Application Publicity**

- 2.1 The application has been advertised by way of neighbour letter, site notices and notice in the local press.

3 letters of support have been received from local residents as follows.

- Previous plan was refused on appeal because of the scale and look of the buildings, car parking and traffic problems. From what I can see these problems have been addressed
- Delighted that there is an extra shop, as we need more shops in Bicester, retail choice for clothing and footwear is abysmal and has not improved with Bure Place/Pioneer Square redevelopment
- Additional car parking spaces along with improved lay-out and better landscaping
- Widening A41 to 3 lanes is fantastic, having this extra lane from the Park and Ride to the new hamburger roundabout will speed up the flow. Traffic problems will get worse if we don't get these improvements
- Not having adequate mid-range retail facilities in Bicester makes a mockery of Bicester being a 'healthy new town' or 'Eco-Bicester'
- Local plan mentions more future retail sites for Banbury, but Bicester only has 'Bicester Village'
- Please allow the application to go ahead without further delay, it will not have a detrimental effect on Bicester Village nor take business away from the town centre due to the nature of the shops planned
- The proposal addresses a severe shortfall in the type of retail units that Bicester severely lacks and cannot be provided in the Town Centre
- The needs of residents should have a higher priority than objections raised by vested retailers

2 letters of objection from local residents comment as follows:

- This is Bicester south west, Bicester Gateway is Bicester 10 on the opposite side of the road
- If stores of this nature are required they should be grouped together on one site, not scattered piecemeal. The ideal site for a development of this nature is adjacent to Tesco or linked with Bicester Avenue
- Do not believe that Pioneer Way has been constructed to handle the increased traffic, is this the only/best access route? If so junction with Haydock Road and A41 needs to be improved as there have been many near misses at both junctions. Sports Pavilion and Secondary School accessed from Whitelands Way will impact further. Public access should be from the Esso Garage end of the development

Bicester Traffic Action Group (BicesterTAG) comment as follows:

- Welcomes Next and M&S but do not consider the proposed site to be suitable given the existing levels of traffic congestion and high pollution levels in the area
- TA makes several statements that are not backed up by facts. The developer's traffic consultant states that works currently being undertaken at the Esso roundabout in connection with the Bicester Village expansion will be unable to cater for traffic growth by 2024, we cannot find evidence of this. TA states that a small amount of road widening will solve this problem, but cannot find evidence to support this, other than stick diagrams, let alone reduce the traffic flows as the assessment suggests.
- The main thrust of the TA is that the majority of the traffic going to and from the 'Gateway' proposal, 75% will already be on the network and will simply be transferred and diverted trips from Banbury, Aylesbury and Oxford. We find this assertion difficult to justify as stores of this type already exist in these towns and as we assume neither Next or M&S would wish to reduce their footfall to support a new store in Bicester. M&S and Next are traffic generators in their own right and rely on new customers rather than distributing existing. Even when the town's expansion is complete, Bicester will not be large enough to support these stores and custom will have to come from elsewhere.

- TA's are always written in a manner that favours the person commissioning them. Whilst we do not consider that there is any deliberate attempt to mislead, it is often what is not said rather than what is said that is important. OCC have got the last two major assessment (Bicester Village expansion and the previous submission for this application) wrong, and hope that they will act more diligently in reviewing the implications of such a traffic generating development in close proximity to Bicester Village, Tesco Superstore, Bicester Avenue as well as a new business park and hotel.
- Site is also in close proximity to areas of dangerous levels of pollution – Kings End South, Queens Avenue and North Street. Any increase in traffic will have an adverse impact on air quality within the AQMA.
- Assuming that Next and M&S have signed up to this proposal, and we have seen no proof of this, Bicester TAG welcomes the fact that such businesses wish to move to Bicester but feel that this site with its heavy and increasing traffic congestion, is the wrong location and would add to the traffic congestion and traffic related air quality problems of the area.

The comments can be read in full on the application file.

An objection has been received on behalf of Bicester Sports Association and U&I Group PLC who comment as follows:

- The existing BSA Oxford Road site requires refurbishment
- BSA also has a site at Chesterton
- Costs of maintaining these sites has in the past been subsidised by investment income, but due to lower interest rates and investment returns their future is becoming uncertain. BSA has therefore entered into a development agreement with U&I Group to redevelop the Oxford Road site for mixed use retail and leisure development and to relocate the existing sports facilities to Chesterton.
- Application is contrary to the Policy Bicester 5 which seeks to strengthen the town centre and identifies an 'area of search' which should be the first port of call. Unlike BSA's Oxford Road site, the application site falls outside the 'area of search'
- Therefore and in accordance with the NPPF paragraph 27 and Policy SLE2, the application can only be considered acceptable if it complies with the sequential test and does not have a significant adverse impact on Bicester town centre
- Do not consider the sequential test has been met as the Oxford Road site which is preferable is available for development.
- At circa 4.13ha, compared to the application site at 2.28ha, the Oxford Road site can accommodate the development
- Note that Mango has not undertaken a new retail impact assessment but simply appends its February 2015 assessment which accompanied the previous submission. This is out of date and Mango should be required to undertake a full, robust and up to date retail impact assessment. The failure to do constitutes a refusal as set out in the PPG.

The comments can be read in full on the application file.

A holding objection has been submitted on behalf of Value Retail on highway grounds, pending further clarification and analysis as follows:

- The TA has utilised the 2024 assessment year traffic flows from the consented Bicester Village Phase 4 and Tesco Planning applications as the base for the assessment of the highway network which were undertaken in July 2011 and which are therefore in excess of 5 years old
- National Planning Practice Guidance states that a Transport Assessment should include data regarding the '*current traffic flows on links and at*

*junctions*'. It is generally considered that data in excess of 5 years old would not represent a suitable indication of current traffic conditions, in particular where there have been significant changes to the highway network or developments that would affect traffic patterns.

- Since the 2011 traffic surveys were undertaken, Vendee Drive has been constructed and the Tesco store has opened, both of which would result in significant changes to traffic patterns on the local highway network. The Tesco and Bicester Village Phase 4 Transport Assessments included an assessment of the change in traffic patterns on the network as a result of vendee Drive and the new Tesco store, however, as these are now in place, current traffic surveys would provide a more appropriate and accurate base for the purpose of the assessment
- The Sunday trip rate is based on a sample of only two sites from the TRICS database. Both site surveys date from 2000 and are of retail parks comprising bulky goods retailers such as Homebase, PC World and Currys. These sites are not considered to be comparable to the proposed development. The resultant trip rate based on these sites is some 30% lower than the trip rate used in the assessment for the Saturday peak period. Consideration of the survey data for Bicester Village and Tesco presented in the TAs supporting consented proposals at those sites, indicates that retail traffic attraction during the Sunday peak hour is comparable to Saturday peak hour. Consequently the trip generation for Sunday is likely to be significantly underestimated
- It is further noted that the baseline capacity assessment presented in the Transport Assessment indicates that the highway network in the vicinity of the development operates closer to capacity on a Sunday. On that basis, the traffic generation is underestimated
- The current proposals include a package of mitigation measures on the A41 which predominantly comprise the provision of an additional lane of carriageway northbound past the application site. A review of the capacity modelling within the TA indicates discrepancies in the capacity modelling, including changes to link lengths which may result in the assessment underestimating the impact of the development on the highway network

### 3. Consultations

- 3.1 **Bicester Town Council:** Welcome the application, however, we believe it is not necessarily in the right location and we have concerns about the volume of traffic and management. There is also a concern regarding the impact this development would have on the town centre and the robustness of the sequential test put forward by CPG developments.

#### **Cherwell District Council Consultees**

- 3.2 **Planning Policy Officer:** the application site is greenfield land located in an out of centre location adjacent to the A41.

The application site is part of a larger site for which planning permission was granted in 2008 for circa 1800 homes and other uses. The application site is located on land which is zoned for employment use (B use classes) through that planning application. The larger site is currently under construction and well advanced with new homes being constructed in close proximity to the application site and there is a recently completed hotel adjacent to the application site. The application site is in an out of centre location but is acknowledged that new development at Bicester would bring the site within Bicester's urban area.

It is noted that a recent planning application for a similar proposal was refused planning permission which was then subject of an appeal and dismissed. The current proposals have a slightly reduced floorspace including one less restaurant.

Main Policy Observations are as follows:

- Application site is on land identified as an approved housing site. (SW Bicester development) on Key Policies Map 5.2:Bicester
- Local Plan 2015 Objective SO1 sets out that the objectives for developing a sustainable local economy include; to facilitate economic growth and a more diverse local economy with an emphasis on attracting and developing higher technology uses. Paragraph 19 of the NPPF encourages economic growth.
- Policy SLE1 sets out the requirements for planning applications for existing employment sites. Paragraph B.48 explains that Policy SLE1 applies to sites which have planning permission for employment uses. Paragraph B.48 states that the provision of jobs will be a material consideration for determining planning applications for any use classes. There are other sites allocated in the Local Plan 2015 to deliver future employment needs.
- Paragraph B.50 states that the Council is determined to secure dynamic town centres as the focus for retail development. Paragraph B.55 explains that new retail development will continue to be focussed in the town centres and all new development will be required to be built to high design and building standards.
- Paragraphs 23 to 27 of the NPPF (which relate to ensuring the vitality of town centres) will apply. In particular the requirements relating to the production of a sequential test and impact assessment should be observed. Annex 2 provides further information
- The uses proposed are 'main town centre uses' as defined in Annex 2 of the NPPF and paragraph B.56 of the Local Plan. The NPPF requires a town centre first approach that directs retail and town centre uses towards town centres and encourages the growth of centres. The Local Plan is consistent with this approach and aims to support Bicester town centre's vitality and viability. Policy SLE2 directs retail and other town centre uses towards the District's town centres. The policy reflects the NPPF and requires a sequential test and impact assessment for applications for main town centre uses outside the town centre. Policy SLE2 states that only if suitable sites are not available in edge of centre locations should out of centre locations be considered. The NPPF states that when considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.
- Policy Bicester 5 states that shopping, leisure and other main town centre uses will be supported within Bicester town centre. An 'area of search' is identified in Bicester and shown on Inset Map Bicester 5. In the 'area of search' town centre uses will be supported if they help deliver the aims for central Bicester and growth of the town centre. The proposals are in an out of town location and therefore inconsistent with local planning policy in terms of the strategy for accommodating town centre uses and supporting the growth, vitality and viability of central Bicester. Changes to the town centre will be explored further in Local Plan Part 2 including the potential of sites for town centre uses in accordance with the approach in the NPPF and Local Plan 2015.
- The 'area of search' at Policy Bicester 5 of the Local Plan provides an indication of locations that should be explored for the sequential test. However, the sequential test should include consideration of all potential sites within the urban area of Bicester and accessibility and connections to the town centre should be considered. Sites should however be suitable and available.
- The proposals are located in an area of Bicester where commercial and residential development already exists in close proximity, is taking place or is planned, providing some opportunities for sustainable modes of travel. This should be a consideration in determining the application, however, proposals

alternatively located in the town centre, and potentially in edge of centre or other out of centre locations, may better achieve this. For example, as demonstrated by proposals set out at Policy Bicester 6: (Bure Place redevelopment) of the Local Plan

- Bicester Village is expanding on the previous Tesco food store site. The Local Plan identifies the potential for more connections to the town centre. Planning permissions granted at Bicester Village have associated conditions which restrict the type of retail development. Similar conditions are also in place at Bicester Avenue Garden Centre.
- In relation to the appeal (above) the Inspector stated that he was satisfied that the appellant had provided sufficient evidence to show that the proposal would not adversely affect the vitality and viability of Bicester. The Inspector also observed that the information provided by the appellant had demonstrated that the proposal satisfies the sequential test and the council had agreed that this is the case. He stated that he had been given insufficient substantive evidence to convince him that there are more suitable sites in the area for the proposed development.
- The Inspector also noted that the Local Plan has only recently been adopted following an Examination in Public and the Inspector found in his report that it is sound. He stated in this respect he was satisfied that the relevant policies in the Local Plan are not out of date.
- Strategic Objective 13 of the Local Plan aims to reduce the dependency on the private car as a mode of travel and increase opportunities for travelling by other modes. Policy ESD1 sets out an aim to mitigate the impact of development on climate change by delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce the dependence on private cars. Policy SLE4 will also apply and has similar objectives. The transport and traffic impacts of the development will need to be considered including against requirements in section 4 of the NPPF. Sustainable modes of transport should be provided. Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- Paragraph 56 to 67 of the NPPF on requiring good design are also relevant

Policy Recommendation – The proposal will provide for economic growth and jobs in retailing. The previous appeal decision (as above) considers that there were no significant retail matters outstanding. Circumstances do not appear to have substantially changed relating to potential impact and alternative available suitable sites since the previous scheme was considered. On this basis there is no planning policy objection. However, the Local Plan is recently adopted and has a clear policy focus in terms of directing retail uses to the town centre to support its vitality and viability and the sequential test and impact assessment must be robust and up to date to inform a decision.

3.3 **Ecology Officer:** Has no overarching concerns with the proposed works, however there are a number of recommendations in the report for appropriate ecological mitigation measures which we recommend should be followed

- Existing scrub/hedgerow removal should be timed to avoid bird nesting season. Given the presence of skylark during the previous survey and suitable habitat on site, ground clearance works should also be undertaken to avoid the nesting bird season
- Since the previous survey, a Schedule 9 invasive non-native species of Cotoneaster has colonised the bund in the north of the site. Appropriate recommendations to remove the species and prevent spread have been included in the report.
- We also recommend that enhancements on site are encouraged, in particular making use of native species planting of shrubs and trees around the

boundary of the site, opposed to non-native ornamental species

- Bat and bird boxes are recommended as part of mitigation loss of nesting bird habitat. Other enhancements could include the consideration of green wall (which we understand was previously proposed under ref 15/00250/OUT) or green roof within the site
- Should permission be granted, we would recommend that a Construction Environmental Management Plan (CEMP) to safeguard protected species, remove invasive species and include protection measures for the existing boundary vegetation is secured via a condition (to follow the recommendations in paragraph 5.2 of the report) and also a combined ecological and landscaping plan is secured via a condition

3.4 **Business Support Unit:** no comments received to date

3.5 **Environmental Protection Officer:** no comments received to date

3.6 **Landscape Officer:** comments as follows:

- West façade of unit C - major visual harm due to scale, height and proximity to highway corridor. Reduce height and set façade 10m from current position. With a signage zone maintained as a viewing corridor, plant semi-mature Corsican pines for mitigating the bulk of the building and reduce early morning glare impact on traffic users. Reinforce tree planting around loading unit area to mitigate HGVs.
- Western site boundary/car park – for benefit of pedestrians, retain the existing hedgerow and maintain at 3m above pavement level to shield car parking
- Large area of visually onerous car parking which has cumulative harmful visual effect due to adjacent hotel and restaurant site car parking. A 3m wide strip of tree planting with understory including 1m mowing strip to parking bays and increase trees in car park generally with the intention of mitigating heat island effect and reducing glare of glazing panels on southern elevation
- Oppressive west-facing elevation of units D and E. Issue of privacy: upper story windows of future residential development being able to be overlooked from adjacent upper levels of units. Oppressive effect created due to scale, height and close proximity of units to future residents. Set back units to allow for intervening trees and visitor parking corridor
- Northern site boundary planting, in order to mitigate the scale of unit A and associated car parking for the benefit of future residents west of the site, there must be substantial tree planting on the north/north-western boundary.

### **Oxfordshire County Council Consultees**

3.7 **Transport:** Initial Objection, the proposals fall short of demonstrating that the development would not have a severe residual impact on the local transport network. The objections are summarised as:

- Increase out commuting from Bicester reducing the potential sustainability benefits of the approved site
- The proposals fall short of demonstrating that the development would not have a severe residual impact on the local transport network
- The information on drainage is insufficient to form an opinion about the sustainability of the surface water drainage SUDS proposals that would ensure flood risk would not be increased
- 2024 base plus committed development scenario turning movements do not reflect current local plan assumptions, meaning that the proposed mitigation scheme may not work as modelled
- Assumptions regarding frequency of pedestrian crossing being called
- Assumptions regarding transferred trips



- Some concerns regarding trip assignment in Bicester
- Car park layout is not efficient and at busy times is likely to result in queues backing up to the junction with Pioneer Way, blocking access to Kingsmere, which could result in queues extending back to the A41. This could in turn lead to overspill parking as customers choose to park elsewhere
- More information required on proposed car park management scheme
- Service yard layout very tight and vehicles waiting to enter could cause a safety hazard for vehicles leaving the roundabout to enter the service station
- Insufficient disabled parking
- Inadequate drainage information

### Update

Following the receipt of the consultation response above, the applicant's transport consultant has sought to overcome the objections raised. A revised consultation response dated 24<sup>th</sup> March has now been received as follows:

This updated transport response addresses the additional information 'Technical Note 4' dated 7<sup>th</sup> March 2017 and should be read in the context of OCC's original response dated 13<sup>th</sup> February 2017. All comments in our original response continue to apply other than those addressed in the updated transport response.

As a result of the additional information received, OCC **withdraw the transport objection**. However, it should be noted that OCC still has the following transport concerns:

- Whilst the applicant argues that the mitigation scheme results in betterment compared with the 2024 base scenario, the junction would still operate negative Practical Reserve Capacity in the PM peak and, depending on the number of transferred trips allowed for, it would be slightly worse than the situation without the development or its mitigation scheme
- The scheme would result in no perceptible improvement to the travelling public in 2024, and the situation would only get worse between then and 2031 in the absence of a more significant scheme to relieve this corridor
- Although the car park layout has been revised there is still likely to be some delay at peak shopping times. With space for only 11 cars to queue between the car park entrance and Pioneer Way, there is a risk of traffic blocking Pioneer Way. There is also insufficient space for a right turning lane. However, this is unlikely to coincide with school pick up times.
- Further tracking has been provided showing how trucks could wait in a waiting area within the yard. However, this does not address our concern about obstruction if the gate is closed and a vehicle cannot enter, although this could be dealt with by a condition for a delivery and servicing plan.

Additionally, as raised in our previous response of 13<sup>th</sup> February 2017, OCC continues to have the following concerns with this application:

- The loss of skilled jobs that the current approved B1 use (permission reference 06/00967/OUT) could provide for
- The potential increase in out commuting from Bicester as a result of losing a key employment site
- The impact of the development on the town centre and local centre
- The proposals are contrary to the Cherwell Local Plan and the Draft Bicester Masterplan

In addition to the above points, the County Council's Local Members continue to have the following concern

- Increased traffic along Middleton Stoney Road, the A41 corridor and the cumulative impact of existing and planned developments such as: Bicester Village, Resco. Biucester Avenue, Bicester 10 (Business Park and Hotel), Bicester 12 (Wretchwick Green), Symmetry Park, Graven Hill, NW Bicester,

Bicester 11 (Skimmingdish Employment site), Kingsmere and the potential housing sites in Kidlington for Oxford's unmet need).

3.8 **Drainage Officer:** Initially commented that the information on drainage is insufficient to form an opinion about the sustainability of the surface water drainage SUDS proposals that would ensure flood risk would not be increased.

- No FRA has been submitted with the application
- No assessment run-off rates (greenfield or developed) – therefore allowable discharge rates not established.
- No assessment of attenuation requirements required to mitigate for increased surface water run-off rates
- No assessment of long term storage requirements to mitigate for increased volume of surface water produced by the development
- No outline drainage plan/sketch submitted with the proposal
- The drainage strategy statement (RVW Consulting Limited) supplied with the application appears confusing with regard to infiltration strategy, stating infiltration is used at the existing site, but later stating that infiltration techniques are not viable because of poor infiltration rates recorded in the site investigation report – please supply the test results and location of tests
- Drainage strategy statement (RVW Consulting Limited) makes reference to underground storage tanks, but this hardly gives confidence that SUDS techniques are proposed to be used in a treatment train approach to achieve SUDS objectives such as improving 'water quality'. A range of SUDS techniques to form a treatment train is not considered.

#### **Update**

Following the receipt of updated and additional information from Cameron Rose dated 20<sup>th</sup> March 2017, the drainage strategy for the site has been clarified and the objection above is now removed.

#### **Strategic Comments:**

OCC also has concerns as follows:

- The loss of skilled jobs that the current approved use could provide for
- Potential increase in out commuting from Bicester as a result of losing a key employment site
- Impact of the development on the town centre and local centre
- Proposals are contrary to the Cherwell Local Plan and Draft Bicester Masterplan

OCC's Members also have the following concerns:

- Increased traffic along Middleton Stoney Road, A41 corridor and cumulative impact of existing and planned developments
- Loss of skilled jobs
- Potential increase in out commuting from Bicester as a result of losing a key employment site
- Impact of the development on the town centre and local centre
- The proposals are contrary to the Cherwell Local Plan and Draft Bicester Masterplan

The above mentioned consultation response can be read in full on the application file.

#### **Other Consultees**

3.9 **Thames Water:** comment as follows  
Surface water drainage – no objection

There are public sewers crossing or close to your development. In order to protect public sewers and to ensure that Thames Water can gain access to the sewers for future repair and maintenance, approval should be sought from Thames Water where the erection of a building would be in the line of or come within 3m of a public sewer. Thames Water will usually refuse such approval in respect of new buildings.

Waste Water – with the information provided TW has been unable to determine the waste water infrastructure needs of the application. A Grampian style condition is therefore recommended.

3.10 Environment Agency: no comments received to date

#### **4. Relevant National and Local Policy and Guidance**

##### 4.1 Development Plan Policy

###### Adopted Cherwell Local Plan (Saved Policies)

- C28: Layout, design and external appearance of new development
- C31: Development in residential areas
- ENV12: Contaminated land
- TR1: Transportation funding

###### Adopted Cherwell Local Plan Part 1 2011-2031 (July 2015)

- SLE1: Employment generating development
- SLE2: Securing dynamic town centres
- SLE4: Improved transport and connections
- ESD1: Mitigating and adapting to climate change
- ESD2: Energy hierarchy and allowable solutions
- ESD3: Sustainable construction
- ESD5: Renewable energy
- ESD7: Sustainable drainage systems
- ESD10: Protection and enhancement of biodiversity and natural environment
- ESD13: Local landscape protection and enhancement
- ESD15: Character of the built and historic environment
- Bic 5: Strengthening Bicester Town Centre
- INF1: Infrastructure

##### 4.2 Other Material Policy and Guidance

###### National Planning Policy Framework

###### Planning Policy Guidance

###### Relevant Policies of the Non-Statutory Cherwell Local Plan 2011

Recognising there may be size constraints for this application, Policies S16, S17 and S17a are of relevance for the sequential test. There are sites identified in the Non-Statutory Cherwell Local Plan in central Bicester to accommodate development including town centre uses.

Policies H1b and H13 identify land at South West Bicester for 1585 homes and other uses including employment land. Policy H13 states that a comprehensive scheme should be provided for and criterion (xiv) provides for '*an appropriate range of local facilities, including a public house, to be provided on a commercial basis*'. Supporting paragraph 3.113 states that retail, public house, primary education, community and primary health care facilities will be grouped into a

neighbourhood centre and that retail development of a scale greater than that to serve the day to day needs of the neighbourhood will not be acceptable. Policy S18 also makes provision for the local centre.

## **5. Appraisal**

5.1 The key issues for consideration in this application are:

- Relevant Planning History
- Policy and principle of development
- Sequential test and retail impact
- Loss of employment land
- Transport impact
- Sustainability
- Design and layout
- Ecology
- Flood risk assessment
- Planning obligation

### **Relevant Planning History**

5.2 The application site forms part of the wider mixed use development at South West Bicester (now known as Kingsmere). Outline planning permission was granted, subject to conditions and a section 106 agreement for up to 1585 dwellings, employment, education, health village, leisure and supporting infrastructure in June 2008 (06/00967/OUT refers). A land use proposals plan approved as part of the outline conditions identified this site as part of the employment zone which was also to include the hotel development.

5.3 The construction of the wider South West Bicester development began in July 2010. The major infrastructure has been provided and a number of residential parcels have either, been completed and occupied or are currently under construction following the granting of the relevant reserved matters consents. The primary school has been constructed and is now occupied. Reserved matters consent has been granted for the Local Centre and Community building, but construction has yet to start on site.

5.4 The application site is part of the development identified for employment purposes. Reserved matters consent was granted for the hotel and Brewers Fayre Public House in May 2012 (12/00063/REM refers) at the south eastern end of the proposed employment site. The hotel and pub are now trading well. The developers of the South West Bicester site (Countryside Properties) are required by the terms of the Section 106 to market the site for employment purposes.

5.5 A previous application for the erection of 3 large A1 retail units and 3 A3 units with gym above on the site was refused and dismissed on appeal (15/00250/OUT refers). The appeal was dealt with by public inquiry, the reasons for refusal related to the size and scale of the building and its relationship with adjacent residential properties and traffic impact.

Whilst the current proposal is 1,269 sqm smaller than the previously refused application, the most significant change between the two proposals is the reduction in restaurant space, which has been reduced from 3 units (1,403 sqm) to 1 unit (435 sqm). The proposed A1 (food) floorspace remains unchanged, and the proposed A1 (non-food) floorspace is only marginally reduced.

- 5.6 The Development Plan for Cherwell District comprises the saved policies in the adopted Cherwell Local Plan 1996 and the adopted Cherwell Local Plan 2011-2031. Section 70(2) of the town and Country Planning Act 1990 provides that in dealing with applications for planning permission, the local planning authority shall have regards to the provisions of the development plan, so far as is material to the application, and to any other material considerations. Section 38 of the Planning and Compulsory Purchase Act 2004 requires 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 development plan unless material considerations indicate otherwise. This is also reflected in the National Planning Policy Framework (NPPF).
- 5.7 The purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF sets out the economic, social and environmental roles of planning in seeking to achieve sustainable development; contributing to building a strong, responsive and competitive economy; supporting a strong, vibrant and healthy communities; and contributing to protecting and enhancing our natural, built and historic environment (paragraph 7). It also provides (paragraph 17) a set of core planning principles which, amongst other things require planning to:
- Be genuinely plan led, empowering local people to shape their surroundings and to provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency
  - Proactively drive and support sustainable economic development
  - Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
  - Support the transition to a low carbon future in a changing climate
  - Encourage the effective use of land by reusing land that has been previously developed
  - Promote mixed use developments
  - Conserve heritage assets in a manner appropriate to their significance
  - Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and to focus significant developments in locations which are, or can be made sustainable
  - Deliver sufficient community and cultural facilities and services to meet local needs
- 5.8 The NPPF at paragraph 14 states that ‘at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both planning and decision taking....For decision taking this means
- Approving development proposals that accord with the development plan without delay; and
  - Where the development plan is absent, silent or relevant policies are out of date, granting permission unless;
  - Any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - Specific policies in the Framework indicate development should be restricted
- 5.9 The NPPF further advises that a sequential test should be applied to applications for main town centre uses such as retail. Only if suitable sites are not available should out of centre sites be considered, and preference should be given accessible sites that are well connected to the town centre. Impact Assessments are also required for developments over 2,500sqm. Where an application fails to satisfy the sequential test or is likely to have significant adverse impact, then it should be refused.
- 5.10 The Planning Practice Guidance advises on sequential test and impact assessment,

but also advises that if a required development cannot be accommodated in the town centre, that the local planning authority should plan positively for such needs having regard to the sequential test and impact tests. Policy Bicester 5 of the adopted Cherwell Local Plan 2011-2031 seeks to do this by identifying an 'Area of search' to ensure that any proposed main town centre uses which are not in the existing town centre are in the best locations to support the vitality and vibrancy of the town centre, and that no likely significant adverse impacts on existing town centres arise as set out in the NPPF.

### **Adopted Cherwell Local Plan 2011-2031**

- 5.11 The Local Plan is consistent with the NPPF in that it requires a town centre first approach that directs retail and other town centre uses towards town centres and encourages the growth of such centres and aims to support Bicester town centre's viability and vitality.
- 5.12 Policy SLE2 of the adopted Cherwell Local Plan 2011-2031 'Securing Dynamic Town centres' seeks to ensure that Bicester's role is strengthened in terms of achieving economic growth as a destination for visitors and serving their rural hinterlands. The policy further advises that proposals for retail and other Main Town Centre Uses not in a town centre should be in 'edge of centre' locations, and only if suitable sites are not available in edge of centre locations, should out of centre sites be considered; and, when considering edge of centre or out of centre proposals, preference will be given to sites that are well connected to the town centre. An impact assessment will also be required in accordance with the requirements of the NPPF. It states that the council will consider if the proposals satisfy the sequential test and if they are likely to have significant adverse impact on one or more factors in the NPPF. This policy also requires that all proposals should comply with Policy SLE4 which relates to improved transport and connections.
- 5.13 Policy Bicester 5 'Strengthening Bicester Town Centre' aims to support the viability and vitality of the existing town centre, encourage economic activity, assist with the connectivity between the existing town centre, a new Bicester Town Railway Station; Bicester Village; and adjoining and proposed residential areas; and, improve the character and appearance of the centre of Bicester and the public realm. Partial redevelopment of the town centre has been achieved by the recent Bure Place scheme and a second phase of development is planned through Bicester Policy 6. Remaining relevant policies in the plan largely concentrate on seeking a sustainable form of development through other disciplines such as SUDS, flood management and design.
- 5.14 The application site is not within Bicester Town Centre as defined by Policy Bicester 5 or within the 'Area of Search' identified in that policy, and is not allocated for retail development as part of the Development Plan.
- 5.15 At the recent inquiry in respect of the previous application (15/00250/OUT), the applicants argued that the relevant retail policies in the Cherwell Local Plan are out of date or that the local plan is silent on future retail provision. The Inspector did not accept this however stating

*'The local plan has only recently been adopted following an Examination in Public and the Inspector found in his report that this is sound. In this respect, I am satisfied that the relevant policies in the Local Plan are not out of date. Although the details of the allocation for retail development are left to Part II of the Local Plan, which is at a relatively early stage in its progress towards adoption, Part I makes allocations and sets policy through the inclusion of 'areas of search'. As such, I find that the development plan is not silent on this matter in relation to the provisions of paragraph 14 of the Framework. Therefore, the proposal does not need to be determined in*

*accordance with the last bullet point in paragraph 14 of the Framework'*

### **Sequential Test**

- 5.16 The NPPF advises that local planning authorities should plan positively, to support town centres to generate local employment, promote beneficial competition between town centres and to create attractive, diverse places where people want to live, work and visit. It also states that local planning authorities should assess and plan to meet the needs of main town centre uses in full, in broadly the same way as for their housing and economic needs, adapting a 'town centre first' approach and taking account of specific town centre policy.
- 5.17 The NPPF sets out two key tests that should be applied when planning for town centre uses which are not in an existing town centre and which are not in accordance with an up to date Local Plan – the sequential test and impact test. The NPPF requires a town centre first approach that directs retail and other town centre uses towards town centres and encourages the growth of centres. The adopted Cherwell Local Plan 2011-2031 is consistent with this approach and aims to support Bicester town centre's vitality and viability. Policy SLE2 directs retail and other town centre uses towards the District's town centres. Policy SLE2 states that only if suitable sites are not available in edge of centre locations should out of centre locations be considered.
- 5.18 The sequential test should be considered first as this may identify that there are preferable sites in town centres for accommodating main town centre uses. The sequential test will identify development that cannot be located in town centres, and which then would be subject to the impact test. The impact test determines whether there would be likely significant adverse impacts of locating main town centre development outside of existing town centres.
- 5.19 The application submission is supported by a Planning and Retail Statement prepared by Mango Planning and Development Ltd on behalf of the applicants dated December 2016. A sequential test has not been submitted as part of this application as the applicant is relying on the sequential test submitted with the previous application which was refused and subsequently dismissed at appeal (15/00250/OUT refers). That concluded that the proposed development satisfied the sequential test and would not have significant adverse impact.
- 5.20 In considering the sequential test the applicant must demonstrate that there are no sites within the town centre that are suitable and available and upon which the proposed development would be viable. The current application proposes 9,244 sqm of floor space with 345 car parking spaces on a site of 2.282 hectares. The floor space is slightly reduced from the previous application, but the site area is slightly increased to enable a larger car park to be accommodated. The previous sequential test assessed the following sites:
- 5.21 Land at Crumps Butts, concluded that this is unsuitable, stating that this land is in multiple occupation and too small to accommodate the scale and format of the application proposal and that GVA Grimley in its consideration of the Aldi proposal on behalf of the Council stated in their critique 'that the site is better suited to smaller retailers, given the size, proximity to residential dwellings and the limited scope for comprehensive development to provide a larger format'.
- 5.22 An assessment of Bicester Town Centre carried out by Mango Planning and Development Ltd in December 2013 identified 22 vacant units, with an update in January 2015 identifying 17 units, the vast majority of which were very small and therefore did not provide sufficient floorspace to accommodate the application proposal or a flexible interpretation of them. No further update has been given by the applicant in respect of the current available units in Bicester Town Centre as part of

this submission.

- 5.23 Land at Victoria Road is located to the rear of Sheep Street and extends to approximately 0.8ha. The applicant's agent concluded that the site is not only too small but a comprehensive retail proposal in this location would attract the same issues as the dismissed appeal for 36 live work units and the site is therefore unsuitable.
- 5.24 Claremont car park was stated by the applicant's agent to be unavailable and in physical terms too small to accommodate the application proposal and does not offer the frontage or prominence that the development would require and is therefore also considered to be unsuitable and unviable.
- 5.25 The sequential test submitted as part of the previous application therefore concluded that there were no sequentially preferable sites available within Bicester town centre.
- 5.26 Moving further out of the town centre, the only suitable edge of centre site identified by the sequential test was the Cattle Market car park which is owned and managed by the District Council, concluding that it would create a large and prominent structure incompatible with surrounding buildings and residential properties.
- 5.27 The only out of centre site highlighted was the former Lear Corporation site at Bessemer Close. The site extends to 1.2ha and is currently occupied by a vacant industrial unit. The sequential test stated that this site was no longer available and that in any event the cost of clearing the site would reduce the amount of finance available for a high quality sustainable development. Members may recall that consent for the re-development of this site for residential was refused (15/02074/OUT refers). An appeal was lodged and a hearing held on 7<sup>th</sup> February 2017, the decision is currently awaited.
- 5.28 The Planning Inspector stated in respect of the appeal proposal as follows:
- 'I have noted the submissions made by Bicester Sports Association regarding the sequential test. However, the information provided by the appellant has demonstrated that the proposal satisfies the sequential test and the Council has agreed that this is the case. I have been given insufficient substantive evidence to convince me that there are more suitable sites in the area for the proposed development.'*
- 5.29 Although the sequential test submission has not been updated since the above mentioned appeal decision, there have been no significant change in circumstances in terms of any of the above sites becoming available or any other known sites being made available and it is considered therefore that that the sequential test has been satisfied. The application must therefore be considered in terms of its impact on Bicester town centre and other retail outlets and this is considered below.

#### **Retail Impact**

- 5.30 The NPPF states at paragraph 24 that only if suitable sites in main town centres or edge of centre locations are not available, should out of centre sites such as the application proposal be considered. The purpose of the impact test is to ensure that the impact over time (up to five years or ten years for major schemes) of certain out of centre and edge of centre proposals on existing town centres is not significantly adverse. The impact test only refers to proposals exceeding 2,500 sqm of gross floorspace, (such as the application proposal), unless a different locally appropriate threshold is set by the Local Planning Authority, with impact assessed on a like-for-like basis. Where evidence shows that there would be no likely significant impact on a town centre from an edge of centre or out of centre proposal, the local planning authority must then consider all other material considerations in determining the application.



- 5.31 In terms of assessing the impact of the development, the NPPF states at paragraph 27 that an application should only be refused if it is likely to have significant adverse impact on the vitality and viability of the town centre.
- 5.32 In 2010 the council commissioned an update to its 2006 PPS6 Retail Study. In 2012 a further study was commissioned which examined the capacity for comparison and convenience floorspace in the District. This study identified no additional capacity for convenience retail floorspace for Bicester on top of the floorspace as part of the Bicester town centre expansion. The study does, however, identify more need for comparison retail within the town. The conclusions of that study found that overall, Bicester town centre is a healthy town centre which is well patronised with a good quality environment. Convenience retail floorspace relates to food and comparison retail relates to non-food retail. A further study is currently being undertaken as part of Local Plan Part 2 but is currently not available.
- 5.33 This application again relies upon the retail impact assessment submitted in respect of the appeal proposal (15/00250/OUT refers) which sought to assess the potential impact of the development on Bicester town centre. This assessment, together with additional information and analysis that was done as part of that application was independently assessed by CBRE on behalf of the council. It was concluded in respect of that application that it had not been demonstrated that the proposal would not have an impact on Bicester town centre and therefore impact on the viability and vitality of Bicester town centre was one of the reasons for refusal.
- 5.34 Following the lodging of the appeal against the council's decision to refuse planning permission for the retail development, the council engaged CBRE to carry out a retail impact assessment in respect of the proposal on Bicester town centre for the appeal. That assessment concluded that 'significant adverse impact' could not be demonstrated and therefore this reason for refusal was withdrawn from consideration at the Inquiry. In this respect the Inspector stated
- 'I am satisfied that the appellant has provided sufficient evidence to show that the proposal would not adversely affect the vitality and viability of Bicester Town Centre and the Council has confirmed that it no longer wishes to defend its first reason for refusal based on this issue'.*
- 5.35 Although the retail impact assessment has not been updated since the above mentioned appeal decision, there have been no significant changes in circumstances or planning policy, and it is therefore accepted that it cannot be demonstrated that the development would have a significant adverse impact upon the vitality and viability of Bicester town centre and the proposal is therefore in accordance with the adopted Cherwell Local Plan Part 1 2011-2031 and the NPPF in this respect.

#### **Loss of Employment Land**

- 5.36 The application site is not specifically allocated for employment use within the development plan. It is however, identified for employment purposes as part of the overall mixed use development at South West Bicester allocated as a strategic urban extension under Policy H13 of the Non-Statutory Cherwell Local Plan. Bicester currently suffers from out-commuting and the provision of this land for employment purposes as part of the wider SW Bicester development sought to address this issue.
- 5.37 Bicester is identified as a key location for employment growth on the Oxfordshire Knowledge Spine through the City Deal and Strategic Economic Plan (SEP), which looks to support significant increases in employment at Bicester through infrastructure improvements and land availability. If retained for employment purposes, OCC consider that the site could make a valuable contribution to the generation of high quality, high tech employment opportunities and provision of a comprehensive range

of employment opportunities in the town. Oxfordshire County Council has also expressed concerns with the proposal in terms of the loss of skilled jobs that could be provided if the site was developed for employment purposes in accordance with the Kingsmere development.

- 5.38 Consideration must also be given to the current employment conditions and the strong message from Central Government that we should be doing all we can to promote job creation and boost the local economy. OCC raise further concerns that the supporting statement to the retail proposal estimates that around 300 jobs would be created, few of which are likely to be highly skilled. Moreover, there are already considerable retail employment opportunities within Bicester with more anticipated from the expansion of Bicester Village.
- 5.39 As stated above, the application site is currently identified as employment land as part of the overall South West Bicester strategic urban extension. The Section 106 Agreement accompanying the outline permission (06/00967/OUT refers), requires that this land be set aside for employment purposes until the first occupation of 1,500 dwellings. During that period the site must be marketed by 'Countryside' to their 'best endeavours' in accordance with the marketing strategy, the details of which are specified in the agreement, and to use all 'reasonable endeavours' to agree the sale of the site for employment purposes. The proposal is therefore contrary to the provisions of the Section 106 Agreement entered into by the developers Countryside Properties (Bicester) Ltd.
- 5.40 It should be noted that the time limit for submitting reserved matters applications to the outline consent (06/00967/OUT) has now expired, and therefore a reserve matters application relating to employment use on the application site can no longer be submitted. This site however remains part of the original outline consent and the obligations required under the Section 106 Agreement above remain applicable. If this application therefore is approved, the Section 106 Agreement attached to the outline consent will need to be varied accordingly.
- 5.41 However, notwithstanding the above, the critical shortage of employment land in Bicester is not currently or wholly borne out by the evidence of the Employment Land Study and the adopted Cherwell Local Plan Part 1 2011-2031 seeks to allocate strategic sites for employment use in Bicester, these being Bicester Business Park, Bicester Gateway, North East Business Park and South East Bicester. Having regard to the amount of land allocated for employment uses, along with land which already has consent, the level of harm in respect of the loss of this relatively small site for employment purposes and increased out-commuting requires careful assessment. Furthermore, the proposal will provide jobs within retailing and therefore will replace some of the jobs that would have been provided by B1 uses on the site. It is considered that whilst regrettable, having regard to the above, a refusal based on the loss of employment land cannot be justified in respect of this proposal.

#### **Transport Impact**

- 5.42 Strategic Objective 13 of the adopted Cherwell Local Plan 2011-2031 aims to reduce the dependency on the private car as a mode of travel and increase opportunities for travelling by other modes. Policy ESD1 sets out an aim to mitigate the impact of development on climate change by delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce the dependence on private cars. Policy SLE4 also has similar objectives. The transport impacts of the development must be considered against these policies and the requirements in Section 4 of the NPPF.
- 5.43 Vehicular access to the development will be taken via the new signalised junction on the A41 serving the Kingsmere development and via the new access road which currently serves the Premier Inn and Brewers Fayre Public House. Servicing of the

retail units in Block A is proposed from a dedicated service area via the Esso Service Station access from the A41 roundabout and the servicing for the A3, smaller A1 unit and gym is proposed from the proposed car park within the development. A total of 345 car parking spaces are proposed.

- 5.44 Whilst OCC did not object to the previous application on highway grounds, Members resolved to also refuse the application on highway grounds as follows:

*'It has not been demonstrated to the satisfaction of the Local planning authority that the impact of traffic generated by the proposed development would not be detrimental in terms of traffic congestion on the surrounding network, contrary to government advice contained in the National Planning Policy Framework and contrary to Policy SLE4 of the Cherwell Local Plan 2011-2031'.*

- 5.45 There were also objections received from third parties on traffic impact in respect of the previous application which included reports by other Transport Consultants outlining the shortcomings of the February 2015 TA submitted with that application. As a consequence, the appellant submitted an 'Updated TA and Statement of Common Ground' dated June 2016 to the Inquiry. It was on this revised TA that the appeal was considered. At the inquiry the appellant's transport expert accepted that the proposal would have a harmful impact, as it would worsen the situation, which is significantly different from what the highway authority was led to believe.

- 5.46 This application seeks to address the concerns raised by the Inspector in respect of the appeal proposal who found that the development would have severe, residual cumulative transport impacts, he also had concerns that the traffic impact was underestimated and that there were no mitigation proposals. He also raised concerns regarding the adequacy of the proposed 240 car parking spaces to cope with an unproven car parking demand for the development. The Inspector concluded in respect of highway impact as follows:

*'In the absence of any mitigation of the residual cumulative transport impacts, I conclude on this main issue that the proposed development would have an unacceptable harmful effect on the flow of traffic, and as a result could harm highway safety, on the surrounding highway network. It would also fail to accord with Policy SLE4 of the Cherwell Local Plan, as it would not provide financial or in-kind contributions to mitigate its transport impacts, would not be suitable for the roads that serve it and would have severe traffic impact; and be contrary to policies in the Framework, as its residual cumulative transport impacts would be severe'.*

- 5.47 This application seeks to address the above concerns through a more robust transport assessment methodology, the proposal of a mitigation scheme to increase capacity at the nearest junctions on the A41, and the addition of car parking spaces (345 compared with the 240 previously proposed). The TA produced by Cameron Rose on behalf of the applicant has been assessed by the highway authority.

#### Proposed Mitigation

- 5.48 The proposed mitigation scheme is shown in Appendix G of the TA to provide additional lane capacity between the northbound approach to the Premier Inn junction on the A41 and the Esso roundabout. The widening is mainly to the northbound carriageway, widening into the central reservation, so not affecting the overall width of the road. It is likely to require the removal of some trees in the central reservation.

- 5.49 The capacity of the proposed amended junction has been modelled using LinSig. The model covers the Pingle Drive junction, Esso roundabout, Tesco signalised junction and Premier Inn signalised junction, and takes into account the Bicester Village mitigation scheme currently being implemented. Although there is no reason to suppose the scheme has any particular safety issues, a Stage 1 Safety Audit has

been requested by the highway authority but none has been provided yet.

- 5.50 Using the flows from the TA, the highway authority advises that the junction appears to perform within capacity, with Degree of Saturation on all arms less than 90% in 2014, even in the sensitivity test. However, they are concerned that some of the queue lengths are flagging up red, particularly the internal lanes, which means some exit blocking is likely.
- 5.51 OCC have raised concerns that the model assumes that one of the pedestrian crossing points across the A41 will only be called every other cycle, and that if it were called more often, the junction would not perform as well as the model shows. OCC consider that this assumption has not been justified, given the likely pedestrian flows between employment and residential, bus stops and residential and retail on each side of the road. Due to parking pressure and traffic congestion, people are very likely to park only once to visit retail on both sides of the road.
- 5.52 In terms of public transport, a good quality bus service between Oxford and Bicester town centre operates along the A41, but there are no stops within convenient walking distance of this development. The application therefore proposes new bus stops on the A41 Oxford Road to the north of the Tesco access on the western carriageway and on the A41 Oxford Road to the south of the Tesco access on the eastern carriageway. OCC advise that the proposed 'new 2m footway to tie in to the new service yard' provision should be extended to 3m in width, including past the bus stop, to provide a pedestrian/cycle shared use facility that would link in with the shared use facility to the south. This also applies behind the bus stop facility proposed on the opposite side of the A41. The proposed bus stops, including lay-bys, hard-standing areas, shelters, premium route flag/pole/information case units and electronic real-time information units will need to be secured through a Section 106 Agreement.

#### Committed Development

- 5.53 Following the receipt of further information, OCC are now reasonably satisfied that the overall weekday p.m. peak flows into the junctions reflect the quantum of local plan development likely to come forward by 2024. The 'Base plus committed' 2024 turning movements were taken from the TA prepared for the 2015 Bicester Village planning application, which had been factored up by the old version of TEMPro, with committed development added on top. Graven Hill development was already included in the Bicester Village for the Friday peak scenario, and was added for this development for Saturday and Sunday peak, as the Inspector said was necessary. It should also be noted that the TA does not subtract the weekday pm flows associated with the already permitted employment development at the site.
- 5.54 OCC further advise however, that although the overall flows at each junction appear to be robust, for the weekday pm scenario there are significant differences in relative turning movements between this development's TA and the other TA which is based on the Bicester Transport Model and therefore should be more reliable. This may mean that the mitigation scheme may not work as efficiently as modelled. Further sensitivity tests using flows from the Bicester Transport Model have therefore been suggested. The revised submission and Technical Note 4 addresses this issue and is discussed below.

#### Trip Generation

- 5.55 The TRICS database has been used to estimate trip generation and OCC is satisfied that these are appropriate. However, the TA argues that a significant number of trips (up to 75% of the retail trips at weekends) would replace trips that would have been made to other shops. The reduction in trips to other shops has been deducted from the relevant movements at the junctions being assessed. For example, trips to Oxford and Banbury that are now replaced by trips to the site, are taken off the A41 south.

The transport consultant for the applicant argues that this is based on the Retail Impact Assessment contains monetary figures for trade draw.

- 5.56 OCC however do not consider that translating this into transferred trips is justified as many people will not completely replace one shopping trip with another and will make extra trips as many will still go to other centres for a range of different shops. Furthermore, the trade draw figures in the Retail Impact Assessment are not for specific days of the week and therefore the higher weekend figures are not justified.
- 5.57 Following further discussions with OCC, Technical Note 4 has addressed the above and the concerns about the development of development trips have now been addressed. The applicant's Transport Consultant Cameron Rose have modelled the revised scheme using the PM peak flows and turning movements derived from the recently updated Bicester Transport Model (BTM) taking the 2021 scenario and applying TEMPRO growth to get to 2024 as follows:
- In the 2024 base PM peak, without the development or its mitigation: junction is predicted to operate with a Practical Reserve Capacity overall of -0.6%
  - Adding the development traffic and mitigation scheme, takes this to -0.5%, based on the applicant's assumptions of transferred trips which OCC do not accept
  - If none of the trips associated with the development are considered to have transferred from elsewhere on the network in the study area, the pm peak is slightly worse than without the development or its mitigation scheme, with Practical Reserve Capacity of -1.5%
  - There will be some transferred trips, so the change in Practical Reserve Capacity relative to the 2024 base conditions will be somewhere between +0.1% and -0.9%
  - Saturday and Sunday peaks are shoeing as within capacity with the development and its mitigation scheme in 2024, but these cannot be modelled in the Bicester Transport Model so there is no possible check against the model
  - The impact of running the pedestrian crossing every cycle has a negative impact on the weekend capacity, taking the Sunday Practical Reserve Capacity to -11.2%
- 5.58 OCC advise that the applicant argues that the mitigation scheme results in betterment compared with the 2024 base scenario, but, having regard to the above, the junction would still operate with negative Practical Reserve Capacity in the PM peak and, depending on the number of transferred trips allowed for, it would likely be slightly worse than the situation without the development or its mitigation scheme. OCC is concerned that the scheme would result in no perceptible improvement to the travelling public in 2024, and the situation would only get worse between then and 2031. However, in 2024 the possible slight deterioration in practical reserve Capacity compared with the base situation would not be considered sever. Therefore, OCC consider the proposals could be said to provide adequate mitigation for the development in advance of a more effective future strategy for the corridor or its relief.
- 5.59 In response to the holding objection made on behalf of Value Retail, the highway authority provide the following additional comments:
- At OCC request, a further assessment was carried out using the data from the junctions in the study area from the recently updated Bicester Transport Model 2021 scenario to represent baseline plus committed development traffic. The most recent version of TEMPRO was used to growth this to 2014.
  - The Bicester Transport Model does not have weekend scenarios, however the overall PRC for the junctions without mitigation was worse in the Friday peak with the original base + committed development traffic than using the BTM which suggests that the weekend baseline scenario (which includes Graven Hill traffic) is reasonable

- Satisfied with the use of TRICS data for Sunday trip generation and the comparisons made
- Cameron Rose modelling for the proposed development has been reviewed by OCC's Traffic Signals Team, who confirmed that the parameters in the modelling correctly reflected the design shown in the general arrangement drawing

#### Car Park Layout

- 5.60 OCC were concerned that the car park has prioritised providing additional parking spaces over efficient flow. The 2-way flow in all parts of the car park result in 12 give way points within the car park, including in positions where they are opposite each other, and immediately adjacent to the entrance, a situation which will lead to hesitation in deciding which way to turn, weighing up which way is likely to be the quickest route to free spaces and looking down aisles for empty spaces. This could very quickly cause blockages within the car park, preventing vehicles from entering. Averaged over the peak hour, the rate of vehicles arriving at peak times and the short length of the access road, could, result in queues very quickly backing up to Pioneer Way, blocking access into Kingsmere. The platooning effect of the traffic signals could aggravate this.
- 5.61 Whilst an accumulation study has been provided in TN01, OCC are concerned that the capacity it demonstrates would not necessarily be achieved at busy times because:
- Measurement in hourly periods, meaning fluctuations within the hour may mean that the number of spaces occupied at the end of the first hour is not accurate, and then as the estimate is cumulative, the results become more and more inaccurate through the day
  - Delay to drivers being able to access spaces due to exit routes becoming blocked
- 5.62 This could then lead to parking on the adjacent residential road network or adjacent hotel/pub car park which would not be acceptable. OCC recommend that a Section 106 contribution should be secured to install waiting/loading restriction on nearby roads to prevent obstructive parking and loading. Given the space constraints OCC further advises that amendments to the parking layout to overcome these concerns be agreed prior to the determination of the application.
- 5.63 In terms of disabled parking provision, OCC advises that the layout submitted provides for less than the recommended 6% of spaces for disabled parking. TN02 confirms that the applicant intends to install an ANPR system preventing long-stay car parking to reduce the likelihood of residential overspill parking into the car park, or commuter parking. However, more detail is needed to show how this would work and how it would be enforced.
- 5.64 Following the above comments, a revised car parking layout drawing submitted by the applicant's traffic consultant shows one-way directional arrows in the car park. OCC believe that this would to some extent remove the risk of delays to vehicles entering the carpark, although there is likely still to be some delay at peak shopping times and it is noted that there is space for only 11 cars to queue at the car park entrance and Pioneer Way, thus there is a risk of traffic blocking Pioneer Way, and there is insufficient space for a right turning lane. OCC advises that this risk cannot be quantified but it is more likely to occur at weekends so would not affect the school traffic. The 'Technical Note 4' provides additional detail on the operation of ANPR in the car park as a means of preventing over-staying. In terms of disabled car parking, additional provision has been made.

#### Service Yard Layout

- 5.65 The layout of the service yard is very tight and OCC are concerned that vehicles may

not be able to use the loading bays at the same time. Furthermore, if the gate is closed and a lorry cannot enter immediately, it will be waiting in a place where it could cause a safety hazard to vehicles exiting the roundabout. OCC therefore recommend that a delivery and servicing plan should be provided demonstrating how this situation would be avoided, and indicating suitable off-site waiting areas should delivery vehicles arrive early or be unable to enter the yard for any reason. OCC also suggest that the vegetation should be removed from the corner on the roundabout to provide maximum visibility.

- 5.66 Following the above, further tracking has been provided showing how delivery trucks could wait in a waiting area within the yard. However, this does not address OCC's concern about obstruction if the gate is closed and a vehicle cannot enter. As stated above, a delivery and servicing plan should be provided demonstrating how this situation would be avoided, and indicating suitable off site waiting areas should delivery vehicles arrive early or be unable to enter the yard for any reason. This could be required by condition. OCC would also like to see the creation of additional visibility splay at the corner by the roundabout.

#### Framework Travel Plan

- 5.67 A draft framework travel plan has been provided with the Transport Assessment, however, this will need to be amended in line with the County Council's Guidance on Transport Assessments and Travel Plans. This however, can be conditioned should planning permission be granted and will be required to set out the overall objectives for the promotion of sustainable travel. To encourage walking and cycling to and from the site from the wider area, good quality access points will need to be provided on direct routes linking in to the walking and cycling networks.

#### Conclusion

- 5.68 The NPPF advises at paragraph 32 that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. Given the conclusions of OCC as Highway Authority, this would not be the case in respect of this proposal and a reason for refusal on highway grounds is therefore not considered to be justified.

#### **Sustainability**

- 5.69 Sustainability is one of the key issues at the heart of the NPPF and the proposal must therefore demonstrate how it achieves sustainable objectives, including the need to show how it promotes sustainable transport bearing in mind that this is in an out of centre location. The sequential test however, does demonstrate that there are no sequentially preferable sites for a development of this nature and so access by other means than the private car must be explored. A Framework Travel Plan will therefore be required setting out the overall objectives to the promotion of sustainable travel, and each of the units will need to produce a supplementary plan that is linked to the objectives in the framework travel plan. This requirement can be dealt with by condition.
- 5.70 In terms of cycle and footpath links, the Design and Access Statement advises that the site connects to the existing pedestrian network onwards via a new controlled crossing on the A41. There are also new footpath linkages proposed on the northwest boundary which will link with the future residential development and its footpath and cycle network which then provide connections into Bicester centre. Cycle parking is proposed to be provided on site in the form of 190 covered visitor cycle spaces and 34 covered spaces. As mentioned above, there is a good quality bus service which runs along A41 between Bicester and Oxford, accessibility of which will be improved by the provision of bus stops on the A41 to serve the development.
- 5.71 Guided by the NPPF, the principles of sustainable development are in three dimensions. The economic role can be demonstrated by ensuring that the

development is of the right type and in the right place, in this case it is a sequentially acceptable site and the proposal will provide jobs during construction and subsequently through the provision of retail jobs. Socially, the development should be of a high quality design and be accessible, reflecting the community's needs. In terms of the environment, the development should contribute to protecting and enhancing the environment. These aspects are all considered elsewhere in the report.

- 5.72 Policy ESD3 of the adopted Cherwell Local Plan Part 1 2011-2031 requires that all new non-residential development will be expected to meet at least BREEAM 'very good' and therefore, should the application be approved, it is considered that this condition should be included.

#### **Design and Layout**

- 5.73 Section 7 of the NPPF – Requiring good design, attaches great importance to the design of the built environment and advises at paragraph 56 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'.
- 5.74 Policy ESD15 of the adopted Cherwell Local Plan Part 1 2011-2031 advises that design standards for new development, whether housing or commercial development are equally important, and seeks to ensure that we achieve locally distinctive design which reflects and respects the urban or rural landscape and built context within which it sits. The adopted Cherwell Local Plan 1996 contains saved policy C28 which states that 'control will be exercised over all new development, including conversions and extensions to ensure that the standards of layout, design and external appearance, including choice of materials are sympathetic to the character of the urban or rural context of the development'.
- 5.75 Whilst it is noted that the application is in outline, the only matter being reserved for future consideration is landscaping, and therefore the scale, form and design of the proposal must be considered as part of this submission.
- 5.76 The application is accompanied by a design and access statement. Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 advises that the design of all new development will need to be informed by an analysis of the context, together with an explanation and justification of the principles that have informed the design rationale. This should be demonstrated in the design and access statement that accompanies the planning application.
- 5.77 The appearance of new development and its relationship with its surroundings and built and natural environment has a significant effect on the character and appearance of an area. Securing new development that can positively contribute to the character of its local environment is therefore of key importance. The buildings proposed are not dissimilar to the appeal proposal in terms of their size, design, scale and positioning on the site, although the overall height has been reduced. The main retail building, Block A now presents a more simple linear stone clad colonnaded structure, which also helps to break up the façade and visually reduce the height of the building. The main front entrances to the main car park are fully glazed. The site area has been increased to provide a wider buffer between the proposed residential and Block A and glazing introduced to this side elevation. Colonnades at a lower height have also been introduced to the west elevation providing greater three dimensional depth and articulation to this face
- 5.78 In terms of the appeal proposal, the Inspector commented in respect of the development as follows:

*'I am satisfied that the proposed development would not have a significant harmful visual impact on the A41, given the type of development that is viewed from that main*



*route into Bicester and the space that would be available for landscaping. I also consider that the service yard and rear of Block A would be provided at the most appropriate location and, with the use of the proposed finish as shown on the elevations, would appear as an acceptable structure at a gateway into Bicester. The proposed variation in Block A to take it above the recommended maximum heights in the Design Code would help to break up the overall bulk when viewed from the proposed car park and A41'*

*'I have found that much of the design for retail development on the site would be acceptable, given the type of development that could have been provided under the permitted employment use of the site. However, I have serious concerns that the overall bulk and design of the north west elevation of Block A would result in it having an adverse visual impact on the future street scene.... and would fail to accord with Policy ESD15 of the Cherwell Local Plan, as it would not be a high quality design'*

- 5.79 The Kingsmere development is subject to a Design Code which was approved in July 2008 following the issuing of the outline planning permission (06/00967/OUT refers). The design code sets out the key issues to be addressed by developers and their agents to ensure consistency throughout the development and to ensure that specific requirements are adhered to. Whilst this is a new outline application, the principles of the design code remain a material consideration in shaping the proposed development on the site. This view was upheld by the Inspector in respect of the previous appeal who stated as follows:

*'A Kingsmere Design Code, dated July 2008, has been prepared on behalf of the lead developer as a manual for the design of the development. It has been the subject of public consultation and is approved by the Council. The Council has not referred to it in its reasons for refusal and I accept it is not part of the development plan or a Supplementary Planning Document. However, in the absence of a more appropriate guide to the design of development on the appeal site, I have taken the Kingsmere Design Code as a material consideration in my determination of the acceptability of the design of the appeal proposal'.*

- 5.80 The Design Code identifies what form the development on the employment site should take, requiring buildings to front the boundaries of the site and to pay proper regard to the residential properties opposite. A maximum height of 14.5m is also specified, and surveillance of the adjacent streets from the development is also required. In this respect, whilst the Inspector accepted the constraints of retail development, he was not convinced by the reasons given by the appellants for the failure of the proposal to provide a dual aspect to the proposed adjacent residential streets, commenting as follows:

*' My particular concern is with regard to the elevation of Block A that would face the proposed residential development to the north west of the site, which has been accepted by the appellant as being one of the most sensitive interfaces. The details shown by the appellant indicate that the elevation would be a considerable length and height, with stone panel cladding over the whole of the façade nearest to the residential development. I accept that the height of this elevation would be within the maximum given in the Design Code and would also appear lower from the proposed housing as the land rises in that direction. Also the separation distance would be at least 21m, which is greater than that identified in the Design Code. However, it would continue at the same height along the whole of that façade and would appear a substantial, unbroken mass from the street and any future housing. Furthermore, the building would not provide any active frontage or natural surveillance along the proposed street'.*

*'The landscaping details are not to be determined with this appeal, but details provided show a bund with landscaping on it between Block A and the proposed*

*street. In my opinion this would add to the sense of poor surveillance on that side of the street and would be insufficient to prevent the building appearing overpowering and dominant in the street scene, which would unacceptably compromise the design of the adjacent residential development. Although the appellant has indicated that the requirements of the retail development restrict the design of the buildings on the site, I am not convinced that this justifies the design of Block A, which should be able to include fenestration and a more varied profile to that side of the building without compromising any future residential amenity’.*

- 5.81 This application proposal has sought to address these concerns by increasing the application site by taking additional land along the western boundary, and providing an area of car park between the building and the proposed residential properties which will be screened by a landscape buffer provided at street level. A number of glazed elements are also provided along this side elevation, and colonnades have been introduced providing greater three dimensional depth and articulation to the façade to overcome the Inspector’s concerns as stated above. Whilst these help to break up the façade, it is unlikely that the glazed elements would provide any significant natural surveillance over the adjacent residential street due to the changes in levels, intervening car park and nature of the retail floorspace.
- 5.82 The elevations indicate the use of stone cladding and wood effect cladding panels. These are not considered appropriate on this prominent gateway site, nor is it in keeping with the remainder of the Kingsmere development. During pre-application discussions the applicant stated that natural stone would be used. The applicant has been requested to amend the materials accordingly, a response is awaited.
- 5.83 On balance however, having regard to the amendments that have been made to the design of the building, the setting Block A further away from the proposed residential units opposite, and the Inspector’s comments on the principle of the development on the site, it is considered that the development as proposed in design terms and in respect of its relationship with the proposed residential is now acceptable and therefore in accordance with Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 and advice within the NPPF.

#### **Ecology**

- 5.84 The NPPF- Conserving and enhancing the natural environment requires at paragraph 109, that, ‘the planning system should contribute to and enhance the natural environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the government’s commitment to halt the overall decline in biodiversity, including establishing coherent ecological works that are more resilient to current and future pressures.
- 5.85 Section 40 of the Natural Environment and Communities Act 2006 (NERC 2006) states that ‘every public authority must in exercising its functions, have regard to the purpose of conserving (including restoring/enhancing) biodiversity’ and;
- 5.86 Local Planning Authorities must also have regards to the requirements of the EC Habitats Directive when determining an application where European Protected Species are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010 which states that a ‘competent authority, in exercising their functions, must have regard to the requirements of the Habitats Directive as far as they may be affected by those functions’.
- 5.87 Articles 12 and 16 of the EC Habitats Directive are aimed at the establishment and implementation of a strict protection regime for animal species listed in Annex IV(a) of the Habitats Directive within the whole territory of the Member States to prohibit the deterioration or destruction of their breeding sites or resting places.

- 5.88 In respect of this application site, the constraints have highlighted that there are Northern Lapwing and Eurasian Badger within proximity of the site, and whilst these are not specifically protected species as identified by the Regulations, they are Notable, UK BAP Priority and Section 41 Species. Nesting Skylark (a declining farmland species) were present on the adjacent site last summer and on this site in 2015.
- 5.89 Aspect Ecology has submitted an updated Ecological Appraisal on behalf of the applicant following a survey undertaken in November 2016. The survey concluded that the site in its present state offered no more than low ecological value and recommends suitable mitigation and compensation measures, including minimising the loss of eastern boundary vegetation, eradication of the Cotoneaster species, mitigation in respect of nesting birds and storage of materials and chemicals during construction.
- 5.90 The Council's Ecologist has assessed the submitted appraisal and recommends that the mitigation measures proposed are carried out. It is also recommended that enhancements on site are encouraged, in particular planting native shrub and tree species rather than non-native ornamental types. Bat and bird boxes are also recommended as part of the mitigation for loss of nesting bird habitat. Other enhancements could include green walls or green roofs within the development.
- 5.91 Consequently, it is considered that article 12(1) of the EC Habitats Directive has been duly considered in that the welfare of any protected or other species found to be present on the site will continue and will be safeguarded, notwithstanding the proposed development. The proposal therefore accords with the NPPF and Policies within the development Plan.

#### **Flood Risk and Drainage**

- 5.92 As the site exceeds 1 hectare in size, although the site lies in Flood Zone 1, a Flood Risk assessment is required to be submitted as part of the application documents. This has been assessed by OCC who now consider that application acceptable subject to the imposition of a condition requiring the submission of a surface water drainage scheme for approval prior to the commencement of any development on the site.

#### **Planning Obligation**

- 5.93 The proposal generates a need for infrastructure contributions to be secured through a planning obligation, to enable the development to proceed. These contributions relate to the provision of:
- Highway mitigation scheme works (to be carried out under S278 agreement)
  - A contribution to implement TRO's on neighbouring streets
  - A contribution to provide bus shelters, Premium Route flag/pole/information case units and electronic real-time information units at the bus stops on both sides of the A41
  - Travel plan monitoring fees of £2,040 for the monitoring of the site wide framework travel plan and subsequent additional monitoring fees from occupiers whose businesses are above travel plan trigger thresholds – to cover the costs of monitoring these plans over 5 year period
- 5.94 In respect of planning obligations, the NPPF advises at paragraph 204 that they should be sought where they meet all of the following tests:
- Necessary to make development acceptable in planning terms
  - Directly related to the development, and
  - Fairly and reasonably related in kind and scale to the development

It is considered that without the bus stop provision and requirements above, there would be a detrimental effect on local amenity and the quality of the environment and

the need to ensure that all new development is sustainable as required by the Development Plan and Government advice within the NPPF.

### **Engagement**

- 5.95 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through working with the applicant to resolve any issues and the efficient and timely determination of the application.

### **Conclusion**

- 5.96 Having regard to the assessment above the proposal will provide for economic growth and jobs in retailing, it satisfies the sequential test and it is accepted that sufficient evidence has been provided to show that the proposal would not adversely affect the vitality and viability of Bicester town centre and is acceptable in terms of its scale and design and relationship with the proposed residential development to the west.

## **6. Recommendation**

**Approval**, subject to:

- a) The applicants entering into an appropriate legal agreement to the satisfaction of Oxfordshire County Council to secure financial contributions as outlined above and Countryside and other related parties in varying the pre-existing agreement in respect of 06/00967/OUT
- b) Amendments to the materials proposed requiring the use of natural materials
- c) the following conditions:

1. 1. No development shall commence until full details of the 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 Article 4 of the Town and Country Planning (General Development Procedure) Order 2010 (as amended).

2. In the case of the reserved matters, 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 Article 4 of the Town and Country Planning (General Development Procedure) Order 2010 (as amended).

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 Article 4 of the Town and Country Planning (General Development Procedure) Order 2010 (as amended).

4. Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents: (These need to be inserted)

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.

5. Prior to the commencement of the development hereby approved, samples of the materials to be used in the construction of the walls and roofs of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

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

6. Prior to the commencement of the development, full details of the doors and windows hereby approved, at a scale of 1:20 including a cross section, cill, lintel and recess detail and colour/finish, shall be submitted to an approved in writing by the Local Planning Authority. Thereafter the doors and windows shall be installed within the building in accordance with the approved details.

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

7. Prior to the commencement of the development hereby approved, a natural stone and brick sample panel (minimum 1m<sup>2</sup> in size) shall be constructed on site, which shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the development shall be laid dressed and pointed in strict accordance with the stone and brick sample panels approved.

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

8. Prior to the commencement of the development hereby approved, full details of the external lighting shall be submitted to and approved in writing by the Local planning Authority. Thereafter, the lighting shall be carried out and

retained in accordance with the approved details.

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

9. Prior to the commencement of the development hereby approved, a plan showing full details of the finished floor levels in relation to existing ground levels on the site/existing and proposed site levels for the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved finished floor levels plan.

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

10. Prior to the commencement of the development full details of the enclosures along all boundaries of the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved means of enclosure shall be erected, in accordance with the approved details, prior to the development first being brought into use.

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

11. Prior to the commencement of the development hereby approved, full details of the new boundary wall and gates to be constructed, along the rear Service Yard boundary shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the development, the new boundary treatment shall be erected, in accordance with the approved details, and retained and maintained in situ at all times.

Reason - To ensure the satisfactory appearance of the completed development, to protect vision splays and to comply with Policies C28 and C30 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

12. Prior to the commencement of the development hereby approved, full details of a scheme to acoustically enclose all items of mechanical plant and equipment within the building, including compressor motors and fans. Thereafter, and prior to the first occupation of the building, the development shall be carried out and retained in accordance with the approved details.

Reason - To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the NPPF.

13. All buildings hereby approved shall be constructed to at least a BREEAM 'Very Good' standard.

Reason - To ensure sustainable construction and reduce carbon emissions in accordance with Government guidance contained within the National Planning Policy Framework.

14. If, during development or as part of any further investigation, contamination not previously identified 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.

Reason – To ensure that any unexpected contamination encountered during the development is suitably assessed and dealt with, such that it does not pose an unacceptable risk to ground or surface water.

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

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

16. Prior to the commencement of the development hereby approved, full details of all of the accesses to the site (including vehicular and pedestrian), including position, layout, construction, drainage, and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the accesses shall be constructed and retained in accordance with the approved details.

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

17. Prior to the first use of occupation of the development hereby approved, covered cycle parking facilities shall be provided on site in accordance with the 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.

18. Prior to the first use of occupation of the development hereby approved, a Framework travel plan shall be submitted and approved in writing by the Local Planning Authority. Thereafter, within 3 months of the occupation/use of the units hereby approved, supplementary travel plan(s) linked to the Framework Travel Plan shall be submitted and approved in writing by the Local Planning Authority.

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. 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 and adhering to the approved Kingsmere Development Design Code before the development is completed. The scheme shall also include:

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

Reason - To ensure that the development/site is served by proper arrangements for the disposal of surface water/foul sewage, to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

20. Prior to the first use of the business hereby approved, suitably located waste bins shall be provided outside the premises and retained for public use in accordance with details to be firstly submitted to an approved in writing by the Local Planning Authority.



Reason - In order that proper arrangements are made for the disposal of waste, and to ensure the creation of a satisfactory environment free from intrusive levels of odour/flies/vermin/smoke/litter in accordance with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

21. The development hereby approved shall be carried out in accordance with the recommendations set out in of the Ecological Appraisal Document carried out by Aspect Ecology in July 2015.

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

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

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

23. Prior to the commencement of the development hereby approved, full details of a scheme for the location of habitat boxes on the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of any building of the development, the habitat boxes shall be installed on the site in accordance with the approved details and thereafter maintained and retained in situ.

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

24. Within the first available planting season following the occupation of the building, or on the completion of the development, whichever is the sooner, the existing hedgerow along the A41 boundary shall be reinforced by additional planting in accordance with a detailed scheme which shall firstly be submitted to and approved in writing by the Local Planning Authority. Thereafter, any plant/tree within the hedgerow which, within a period of five years from the completion of the development dies, is removed or becomes seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species 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). Thereafter the new planting shall 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 to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

25. The retail units hereby approved shall be used for the sale of comparison goods only as specified in the application and shall not be subdivided without the express consent of the Local Planning Authority

Reason – In order to safeguard the vitality and viability of the Town Centre and to comply with Government guidance contained within the National Planning Policy Framework.

26. The A3 and D2 units hereby approved shall be used only for the purpose of a restaurant and Gym as indicated on the approved plans and for no other purpose whatsoever.

Reason – In order to safeguard the vitality and viability of the Town Centre and to comply with Government guidance contained within the National Planning Policy Framework. To protect the character of the area and to safeguard the amenities of the occupants of the adjacent residential properties in accordance with saved Policies C28 and C31 of the Adopted Cherwell Local Plan and Government guidance contained within the NPPF.

27. Prior to the commencement of any development on the site, a Delivery and Servicing Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved plan.
28. Prior to the commencement of the development hereby approved, the ANPR Car Park Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved plan.
29. Prior to the commencement of the development hereby approved, a signage strategy shall be submitted to and approved in writing by the Local Planning Authority. The signage shall thereafter be carried out in accordance with the approved strategy.
30. No works between March and August unless the Local Planning Authority has confirmed in writing that such works can proceed, based on the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on the site, together with details of measures to protect the nesting bird interest on the site.
31. All species used in the planting proposals associated with the development shall be native species of UK provenance.
32. Planting pit details in hard landscaped areas
33. Planting pit details in soft landscaped areas

### **Planning Notes**

1. PN19 legal agreement
2. PN22 construction sites
3. PN23 disabled people
4. PN 26 nesting birds

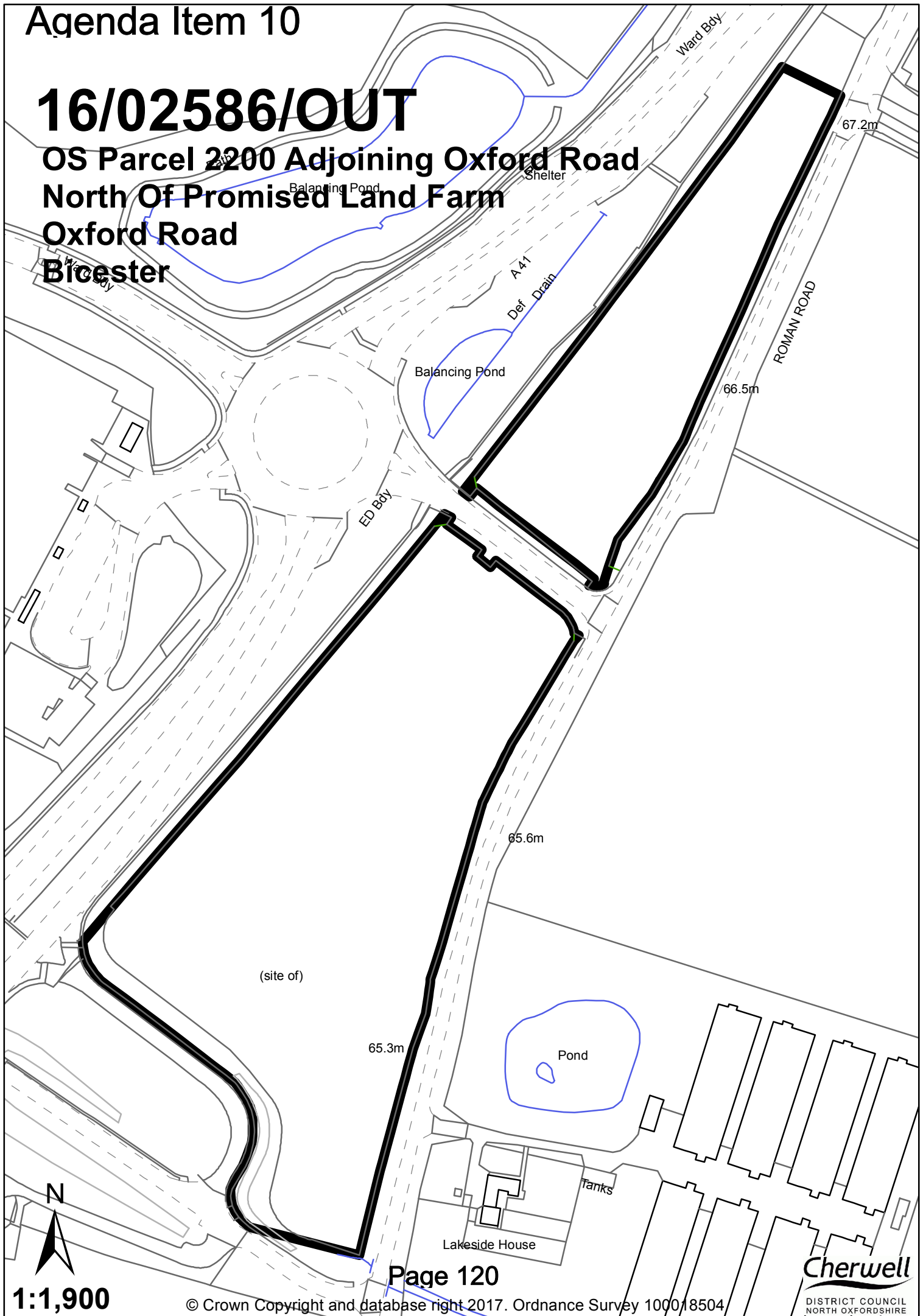
**STATEMENT OF ENGAGEMENT**

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.

# Agenda Item 10

## 16/02586/OUT

OS Parcel 2200 Adjoining Oxford Road  
North Of Promised Land Farm  
Oxford Road  
Bicester



(site of)

65.3m

65.6m

66.5m

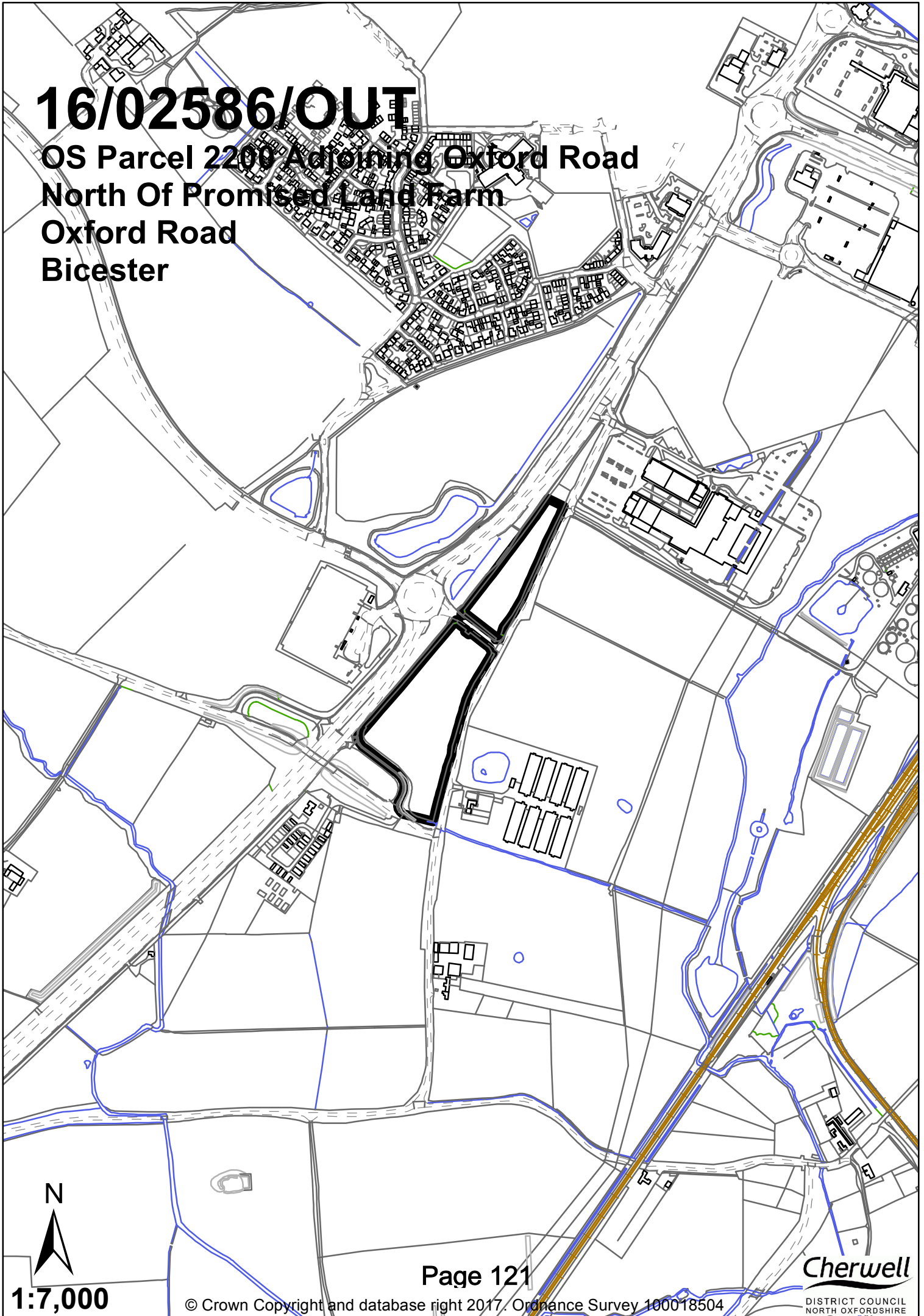
67.2m



1:1,900

# 16/02586/OUT

OS Parcel 2200 Adjoining Oxford Road  
North Of Promised Land Farm  
Oxford Road  
Bicester



**Applicant:** Bloombridge LLP

**Proposal:** Phase 1 of the proposed new business park ("Bicester Gateway") comprising up to 14,972 sq m (Gross External Area) of B1 employment based buildings, plus a hotel (up to 149 bedrooms), with associated infrastructure, car parking and marketing boards.

**Ward:** Fringford And Heyfords

**Councillors:** Cllr Ian Corkin  
Cllr James Macnamara  
Cllr Barry Wood

**Reason for Referral:** Major Development

**Expiry Date:** 12 April 2017                      **Committee Date:** 13 April 2017

**Recommendation:** Approve subject to conditions, legal agreement and resolution of ecology concerns

---

## **1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site relates to a 3.8ha triangular shaped area of land to the southwest of Bicester between the A41 and Wendlebury Road. The site is bisected by the recently installed Vendee Drive link that connects the new A41 roundabout with Wendlebury Road. Beyond the A41 to the west lies the allocated and approved housing development of South-West Bicester and to the north lies the Bicester Avenue garden/shopping centre. To the south and east lies open countryside with the exception of the nearby chicken farm on the opposite side of Wendlebury Road.
- 1.2. The site is comprised of grassland with mature hedgerows and trees around the perimeter except along its boundaries with the new Vendee Drive link. Some pockets of vegetation and small trees are located within the site at its south-western corner.
- 1.3. A disused slip road lies beyond the southern edge of the site which was formerly part of the Wendlebury interchange. It is within the control of the applicant though not part of the application site. A public footpath passes through the south-eastern corner of the site from the disused slip road through to Wendlebury Road.
- 1.4. The majority of the application site is allocated within the Local Plan through Policy Bicester 10 as part of a wider business park to support knowledge based industry. The allocated site however covers a significantly larger area including land to the east of Wendlebury Road which surrounds the adjacent chicken farm premises. The allocation does not however include part of the southern section of the application site.

- 1.5. The application site itself is not subject to any specific statutory or local planning policy designations relating to heritage, landscape or ecological significance. The Bicester Wetland Reserve (a designated Local Wildlife Site) however lies further to the east and the Alchester Roman Town Scheduled Monument covers a significant area of land immediately to the south.

## **2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. The application has been submitted in outline with all matters reserved. As a result, the plans and drawings provided are for illustrative purposes only but are an attempt to demonstrate that the proposed development can be accommodated on the site and are an indication of what could subsequently be proposed. As a result, the detailed design, layout, landscaping and means of access to the development are not for consideration at this stage. Members are therefore considering the acceptability of the principle of the type of development proposed together with the amount. The application proposes a development consisting of two elements which the applicant describes as Phases 1A and 1B. Phase 1A comprises the smaller triangular shaped part of the application site to the north of the Vendee Drive. A hotel providing up to 149 bedrooms together with associated infrastructure is proposed on this land which the applicant indicates is expected to be developed first. Phase 1B consists of the larger remaining part of the site to the south of Vendee Drive on which the application proposes up to 14,972sq m of Class B1 development (which includes offices, R&D and light industrial uses).
- 2.2. The application also includes proposals to provide a new combined footway/cycleway along the A41, a new bus stop layby to the eastern side of the A41, a signalised pedestrian crossing of the A41 and other highway mitigation works including minor alterations to the A41 roundabout as well as a new mini roundabout in place of the existing priority junction between Vendee Drive and Wendlebury Road.
- 2.3. For clarity, the applicant describes the remainder of the allocated Bicester 10 site as Phase 2 in the plans and documents that accompany the application. Phase 2 is therefore indicated on illustrative plans but is not for specific consideration at this stage albeit regard must be had to it in considering the implications of the proposed development to determine whether anything in these proposals might prejudice achieving the overall requirements of Policy Bicester 10.

## **3. RELEVANT PLANNING HISTORY**

- 3.1. There is no planning history directly relevant to these proposals.

## **4. PRE-APPLICATION DISCUSSIONS**

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

<u>Application Ref.</u>	<u>Proposal</u>
16/00145/PREAPP	Erection of 150 bed hotel

- 4.2. Officers received a pre-application enquiry proposing a hotel on land now referred to as Phase 1A. The proposal at that time did not include any Class B1 development. Officers raised some concerns about the proposal for a hotel on land allocated solely for Class B1 development and what the implications might be for delivery of the number and type of jobs sought by Policy Bicester 10. Officers indicated that in order to be able to consider a hotel proposal favourably on the site it would have to

be shown to act as a catalyst for the wider development of the business park rather than be a standalone proposal. Officers also recommended that further information be submitted to demonstrate that the hotel proposal could not be accommodated in a more sequentially preferable location with respect to Bicester town centre.

## **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 surrounding the application site that the Council has been able to identify from its records. The final date for comments was 16.02.2017, although comments received after this date and before finalising this report have also been taken into account.

5.2. Four third party representations have been received from those with various interests in the development. The following summarised comments have been made:

- The proposals on Phase 1 will create momentum and lead towards the development of the wider business park in due course;
- The development will help deliver employment and assist in the sustainable growth of Bicester;
- The hotel could prove a useful place for business meetings and guest accommodation;
- Site amenities such as a hotel are vital for the success for a new business park;
- Demand for overnight accommodation in Bicester is likely to increase and this hotel is needed to meet demand;
- The proposals would help generate a successful office sector in Bicester which to date has been lacking;
- Vendee Drive/A41 roundabout is dangerous and requires traffic signals. Increases in vehicle trips associated with the proposed development would increase further risk of accidents to which the Transport Assessment underestimates as it only records notifiable accidents which do not reflect real numbers;
- Accessing the Park & Ride from Bicester is difficult and exiting requires a long time for a suitable space to emerge in the traffic;
- The development will involve the removal of much of the existing semi-natural habitat across the site and its replacement with built development indicating that a net loss of biodiversity value is likely;
- A biodiversity accounting approach should be undertaken to establish the impact on ecological habitat given concerns regarding potential net loss.

5.3 Letters of support have also been received from Oxfordshire Local Enterprise Partnership and Experience Oxfordshire that draw attention to the benefits of encouraging business and tourism in the county.

5.4 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 Councils:**

Bicester Town Council – No objection though concern raised about increased traffic levels in the area as well as the access to the site.

Chesterton Parish Council – No objection however raises the following comments:

The proposals make no reference to upgrading the Wendlebury Road despite the considerable increase in traffic that will take place and there is no mention of the impact this will have on Chesterton. The proposals will surely increase 'rat running' through both Wendlebury and Chesterton. The proposals should also either directly deliver or provide funding towards making improvements to pedestrian/cycle accessibility between Chesterton and Wendlebury Road as it is likely that some employees would travel from Chesterton. Chesterton is also an expanding village and some of its residents may look to travel to work at the site by bus however the service has been withdrawn due to withdrawal of subsidies by Oxfordshire County Council. The proposals should include a financial contribution towards funding the costs associated with the diversion of an existing service into the village.

Wendlebury Parish Council – No objection but concerns raised about traffic generated by the proposed development using the village as a 'rat run', both north and south bound. A robust, enforceable travel plan is necessary to ensure that employees of the business park do not use the back road through the village.

### **Cherwell District Council:**

#### Landscape Services

Cordell Design does not appear to be a registered landscape architectural practice with the Landscape Institute. The LVIA is deficient and should be improved for the following reasons:

1. Given that the site is flat and the outlying area is also flat, with intervening structural boundary vegetation, the zone of visual influence is not as extensive as one would envisage. However the scale, massing and height (incl. patina/colour) of the buildings will mean the zone of visual influence is going to be wider than proposed in Figure 4. The ZVI should therefore be revised once scale, height and massing is clarified.
2. Although the developing Kingsmere residential site will intervene and reduce the zone of visibility the new residents of Kingsmere will experience development's impacts and effect to a degree. Therefore future residential receptors will experience some visual harm, and this element should be considered in the LVIA.
3. There is no consideration of the landscape and visual impacts and effects of the development during the winter months when the leaves are off the trees and hedgerow. In this regard a revised Significance of Effect weighting must be considered.
4. We require more clarity of how the results have come about. Where are the landscape and sensitivity matrices? For example Magnitude of Change should be judged against Sensitivity of Receptor to determine Significance of Effect – refer to GLVIA3.
5. The building elevations to be indicated on visualisations/wireframes, based on mutually agreed viewpoints which will enable the landscape consultant to provide

an assessment at each viewpoint, to be clearly explained in terms of receptor sensitivity and rating: Magnitude of Change and sensitivity rating in a written statement in combination with the above matrix in item 4. The 3 story offices and the 5 story offices actual height above ground level must be identified the design and access statement currently does not indicate the actual measured heights of the buildings – the proposed elevations would be very helpful.

6. In view of items 1 -5 the Slightly Adverse judgement can be challenged.
7. There must be sufficient landscape buffering and screening which incorporates existing/retained structural vegetation. The Significance of Effect weighting is to be determined at years 1 and 15, taking into account growth rates of the structure planting.
8. The hotel site (Phase 1A) will require a landscaped buffer zone to the car park against the A41. The parking bays are proposed to be on the application site boundary which does not allow sufficient tree planting on this boundary to address landscape/visual impacts.
9. The distance between the hotel elevation to the site boundary on the A41 is only 6 m (approx.) This depth does not allow the growth of large, mitigating trees. This depth must therefore be increased to allow the planting of such trees.
10. Increase the number of car park trees.
11. Detailed hard and soft landscape proposals, along with hard and soft tree pit details are required.

#### Business Support Unit

It is estimated that this development has the potential to secure Business Rates of approximately £468,900 per annum under current arrangements for the Council.

#### Economic Development

This outline proposal to create 'Bicester Gateway Business Park' is welcomed, a key employment site and component of the Adopted Local Plan.

#### Planning and Economy Overview

The Planning Statement & Statement of Community Involvement appear sound, as does the Sequential Test. However, I would be happy to provide further views on any element of the submissions.

The proposal to construct the hotel ahead of the offices is understandable and should facilitate the attraction of key 'knowledge based' business investment that is central to the Council's economic development strategy.

#### Hotel & Visitor Market

The hotel market in Bicester has performed well in recent years, leading to the expansion of Bicester Hotel & Spa at Chesterton, the continued town centre operation of the Littlebury Hotel and the entirely new Premier Inn and Travelodge. Whilst visitors to Bicester Village are important to all hotels, the demand for overnight accommodation also includes executives and tradespeople working locally, people passing through on the strategic road network, and many other leisure visitors from the UK and overseas. With considerable further development planned for Bicester, the need and demand for further overnight accommodation is to be expected. This particular proposal has the potential to differentiate itself from other hotels in and around the town through its scale, prominence and unique location providing a 'business hub' to serve the needs of other businesses by being integral to the operations within subsequent phases of the Business Park.

#### Access

In considering the inter-relationships between the large format sites alongside the A41, it is of paramount importance to carefully manage vehicular access and to integrate pedestrian and cycle ways. This is not only fundamental to the garden town philosophy and to the creation of a sense of place where people choose to

spend time – both indoors and out - is also of practical importance to the workforce, residents and visitors being able to easily access the site and to move between sites.

#### Design

The intention to use high quality building materials and design are indicated and I would support this approach, rather than mitigating a poor design through over-planting alongside the A41. This will be particularly important if the site is to attract globally-renowned business occupiers.

#### Ecology

The Ecological Assessment states that a Phase 1 habitat survey was carried out in April 2016. During this visit trees were inspected for bat potential; signs for badger presence and on-site reptile refugia disturbed. A second survey for bats was undertaken in September 2016 to include a transect survey and two static detectors were left overnight. In the Amphibians (section 5.4) the Ecological Assessment refers to 2013 surveys on ponds nearby that found no records from Great Crested Newts and that "checks of suitable refugia within the application site did not reveal the presence of any amphibians". Although, the report then states that the habitat for grass snake is sub-optimal.

It is noted that the TVERC data was generated on 13th May 2016 after the Phase 1 survey had been carried out and so did not inform the site visit. Therefore, species records not considered prior to the site visit include barn owl (Bicester Wetland Reserve), grass snake (recorded on site (28/07/1987 - field record) and otter (Bicester Wetland Reserve). Similarly, the report references the use of the NBN Gateway as an information source despite the website clearly states that the data on the site is not to be used for commercial purposes.

Our concern is that there has not been enough survey effort to determine the presence or absence and use of protected species onsite.

#### Bats:

The Bat Conservation Trust Guidelines suggest for low suitability habitat for bats the following surveys are required:

- Transect/spot count/times search surveys: One survey per season (spring - April/May, summer - June/July/August, autumn - September/October); and
- Automated/static bat detector surveys: One location per transect, data to be collated on five consecutive nights per season (spring - April/May, summer - June/July/August, autumn - September/October in appropriate weather conditions for bats.

Without this information one cannot determine how the pipistrelles or other bats missed through no-seasonal surveys are using the site or its boundary features and how any entrance feature(s) into the site could disrupt this activity.

#### Otters:

Otters have been recorded on the Bicester Wetland Reserve and there is a watercourse that links this site with the reserve and no mention of this is included in the Ecological Assessment.

#### Grass Snake:

A Grass snake, albeit 1987, has been recorded on site and there is a wetland reserve hydrologically linked to the site. If grass snake persists on the site then an April survey of looking under naturally occurring refugia does not follow national guidelines.

#### Barn Owl:

Barn Owls have been recorded on and/or adjacent to the Bicester Wetland Reserve and semi-improved grassland would provide suitable habitat for their prey species, however, there were no surveys for this species nor a reference to them in the Ecological Assessment.

#### Great Crested Newts:

Although the statements in the Ecological Assessment may be correct the evidence to back this up has not been submitted.

#### Botanical Surveys:

April (actual date unknown) is not the best time to survey grassland, guidelines recommend late May to early July. To accurately assess the grassland's condition a survey at these times for lowland meadow would be required.

Recommendations: Further surveys are required to determine the presence or absence of the above species and how they use the site throughout the year. The current indicative layout does not illustrate how either Phase 1a or Phase 1b have flexibility to compensate for these species, should they be found to occur on the site at a later date. It is also recommended that the supporting evidence for the great crested newt absence statements within the Ecological Statement is submitted as part of this application.

#### Biodiversity Impact:

Phase 1a has been shown to have a biodiversity loss. Ecology Solutions (applicant's ecological consultants) suggest a loss of 2.3 biodiversity units using the Warwickshire Biodiversity Impact Assessment Defra metrics. Phase 1b suggests an additional loss of 4.39. Due to the lack of an accurate assessment of the grassland the actual impact could be greater than this; our calculations suggest a potential impact of 6.82 and 15.22 biodiversity units loss respectively. Indicatively this could infer Biodiversity Offset costs of £212,700 and £463,900.

Recommendations: That Biodiversity Offsetting is included within a Section 106 obligation to ensure no net loss. However, it is strongly recommended that this is informed by an appropriate assessment of the grassland to assist with any viability assessment for the phases.

#### Conclusions:

There is not enough survey data to inform how this development (phase 1a and/or 1b) will impact on protected species and as such it does not accord with the ODPM Circular 6/2005, local authority NERC Duties (2008) and the Habitat Directive (2010). Therefore, it is recommended that the application is refused until further surveys are carried out.

#### **Oxfordshire County Council:**

##### Transport

OCC continue to object to the proposed development and maintain that an assessment of the transport impacts of developing the entirety of Bicester 10 (i.e. Phases 1 and 2) is a necessary part of ensuring that each component part provides its appropriate share of this overall mitigation. However, it is recognised that Policy Bicester 10 does not explicitly require this. The objection is made on the basis that:

- Traffic impact has been assessed in isolation without considering the wider impact of Bicester 10 with the risk that adequate mitigation for the wider site will not be provided.

- There are outstanding queries with the methodology of the Transport Assessment (TA) including the rationale for only subtracting the main flows associated with Bicester 10 development from the Bicester Traffic Model, i.e. inbound in the am peak and outbound in the pm peak, in order to get back to a base scenario upon which to assess the addition of the development. However, even if the minor flows are small, it slightly inflates the base case thereby potentially reducing the proportional impact of the development and gives a false forecast of turning movements and junction capacity. The difference could be minor but on the other hand the methodology chosen could be masking some impacts.
- Without minor alterations to the A41/Vendee Drive roundabout, the traffic congestion would become severe by 2024 following full occupation of the office development. The proposed mitigation scheme is relatively minor and involves increasing the entry width at the Vendee Drive arm by less than 1 metre by reducing the width of the splitter island, with no increase in effective flare. On the Vendee Drive Link arm, the scheme involves increasing the effective flare by 11m. Whilst our preference would be for a more substantial scheme with longer lasting effect and capable of mitigating the impact of the whole of Bicester 10, it is acknowledged that the residual impact of Phase 1A and B with this mitigation scheme as modelled is not severe in terms of queues or delay. The developer should commit to providing this mitigation scheme by 2024.
- However, by 2024 the junction between Vendee Drive and Wendlebury Road would be operating above capacity and the modelling indicates the need for mitigation at this junction. The applicant disputes the 2024 modelled flows on Wendlebury Road from the Bicester Transport Model, and it is on this basis that they propose a 'monitor and manage' arrangement, which OCC does not accept. OCC recommend that a sensitivity test is undertaken (with traffic flows to be agreed with OCC), to understand the impact that a potentially lower flow on Wendlebury Road might have. The proposed mini roundabout scheme may need some design tweaks to ensure adequate visibility, and would rely on a 30mph speed limit being introduced. Nevertheless it is required to mitigate the predicted impact of Phase 1A and B by 2024 and therefore the developer should commit from the outset to providing it.
- The plan submitted demonstrates that suitable visibility for the hotel access can be achieved even if the TRO to reduce the speed limit is not successfully made, with appropriate clearance of vegetation and assuming the land up to the highway boundary is in the control of the applicant. Although plans have not been supplied showing visibility splays for access(es) to the offices, with the reduction in speed limit to either 40mph or 30mph it should be possible to provide adequate visibility splays with appropriate clearance of vegetation and assuming the land up to the highway boundary is in the control of the applicant. A reduction in speed limit to 30mph, necessary for the mini roundabout, may require some additional traffic calming features. A s106 planning obligation is necessary to require the developer to enter into a S278 agreement for the mini roundabout scheme prior to commencement of Phase 1B to ensure that the office development does not go ahead without ensuring that it is delivered in time to mitigate the impact of the development.
- The TA and Technical Note acknowledge the impact of the development on the A41 corridor. Therefore it should be possible to agree a strategic contribution, with an appropriate trigger, towards a scheme to relieve traffic congestion on this corridor, rather than leaving it for future assessment. Further details and justification for our proposed contribution will follow.
- The proposed number of parking spaces shown is sufficient but it is recommended that a car park management plan is conditioned.
- There are currently no other developments that could be required to contribute towards a crossing of the A41 here. As the hotel is proposed to open first, and as a crossing is required for sustainable, suitable and safe access to the hotel, it is our opinion that it must be provided by the developer in advance of the first occupation

of the hotel, along with the bus infrastructure. We require drawings showing the indicative design of the crossing in conjunction with the proposed bus stop and a S278 agreement to be agreed prior to commencement. We believe that the requirement for RTI is justified in order to maximise opportunity for sustainable travel. Given the location and particularly the potential for overseas tourism, we consider that there is a strong likelihood of visitors wanting to access the hotel by public transport.

- Off-site highway works required in connection with access to the proposed hotel (vehicular access, crossing, bus stop, cycleway/footway north of the roundabout) should be secured and agreed prior to commencement, with the works themselves being required prior to occupation. Likewise, off-site highway works associated with Phase 1B should be secured and agreed prior to commencement of phase 1b – this would include the cycleway/footway south of the roundabout, the Vendee Drive roundabout mitigation scheme, and the Wendlebury Road junction mitigation scheme. The cycleway/footway would be required to be delivered prior to occupation of phase 1B. The mitigation works could be required by a later trigger point.
- As explained, OCC is not satisfied with there being no upfront commitment to deliver mitigation. The reliance on a future transport assessment runs the risk of this not being agreed within the timeframe for delivery. Even if it were possible to agree such a complex S106, the monitoring would be highly complex requiring numerous notifications to be programmed in which in practice would be unworkable.

#### Drainage Engineers

Following the receipt of further supporting information and the proposed inclusion of swales within the development to manage and treat rainwater, the proposals should be able to be served by an appropriate sustainable drainage scheme as part of detailed subsequent proposals that ensure no increase in surface water discharge from the site would occur beyond pre-development levels. Conditions are recommended to be imposed on any grant of outline planning permission.

As the site is identified to be located with Flood Zone 1 as defined by Environment Agency flood mapping, the proposed development is considered to be at a low risk of flooding from any source.

#### Archaeology

The site is located in an area of considerable archaeological interest immediately north of the scheduled Roman Town of Alchester (SM 18). An archaeological evaluation has identified a number of Roman deposits within the area of the site which is shown as proposed for car parking. These deposits are proposed to be preserved in situ in line with a preservation strategy submitted with the planning application. A programme of archaeological investigation and mitigation will still be required for the rest of the site but following the removal of any built development proposals from the area identified to contain dense Roman deposits we are satisfied that this can be secured through appropriately worded conditions.

#### Economy

The proposed development would create a significant number of new jobs at end user stage which is welcomed. To ensure that the development enables local people to better access the training and job opportunities arising from the development, a Community Employment Plan (CEP) should be required and implemented through imposition of a planning condition. A CEP should relate to outcomes from both the construction and end user phase.

## **External Consultees:**

### Historic England

Policy Bicester 10 requires that the setting of the scheduled monument should be conserved and enhanced and opportunities should be set out to better reveal its significance. In our view, this might be better achieved if the outcome for the whole of Bicester 10 is understood at the outset.

The proposed development appears to relate to only a part of the whole of Bicester 10, and in fact appears to relate largely to the construction of a hotel. The impact from this particular proposal on the significance of the scheduled monument through the impact upon its setting would be limited to the southern end and in our view the harm would be minor. We are concerned however that this proposal is limited to this area and the overall impact of subsequent development throughout Bicester 10 cannot yet be assessed as a whole. The area labelled as Future Phase II has considerably greater potential to impact upon the setting of the scheduled monument and we feel that it might be premature to accept this development without understanding the final outcome. We also have concerns in relation to a potential south-eastern peripheral road, and we raised these in our consultation on the Proposed Submission Plan. We understand that Oxfordshire County Council has considered possible routes for such a route and has requested your authority to safeguard a southern route which would pass around the south side of the scheduled monument. We have made clear to them that we do not understand the basis upon which this choice has been made, and that it remains possible that a more northerly route would have less of an impact. In our view the County Council does not have the necessary information to make an informed decision. Our concern here is that the more northerly route would pass through Bicester 10, and we would not wish to see any development here which might preclude that option if it was found to be the preferable one.

### Thames Water

The existing water supply and wastewater infrastructure has insufficient capacity to meet the additional demands of the proposed development. Conditions should therefore be imposed preventing development until capacity studies have been submitted and approved by the LPA in consultation with Thames Water to determine any new additional capacity required in the system and suitable connection points.

### Berkshire, Buckinghamshire & Oxfordshire Wildlife Trust (BBOWT)

In accordance with paragraph 109 of the NPPF (National Policy Planning Framework) and Policies ESD10 and Bicester 10 of the Cherwell Local Plan, development on this site should achieve a net gain in biodiversity. Being mindful of the current nature of the site and in the absence of information that clearly demonstrates a net gain I am unconvinced that a net gain is currently being achieved. Experience elsewhere has shown that use of Biodiversity Accounting Metrics such as the ones developed by Defra, the Environment Bank or Warwickshire County Council can be useful in quantifying losses and gains in biodiversity to check that a net gain is being achieved. The applicant should check with the local authority ecologist which metric to use.

There is little evidence of biodiversity being integrated into the development in accordance with Local Plan Policy ESD10 and paragraph 118 of the NPPF, which encourages opportunities to incorporate biodiversity in and around developments. I would expect a development in this location (gateway location, Bicester Eco town) to set exemplary standards for biodiversity in built development. This could include green roofs, green walls, sensitively managed native street trees, diverse road verges, and the incorporation of integral wildlife boxes where possible.

We are also concerned that the ecological effects of the development on designated sites and species are assessed for the first development phase only rather than comprehensively for the Bicester 10 site as a whole and in the wider development context. The development affects the most westerly part of the larger strategic development site of Bicester 10, the latter of which extends eastward up to the Bicester Wetland Reserve LWS (Local Wildlife Site) encompassing the District Wildlife Site of Promised Land Farm. An ecological survey has been carried out by Ecology Solutions Ltd for this application. The survey did not find any protected or notable habitats or species on site or immediately adjacent to the site. The report does also not identify any significant adverse effects on the nearby LWS (Local Wildlife Site). I don't question the findings of the survey but consider it insufficient to assess the effects of this development in isolation.

Future development phases of Bicester 10 will include the grasslands of Promised Land Farm up to the boundary of the LWS bringing development close to the reserve. I am concerned that it is proposed to assess the impacts on the LWS as part of future development phases rather than considering effects comprehensively and cumulatively at this stage. This is in line with Bicester 10 policy, which states amongst other things: "...An ecological survey should be undertaken, investigating the cumulative impacts of development at this site and at other sites on the Local and District Wildlife Sites in the vicinity. ..."

In addition, other strategic development sites are located to the north (Bicester 4) and northeast (Bicester 2 – Graven Hill) of the LWS, so that the reserve might be almost completely surrounded by development in the future. I am concerned about the effects this might have on the ecological interest of the LWS and the ability for it to be managed for nature conservation in the future. I consider it important that the effects on this site are comprehensively assessed.

## **7. RELEVANT PLANNING POLICY AND GUIDANCE**

- 7.1. Planning legislation 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 (CLPP1)

- SLE1 - Employment Development
- SLE2 - Securing Dynamic Town Centres
- SLE3 - Supporting Tourism Growth
- SLE4 - Improved Transport and Connections
- ESD1 - Mitigating and Adapting to Climate Change
- ESD2 - Energy Hierarchy
- ESD3 - Sustainable Construction
- ESD4 - Decentralised Energy Systems
- ESD5 - Renewable Energy
- ESD6 - Sustainable Flood Risk Management
- ESD7 - Sustainable Drainage Systems (SuDS)



- ESD8 - Water Resources
- ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 - Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built Environment
- ESD17 - Green Infrastructure
- BICESTER 10 - Bicester Gateway
- INF1 - Infrastructure

#### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- T2 - Proposals for hotels, motels, guest houses and restaurants within settlements
- C8 - Sporadic development in the open countryside
- C28 - Layout, design and external appearance of new development
- ENV1 - Development likely to cause detrimental levels of pollution
- ENV12 - Development on contaminated land

#### 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

### **8. APPRAISAL**

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

- Principle of the Proposed Development;
- Access and Transport Impacts;
- Design, Appearance and Impact on the Character of the Area;
- Ecology;
- Impact on the Historic Environment;
- Flood Risk/Drainage;
- Energy Efficiency/Sustainability;
- Planning Obligations(s);
- Local Finance Considerations.

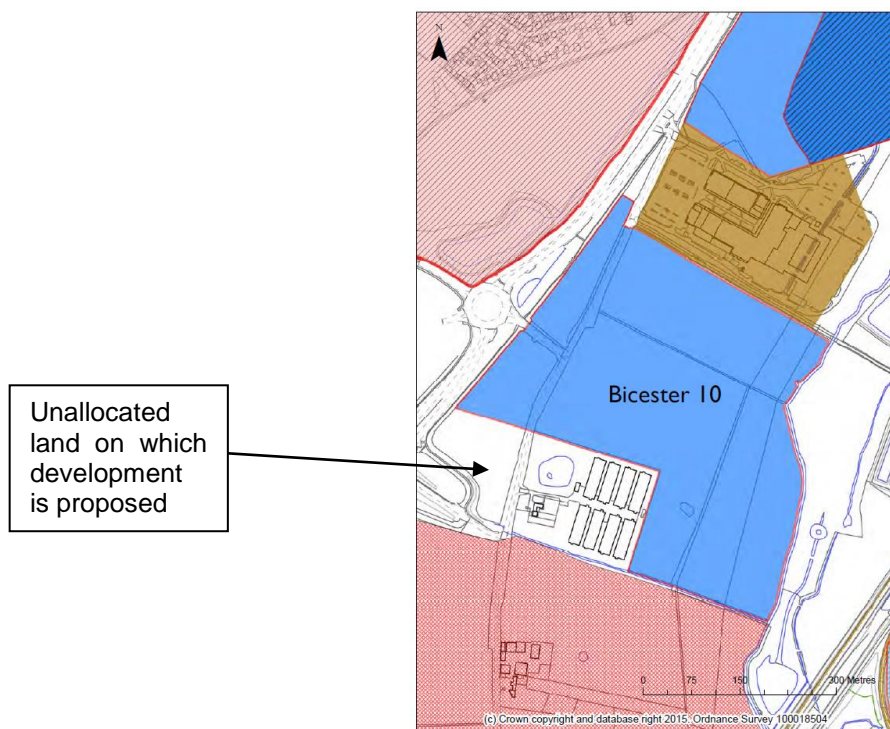
#### Principle of the Proposed Development

8.2 Policy Bicester 10 allocates an area of land (as shown in the Policies Map) to the southwest of Bicester (described as Bicester Gateway) for the provision of Class B1 (office, R&D, light industrial) development based on high-tech knowledge industries. The policy suggests that approximately 3500 jobs could be delivered through such development on the site. The supporting text to Policy Bicester 10 explains that the site has the potential to be a major high quality employment area at a critical gateway into the town and that there is an opportunity to encourage the knowledge economy associated with Oxford to locate to Bicester.

8.3 The application relates to a small part of Bicester 10 between the A41 and Wendlebury Road. This land is separated into two by Vendee Drive. The smaller triangular shaped northern parcel of land is proposed to accommodate up to a 149 bedroom hotel whilst the larger southern section of the site is proposed to accommodate up to 14, 972 sq m of Class B1 development. The applicant describes the land associated with the hotel proposal as Phase 1A and the land associated with the Class B1 development as Phase 1B. The land actually allocated through

Policy Bicester 10 is however significantly larger than the application site and includes land to the east of Wendlebury Road which the applicant refers to as Phase 2. The applicant currently has no control over the land known as Phase 2. Whilst not desirable in planning terms, there is no restriction on applications being submitted that relate to only part of an allocated site as is the case here. It is however important that in considering such an application that due regard is given to any difficulties or potential adverse impacts that the current proposals may have on later phases of development that might prejudice the ability to achieve the overall requirements of the allocation policy. Consequently, there is no reason in principle to object to this application on the basis that it relates to only part of an allocated site though in considering the application officers and Members do need to be mindful of the wider implications of the proposed development on the overall requirements and objectives of Policy Bicester 10.

8.4 The application proposes up to 14,972 sq m of Class B1 floorspace on the southern parcel of land referred to as Phase 1B. This type of development is in accordance with the purposes for which the site is allocated through Policy Bicester 10 and so the principle of such a development is acceptable subject to compliance with other detailed requirements of the policy. However, the proposals depart from the provisions of Policy Bicester 10 in two ways and as such the application has been publicised by the Council as a departure from the development plan. First, the application proposes up to a 149 bedroom hotel on the northern parcel of land (Phase 1A) which differs from the Class B1 (office/light industrial) development supported by Policy Bicester 10. Second, some of the Class B1 development proposed on the southern part of the site includes land that is not specifically covered by Policy Bicester 10 as shown in the adopted Policies Map (extract shown below).



8.5 In addressing the potential acceptability of the principle of these departures from adopted planning policy, officers will first consider the matter of the proposed encroachment of Class B1 development into unallocated land.

- 8.6 The boundary of the Policy area, as shown on the above extract from the adopted Policies Map is peculiar in that after following the boundary of the existing chicken farm, the southern boundary line of the allocation continues in a straight line over to the edge of the A41. There is no delineating built or natural boundary that this line follows and it simply cuts across a field. Officers can think of no logical reason why the boundary line should have been drawn in this way and, whilst it forms part of an adopted policy document, following further discussion between officers in the Development Management and Planning Policy teams it appears likely that the map has an error and that Bicester 10 should instead have included the land to the southwest up to the boundary with the disused slip road. Nevertheless, even with this apparent error the Policies Map forms part of the Development Plan and the application must be assessed against it.
- 8.7 The unallocated land comprises grassland surrounded by hedgerows along the western, southern and eastern boundaries. The northern boundary is open and the land blends into a wider grassland field comprising the allocated Bicester 10 site. Policy C8 of the CLP 1996 seeks to resist sporadic development in the open countryside and is thus material in this respect. This policy has weight but as a wholly restrictive policy it is not necessarily completely consistent with current national planning policy in the NPPF. Policy ESD13 is up-to-date and resists development proposals where they would cause undue visual intrusion into the open countryside or be inconsistent with local character.
- 8.8 Whilst the proposals would result in the loss of countryside, the remaining technically unallocated part of the application site is very contained by existing vegetation rather than appearing to form part of wider open countryside. Furthermore, its retention as isolated, vacant and unusable grassland would appear wholly incongruous adjacent to the new business development given that it so clearly and logically forms part of the same piece of land. For this reason officers have concluded that its development would not be materially harmful to the intrinsic attractiveness of the open countryside and neither would it cumulatively have any materially greater local or wider landscape impact than that caused by development of the rest of the allocated site. Consequently, whilst the proposals would result in some new built development on unallocated greenfield land, officers are satisfied that for the above reasons this would not have a materially adverse effect on the natural landscape and would help deliver further employment development on land that would, if left undeveloped, have little environmental, economic or social value.
- 8.9 Turning now to the matter of the proposed hotel, at its heart Policy Bicester 10 seeks to create a business park providing premises for knowledge based industries. Any loss of land to other types of development reduces the availability of land on which such premises could be provided and could therefore affect the underlying purpose of the allocation as well as affect the number and type of jobs created through development on the overall site. Given that planning legislation requires decisions to be taken against the provisions of the development plan unless material considerations indicate otherwise, the starting point would ordinarily be to view the proposals unfavourably in this regard due to their apparent conflict with up-to-date development plan policy.
- 8.10 However, officers agree with the applicant that it is often very difficult to secure the first occupier on a new employment site and that once one premises is operational, others often quickly follow. This is because businesses are reluctant to commit to the disruptive process of moving premises until there is complete certainty surrounding timescales, infrastructure and the site circumstances. Whilst officers do not necessarily consider a hotel or similar development to be a prerequisite for a modern business park (and there are numerous new examples without one), officers are receptive to the notion that a business amenity (such as a hotel with associated

conference/meeting facilities) is an attractive feature which, once committed, has the potential to act as a catalyst for other interest of the kind directly supported by Policy Bicester 10. Not only would the hotel, once operational, give the impression of the whole site being 'open for business' it would also provide useful meeting facilities for nearby businesses as well as overnight accommodation for visitors/customers. Indeed it is on this basis that the applicant has proposed the development with an initial phase for the hotel (Phase 1A) and a second phase (Phase 1B) with Class B1 development proposed on the remainder of the site.

- 8.11 In addition to potentially providing an attractive amenity to business, officers are also conscious that the construction of the hotel would necessitate provision of power, gas, water, sewage and communications infrastructure to the site which would in turn enable straightforward connection to subsequent business premises thus reducing time and cost implications for an interested business occupier. This would further help to encourage businesses to develop new premises on the site. It is also worth noting that whilst the hotel would not be expected to deliver jobs to the same extent or perhaps skills level as other employment types might do, it would still generate a reasonable level of employment and given the nature of many the jobs (part time, lower skilled, seasonal) it is likely that a high proportion of the jobs would be filled within the local population.
- 8.12 With the above in mind, officers have concluded that whilst the hotel proposal is in conflict with the specific provisions of Policy Bicester 10 it has the potential ability to help facilitate further Class B1 development on the site and thus help deliver on the wider long term objectives of Policy Bicester 10. In coming to this view officers have been mindful of the circumstances on the nearby allocated Bicester 4 site which also has had the benefit of outline planning permission for a significant amount of Class B1 development since 2008. The re-location of the Tesco superstore to the front of this site was partly predicated on the basis that it could help act as a catalyst to interest from prospective developers of Class B1 premises but this has so far not proven fruitful. However, in comparison to the food superstore, officers believe that a hotel would provide a more complementary, attractive and higher quality amenity that is directly relevant to businesses. For this reason officers do not consider that the experience to date on Bicester 4 is of particular relevance to the merits of this proposal.
- 8.13 In further considering the principle of the development of a hotel on the site, officers also have to be mindful that such a use is defined as a Main Town Centre Use in both Policy SLE2 of the Cherwell Local Plan as well as the NPPF. In order to maintain and enhance the vitality and viability of town centres, such developments should first look to be provided on suitable and available sites in a town centre before considering edge of centre and then out of centre locations. The application site constitutes an out of centre location for these purposes. The process of considering the availability of such alternative sites is known as a sequential test.
- 8.14 The applicant has submitted a document to address the requirement for a sequential test. Officers do not however consider the approach set out in the document to be completely robust. It considers the suitability and availability of sites on the basis of the whole of the proposed development rather than simply the hotel element. As the site is allocated for Class B1 development (also a Main Town Centre Use) it is not necessary to apply the sequential test to this. Given that the hotel is a separate element (on a discrete parcel of land) that does not in any way rely on the Class B1 development to operate (and indeed is shown to be phased so that this could occur), officers are of the view that in order to be a robust sequential test it could and should have been disaggregated from the remainder of the Class B1 proposals and sequentially tested on that basis. The applicant has not therefore assessed suitable and available sites for a proposal similar in scale and format to the hotel

element alone and it is not clear whether other sites might be available in a more sustainable location closer to the town centre and thus help reinforce town centre vitality.

- 8.15 Notwithstanding any deficiencies in this regard however, officers are mindful that if the hotel was provided in an alternative location closer to Bicester town centre it would not be fulfilling its role as a potential catalyst and amenity to further Class B1 development on the allocated site. Moreover, whilst the proposed hotel would be located on the edge of Bicester it should be recognised that overnight accommodation (either for leisure or business purposes) would provide additional visitors to the town and that at least some of hotel guests would venture into the town centre, helping to support both the day and night time economy. It should also be noted that both the Council's Economic Development team and North Oxfordshire Tourism Study 2014 (which forms part of the Local Plan evidence base) have identified that there is a shortfall in overnight accommodation within Bicester due to a combination of increased population growth, increasing affluence and growth in overnight visitors to attractions such as Bicester Village.
- 8.16 Taking the above together, officers are content that the provision of a new hotel would bring about economic benefits both generally and to Bicester 10 itself that would outweigh the loss of part of Bicester 10 to a use other than that for which it is specifically allocated. Furthermore, as a result of the application proposing Class B1 development on unallocated land to the southwest, there should not be an overall net reduction in land available to provide the development that Policy Bicester 10 supports. On this basis officers are satisfied that the principle of the overall proposed development is acceptable.
- 8.17 Notwithstanding the above, Members should note however that the applicant is proposing the hotel and the Class B1 development in two separate phases which each stand alone and can be delivered in isolation. As a result, there is no guarantee that the development of a hotel would swiftly lead to delivery of the Class B1 development. However, on balance, officers are content that the hotel would act as a sufficiently attractive first occupier on the allocated site (in addition to the other economic benefits previously outlined above) and thus increase the likelihood of the overall objectives of Policy Bicester 10 being realised.
- 8.18 Members should also be aware that despite the provisions of Policy Bicester 10 and the applicant's claims of intent, there is no specific commitment as part of the application towards ensuring that the Class B1 development that takes place is occupied by high-tech or knowledge-based businesses. As a result, there is nothing to suggest that this first phase of the wider allocated business park would provide anything more than generic office or light industrial employment space. However, given recent difficulties in securing Class B1 development in Bicester, officers are disinclined to seek to require or impose further restrictions on the nature of the business occupiers that could prejudice delivery of employment on the site though such approaches have been known to have taken place successfully elsewhere such as at Oxford Science Park though in different market circumstances. If Members were to disagree however and wish to seek to specifically control the nature of the businesses on the site as part of granting planning permission, officers could explore the use of appropriate conditions or planning obligations to secure this.
- 8.19 In conclusion therefore on matters of principle, officers are satisfied that the proposed Class B1 development on the allocated Bicester 10 site has already been established as acceptable in principle through allocation of the site in the CLPP1. Whilst other elements of the proposal do not specifically accord with the requirements of Policy Bicester 10, on balance, officers are satisfied that the

provision of the hotel as well as further development on unallocated greenfield land would assist in achieving the wider economic objectives of the development plan and that their benefits generally outweigh their harm. As a result, the overall principle of the proposed development is found to be acceptable.

#### Access and Transport Impacts

- 8.20 Policies Bicester 10 and SLE4 of the CLPP, inter alia, require new development to maximise opportunities for access to sustainable modes of travel. The policies also seek improvements to the highway network to mitigate significant adverse impact of traffic generation resulting from new development. Policy Bicester 10 also adds that development on the allocated site should safeguard land for future highway improvements.
- 8.21 Policy Bicester 10 also requires provision for safe pedestrian and cyclist access from the A41 including facilitating the provision and upgrading of footpaths and cycleways to improve links between the site and surrounding development as well as the town centre. The policy also requires maximisation of walking and cycling links as well as a high degree of integration and connectivity between new development on Bicester 10 and the new mixed use urban extension at South West Bicester, the existing garden centre to the north as well as Bicester Village and Bicester town centre. Accommodation of bus stops to link new development on Bicester 10 to the wider town are also required by the allocation policy.
- 8.22 The application is made in outline and, somewhat unusually, access is proposed to be a reserved matter meaning that the means of access to the proposed development is not fixed at this stage. Nevertheless, it is a legal requirement for an application to indicate points of access and the applicant has done so in the submitted plans.
- 8.23 Vehicular access to the hotel (Phase 1A) is shown to be via a single priority junction onto Wendlebury Road approximately midway along the site's eastern boundary. OCC as the local highway authority (LHA) has reviewed the proposal and concluded that due to the straight alignment of the road and availability of adequate visibility splays, there is no suggestion that a suitable means of vehicular access could not in due course be provided to the hotel. This is the case even at the current national speed limit though it is proposed to reduce the speed limit along this stretch of Wendlebury Road to 40mph which would require OCC to make a Traffic Regulation Order (TRO) for which financial contributions are sought through a planning obligation. As access is a reserved matter, the precise means of vehicular access to the hotel would have to be proposed and assessed as part of a subsequent reserved matters application.
- 8.24 With respect to the southern section of land on which Class B1 development is proposed (i.e Phase 1B), the illustrative plans submitted indicate two potential vehicular access points from Wendlebury Road. Whilst the precise means of access would need to be determined as part of reserved matters, OCC has advised that there is no reason to conclude that such accesses would be unsuitable or unsafe at the proposed reduced 40mph speed limit. The applicant has not however demonstrated that suitable visibility splays would be available at the existing national speed limit and so officers would recommend that in the event that outline planning permission is granted that a condition is imposed preventing any development on Phase 1B until the speed limit has been formally reduced by OCC through a TRO. There is no suggestion from OCC that proposals along the lines of the type indicatively shown would cause unsafe or difficult manoeuvring for delivery or servicing vehicles (including for refuse collection) into and out of the two parts of the site and as such there is no reason to conclude at this stage that Wendlebury Road is too narrow or unsuitable to serve the proposed development.

- 8.25 As described previously, it is an important requirement of both local and national planning policy to maximise opportunities for sustainable travel to and from new development both in terms of walking/cycling and public transport. To this end the applicant is proposing a new 3m wide combined footway/cycleway within the verge of the A41 that would run all along the western boundary of the site and link into the disused slip road at the site's southern boundary. This footway/cycleway would feature numerous points of access into the development though the details of this would need to be resolved at reserved matters stage. This work would need to take place on public highway land and OCC has indicated its support for this. These works would be phased to ensure that the relevant sections of the footway/cycle are completed (including lighting) prior to first occupation of development on Phase 1A and 1B respectively. The applicant is also proposing further works to the public highway away from the site to ensure that there is suitable means for pedestrians/cyclists to cross at existing junctions when heading to/from the town centre. Such works are considered to be appropriate and necessary and would need to be secured through a planning obligation.
- 8.26 An existing footway runs along the part of Wendlebury Road adjacent to Phase 1A and turns the corner into Vendee Drive. As a result, there would be pedestrian connections towards the town centre and adjacent garden centre development using either the new footway/cycle along the A41 or via the existing footway. The existing footway however terminates shortly before the entrance to the garden centre development on the opposite side of Wendlebury Road. However, the land necessary to provide an extended footway is not within the applicant's control and so further works are not proposed to take place. Nevertheless, even without this officers are satisfied that the proposed new combined footway/cycleway together the extent of existing footway ensures suitable and safe access to and from the development by both pedestrians and cyclists.
- 8.27 Policy Bicester 10 specifically requires provision of new bus stop facilities along the A41 to serve the development. The S5 service provided by Stagecoach currently passes the site via the A41 and links Bicester with Oxford. Alterations are proposed to the existing layby on the A41 adjacent to Phase 1A in order to accommodate a new bus stop in the southbound carriageway verge and OCC has confirmed that they are satisfied with these proposed works which would need to be secured through a planning obligation if planning permission was to be granted. It is however recognised that crossing the A41 to reach the northbound bus stop would be undesirable and potentially dangerous for pedestrians and so the applicant has agreed to provide a new signalised crossing of the A41 in the vicinity of the site to which OCC approve. The applicant has also offered to provide electronic real time passenger information displays at the bus stops to encourage their use by both future employees as well as guests of the hotel. Such works would need to be secured by planning obligation and required to be provided in advance of first occupation of the any part of the proposed development.
- 8.28 Consequently, in terms of matters of accessibility, officers are satisfied that the proposed development is able to be served by safe and suitable vehicle access whilst also taking the opportunities available to encourage sustainable modes of transport in accordance with the requirements of Policies SLE4 and Bicester 10 of the CLPP1.
- 8.29 In accordance with the requirements of Policy Bicester 10 the applicant has submitted a Transport Assessment (TA) in support of the application. Amongst other things this assesses the likely impact of the proposed development on the local highway network both at the time of the projected first opening of the development (2018/19) as well as in 2024. The TA has concluded that the operation of the

proposed hotel by itself (either in 2018/19 or 2024) causes no cumulatively severe adverse impact on the safety and operability of the local road network and so consequently no direct off-site highway mitigation is required. Broadly speaking, OCC agree with this conclusion and as result there is no reason to restrict or object to Phase 1A of the proposed development in this regard.

- 8.30 The traffic impacts associated with Phase 1B of the proposed development are a little more complicated but in essence the expected vehicle trip generation is expected to cumulatively cause severe problems at the A41/Vendee Drive roundabout as well as at the Vendee Drive/Wendlebury Road junction at some point between 2018/19 and 2024. This worsening is, in part, due to increased general background traffic growth on the network as well as the impact of other approved/committed developments in the local area. As a result, the TA recommends a couple of measures to ensure that the proposals result in no detriment to the highway network. The first involves alterations to lanes at the A41/Vendee Drive roundabout to increase capacity which OCC agrees is both necessary and appropriate and such works would have to be secured via a planning obligation. The second involves the creation of a new mini roundabout to replace the existing priority junction between Vendee Drive and Wendlebury Road. The mini roundabout would be installed within the existing extent of the public highway and would require a further speed limit change down to 30mph. A scheme for this has been submitted by the applicant and, whilst OCC has indicated that modifications to this scheme are necessary, they have confirmed that a suitable similar scheme is deliverable and do not object to the proposed approach. The mini roundabout works would need to be secured through a planning obligation.
- 8.31 To complicate matters slightly, it is necessary to be mindful of avoiding anything that might prejudice successful delivery of development across the remainder of Bicester 10 in the manner provided for by the allocation policy. The applicant has however demonstrated that there is sufficient land left available either side of Vendee Drive to allow for future widening of the Vendee Drive link so that it can facilitate a more comprehensive highway solution that accommodates more traffic in order to serve development on Phase 2 of Bicester 10. Officers are comfortable that there is nothing within the current proposals that would seem to prejudice the ability to achieve suitable access to a future wider business park. However, providing suitable vehicular access to Phase 2 is likely to see the need for a more significant roundabout as well as associated alterations to the alignment of Wendlebury Road with the result that any aforementioned mini roundabout solution might be short-lived. Nevertheless, assumptions cannot be made regarding the timescales for any Phase 2 proposals and, in any event, such potentially short-lived works would be funded by the applicant and without any public finance implications. Within its consultation response OCC has also commented that they believe that a wider assessment of the full transport impacts of the entirety of development on Bicester 10 should be undertaken in order to be able to generate a cohesive and meaningful package of transport mitigation rather than piecemeal highway improvements. Whilst officers sympathise with this view, it is necessary to consider the application proposals on their individual merits and where development is proposed that broadly complements successful delivery of development across the whole of Bicester 10, there can be no reasonable objection to part of the development coming forward without the entirety. There is no suggestion from OCC that the proposed development would jeopardise or fetter suitable transport arrangements being available to serve and mitigate a wider business park operating across the whole of Bicester 10.
- 8.32 OCC is developing a long term strategy for managing traffic along the A41 corridor in light of expected significant increases in traffic growth as a result of new development. Part of this strategy involves the proposed southeast perimeter road



which, following public consultation, now has a preferred route. In recognition of the fact that the proposed development would materially increase traffic along the A41, OCC is seeking a financial contribution from the development towards its strategy. At the time of writing this report the sum sought from OCC has not been determined but officers nonetheless recommended that, once OCC has clarified its position, financial contributions are sought in line with OCC's recommendations through a planning obligation to ensure the adverse impact on the A41 is appropriately mitigated. The applicant is instead proposing what they refer to as a 'monitor and manage' approach which would see a requirement in a planning obligation for further TAs to be submitted at defined stages in the development to ensure that the assessments are up to date and relevant to the detailed reserved matters proposals. Officers however have concerns about this approach as it could lead to difficulties securing mitigation (direct or funding), could add uncertainty and delay to deliverability of Class B1 development and would require an unduly complicated and cumbersome planning obligation. OCC has also indicated that it is unwilling to accept this alternative approach.

- 8.33 In summary therefore, officers are satisfied that subject to appropriate conditions and planning obligations the proposed development would be suitably accessible by a range of modes of transport and would not give rise to severe traffic congestion or highway safety risks. Moreover, officers are also satisfied that the current proposals do not appear to fetter the ability to achieve suitable and safe access to Phase 2 in due course. As a result the proposals are considered to be in accordance with the requirements of Policies SLE4 and Bicester 10 of the CLPP1 as well as national planning policy set out in the NPPF.

#### Design, Appearance and Impact on the Character of the Area

- 8.34 Policy Bicester 10 requires development on the site to be of high quality, modern design and finish with careful consideration given to architecture and layout and with care given to building heights to reduce overall visual impact. Policy Bicester 10 also requires development on the site to provide structured open spaces and planting that provides a strong landscape setting. Policy ESD15 of the CLPP1 is also material and requires new development to respect its context and for it to take the opportunities available to improve the character and appearance of the area and the way it functions. These development plan policies are consistent with national planning policy in the NPPF which places great weight on the importance of good design in achieving sustainable development.
- 8.35 The application is made in outline with details of scale, appearance, layout and landscaping reserved for later approval. As a result, the plans and drawings that have been submitted are for illustrative purposes only and are not necessarily reflective of the final detailed proposal. Nevertheless, it is necessary to be satisfied at this stage that the type and amount of development proposed can be satisfactorily accommodated on the site and that consequently there is a detailed reserved matters scheme that could subsequently be found to be acceptable.
- 8.36 The illustrative site layout plan and supporting design and access statement indicate that the buildings proposed would be of quite significant scale if the upper limit of the amount of development sought was to be proposed in a detailed reserved matters scheme. Indeed it is suggested that the proposed hotel would need to be a five storey building (approximately 18.5m in height) in order to accommodate 149 bedrooms. Given the lack of existing vegetation along Vendee Drive as well as the loss of sections of hedgerow along Wendlebury Road in order to create a new vehicular access (with associated visibility splay), a 149 bedroom hotel would appear visually very prominent within immediate countryside views as well as from surrounding roads due to its scale and mass. It is the applicant's intention to create a modern high quality development and a sense of arrival to Bicester and the

supporting text to Policy Bicester 10 supports this approach. The specific requirements of Policy Bicester 10 however suggest that the scale of new buildings should be sympathetic so that the landscape setting is respected.

- 8.37 Details of the level and treatment of parking provision within the site would fall to be considered as part of the detailed layout of the scheme which is a reserved matter. However, it is necessary to be mindful at this stage of the likely parking requirements and OCC's parking standards suggest that 149 spaces would be required to serve a 149 bedroom hotel together with servicing/delivery area and cycle parking. The illustrative site layout plan has been prepared on this basis and does indicate a significant covering of the Phase 1A part of the site with built development leaving little space for meaningful planting or green spaces to respond to the site's existing landscape setting.
- 8.38 The proposed Class B1 (office etc) buildings are indicated to be of slightly lower height but with quite a continuous mass presented onto the A41. The illustrative plans also indicate that they would be close to the western site boundary and so very prominent from the A41. Given archaeological constraints (discussed later in the report) it is inevitable that the proposed buildings would need to be sited away from the south-eastern corner of the site and so closer to the A41. A conceptual massing visualisation submitted by the applicant confirms this and does indicate that the proposed development would give rise to a significant and perceptible change in character on the entry to Bicester from the southwest. Furthermore, the indicatively shown levels of parking provision to serve the proposed offices show that a large proportion of the site would be subject to built development with little space within the site for meaningful new soft landscaping and green spaces.
- 8.39 Wendlebury Road is currently a rural lane with a narrow carriageway and undefined soft hedge-lined verges. It feels far removed from the urbanisation of Bicester to the north. The lane's rural nature is particularly appreciated to the south of the junction with Vendee Drive with its character becoming more urban closer to the Bicester Avenue garden centre development. The proposals would result in buildings of significant scale and associated hardsurfacing on land currently comprising grassland. The proposals would also introduce formalised vehicular accesses which would necessitate removal of existing hedgerow as well as cutting back of further hedgerow to enable sufficient visibility splays to be provided. The impact of such development would give rise to a significant loss of the rural character of the lane. This impact would be compounded as a result of any development on Phase 2. The Council's landscape officers have also raised some concerns about the robustness of the Landscape and Visual Impact Assessment submitted as part of the application which they have concluded underestimates the likely visual impact of the proposed development from key viewing points including, in particular, from public footpath 161/2/10 which links Chesterton to SW Bicester where the change to the visual experience is likely to be close to major in significance.
- 8.40 However, whilst the proposals are not necessarily sympathetic to local landscape character and would be visually prominent in immediate views, the site has been allocated for development and landscape harm is an inevitable consequence of that. Indeed such harm would have been balanced against the benefits associated with new employment development as part of the decision to adopt Policy Bicester 10 in the CLPP1. The principle of it has therefore already been established. Furthermore, officers are receptive to the notion that a modern business park on this new gateway into Bicester should create a sense of arrival and therefore contain buildings of some scale, architectural merit and presence. That being said, officers do continue to have some concerns that the amount of development proposed on the site is pushing at the limits of what could be appropriately accommodated on the site having regard to the character and appearance of the area. On balance however,

officers have concluded that development of the scale proposed through a contemporary and high quality design could outweigh concerns regarding wider visual impact and therefore be able to be satisfactorily accommodated on the site in a manner that is visually appropriate and thus in accordance with the requirements of Policies Bicester 10 and ESD15 of the CLPP1.

- 8.41 A public footpath, Chesterton Footpath 8 (161/8), passes across the south-eastern corner of the Phase 1B element of the site. This public footpath enters the site from the disused slip road and then exits via a footbridge (over a ditch) onto Wendlebury Road. Clearly the proposals would result in a substantial visual change to the experience of users of this public footpath but such an impact has been established through the decision to allocate the site for development. Indeed it is highly likely that this public footpath would require diversion as result of the proposed development, either within the site or around it. However, this public footpath is not thought to be well used and in fact its passage through the site provides little benefit given that it does not connect to a wider footpath network and exits onto Wendlebury Road which is unsafe for pedestrians who then have to walk in the carriageway. In short, whilst detailed proposals have not been shown for the public footpath at this stage, officers are satisfied that any impacts on it would not be particularly detrimental to the wider public given its lack of regular use, absence of wider connectivity and its general poor quality. OCC (as the local highway authority responsible for recording and maintaining public rights of way) has also raised no objection to the proposals in this regard.

#### Ecology

- 8.42 Policy Bicester 10 and Policy ESD10 of the CLPP1 require the investigation, protection and management of priority and protected habitats/species on the site and for biodiversity to be preserved and enhanced. This reflects one of the core planning principles set out in the NPPF which is for the planning system to achieve net gains for nature. The Council also has a statutory duty through s40 of the Natural Environment and Rural Communities Act 2006 to have regard to the purposes of conserving biodiversity as part of exercising its functions.
- 8.43 The application has been accompanied by an ecological appraisal that assesses the proposed development's implications on biodiversity, protected/priority species and wildlife sites. The Council's ecologists are however concerned that protected and priority species have not been properly surveyed in accordance with well-established methodology and therefore that the impact on such species is not clear. Furthermore, the Council's ecologists are also concerned that the proposals would result in a significant net loss of habitat that would be detrimental to the objectives of protecting and enhancing biodiversity.
- 8.44 The applicant is to give further consideration in the period of time between the writing of this report and the Planning Committee meeting to the concerns raised by the Council's ecologists and whether there are measures that could overcome the above concerns. In order for officers to consider the proposals acceptable in ecological terms, the proposals would have to be able to genuinely demonstrate potential for net gains for biodiversity as well as the lack of material harm to any statutorily protected or priority species. It is currently unclear whether this can be achieved but officers are working on the assumption that it can and will be resolved in advance of the Planning Committee meeting. Where officers are not satisfied that this is the case, an alternative recommendation will be proposed at Planning Committee. Members will be updated accordingly at the meeting.

#### Impact on the Historic Environment

- 8.45 National planning policy contained within the NPPF places great weight on the importance of conserving the significance of a designated heritage asset. It further

adds that the more important the asset, the greater weight it should be given. The NPPF additionally states that the significance of a designated heritage asset can be harmed through development within its setting. The NPPF also adds that where a development proposal leads to harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal.

- 8.46 With respect to the application site and the proposals, there are two designated heritage assets that could conceivably have their settings affected by the proposed development. The first, the Chesterton Conservation Area, is over 600m away to the west. However, due to the significant separation distance and the extensive intervening tree belts, any impact on the setting of this designated heritage asset would be negligible.
- 8.47 The second is the Alchester Roman Town scheduled monument which covers a large area to the south of the application site. Given the potential implications for the scheduled monument, Historic England has been consulted on the application. However, due to the intervening A41 flyover as well as thick and well-established vegetation along the southern boundary of the application site, Historic England has concluded that the proposed new development would not be visible from the scheduled monument and so would again have a negligible impact on its setting. Any minimal harm that would take place to the setting of the Chesterton Conservation Area or the Alchester Roman Town scheduled monument would undoubtedly be more than outweighed by the significant benefits associated with the provision of new employment development which is a strategic objective of the Local Plan.
- 8.48 An archaeological field evaluation has been undertaken on behalf of the applicant and a report submitted as part of the planning application. The field evaluation recorded a number of archaeological deposits dating to the Roman period with activity concentrated in the 2nd to 4th centuries AD. These include probable floor surface and a possible oven or kiln with a number of ditches and pits. The deposits were located within a discrete area in the south-eastern corner of the site which is proposed for car parking. The applicant has submitted a method statement setting out how these features will be preserved in situ. This is considered to be an appropriate scheme for preservation. A programme of archaeological investigation and mitigation will still be required for the rest of the site but, following the removal of intrusive ground works from the area of dense Roman deposits, officers are satisfied that this can be secured through an appropriately worded condition.
- 8.49 Consequently officers have concluded that, subject to conditions requiring further archaeological investigation/mitigation, the proposed development would have negligible adverse impact on the historic environment. In any event, where any minor harm would occur to the setting of the Chesterton Conservation Area or Alchester Roman Town scheduled monument, officers are in no doubt that the significant economic public benefits associated with the proposals would clearly outweigh any harm. In this regard the proposals are therefore considered to be in accordance with the requirements of Policy Bicester 10 as well as national planning policy set out in the NPPF.
- 8.50 Policy Bicester 10 includes a further requirement for new development to set out opportunities to better reveal the significance of the Alchester Roman Town scheduled monument. The applicant has not proposed anything in this regard. However, as the current proposals are expected to have no material impact on the scheduled monument and appear to provide little opportunity to directly enhance interpretation of its significance, officers are minded not to pursue this requirement at this stage. Given the scale and potential impact of development proposed on

Phase 2 of Bicester 10, this is likely to provide a better opportunity to meet this requirement.

#### Flood Risk/Drainage

- 8.51 Policies ESD6 and ESD7 together resist new development where it would increase flood risk or be unduly vulnerable to flooding. They also seek to ensure that proposals incorporate sustainable drainage systems (SuDS) in order to prevent increased risk of flash flooding caused by surface water discharge from new developments. These policies essentially reflect that which is established in both the NPPF and PPG.
- 8.52 A Flood Risk Assessment (FRA) has been submitted as part of the planning application which demonstrates that the site is not within an area at high risk of flooding from any source. Officers concur with this assessment and see no reason why the site is unsuitable in this regard for the proposed development.
- 8.53 In accordance with Policy ESD7 of the CLPP1, the development is also proposed to incorporate SuDS through a combination of natural storage and infiltration together with associated swales and permeable paving to ensure that no increase in surface water discharge occurs from the development up to a major storm event. The incorporation of swales ensures a natural treatment train which together with permeable paving and petrol interceptors would ensure that there is no adverse effect on water quality that enters the ditch system along Wendlebury Road. Consequently, subject to conditions requiring the submission, approval and implementation of a detailed surface water drainage scheme, officers are satisfied that the proposals are acceptable with respect to flood risk and drainage implications and in accordance with relevant development plan policies. OCC, as the lead local flood authority, confirms that in principle it has no objection to the proposals with regard to flood risk and drainage implications and that a suitable drainage scheme is able to be proposed in due course.

#### Energy Efficiency/Sustainability

- 8.54 Policy ESD5 of the CLPP1 requires new commercial developments of over 1000sqm in floorspace to provide for significant on-site renewable energy provision unless robustly demonstrated to be undeliverable or unviable. Policy ESD4 also requires a feasibility assessment to be carried out for such developments to determine whether Combined Heat and Power (CHP) could be incorporated. The applicant has not submitted an Energy Statement to demonstrate either of the above. Officers therefore recommend that a condition be imposed on a grant of outline planning permission that requires an Energy Statement to be submitted either before or alongside the first application for reserved matters approval to ensure that the detailed proposals incorporate such energy provision. Furthermore, a condition would also need to require the on-site renewable energy and CHP (where feasible) as detailed in the Energy Statement to then be provided on site from the point of first occupation of the development. Officers consider this approach to be in accordance with the requirements of Policies ESD4 and ESD5 of the CLPP1.
- 8.55 Policy ESD3 relates to sustainable construction and requires all new non-residential development to meet at least BREEAM 'Very Good' standard. No details have been provided at this stage but it will be necessary to demonstrate how the development has been designed to achieve this standard as part of reserved matters applications. A condition is therefore recommended to be imposed that requires such details to be submitted and approved at the relevant stage.
- 8.56 Subject to the aforementioned conditions, officers have concluded that the proposed development will be able to be designed to achieve sustainability through

construction in accordance with the requirements of Policies ESD3, ESD4 and ESD5 of the CLPP1.

#### Planning Obligation(s)

8.57 Where a development would give rise to potential adverse on and off-site impacts, it is sometimes necessary for any mitigatory infrastructure or funding to be secured through a planning obligation (i.e. s106 agreement). Each requirement within a planning obligation must meet statutory tests set out in regulation 122 of the Community Infrastructure Ley (CIL) Regulations 2010 (as amended). These tests are that each obligation must be:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development;
- c) fairly and reasonably related in scale and kind to the development.

8.58 Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them to ensure that any decision reached is lawful.

8.59 Having regard to the above, officers' recommend that in the event that Members resolve to grant outline planning permission, that the following items need to be secured via a legal agreement with Oxfordshire County Council in order to mitigate the adverse impacts of the proposed development:

- That the developer commits to enter into a s278 highway agreement prior to commencement of development in relation to providing the vehicular accesses into both phases of the development;
- Provision of combined footway/cycleway prior to relevant occupations on Phases 1A and 1B;
- Provision of a signalised pedestrian crossing of the A41 to provide access to the northbound bus stop prior to occupation of any part of the development;
- Provision of a new bus stop layby within the verge of southbound carriageway of the A41 together with provision/funding of bus stop infrastructure;
- Provision or funding of 2 x real time information displays at the bus stops;
- Financial contribution towards the cost of monitoring travel plans;
- Provision of off-site highway improvements as detailed in the TA to enable improved pedestrian/cycle accessibility between the development and town centre;
- Delivery of agreed A41/Vendee Drive roundabout mitigation prior to first occupation of development on Phase 1B;
- Delivery of agreed Vendee Drive/Wendlebury Road junction mitigation (or similar scheme as agreed with OCC) prior to first occupation of development on Phase 1B;
- Financial contribution towards OCC's A41 corridor strategy;
- Financial contributions to cover OCC's costs associated with making TROs.

#### Local Finance Considerations

8.60 A local finance consideration includes, inter alia, a grant or other financial assistance that would or could be provided to a local authority. A local finance consideration can be material in the determination of planning applications. The proposed development has the potential to secure Business Rates of approximately £468,900 per annum under current arrangements for the Council. However, Government guidance set out in the PPG is clear that whether a local finance consideration is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. Government guidance goes on to state that *'it would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body.'*

- 8.61 In the case of the proposed development, it is not clear how the funds secured through Business Rates would either directly or indirectly make the development acceptable in planning terms. Furthermore, it is not clear what proportion of the Business Rates would be able to be retained by the Council nor what the Council's intentions would be with such funds. As a result it should not be afforded material weight in the determination of this application. In any event, officers do not think it appropriate that any adverse impacts of a development should be balanced against direct financial gain for the Council and to do so would jeopardise public confidence in the planning system.

#### Other Matters

- 8.62 Chesterton Parish Council has queried whether the proposed development should be required to provide a new footway link from the village to the site. It has also queried whether financial contributions could be required to fund a new bus service between the village and the development on the basis that residents of the village could be employed at the site. However, officers do not consider these to be genuinely necessary or reasonable given the limited numbers of employees likely to be coming to the site from the village. Furthermore, in light of the withdrawal of subsidies for bus services, any financial contribution is unlikely to be able to secure a bus service beyond the short term as it would be unlikely to be commercially viable. The infrastructure requests made by the Parish Council would need to be secured through a planning obligation and, for the reasons set out above, they are not considered to meet the statutory tests set out in paragraph 8.57 and so should not be sought.

## **9. PLANNING BALANCE AND CONCLUSION**

- 9.1 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise. The NPPF supports the plan-led system and advises that planning applications which accord with an up-to-date development plan should be approved without delay.
- 9.2 The application proposes development that, with respect to the proposed Class B1 development, is considered to be, in principle, in accordance with the development plan. Whilst officers have some reservations about the scale of the proposed development, subject to the proposals being robustly demonstrated to protect and enhance biodiversity in accordance with local and national planning policy requirements, then officers are satisfied that the Class B1 development proposed on allocated Bicester 10 land is in accordance with the development plan.
- 9.3 With respect to the proposed hotel and the Class B1 development on unallocated greenfield land, these are not considered to be in specific accordance with the development plan. However, despite some reservations about the scale of the proposed development and subject to robust demonstration that the proposals would preserve and enhance biodiversity, officers have concluded that, on balance and for the reasons set out in this report, the benefits associated with the proposed hotel outweigh its adverse impacts. Such benefits include the proposed hotel's potential ability to facilitate Class B1 development on the remainder of Bicester 10 together with its ability to help meet an existing deficient in overnight accommodation which is considered to outweigh the harm that could potentially result from the loss of allocated land that could accommodate more employment intensive (and higher skilled) Class B1 development as well as the vitality of Bicester town centre. Furthermore, officers consider that the economic benefits associated with the additional Class B1 development on the unallocated greenfield land

outweigh the limited environmental harm caused by the loss of what would be an awkwardly sited and unremarkable part of countryside. For these reasons officers consider the proposed development to be, in part, in accordance with the development plan. Where the proposals depart from the development plan officers consider there to be other material considerations that, on balance, are considered to outweigh conflict with the development plan. Officers therefore recommend that outline planning permission is granted accordingly.

## **10. RECOMMENDATION**

That Planning Committee resolves to grant outline planning permission and delegates the issuing of the decision notice to the Head of Development Management subject to the following:

- a) Satisfactory completion of a legal agreement to secure the items listed in paragraph 8.59 (with delegated authority to make any necessary minor amendments but only with the prior written agreement of the Chairman of the Planning Committee);
- b) Imposition of the conditions listed below (with delegated authority to make any necessary minor amendments but only with the prior written agreement of the Chairman of the Planning Committee);
- c) Satisfactory resolution of outstanding concerns regarding the ecological implications of the proposed development including that the applicant can robustly demonstrate that the proposals would achieve a net gain for biodiversity and that no material harm would occur to protected/priority species.

### Conditions

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

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

2. Prior to the submission of any application for reserved matters approval and notwithstanding any plans submitted as part of this application, a phasing plan covering the entire application site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved phasing plan and each reserved matters application shall only be submitted in accordance with the terms of the approved phasing plan and refer to the phase it relates to as set out in the approved phasing plan.

Reason: To ensure the proper phased implementation of the development and associated infrastructure in accordance with Government guidance contained within the National



Planning Policy Framework.

3. In the case of the reserved matters, no application for approval shall be made later than:

a) With respect to development identified as Phase 1A on drawing no. 16084 P102, the expiration of one year beginning with the date of this permission.

b) With respect to development identified as Phase 1B on drawing no. 16084 P102, the expiration of five years beginning with the date of this permission.

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

4. Neither Phase 1A or Phase 1B of the development to which this permission relates shall be begun later than the expiration of two years from the final approval of the reserved matters relating to that phase or, in the case of approval on different dates, the final approval of the last such matter 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 Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

5. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and drawings:  
16084 P101 Rev. P1

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

6. All applications for reserved matters approval shall be accompanied by details of the existing ground levels together with proposed finished floor levels of all buildings within that phase. Development in that phase shall thereafter be undertaken in accordance with the ground/floor levels approved as part of a subsequent grant of reserved matters approval.

Reason - To ensure that the proposed development is in scale and harmony with its neighbours and surroundings and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

7. Notwithstanding any provisions contained within the Town and Country Planning (General Permitted Development Order) 2015 (and any Order or Statutory Instrument revoking, amending or re-enacting that order), all water, waste, energy and communication related services on the site to serve the proposed development shall be provided underground and retained as such thereafter except with the prior express written approval of the local planning authority.

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.

8. Except to allow for the means of access and necessary visibility splays, the existing hedgerows along the western (A41), southern and eastern (Wendlebury Road) boundaries of the site shall be retained and properly maintained at a height of not less than 3m from the date of this planning permission, and if any hedgerow plant/tree dies within five years from the completion of the development 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 to comply with Policies ESD13 and 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. All applications for reserved matters approval that submit details of 'access', shall be accompanied by full details of the access visibility splays relating to that phase of the development (including layout and construction). Thereafter, and prior to the first occupation of the development within that phase, the visibility splays shall be constructed in accordance with the approved details and the land and vegetation within the vision splays shall not be raised or allowed to grow above a maximum height of 0.6m above carriageway level.

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

10. Prior to the commencement of a phase of the development, a Construction Management Plan relating to that phase shall be submitted to and approved in writing by the local planning authority which details measures to protect biodiversity during construction and mitigate impact on the local highway network. The development shall thereafter only be carried out in accordance with the approved Construction Management Plan.

Reason – To ensure adverse impact on biodiversity and the transport network is minimised during construction works in accordance with the requirements of Policies SLE4 and ESD10 of the Cherwell Local Plan 2011-2031 Part 1.

11. Prior to first occupation of development on a phase, a Travel Plan relating to development in that phase shall be submitted to and approved in writing by the local planning authority. Thereafter, the development in that phase shall operate in accordance with the approved Travel Plan.

Reason – In the interests of encouraging sustainable travel and minimise harm to the local highway network in accordance with the requirements of Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1.

12. Prior to first occupation of any Class B1 development on land indicated in the application drawings as Phase 1B, a car park management plan shall be submitted to and approved in writing by the local planning authority. Thereafter, the entirety of the development on Phase 1B shall operate in accordance with the approved car park management plan.

Reason – To ensure that the proposals do not have an adverse implication on the operation of the nearby Park & Ride or create parking problems in the immediate locality.

13. Prior to the first occupation of development in a phase, a delivery and servicing plan relating to that phase shall be submitted to and approved in writing by the local planning

authority. Thereafter, deliveries and servicing shall thereafter take place for that phase in accordance with the approved delivery and servicing plan unless otherwise agreed in writing by the local planning authority.

Reason – To ensure that the proposals do not adversely affect the operation of the local highway network in accordance with the requirements of Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1.

14. Prior to the commencement of development in a phase, details of a scheme of surface water drainage to serve that phase shall be submitted to and approved in writing by the local planning authority. The development in that phase shall thereafter be implemented in accordance with the approved surface water drainage scheme and shall not be occupied until the approved surface water drainage scheme has been full laid out and completed.

Reason – In the interests of reducing risk of flooding in accordance with the requirements of Policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1.

15. No development shall commence on any phase until impact studies on the existing water supply infrastructure relating to that phase, which shall determine the magnitude and timing of any new additional capacity required in the system and a suitable connection point, has been submitted to and approved in writing by the Local Planning Authority.

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

16. Development shall not commence on any phase until a drainage strategy detailing any on and/or off site drainage works for that phase 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.

17. Prior to the commencement of development on a phase, a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation for that phase which shall be submitted to and approved in writing by the Local Planning Authority.

Reason - To safeguard the recording of archaeological matters within the site in accordance with the National Planning Policy Framework.

18. Following the approval of the Written Scheme of Investigation referred to in condition 17, and prior to the commencement of development in a phase (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out in that phase by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

Reason – To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the National Planning Policy Framework.

19. The development hereby approved shall be carried out at all times in accordance with the methodology contained within the submitted "Archaeological Protection Measures Report – produced by Brian Hamill and dated 19th January 2017" unless otherwise with the prior written agreement of the local planning authority.

Reason - To safeguard heritage assets in situ and therefore preserve their significance in accordance with the National Planning Policy Framework.

20. The development on Phase 1A shall only be used only for purposes falling within Use Class C1 as specified in the Schedule to the Town and Country Planning (Use Classes) (England) Order 1987 (as amended) and for no other purpose(s) whatsoever notwithstanding any provisions otherwise contained within the Town and Country Planning (General Permitted Development) (England) Order 2015 (including any amendments or re-enactments of this Order). The development on Phase 1B shall only be used only for purposes falling within Use Class B1 as specified in the Schedule to the Town and Country Planning (Use Classes) (England) Order 1987 (as amended) and for no other purpose whatsoever notwithstanding any provisions otherwise contained within the Town and Country Planning (General Permitted Development) (England) Order 2015 (including any amendments or re-enactments of this Order).

Reason – To ensure that the local planning authority can give consideration to the environment, social and economic impacts of any change of use having regard to the development plan.

21. All applications for reserved matters approval relating to a phase shall be accompanied by details of the external lighting to be installed within that phase including details of luminance and light spillage. The development shall thereafter only be constructed in accordance with the lighting details approved as part of the grant of reserved matters approval and no other external lighting thereafter installed without the prior written consent of the local planning authority.

Reason – In the interests of assessing the impact on wildlife and the surrounding landscape in accordance with the requirements of Policies ESD10 and ESD13 of the Cherwell Local Plan 2011-2031 Part 1.

22. No removal of hedgerows, trees or shrubs shall take place between the 1<sup>st</sup> March and 31<sup>st</sup> August inclusive, unless the Local Planning Authority has confirmed in writing that such works can proceed, based on health and safety reasons in the case of a dangerous tree, or the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

23. All applications for reserved matters approval shall be accompanied by a statement that appraisals the ecological implications of those reserved matters proposals including how they would mitigate harm to protected/priority species and contribute towards achieving an overall net gain for biodiversity as part of the overall development. Thereafter, measures set out in the statement shall be implemented in full on site in accordance with the details approved as part of the grant of reserved matters approval.

Reason – To ensure the ecological implications of the proposals are established and assessed throughout the application process in the interests of robust decision making.

24. If the development on Phase 1A or Phase1B does not commence within three years of the date of this decision, updated surveys for all statutorily protected species assessed as part of the planning application shall be re-undertaken prior to the commencement of the development in order to establish changes in the presence, abundance and impact on such species. The survey results, together with any necessary changes to the mitigation plan or method statement shall be submitted to and approved in writing the Local Planning Authority prior to the commencement of any development on that phase. Thereafter, the development shall be carried out in accordance with the approved details.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

25. All buildings hereby approved shall be constructed to achieve at least a BREEAM 'Very Good' rating based on the relevant BREEAM standard for that building type applicable at the time of the decision. All applications for reserved matters approval relating to a phase shall be accompanied by details demonstrating how the buildings within that phase would be designed to achieve the BREEAM 'Very Good' rating.

Reason - To ensure sustainable construction and reduce carbon emissions in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1.

26. The first application for reserved matters approval relating to each of Phases 1A and 1B shall be accompanied by an Energy Statement relating to that phase that demonstrates the significant on-site renewable energy provision that will be incorporated into the development on that phase except where such on-site renewable energy provision is robustly demonstrated within the Energy Statement to be unfeasible or unviable. The on-site renewable energy provision approved as part of the reserved matters approval shall thereafter be fully incorporated within the development and no occupation of development within that phase shall take place until the approved on-site renewable energy provision is fully installed and operational.

Reason - To ensure sustainable construction and reduce carbon emissions in accordance with the requirements of Policy ESD5 of the Cherwell Local Plan 2011-2031 Part 1.

26. No development shall commence on a phase until full details of the 3m wide combined footway/cycleway (including lighting) along the A41 to serve that phase has been submitted to and approved in writing by the local planning authority. The approved combined footway/cycleway shall thereafter be provided to serve that phase prior to the first occupation of any development within that phase.

Reason – In the interests of ensuring that suitable access is provided to the development that prioritises sustainable travel in accordance with the requirements of Policies Bicester 10 and SLE4 of the Cherwell Local Plan 2011-2031 Part 1.

27. No development shall take place until full details of the provision of a new bus stop layby along the southbound carriageway of the A41 (adjacent to Phase 1A) have been submitted to and approved in writing by the local planning authority. No development shall thereafter be occupied until the bus stop layby has been provided in accordance with the approved details.

Reason – In the interests of ensuring that suitable access is provided to the development that prioritises sustainable travel in accordance with the requirements of Policies Bicester 10 and SLE4 of the Cherwell Local Plan 2011-2031 Part 1.

28. No development shall take place until full details of a signalised pedestrian crossing (between the new southbound and existing northbound bus stops of the A41 in the

immediate vicinity of the site) has been submitted to and approved in writing by the local planning authority. No occupation of any part of the development shall occur until the approved signalised pedestrian crossing has been provided in accordance with the approved details.

Reason – In the interests of ensuring that suitable access is provided to the development that prioritises sustainable travel in accordance with the requirements of Policies Bicester 10 and SLE4 of the Cherwell Local Plan 2011-2031 Part 1.

29. No development shall take place on Phase 1B until full details of a new mini-roundabout system to replace the existing Vendee Drive/Wendlebury Road priority junction have been submitted to and approved in writing by the local planning authority. No occupation of development on Phase 1B shall take place until the approved mini-roundabout system has been completed.

Reason – To ensure that the traffic generated by the development does not lead to unacceptable harm to the highway network in accordance with the requirements of Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1.

30. Unless otherwise agreed in writing by the local planning authority, no development shall be occupied on Phase 1B until the works to the highway shown in drawing no. 35172/5502/008 (contained in the Transport Assessment) have been carried.

Reason – To ensure the significant adverse traffic impacts of the development are adequately mitigated in accordance with the requirements of Policy SLE4 of the Cherwell Local Plan 2011-2031.

31. Development shall not be occupied on Phase 1B unless and until Oxfordshire County Council as the Local Highway Authority has made a Traffic Regulation Order introducing a speed limit reduction to 30mph along the length of Wendlebury Road adjacent to the application site.

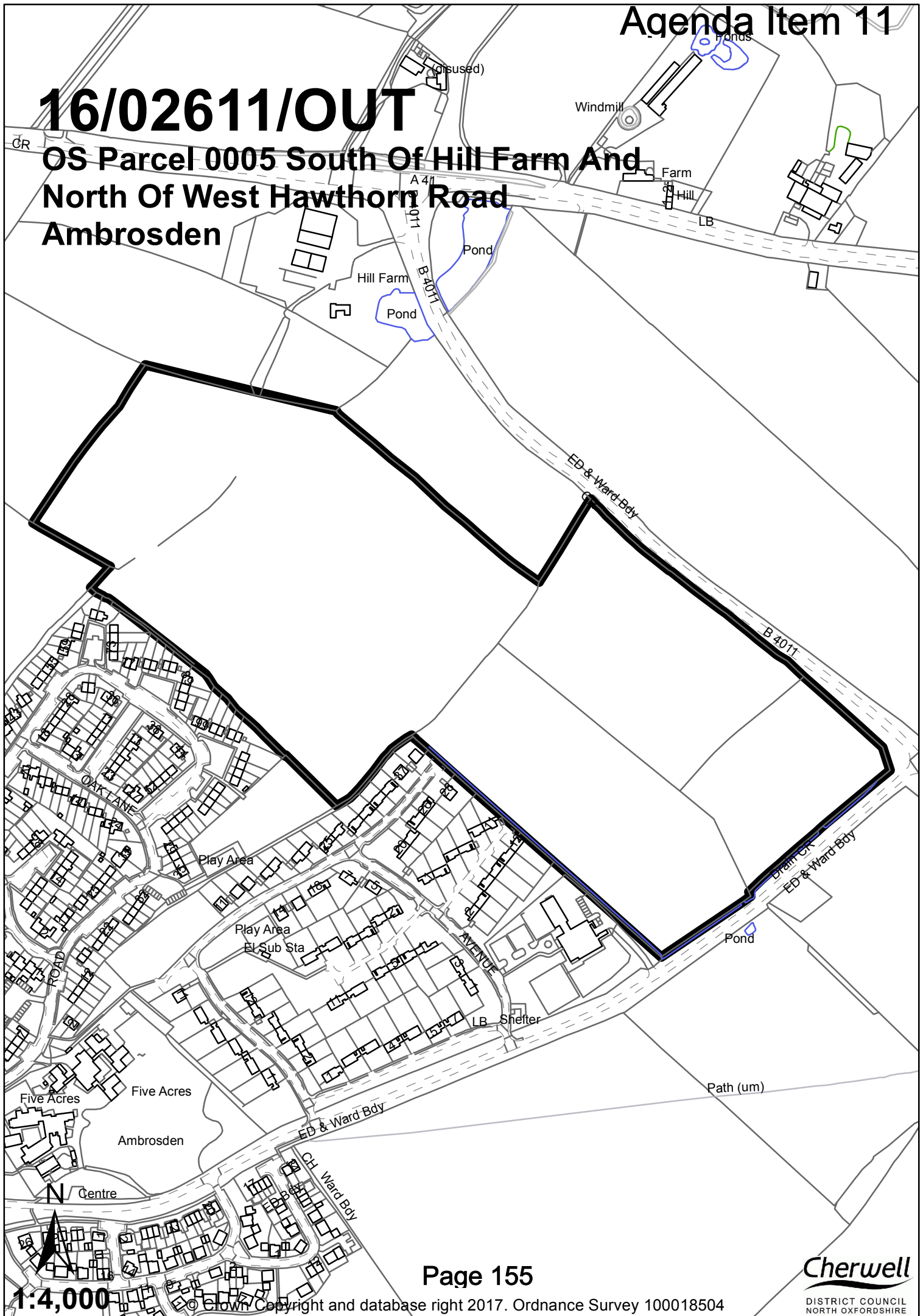
Reason – To ensure that safe visibility splays are available from the new accesses as well as a suitable means of controlling speed following the introduction of the new mini-roundabout system.

CASE OFFICER: Matthew Parry

TEL: 01295 221837

# 16/02611/OUT

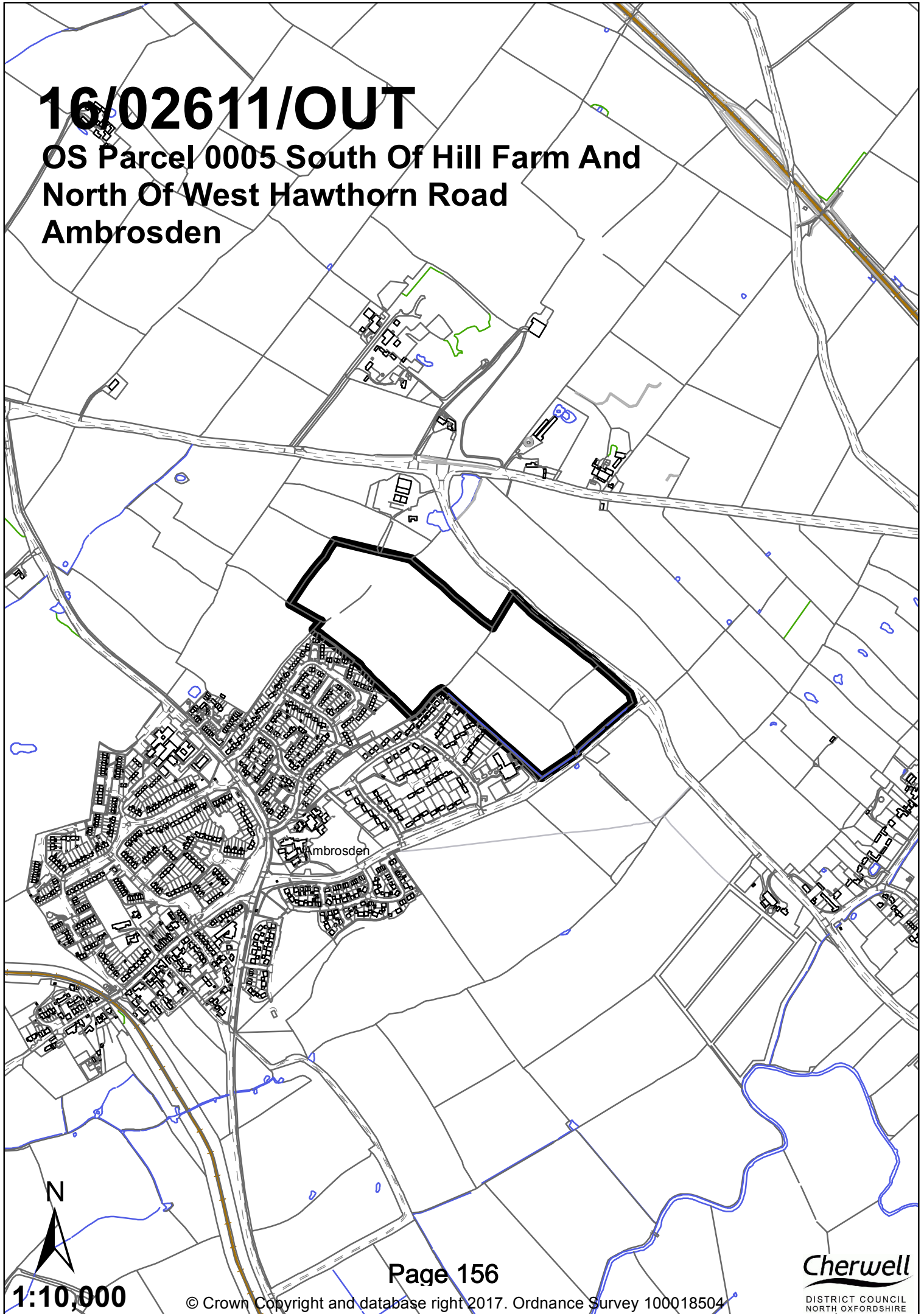
## OS Parcel 0005 South Of Hill Farm And North Of West Hawthorn Road Ambrosden



1:4,000

# 16/02611/OUT

## OS Parcel 0005 South Of Hill Farm And North Of West Hawthorn Road Ambrosden



1:10,000



<b>Applicant:</b>	Hallam Land Management Ltd	
<b>Proposal:</b>	Up to 130 dwellings; open spaces for recreation (including children's play spaces and outdoor sports); a sports pavilion; community orchard and allotments; new vehicular and pedestrian access off Blackthorn Road and associated landscaping, parking, engineering works (including ground re-modelling), demolition and infrastructure	
<b>Ward:</b>	Bicester South And Ambrosden	
<b>Councillors:</b>	Cllr David Anderson Cllr Nick Cotter Cllr Dan Sames	
<b>Reason for Referral:</b>	Major development	
<b>Expiry Date:</b>	24 March 2017	<b>Committee Date:</b> 13 April 2017
<b>Recommendation:</b>	Refuse	

---

## **1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site comprises 17.1ha of generally flat agricultural land on the north eastern edge of the village of Ambrosden. The site is bound by Blackthorn Road to the south east and the B4011 to the north east. The site adjoins existing (former MOD) residential development and the Bicester Barrison Officer's Mess to the south and south west. The site extends into agricultural fields to the north west and the wider surrounding area to the north east and south east beyond the B4011 are also in agricultural use.
- 1.2. The site is bound by established mature hedgerow with some trees and tree groups and a drainage ditch runs along the boundary with Blackthorn Road.
- 1.3. A public bridleway runs from Ploughley Road up through and to the rear of houses on West Hawthorn Road and through the north western part of the application site towards the B4011.
- 1.4. Part of the site is designated as an area of archaeological interest.

## **2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. The application seeks outline planning consent for the development of the site for up to 130 residential dwellings. All matters are reserved except access.
- 2.2. The Illustrative Concept Plan proposes that the development would be split into two areas with a defined residential development area of 4.2ha located closest to

Blackthorn Road. This indicates a density of 31dph and assumed provision of 46 affordable homes (35%).

- 2.3. The remaining 13ha site area is proposed to provide landscaping and community facilities in the form of formal and informal leisure and recreation including sports pitches and associated sports pavilion, allotments and community orchard.

### **3. RELEVANT PLANNING HISTORY**

- 3.1. There is no planning history directly relevant to the proposal.

### **4. PRE-APPLICATION DISCUSSIONS**

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

<u>Application Ref.</u>	<u>Proposal</u>
16/00190/PREAPP	Pre-Application Advice - Residential development of up to 130 new dwellings open spaces for recreation including children's play spaces and outdoor sports a sports pavilion community building community orchard and allotments new vehicular and pedestrian access off Blackthorn Road and associated landscaping, parking, engineering works, including ground remodelling and infrastructure

- 4.2. Officers raised concern regarding the extent of the site and the number of houses proposed relative to recent rates of construction within the village. Concern was also raised relating to the landscape and visual impact of the development and transport and highway matters. Officers concluded that positive support could not be given based on the planning policy considerations.

### **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 was 02.02.2017, although comments received after this date and before finalising this report have also been taken into account.
- 5.2. No comments have been received 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.

#### Ambrosden Parish Council – No Objection

The Parish Council support the application subject to confirmation and guarantee that the proposed community facilities are provided for the Parish. The provision of traffic calming and road humps on Blackthorn Road is also supported.

#### Blackthorn Parish Council – Objection

The Parish Council has concerns over the impact on drainage due to the gradient of the land and increased demand on existing culverting from new developments.

Cherwell District Council (Internal Consultees):

Planning Policy – Ambrosden is one of the district's more sustainable villages and has been making a contribution to both meeting overall plan requirements (2011-2031) and Policy Villages 2 requirements (2014-2031). There is some concern that the current proposal would result in over-dependence on Ambrosden for meeting rural housing needs over the plan period, thereby providing less opportunity for homes to be provided in other sustainable rural locations in accordance with the Local Plan. There is no pressing housing need for additional land release at this time. Detailed consideration would need to be given as to whether the proposed development would be out of scale with the village (having regard to any cumulative impact) , and to whether it could lead to some coalescence with neighbouring Blackthorn, The proposals would also result in the loss of open countryside.

Strategic Housing – The application is subject to a 35% affordable housing requirement equating to 46 units. Of those 46 units, 70% should be for affordable rent and 30% for shared ownership. An indicative mix is provided as follows;

Affordable Rented

8x1b2pM  
16x2b4pH  
6x3b5pH  
1x4b6pH  
1x3b5pB

Shared Ownership

12x2b4pH  
2x3b5pH

The units should be in clusters of no more than 15 units. The 2, 3 and 4 bed units should have a minimum of 2 parking spaces each.

The affordable units will need to be built to the government's Nationally Described Space Standard (Technical Housing Standards).

50% of the rented units will need to meet Building Regulations Requirement M4 (2) Category 2: Accessible and Adaptable Dwellings requirement. The bungalow will need to meet Building Regulations Requirement M4 (2) Category 3: full wheelchair dwelling standards.

The Registered Provider which takes on the affordable housing should be discussed and agreed with the Council.

Recreation and Leisure – The following contributions will be sought for on-site and off-site provision as follows;

Sports Facilities Provision: A minimum on-site requirement of 0.351ha. The proposed sports pavilion is to be built in line with current Sport England guidelines and sports pitches must have adequate drainage and meet all other Sport England guidelines.

An off-site contribution is required towards increasing the capacity of Bicester Leisure Centre or other indoor facilities in Bicester. Based on 130 dwellings x 2.39 person x £314.26 per person = £97,640.58

Community Halls Provision: A contribution is required towards helping the local community hall accommodate an increase in capacity will be based on a sum per dwelling. These are:

Unit	Contribution
1 bed	£104.73
2 bed	£151.21
3 bed	£235.39
4+ bed	£323.70

Community Development: A contribution of £23,287.64 will be sought to support the establishment/strengthening of community infrastructure in Ambrosden.

Community Development Worker: Contribution to a community development worker to be considered based on the need to help new residents settle into their new community. A contribution of £36,402.32 based on 2016/17 figures (plus any additional inflation as appropriate) is based on a community development worker for 15 hours per week for 30 months.

Public Art Provision: There will be a requirement to provide public art either on site to enhance a new communal area of community resource or off site to encourage community cohesion and improve cultural infrastructure. A sum of £150 per dwelling will be sought with an agreed public art plan, sited on all public art commissioning or a £200 per dwelling contribution to enable CDC to take on development and delivery of appropriate public art intervention.

Landscape Officer – The Landscape and Visual Impact appraisal is a comprehensive landscape study that requires further clarification of the landscape and visual effects with photomontages/visualisations in respect of the localised views from the PRoW 131/6/10 to the east. This evidence then needs to be assessed against the current Masterplan with proposed ridge heights, scale and massing of the dwellings including informal open space, sports pitch, play area etc..

I am supportive of the sport pitch for this development. However, I am concerned about the cut and fill implications on the existing gradient and the localised visual impact/effects of this. Cross-sectional drawing through the slope with proposed levels superimposed on existing levels is necessary to provide clarification of these impacts/effects and user and landscape maintenance accessibility of cut and fill gradients. The developer must confirm if the sports pitch is to be flood light to extend the use of the facility during darker evenings, and therefore visually assess the implications of sport pitch flood lighting for visual and landscape receptors.

Planning obligation needed to secure provision and long term maintenance of public open space, play areas, SuDS features, ditch, existing trees and new woodland.

Tree Officer – The tree survey gives adequate consideration to the scheme, yet we would hope to see further liaison between the developer/Authority to ensure adequate delivery of the scheme over the course of any works.

Ecology Officer –

*Biodiversity impact*

The ecological appraisal states that the overall biodiversity value of the retained open space will be maximised via the creation of adjacent attenuation ponds. These will be designed to have shallow margins that will either be planted using a wetland/marginal seed mix such as British Seed Houses WFG9 or similar or alternatively marginal vegetation will be allowed to establish naturally. The BIA indicates that the proposed attenuation ponds will be acid/neutral flush habitat;

however this is unlikely to be achievable as flush habitat typically supports species-poor vegetation consisting of Sphagnum (moss) carpet and typically is found in mire habitats and associated with water flow. Similarly the existing habitat adjacent to the southern boundary hedgerow is likely not to be flush habitat from the description in the report, but swamp habitat. However, overall this does not have an impact on the BIA calculation and the development is still expected to result in an overall net gain to biodiversity, which is welcomed in line with NPPF.

The habitats on site of most value include swamp habitat, semi-improved grassland and the existing hedgerows, which provide suitable habitats for a number of protected species. The grassland of the south-eastern grassland has a moderate species diversity, containing species including ragged robin, meadow buttercup and red clover. The two new attenuation ponds should be carefully designed and managed to provide biodiversity gain, by providing water bodies which provide standing water all year round, as habitat for species such as amphibians, reptiles and invertebrates.

The BIA also proposes the creation of 3.45 ha of semi-improved grassland in moderate condition and the enhancement of 3.6 ha of existing improved grassland to restore this to semi-improved grassland in good condition. It is not clear where the grassland habitats are located, however I presume that the grassland in good condition is within the northern open space area of the site where there is scope to reach the target condition of "good". The grassland will need to be appropriately managed through cutting/mowing after the wildflowers have set seed to allow a species diverse sward to develop, and all arisings removed. Full details of the management for the site should be provided in a Landscape and Ecological Management Plan (LEMP) and secured by **condition**.

#### *Bats*

The bat survey was undertaken in line with Bat Conservation Trust survey guidelines and included five transect surveys undertaken during 2014 - 2016 and use of static bat detectors in the same period. A number of bat species were recorded on site, comprising common pipistrelle, soprano pipistrelle, noctule, *Myotis* species, brown long-eared, barbastelle and indeterminate species. Barbastelle is a nationally rare species and listed on Annex II of the Habitats Directive. Although the majority of the existing hedgerows are proposed to be retained, all of Hedgerow H2 and sections of H4 and H7 will be removed. I generally agree with the conclusions drawn in the bat report. The site boundaries were found to be the most important foraging and commuting features for bats and these should be retained and enhanced through additional native planting within the development. I would also recommend a buffer zone of at least 2m from the hedgerows are maintained within the development to protect the hedgerows and maintain these as wildlife corridors.

One tree within the site, a semi-mature ash, was identified with bat roosting potential. An ash in the same location at the northern end of the southern boundary (T1) has been identified in the arboricultural report to be removed. We would recommend that should this tree require removal, a bat survey will be required prior to any works in line with the details of paragraph 4.13 of the ecological appraisal. Provided that the lighting design across the whole site is strictly controlled both during construction periods and within the design of the development, the proposals are not expected to have a significant impact on local bat populations. We would also recommend a bat box scheme for integrated bat boxes within the new buildings (details to be included within the LEMP). We would recommend that the detailed lighting scheme is secured by **condition** of any approval granted.

#### *Bird survey*

Four red-listed bird species and three amber-listed bird species (species of conservation concern due to significant declines in populations) were recorded on site, including song thrush, linnets, skylark, yellowhammer, dunnocks, reed bunting and willow warbler. These were all either probably or possibly breeding on site. As such the proposals will result in the loss of suitable habitat for farmland species skylark, yellowhammer, linnets and reed bunting. It will be important to ensure that works to remove trees and the hedgerows and also grassland (due to presence of skylark) are timed to avoid the nesting bird season (approx March to August). I would recommend such timing of works, along with appropriate mitigation measures for other protected species and the existing hedgerows, can be covered by a **condition** for submission a Construction Environmental Management Plan (CEMP) to be written by a suitably qualified ecologist in line with the British Standard for Biodiversity BS4020:2013. Suitable mitigation to provide habitat enhancements for nesting birds, such as appropriate management of the existing hedgerows should be provided in the overall LEMP. A nesting bird box scheme, ideally to include integrated bird boxes on the proposed new buildings, should also be included within the LEMP with the aim of achieving no net loss for biodiversity. In light of nearby records, I would recommend this includes swift nest boxes or bricks, and the swift conservation officer would be happy to provide further advice to the applicant on this ([www.cherwell-swifts.org/](http://www.cherwell-swifts.org/)).

As such we would recommend that the following conditions be attached to any permission granted to safeguard protected species and sites and to achieve a biodiversity net gain as a result of the development:

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

No removal of hedgerows, trees or shrubs nor ground clearance works, shall take place between the 1st March and 31st August inclusive, unless the Local Planning Authority has confirmed in writing that such works can proceed, based on health and safety reasons in the case of a dangerous tree, or the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site.

**K20 Landscape and Ecological Management Plan (LEMP)**

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

**K21 Construction Environmental Management Plans (CEMP) for Biodiversity**

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

Waste and 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. 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

## **Oxfordshire County Council:**

### Transport – Objection

- The development proposals would have a severe impact on the highway network.
- Insufficient information has been supplied to demonstrate the feasibility of providing safe and suitable vehicular and pedestrian access.
- Site is well beyond acceptable walking distance from bus stops, meaning safe and suitable access cannot be provided for all people, including older people and others who cannot walk far.

#### Key issues:

- There are some areas of doubt with the methodology in the Transport Assessment. However, the traffic modelling results contained in it shows that the development would result in a severe impact on congestion.
- Further information is needed before we can be confident that sufficient visibility splays can be achieved at the site access and that the proposed footway/cycleway is deliverable.
- There is no bus service along Blackthorn Road. Village bus stops will be beyond the reach of many people, as they are well beyond the recommended walking distance.

Further supporting information was submitted by the applicant following receipt of the County Council transport comments. OCC reviewed the submitted information and have responded as follows:

We have reviewed the attached response from Markides and are not in a position to remove our objection on the basis of severe traffic impact.

The traffic count data on Ploughley Road has been corrected, but all Oxford bound traffic has now been assigned via the minor routes through the villages, to avoid the A41. This is unrealistic and although I didn't specify a split I would expect a proportion to use the A41 and a proportion to use the villages route. Not knowing this proportion, 50:50 would be acceptable.

As requested, the assessment years have been changed and we now have a 2024 scenario. As requested, flows from the Bicester Transport Model have been used, which demonstrate that in the 2024 base case (which includes local plan development) there will be very severe congestion at the Ploughley Road junction. This development would add traffic to this junction, making a severe situation even worse. Some additional traffic would be added if the distribution is corrected as above.

Adding even the relatively small amount of queuing and delay from this development is considered a severe cumulative impact, which cannot be mitigated except by a major change to the junction. At this point in time there is no scheme agreed for this junction. For this reason we cannot remove our objection.

Markides makes some strong arguments against our objection on the basis of walking distance from bus stops. However, we maintain that the walking distances to bus stops and many local facilities, although within the CIHT's 'preferred maximum walking distance', would be a deterrent to walking, and residents would be very likely to drive to the local shop and avoid using the bus service because of this walk. Whilst the walk is possible for most people, it would result in the car being the preferred mode for commuting and for many local trips. The note describes alternative services for people who cannot walk this far, and I would point out that

these are likely to be very limited in availability and restrictive in terms of times of travel.

I am reasonably confident that the proposed footway/cycleway could be implemented, which should help encourage sustainable travel into the village.

Notwithstanding the above, if the LPA is minded to grant planning permission, the following would be required as well as conditions imposed:

- A contribution of £1000 per dwelling to enhance the bus service linking Arncott, Ambrosden and Bicester.
- Travel plan monitoring fees of £1,240 to allow the travel plan to be monitored and reviewed for a five-year period.
- Highway works to deliver the site access junction, a 2.5m footway/cycleway linking the site access and Ploughley Road, and cycle parking at the nearest bus stops on Ploughley Road – these works to be carried out by the developer under a S278 agreement.

#### Drainage – No objection

There are some issues with the FRA. A condition is recommended to secure a surface water drainage scheme for the site.

#### Education – No objection

Based on the unit mix stated in the application, this proposed development has been estimated to generate 8.12 Nursery Pupils, 39 primary pupils, 28 secondary pupils and 0.7 pupils requiring education at an SEN school.

##### Primary education

£493,896 Section 106 required for the necessary expansion of permanent primary school capacity serving the area, at Five Acres Primary School.

##### Secondary education

£699,776 Section 106 required for the necessary expansion of permanent secondary school capacity serving the area, contributing to the cost of new secondary capacity planned for construction in Bicester.

##### Special Educational Needs (SEN) education

OCC is not seeking Education contributions to mitigate the impact of this development on SEN school infrastructure. This is solely due to Regulation 123 of the Community Infrastructure Regulations 2010 (as amended), and the need to reserve our ability to seek contributions from larger developments than this in the area in future.

##### Early Years education

OCC is not seeking Education contributions to mitigate the impact of this development on early years education. Existing nursery education provision is forecast to be sufficient, taking into account this proposed development and other development already approved.

##### Legal Agreement required to secure:

£493,896 Section 106 developer contributions towards the expansion of Five Acres Primary School. This is based on Department for Education (DfE) advice weighted for Oxfordshire, including an allowance for ICT at £12,664 per pupil place and 39 pupils being generated. This is to be index linked from 4th Quarter 2014 using PUBSEC Tender Price Index. £699,776 Section 106 developer contributions towards the cost of building a new secondary school in Bicester. This is based on



the current cost estimate for a 600 place school of £14.995m, equivalent to £24,992 per pupil place, and 28 secondary pupils being generated. This is to be index linked from 4th Quarter 2014 using PUBSEC Tender Price Index.

Property – No objection

Fire and Rescue Service

Provision of fire hydrants to be secured through planning condition and it is recommended that new dwellings should be constructed with sprinkler systems.

Local Library

This development is served by Bicester Library.

This provision is significantly under-size in relation to its catchment population and this development will therefore place additional pressures on the library service.

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

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

$$£20 \times 324 \text{ (the forecast number of new residents)} = £6,480.00$$

Archaeology – No objection

The site is located in an area of archaeological interest as identified by an archaeological evaluation. A programme of archaeological evaluation and mitigation will need to be undertaken ahead of any development. This can be secured through an appropriately worded condition on a planning permission.

**External Consultees**

Natural England – Based on the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes. We have not assessed the application for impacts on protected species. Natural England has published Standing Advice on protected species which should be applied to the application as a material planning consideration.

Thames Water – No objection

**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

- BSC1 - District Wide Housing distribution
- BSC2 - The Effective and Efficient Use of Land
- BSC3 - Affordable Housing
- BSC4 - Housing Mix
- BSC10 - Open Space, Outdoor Sport & Recreation Provision
- BSC11 - Local Standards of Provision - Outdoor Recreation
- BSC12 - Indoor Sport, Recreation and Community Facilities
- BSC9 - Public Services and Utilities
- ESD1 - Mitigating and Adapting to Climate Change
- ESD2 - Energy Hierarchy
- ESD3 - Sustainable Construction
- ESD5 - Renewable Energy
- ESD6 - Sustainable Flood Risk Management
- ESD7 - Sustainable Drainage Systems (SuDS)
- ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
- ESD11 - Conservation Target Areas
- ESD13 - Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built Environment
- ESD17 - Green Infrastructure
- INF1 - Infrastructure
- VIL1 - Village Categorisation
- VIL2 - Distributing Growth Across the Rural Areas

#### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18 – New dwellings in the countryside
- C28 – Layout, design and external appearance of new development
- C8 - Sporadic development in the open countryside
- C28 - Layout, design and external appearance of new development
- C31 - Compatibility of proposals in residential areas

#### 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

### **8. APPRAISAL**

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

- Principle of Development;
- Access and Transport Impacts;
- Design, Layout and Appearance;
- Landscape and Visual Impact;
- Flood Risk and Drainage;
- Ecology;
- Archaeology:
- Trees/Landscaping;
- Energy Efficiency/Sustainability
- On/Off Site Infrastructure
- Planning Obligations
- Other Matters

## Principle of Development

- 8.2. Through its planning policies the Cherwell Local Plan 2011-2031 Part 1 (CLPP1) recognises that new homes outside the largest settlements in the District will be further from the facilities, services, leisure, employment and transportation links necessary to achieve genuinely sustainable development. As a result, the CLPP1 seeks to limit new housing in the rural areas whilst concentrating new housing growth to Bicester, Banbury and to a lesser extent Heyford. Through its planning policies the CLPP1 seeks to ensure sustainable delivery of sufficient number of new homes to meet the objectively assessed needs of the District through to 2031 and as a result is consistent with national planning policy contained within the NPPF. Furthermore, as the supply of new homes within the District has recently been strong and is projected to be similarly strong over the next five year period, the Council can demonstrate in excess of a five year supply of housing with the consequence that the housing supply policies in the CLPP1 are up-to-date and attract full weight.
- 8.3. Policy Villages 1 categorises the villages of the District based on their respective sustainability merits to accommodate some housing growth. There are three categories – A, B and C – which relatively crudely classify villages based on their capacity to accommodate new housing by assessing matters such as their size and access to services, facilities, employment and public transport. Policy Villages 1 classifies Ambrosden as a Category A settlement given that it is one of the larger villages in the District with a shop, post office, primary school and public house. It is also served by a commercially viable bus service that runs between Oxford and Bicester.
- 8.4. Policy Villages 1 however only provides policy support for conversions, infilling and minor residential development in the Category A settlements. As the application site cannot reasonably be described as minor and is clearly outside the Ambrosden settlement boundaries, Policy Villages 1 does not provide support for the proposed development.
- 8.5. Policy Villages 2 however provides a general housing allocation of 750 dwellings (on top of those dwellings approved under Policy Villages 1) at Category A settlements from 2014-2031. It further adds that the sites comprising the 750 dwellings would be identified through preparation of development plan documents or, where applicable, the determination of applications for planning permission. As of 31<sup>st</sup> March 2016 a total of 538 dwellings had been completed under the provisions of Policy Villages 2 with extant but unimplemented planning permissions for a further 50 dwellings. A total of 588 dwellings have therefore been committed/delivered under the Policy Villages 2 allocation leaving only a residual figure of 162 over the remainder of the plan period.
- 8.6. Whilst Policy Villages 2 does not include specific requirements relating to phasing or distribution of the housing across the 24 Category A settlements, it has been established through recent appeal decisions that excessively early delivery of the rural housing allocation in the plan period together with overconcentration of housing in a small number of settlements would be prejudicial to the overall sustainable housing growth strategy inherent to Policy Villages 2 and the CLPP1 generally. With 24 rural settlements available to share in the benefits of new housing where needed, early delivery and overconcentration of new housing would remove the ability to be able to respond appropriately to housing needs in the future without creating a situation where there this would be in direct conflict with the development plan.
- 8.7. The provisions of Policy Villages 2 apply from the 1<sup>st</sup> April 2014. Since this date, 45 dwellings have been approved in Ambrosden with those currently being constructed.

Whilst approved shortly prior to the 1<sup>st</sup> April 2014, the adjacent Springfield Farm development (which totals a further 90 dwellings) was recently constructed and therefore completed in a broadly contemporaneous time period and is therefore considered to be material albeit not directly part of the 750 allocation. The approval and delivery of the proposed development would see a total of 175 dwellings provided in Ambrosden through Policy Villages 2 which – given that it is 1 of 24 Category A settlements – is a very substantial proportion of the total. If approved, the proposed development would be expected to take approximately three years to complete meaning that by 2020/21 there would only be a residual figure of 32 dwellings left to be provided across the 24 Category A settlements over the following 10 years of the plan period. This also assumes that no further planning permissions are granted in the intervening period under the provisions of Policy Villages 2. Planning application reference 16/02370/F also proposes residential development in Ambrosden (85 dwellings) and is similarly scheduled to be reported to the 13<sup>th</sup> April Planning Committee. If both planning applications were to be approved, taken together the total allocation in Policy Villages 2 would be exceeded very early in the plan period and would see 260 of the allocated 750 homes delivered (i.e. 35%) in just one of the 24 Category A settlements. Officers suggest that this would be a highly undesirable position for the Council to find itself in and would fundamentally prejudice the housing growth strategy of the CLPP1.

- 8.8. For this reason officers have concluded that the scale, timing and location of the proposed development is therefore inappropriate bearing in mind the above and consequently in direct conflict with the objectives of the CLPP1 and Policy Villages 2.
- 8.9. In considering the acceptability of the principle of the proposed development, in addition to the strategy implicit within CLPP1 generally, it is specifically Policy Villages 2 that is the development plan policy of primary relevance. In this regard there is a set of criteria against which planning application proposals need to be considered to determine whether they are suitable to deliver part of the rural housing allocation. Through its various chapters and heading this report will appraise the proposals against these criteria as well as other relevant considerations.
- 8.10. It is however necessary to consider that the proposed development involves direct loss of farmland that forms part of the open countryside and therefore has intrinsic beauty. Whilst not within an area of designated landscape value, such harm should not occur without benefits that clearly outweigh the environmental harm associated with its development. Indeed Policy C8 of the Cherwell Local Plan 1996 (CLP 1996) resists sporadic development into the open countryside in order to protect its attractive, open and rural character. Whilst this policy pre-dates the publication of the NPPF, it forms part of the development plan and has material (if not full weight) given that the Council has a 5+ year supply of housing. The proposals would evidently result in encroachment into the open countryside and as such they are in conflict with the requirements of Policy C8 of the CLP 1996.
- 8.11. In summary on matters of principle, officers have found that having regard to the amount and distribution of housing delivered and committed within Ambrosden and across the District's Category A, the scale, location and timing of the development proposed would be in conflict with the objectives and strategy for housing growth inherent within the CLPP1 as well as Policy Villages 2. Together these seek to redistribute new housing away from the District's villages with only limited new housing provided at the 'more sustainable' villages over the plan period to meet residual need. Furthermore, the proposals would result in direct encroachment into the open countryside to the detriment of local landscape character and the inherent beauty of the natural landscape with such harm not being outweighed by the benefits of the scheme given the sufficient supply of new housing within the District.

In this respect the proposals are therefore considered to be contrary to the requirements of Policies Villages 2 and ESD13 of the CLPP1 as well as Policy C8 of the CLP 1996.

#### Access and Transport Impacts

- 8.12. Policy SLE4 of the CLPP1 reflects national policy set out in the NPPF by requiring new development to facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling. It also seeks to resist development where it would have a severe traffic impact. The NPPF also adds that planning decisions should take account of whether safe and suitable access to development can be achieved for all people.
- 8.13. Vehicular access to the development is proposed to be directly onto Blackthorn Road with a new 2.5m shared pedestrian and cycle connection proposed along Blackthorn Road.
- 8.14. The village is served by a commercially viable bus service (the S5 between Bicester and Oxford) and, if the application were to be approved, OCC has requested a financial contribution of £1000/dwelling (index linked) towards improving the frequency of the service to Ambrosden. This will ensure that the opportunities for residents to use sustainable modes of transport are maximised in accordance with the requirements of Policy SLE4 of the CLPP1.
- 8.15. However, the proposed new pedestrian and cycle connection would be the only pedestrian route to the village, except for the existing bridleway. Walking distances along either the new route or the existing bridleway to the facilities in the village centre including the nearest bus stop on Ploughley Road would be longer than the County Council's recommended 400m walking distance. The distance of approximately 1000m from the centre of the site would make walking to services or to make use of the local bus service unattractive to most residents so that the proposed development is likely to be more reliant on unsustainable transport modes.
- 8.16. Officers have concerns about the wider transport impact of the development. Traffic modelling undertaken identifies severe congestion during peak hours at the junction between Ploughley Road and the A41 both at the expected completion date of the development and particularly by 2024. The severe congestion would occur irrespective of whether the proposed development proceeds or not but the traffic generated by the proposed new homes would only exacerbate this severe impact. Increases in queueing at the junction not only further adversely affects existing drivers commuting times but also increases the prospect of drivers becoming impatient and taking unnecessary risks to exit the junction thereby prejudicing highway safety.
- 8.17. Adding even the relatively small amount of queueing and delay from this development is considered a severe cumulative impact, which cannot be mitigated except by a major change to the junction. At this point in time there is no scheme agreed for this junction and the applicant has not proposed any highway works that would mitigate the adverse impact at this junction.
- 8.18. Nevertheless, a comprehensive re-engineering of this junction is unlikely to be proportionate to the impact of the proposed development and could well affect the overall financial viability of the scheme as well as the Council's ability to lawfully secure it through a s106 agreement. However, in the absence of a scheme of highway works that can be shown to effectively mitigate the impact of the proposed development, officers have concluded that the proposals would exacerbate existing severe traffic impacts on the local highway network and so should be resisted in

accordance with the requirements of Policy SLE4 of the CLPP1 as well as national policy set out in the NPPF.

#### Design, Layout and Appearance

- 8.19. Policy ESD15 of the CLPP1 requires new development to complement and enhance the character of its context through sensitive siting, layout and high quality design. Furthermore, Policy ESD15 replicates national policy in the NPPF by requiring all new development proposals to be designed to improve the quality and appearance of an area and the way it functions. Policy ESD15 also requires new development to contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting the natural landscape setting. Policy ESD15 includes further requirements including that new development reflect local distinctiveness including through materials and design detailing whilst also promoting permeable and accessible places.
- 8.20. The application seeks outline planning consent and no details have been submitted as to the detailed design and appearance of the proposed built form. The illustrative concept layout concentrates the housing in a 4.2ha parcel adjoining Blackthorn Road and the B4011 with an extensive area of open space including formal and informal opportunities for sports and recreation. Green spaces are also incorporated within the residential area of the site and the Design and Access Statement indicates predominantly 2 storey development with the opportunity for 2.5 storeys.
- 8.21. As set out above, the site lacks connections with the existing neighbouring residential areas and limited opportunity will be created within the layout to provide integration and links through to those existing areas so that the proposed development would represent an isolated addition on the edge of the existing village and fails to promote pedestrian movement and integration. Therefore officers have found that in this regard the proposals fail to accord with the requirements of Policy ESD15 of CLPP1, Policy C28 of the CLP 1996 as well as national policy and guidance set out in the NPPF and PPG.
- 8.22. Notwithstanding the above, it is considered, given the location of the site and the proposed arrangement of residential development within the site, it is unlikely that no undue detrimental impact would occur to neighbouring residential amenity as a result of the proposal. As an outline proposal it is considered that there is adequate scope within the application site to bring forward an acceptable detailed reserved matter application that would safeguard the amenity of existing residential occupiers as well as the neighbouring MOD Officer's Mess in conformity with of Policy ESD15 of CLPP1, Policy C30 of the CLP 1996. Similarly adequate standards of residential amenity for new occupiers should also be able to be achieved through an appropriately designed layout.

#### Landscape and Visual Impact

- 8.23. Policy ESD13 of the CLPP1 resists undue visual intrusion into the countryside as well as development that is inconsistent with local character. Policy Villages 2 also includes an assessment criteria relating to whether development proposals would give rise to significant adverse landscape impacts. The Oxfordshire Wildlife and Landscape Study of 2004 (OWLS) is the most detailed and up to date assessment of landscape character types within the District. It defines the site as lying partly within Clay Vale (typified by flat low lying landform dominated by pastureland and small to medium sized hedged fields) and partly within Pasture Hills landscape types (typified by prominent hills standing out for the surrounding landscape, predominantly small grassland fields enclosed by prominent hedges). The Cherwell Landscape Assessment (1995) defines the site as lying within the Otmoor Lowlands

landscape character area which it concludes is comprised primarily of flat, wet, low lying arable field network surrounded by ditches and hedges.

- 8.24. Without being of intrinsically high landscape value, the application site is considered to complement the identified local landscape character given that it comprises large open arable fields, established hedgerows and mature trees which supports the rural character and setting of Ambrosden as a village. As a result, its development in the manner proposed would undoubtedly be harmful to local landscape character and the natural beauty of the countryside. Having regard to the strong housing supply position within the District and the amount of housing approved already under the provisions of Policy Villages 2, the benefits associated with delivery of further housing (notwithstanding other concerns about the proposals as expressed elsewhere in this report) is not considered to be sufficient to outweigh the unnecessary harm caused to the natural landscape as a result of its development. Consequently officers have found that the principle of the proposed development is also unacceptable in this regard.

#### Flood Risk and Drainage

- 8.25. Policy ESD6 of the CLPP1 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.
- 8.26. A site-specific Flood Risk Assessment (FRA) has been submitted to support the application. The Environment Agency's flood maps indicate that the site is located in Flood Zone 1 at lowest risk from flooding. However, such mapping is not based on detailed hydraulic flood modelling and neither does it take into account flooding from other sources than rivers and canals.
- 8.27. Whilst OCC have highlighted a number of points which require further clarification within the submitted FRA including concern relating to potential flooding to the ditch adjacent Blackthorn Road as well as drainage across the site, no objection has been raised and a condition is recommended to secure a surface water drainage strategy. As such it is considered that an adequate scheme could be secured and that there would be no increased risk of flooding as a result of the development.

#### Ecology

- 8.28. Policy ESD10 of the CLPP1 seeks the protection and enhancement of biodiversity and the natural environment including trees, valuable ecological habitat and priority/protected species. This is reflective of national policy set out in the NPPF which, inter alia, seeks net gains for nature through the planning system. Policy Villages 2 is also material in this respect as one of its criteria for assessment of rural housing developments is whether the proposals would avoid significant adverse impact on wildlife assets. The Council also has statutory duties to both have regard to the purpose of conserving biodiversity as well as considering whether adequate provision is made for the preservation or planting of trees.
- 8.29. An ecology report has been submitted as part of the application and has been undertaken in accordance with appropriate methodology. The habitats on site of most value include swamp habitat, semi-improved grassland and the existing hedgerows, which provide suitable habitats for a number of protected species. The grassland of the south-eastern grassland has a moderate species diversity, containing species including ragged robin, meadow buttercup and red clover.

- 8.30. As the proposals involve the loss of arable habitat which is of low ecological value and the retention of habitats of higher value (in particular the boundary hedgerows, all trees and the pond in the north east corner) the proposals should not have a significant adverse impact on biodiversity and the Ecology Officer has concluded that the development is expected to result in an overall net gain to biodiversity, which is welcomed in line with NPPF.
- 8.31. Officers are therefore satisfied that subject to conditions, habitat can be conserved and enhanced as part of the development to achieve a net gain in biodiversity in accordance with the requirements of Policies ESD10 and ESD11 of the CLPP1 as well as national policy contained in the NPPF.

#### Archaeology

- 8.32. Policy ESD15 of the CLPP1 requires that new development should conserve, sustain and enhance designated heritage assets including archaeology and should ensure that new development is sensitively sited and integrated in accordance with the NPPF and NPPG.
- 8.33. The site is located in an area of archaeological interest and a series of Roam ditches and pits have been recorded through field evaluation on the site. Further Roman and Iron Age features and deposits have been found in the vicinity of the site. As such further archaeological mitigation will be required ahead of any development on the site. OCC Archaeologist has confirmed that this can be undertaken and secured through a planning condition should planning permission be approved.
- 8.34. Officers are therefore satisfied that subject to conditions, archaeological assets can be conserved as part of the development in accordance with the requirements of Policy ESD15 of the CLPP1 as well as national policy and guidance contained in the NPPF and NPPG.

#### Trees/Landscaping

- 8.35. Policy ESD15 of the CLPP1 requires new development to respect local topography and landscape features including significant trees, hedgerows and views. Policy ESD10 has similar requirements including the objective of protecting existing trees as well as increasing the number of trees overall within the District.
- 8.36. The application proposes the retention of much of the existing and established hedgerows and trees to the edge of the site. However a small number of trees and several sections of hedgerow are proposed to be removed to facilitate the development. These are identified as being of low arboricultural value within the submitted Arboricultural assessment.
- 8.37. Given the extensive areas of open space proposed within the application and the areas of reinforced boundary planting shown on the illustrative concept plan, it is considered that the loss of trees and hedgerows could be easily mitigated as part of a comprehensive landscaping scheme for the site. Officers are therefore satisfied that the proposal safeguard existing features of landscape and provide positive enhancement of trees and hedgerows as well as other bvegetation as part of the development of the site in accordance with policies ESD10 and ESD15 of the CLPP1.



### Energy Efficiency/Sustainability

- 8.38. Policy ESD3 of the CLPP1 is no longer up-to-date with national planning policy given the cancelling of zero carbon national policy as well as Code for Sustainable Homes (CfSH). However, building regulations are in the process of incorporating the energy performance standards inherent to Level 4 of the CfSH though this is not yet the case. In the meantime, and in accordance with the relevant Written Ministerial Statement, officers are recommending that development should achieve energy performance equivalent to the former Code Level 4. If planning permission was to be granted, a condition would be needed to this effect.
- 8.39. Policy ESD3 is however still up-to-date with respect to water efficiency. This requires new homes to be designed to achieve a limit of 110 litres/person/day. A condition would be required to this effect in the event that planning permission was to be granted.

### On/Off Site Infrastructure

- 8.40. Policy INF1 of the CLPP1 requires development proposals to demonstrate that infrastructure requirements can be met to mitigate the impacts of the development including the provision of transport, education, health, social and community facilities.
- 8.41. With respect to on-site infrastructure, Policy BSC11 of CLPP1 requires that development proposals contribute towards the provision of open space, sport and recreation. The proposal for up to 130 dwellings would trigger the requirement for the provision of general public amenity space as well as a Local Area of Play (LAP), Local Equipped Area of Play (LEAP) and Neighbourhood Equipped Area of Play (NEAP or Multi-use games area (MUGA)).
- 8.42. The illustrative concept plan identifies areas for children's play and incorporates an extensive area of open space for outdoor recreation. Provision would need to be secured through legal agreement together with arrangements for future maintenance in order to satisfy the requirements of Policy BSC11 in this regard. There is no suggestion that the applicant is unwilling to provide this.
- 8.43. Policies BSC10 and BSC12 of the CLPP1 also require new residential developments to contribute towards off-site indoor and outdoor sports provision in the local area where they would have an adverse impact on existing capacity. Whilst officers have identified a capacity issue with the existing community hall and a short fall in the provision of a community hall on the existing Springfield Farm development within Ambrosden, the illustrative concept plan indicates that a sports pavilion would be provided as part of the proposed development to serve the outdoor recreation facilities on the site. This would need to be secured through a legal agreement and if secured may release the applicant from the requirement to contribute to the provision of the community hall on the Springfield Farm site/enhancement of the existing community hall.
- 8.44. OCC has concluded that the proposed development would give rise to a need for increased capacity at the nearby Five Acres Primary School as well as additional demand for secondary school places. For this reason, in the event that planning permission was to be granted, OCC is seeking financial contributions towards capital projects in this respect to ensure increased capacity is delivered. OCC is also seeking a financial contribution towards increasing book stock at local libraries to serve the new population.

8.45. A combination of on and off site infrastructure needs to be secured through a legal agreement to mitigate the impact of the proposed development. Whilst the applicant has indicated support for provision of some of the above infrastructure, this has not been discussed in detail or informally agreed. Without the above infrastructure being secured through a legal agreement the proposed development would not deliver an appropriate quality of new residential development for its occupants and would have an unacceptable impact on existing public/community infrastructure and should be resisted.

#### Planning Obligation(s)

8.46. Where on and off site infrastructure/measures need to be secured through a planning obligation (i.e. legal agreement) they must meet statutory tests set out in regulation 122 of the Community Infrastructure Ley (CIL) Regulations 2010 (as amended). These tests are that each obligation must be:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development;
- c) fairly and reasonable related in scale and kind to the development.

8.47. Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. To do so would potentially render any decision susceptible to legal challenge. In short, these tests exist to ensure that local planning authorities do not seek disproportionate and/or unjustified infrastructure or financial contributions as part of deciding to grant planning permission. The statutory tests also ensure that planning permissions cannot lawfully be 'bought' by developers offering unrelated, disproportionate but nonetheless attractive contributions to try to achieve a planning permission that would otherwise not be granted. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them to ensure that any decision reached is lawful.

8.48. Having regard to the above and notwithstanding officers' recommendation for refusal, in the event that Members were to resolve to grant planning permission, the following items would in officers' view need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to mitigate the impact of the proposed development:

#### Cherwell District Council

- Provision of public amenity space and future maintenance arrangements;
- Provision of LAP/LEAP/NEAP/MUGA together with future maintenance arrangements;
- Maintenance arrangements for on-site trees, hedgerows, ponds, ditches and drainage features;
- Provision of 35% affordable housing together with 70:30 tenure split between affordable/social rented and intermediate housing;
- Financial contributions towards improvements to off-site indoor and outdoor sports facilities;
- Financial contribution providing the full residual sum necessary (currently undetermined) to complete the construction of a new community/village hall facility on the Springfield Farm development/Contribution towards increasing capacity of existing local community hall;
- Contribution towards community development in Ambrosden;
- Public Art provision.

#### Oxfordshire County Council

- Financial contributions towards increasing primary and secondary education

capacity in the local area;

- Financial contribution to increase local library book stock;
- Secure £1000/dwelling (index linked) towards improving the frequency of the local bus service;
- Financial contribution towards the costs of monitoring the Travel Plan;
- To secure entry into a s278 agreement (Highways Act 1980) to deliver new vehicular access, combined footway/cycleway and speed limit changes together with associated village entry treatments.

8.49 In addition to the above, the applicants have offered to provide further financial contributions towards traffic calming works on Blackthorn Road (in the vicinity of the site) as well as a contribution towards promoting a speed limit order and traffic calming on Blackthorn Road (in the vicinity of the site). These have apparently been discussed directly with Ambrosden Parish Council. In addition, the current level of outdoor recreation provision proposed as part of the application is significantly in excess of what would reasonably be required to mitigate the impact of the development. Officers consider these financial contributions to be neither necessary to make the development acceptable in planning terms nor directly related to the impact of the proposed development. As such, they would not meet the statutory tests of a planning obligation and to attach weight to these offers would therefore be unlawful. Nevertheless, whilst Members cannot have regard to them in their decision making, if Committee were to resolve to approve the application then they could be secured within the legal agreement.

#### Other Matters

8.75 The proposed development has the potential to attract New Homes Bonus. It is estimated that this development has the potential to attract New Homes Bonus of £658,771 over 4 years under current arrangements for the Council. Local finance considerations such as this can be material in the determination of planning applications. A local finance consideration includes, inter alia, a grant or other financial assistance that would or could be provided to a relevant authority by a Minister of the Crown such as New Homes Bonus. However, Government guidance set out in the PPG is clear that whether a local finance consideration is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. Government guidance goes on to state that *'it would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body.*

8.76 In the case of the proposed development, it is not clear how the New Homes Bonus payment would either directly or indirectly make the development acceptable in planning terms. As a result it should not be afforded material weight in the determination of this application. In any event, officers do not think it appropriate that the harmful impacts of a development should be balanced against direct financial gain for the Council and to do so would jeopardise public confidence in the planning system.

## **9. PLANNING BALANCE AND CONCLUSION**

- 9.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise. For reasons already explained in this report, the proposed development would lead to unnecessary development of open countryside and the overprovision of new housing in a single rural settlement early in the plan period to the detriment of the sustainable housing growth strategy of the development plan. Furthermore, the proposals would comprise development which would have an adverse visual impact within the wider landscape in a location which is poorly connected to the existing settlement and does not offer the opportunity to provide pedestrian or vehicular links thus resulting in an isolated development that would not be cohesive with the existing community and would place an over reliance on private modes of transport to reach even local services within the village. Moreover, the proposed development has been found to exacerbate existing severe congestion on the local road network without proposing adequate mitigation and fails to commit to adequately mitigate its impact on other local public infrastructure. For this reason, the proposals are considered to be in conflict with the overall development plan and numerous specific planning policies within it. For this reason and in accordance with relevant legislation, planning permission should be refused unless material considerations indicate otherwise.
- 9.2 As current central Government planning policy, the NPPF is a material planning consideration of significant weight. The NPPF reinforces the plan-led system and reaffirms that the starting point is to refuse planning permission where a proposal is contrary to the development plan. The CLPP1 was produced, examined and adopted post publication of the NPPF and both its strategy and planning policies are therefore up-to-date. Moreover, as the District can demonstrate a minimum five year supply of housing delivery, the housing supply policies within the CLPP1 are also up-to-date and full weight must be afforded to them. As the proposals have been found to be in conflict with an up-to-date development plan, paragraph 14 of the NPPF is not engaged and so the harm identified does not need to significantly outweigh benefits in order to justify refusal.
- 9.3 Nevertheless, the NPPF is still a material planning consideration and it is necessary to consider where national policy within it would indicate coming to a different decision than to follow the provisions of the development plan and refuse planning permission. At its heart the NPPF includes a presumption in favour of sustainable development and as such there may be occasions where a proposal is in conflict with the development plan but nonetheless considered to be sustainable given that it delivers a combination of environmental, social and economic benefits that outweigh its harm. Recent court judgements have however concluded that such a case must be compelling and supported by very clear evidence in order to justify overriding conflict with an up-to-date development plan given that this represents the adopted sustainable growth strategy for an area.
- 9.4 The proposals would generate some economic benefits by providing construction employment and add a new population to the local economy. The development would also add to the supply of housing and genuine weight should be attached to this though given the generous supply of housing in the District the weight should not be significant. Whilst new on-site play areas and amenity spaces as well as financial contributions towards off-site improvements would be sought, these have not yet been committed to by the applicant and in any event would technically only mitigate impact and not deliver benefits though the wider public may benefit from additional recreational facilities. New Homes Bonus would also be received from the Government which could potentially deliver some local social, economic and/or environmental benefits dependent on how the Council would choose to spend such

funds. Some net ecological benefits could be delivered too through securing provision and management of new habitat on the site.

- 9.5 The proposals would however result in significant environmental, economic and social harm for reasons already discussed in this report. Officers' consider that such harm would substantially outweigh the abovementioned benefits associated with the development such that the proposals cannot be considered sustainable. As a result, the presumption in favour of sustainable development inherent within the NPPF does not apply in relation to these development proposals with the result that there is no reason for departing from the development plan. As a consequence, and in the absence of any other material planning considerations indicating to the contrary, planning permission should be refused.

## **10. RECOMMENDATION**

- 10.1 The Planning Committee should resolve to refuse to grant planning permission for the following reasons:

1 That cumulatively with other recently approved/delivered new housing developments, the proposed development would cause the level, scale and intensity of new housing growth in the village of Ambrosden to be inappropriate and significantly prejudicial to the objectives of the strategy inherent within the Cherwell Local Plan 2011-2031 Part 1 and Policy Villages 2 to distribute limited housing growth across the rural areas over the plan period to enable all settlements to participate in sustainable growth.

2 Having regard to the District's strong housing supply and delivery position both generally within the urban and rural areas, the proposals would result in the unnecessary development of greenfield land forming part of the open countryside and are therefore detrimental to the intrinsic natural beauty of the countryside causing undue visual intrusion into the open countryside. The proposals therefore conflict with the requirements of Policy Villages 2 and ESD13 of the Cherwell Local Plan 2011-2031 Part 1 as well as Policy C8 of the Cherwell Local Plan 1996 and Government guidance contained in the National Planning Policy Framework.

3 In the absence of a robust Transport Assessment and lack of proposed off-site highway improvements, the proposals must be assumed to give rise to additional traffic at the Ploughley Road/A41 junction which would compound existing severe traffic congestion and thus have a further adverse impact on the safety and operability of this junction to the detriment of drivers and other users of the local road network. In this regard the proposals are therefore found to be contrary to the requirements of Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1 as well as Government guidance contained in the National Planning Policy Framework.

4 The application site is located some distance from the centre of the village and the proposed development does not provide for links through to the adjacent residential areas to form the necessary connections to create a permeable, accessible and cohesive development and community. This would create a new community isolated from the existing village and services and would place heavy reliance on unsustainable car use to reach even local services within the village such as the school and shop. Similarly, the location of new recreational facilities at this location would not be easily accessible or convenient for existing residents. This lack of connectivity with the existing settlement would result in an isolated form of unsustainable development which would be contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 as well as Government guidance contained in

the National Planning Policy Framework.

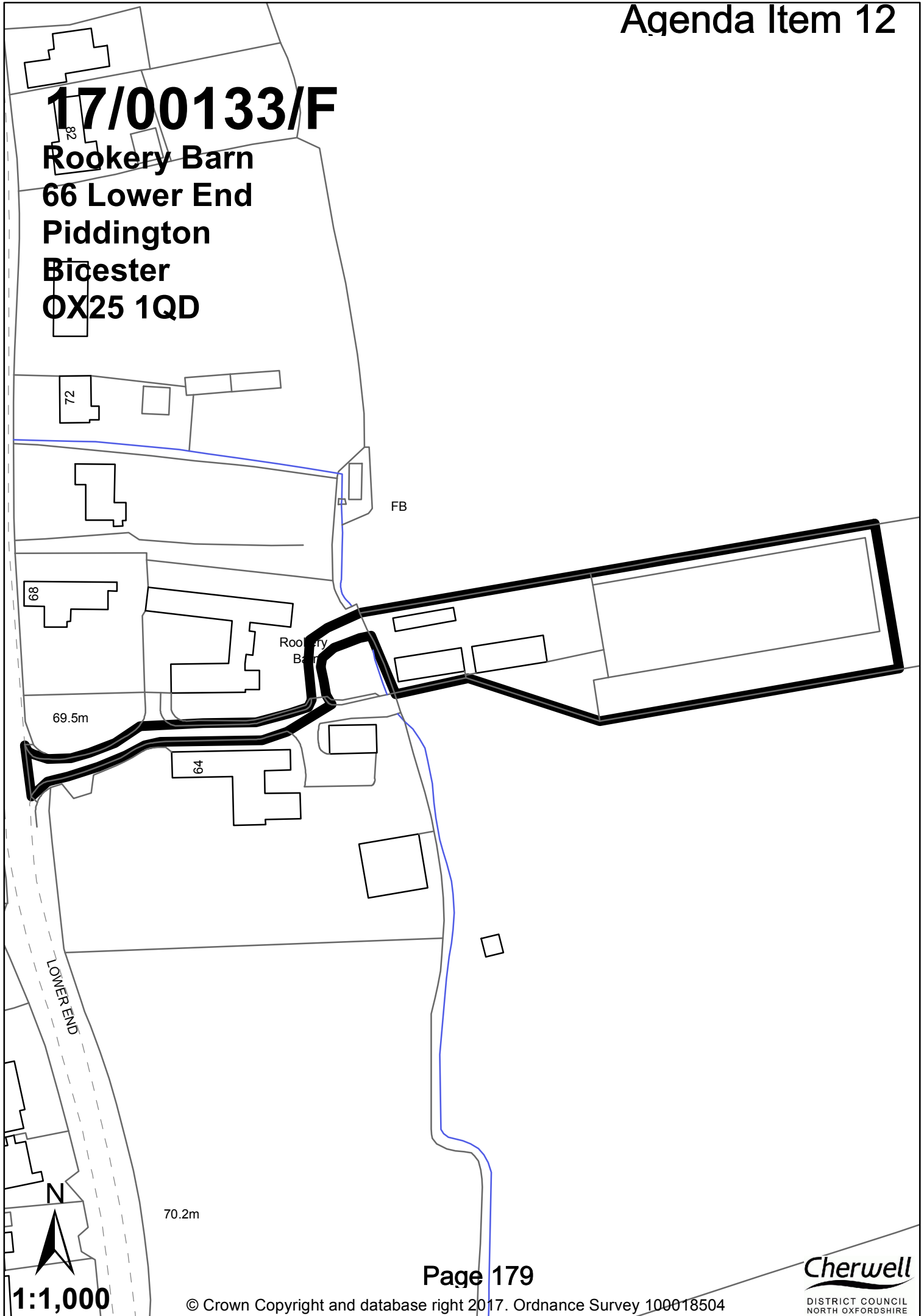
5 In the absence of a satisfactory completed legal agreement, the development fails to adequately provide for on and off-site infrastructure necessary to mitigate its impact including in terms of provision/maintenance of the following: affordable housing, play and public amenity facilities, indoor/outdoor sports facilities, community facilities, access and transport mitigation, on-site drainage features, primary and secondary education and library book stock. As a consequence the proposed development would lead to unacceptable on-site conditions as well as significant adverse impact on wider public infrastructure to the detriment of the local community contrary to the requirements of Policies BSC9 and INF1 of the Cherwell Local Plan 2011-2031 Part 1 as well as Government guidance in the National Planning Policy Framework.

CASE OFFICER: Bob Duxbury

TEL: 01295 221821

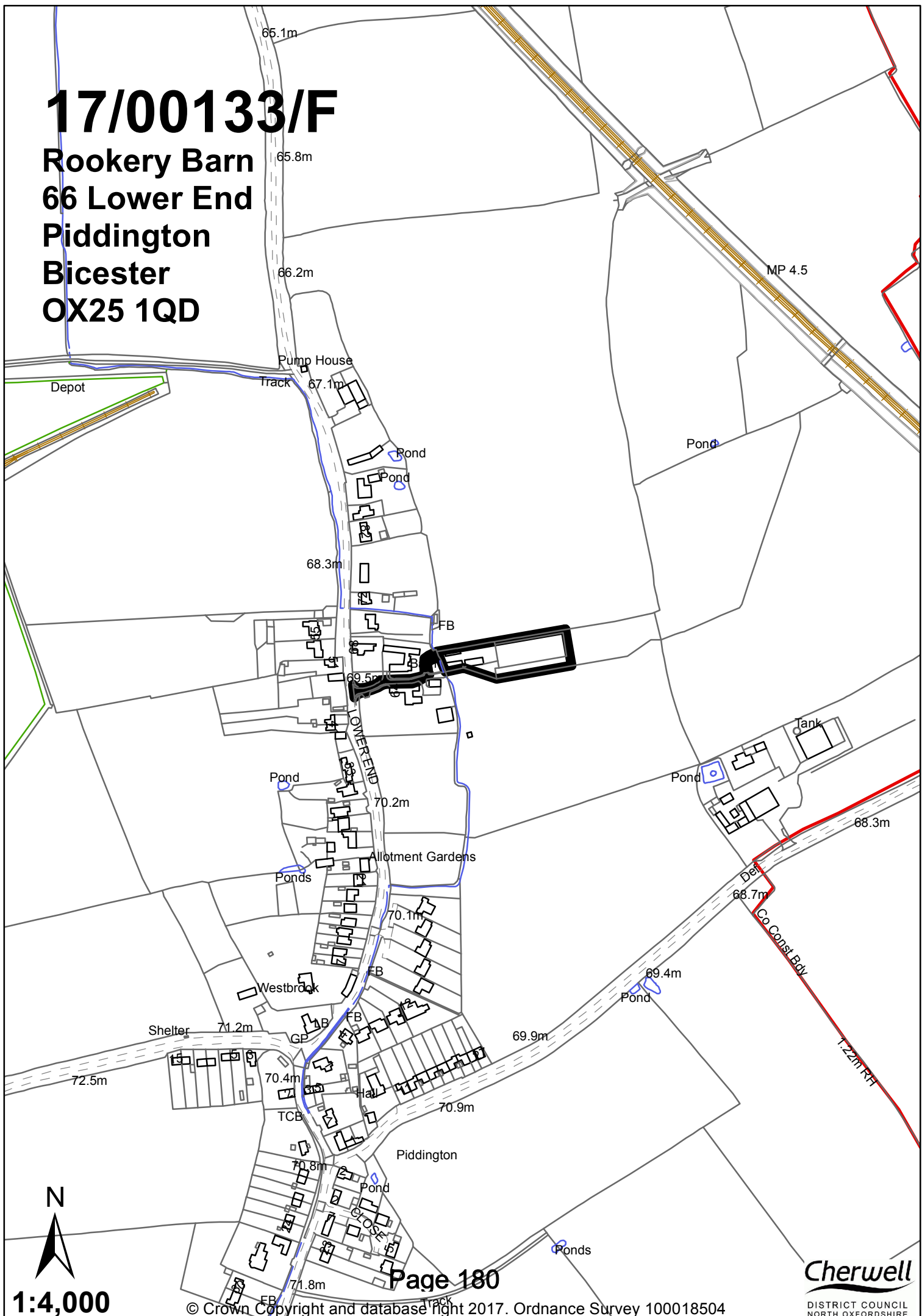
**17/00133/F**

**Rookery Barn  
66 Lower End  
Piddington  
Bicester  
OX25 1QD**



# 17/00133/F

Rookery Barn  
66 Lower End  
Piddington  
Bicester  
OX25 1QD



1:4,000



**Rookery Barn  
66 Lower End  
Piddington  
Bicester  
OX25 1QD**

**17/00133/F**

**Applicant:** Dr & Mrs N Brener

**Proposal:** Erection of building to provide an indoor menage

**Ward:** Launton And Otmoor

**Councillors:** Cllr Tim Hallchurch  
Cllr Simon Holland  
Cllr David Hughes

**Reason for Referral:** Major development

**Expiry Date:** 15 May 2017

**Committee Date:** 13 April 2017

**Recommendation:** Approve

---

## **1. APPLICATION SITE AND LOCALITY**

1.1. The application relates to a site situated north-east of the village of Piddington, to the rear of dwellings on Lower End. The land is currently surfaced and used as an outdoor ménage, and is positioned adjacent to an existing stable complex with associated structures. Vehicular access is taken from Lower End. The site does not contain any listed buildings, although Grade II listed 70 Lower End is situated to the north-west of the site. The site is within 20 metres of a Main River, and Great Crested Newts have been identified in the area.

## **2. DESCRIPTION OF PROPOSED DEVELOPMENT**

2.1. The proposed development would involve the construction of an indoor ménage upon the site of the existing outdoor ménage. The measured externally, the proposed structure would be 60.9 metres x 21.6 metres, with an eaves height of 4.3 metres and height to ridge of 6.1 metres. Construction materials would consist of green coloured profiled metal clad walls and grey fibrous cement profiled roof sheeting. A viewing gallery, solarium and store are also proposed, and these would be constructed from timber boarded walls with brickwork plinth and slate roof. The existing stable complex would remain as existing. Additional tree planting is proposed to the south of the building.

2.2. The use of the indoor ménage would be limited to the personal use of the applicant, who is an amateur competitor in dressage. The applicant anticipates that vehicle movements to and from the site would reduce as a result of the development due to the lack of need to transport horses off site to indoor schools during inclement weather.

## **3. RELEVANT PLANNING HISTORY**

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
15/00442/F	Extensions to private stable yard and ménage and change of use to equestrian use	Application Permitted

#### 4. PRE-APPLICATION DISCUSSIONS

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

#### 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 will be 27.04.2017, although comments received after this date and before finalising this report have also been taken into account.

5.2. The comments raised by third parties are summarised as follows:

- If permitted would set a potentially disastrous precedent for the urbanisation of this pleasant rural village
- Proposal flies in the face of many Council policies e.g. EN30, EN34, C260
- It is of utmost importance that Piddington residents are made properly aware of the proposals and they are given sufficient time to consider their response – it is clear that this hasn't happened, most villagers including residents of Lower End are not aware of the application due largely to very limited neighbour consultation
- As owners of Grade II listed building in very close proximity to proposal we were not informed by Council, only became aware via a neighbour.
- Listed building is not shown on Council's plan of relevant matters
- Request that further neighbour consultation is carried out allowing a further 21 days for response
- As the applicant has only just submitted Certificate B and notified the owner of part of the proposed access, further time is required
- Applicant owns insufficient land for the proper screening of this massive building. As there is no room for tree planting on that side, the northern boundary consists of an existing farm hedge which is not wholly controlled by the applicant
- On the southern boundary, lack of space has obliged to proposed planting a row of trees tight against the neighbours boundary. As they grown, these trees will not be in the exclusive control of the applicant as their branches and roots will overhang and undermine the neighbour's property
- Complaint that the site notice was erected later than the date on the notice – *the Case Officer has confirmed that this is incorrect, and that the notice was erected during the morning of 02 March 2017*

- Large scale building of unsympathetic construction materials, which would dominate the rural landscape, in close proximity to a number of dwellings
- Surface of the existing menage has been raised considerably above the field level. The land and the farm hedge to the north of the menage slope downhill towards the east, this will accentuate the height of the building above the surrounding farmland and hedge, creating greater visual impact of the structure from all directions
- Currently water from the existing menage drains through the hedge and onto our farmland causing flooding at peak times. There must be proper provision for removal of rainwater away from the site
- It may increase traffic flow as in the future other users may come to use this “private facility”
- Industrial scale building would be highly intrusive, destroying its rural village setting and dominating the outlook of nearby residential properties including ours
- It would constitute an unpleasant eyesore which, contrary to the applicants answer to question 24, would be seen from miles around including from the public road and footpath to the south
- IT would detract from the view of the village from Muswell Hill, a popular walking area for villagers and others
- The building would be located on back land, significantly outside the village envelope
- Location of this vast building would seriously detract from the setting of a listed building from which it would be seen and the curtilage of which is only 30 yards from the equestrian site, namely Fir Tree House, an important Grade II William and Mary dwelling built in 1690, the only building in Piddington mentioned in Pevsner
- No overriding need for the proposed building which might justify this intrusive back land development on white land outside the envelope of this rural village. The sole function of the proposed development would be to benefit the applicants personal hobby without satisfying any local or national need, nor would it contribute any further to local employment as the building would simply cover an existing outdoor menage
- The sparse ecology report is based on a single visit and does not mention the presence of Great Crested Newts in the immediate vicinity as well as in the curtilage of nearby Fir Tree House
- In para. 12 of the application form the applicants answer no to the flood risk question, however, the erection of such a large building would create significant additional run-off to the adjacent watercourse contributing further to the regular flooding which occurs at this point where the stream turns west and often overflows across farmland adjacent to the site and over the garden of Fir Tree House
- Certificate B needs to be completed for the access road as this is owned by an adjacent landowner – *Certificate B was signed and returned on 21 March 2017*

- The proposed structure would be a massive ugly industrial building with steel cladding and fibre roof, such a building would be out of keeping with its currently pleasant rural situation
- No guarantee that the equestrian use of the proposed building would continue, in that event, a further undesirable change of use could be applied for in due course and the existence of this huge building would make it much more difficult for the planning authority to resist. Furthermore, if this proposal were permitted it would set an unwelcome precedent for yet further urbanisation of adjoining land
- Urge Planning Committee to refuse the application, which has nothing to recommend it or which could possibly override the considerable damage it would cause to the local environment and to the lives of local residents
- Extra traffic would be disruptive to my property
- This is a huge development in relation to the surrounding buildings and will have a significant effect on the neighbouring properties
- Remind the Planning Department that conditions imposed for recent applications in the immediate vicinity included the following reasons "in the interests of the visual amenities of the area and to ensure the creation of a pleasant environment" "to ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and on the adjoining buildings". While this may be true for the elevation viewed by the applicants the north and south elevations cannot be described as "pleasant" or "in Harmony
- There is going to be a large volume of rainwater run off from this proposed building and hard standing. It is essential that this is disposed of in a proper and sustainable manner. There are no drainage channels/ ditches within the vicinity of the site and we have been told on previous applications (environment agency/ Thames water) that surface water cannot be allowed to flow directly into the village brook as in times of heavy storm it cannot cope resulting in extensive flooding within the village
- Reduced property values and impact on quality of life
- If it is allowed to go ahead then the design on the long elevations should use "softer" more rural materials such as wood and brick, the drainage must be dealt with appropriately, and while I accept that this application is for private, non-commercial use, binding restrictions should be imposed to prevent change of use which could cause increased traffic and nuisance to the village residents at a future date.
- Scale of the proposed development to be considerably in excess of a private equestrian facility
- Adverse impact on views within and approaching the village
- Concern that the applicants or subsequent owners may use the building for commercial use as a business, leading to significant increase in traffic into the village using the narrow private access designed purely for private domestic use

- Window openings are shown on the elevation plans but not the floorplans – *the Case Officer does not consider that this prevents the consideration of the application.*
- One of the principal and characteristic features of Piddington is its linear pattern and form, where buildings generally front on to the roads from which they take access and to which there is limited (if any) development in depth. This ensures that there is a close relationship between the buildings and the surrounding countryside edge, with that countryside permeating (in places) up to the road frontage, and with the gaps between buildings and the negligible development in depth otherwise allowing a ready appreciation of the surrounding countryside from the principal roads through the village. The form and layout of the proposed development would, however, fundamentally conflict with that established pattern and character of development. In particular, in the position proposed the building would substantially extend the built edge of the village in to the surrounding countryside, where it would intrude in to rural amenities and character of the area
- The resultant building would be of a large and excessive scale that, when combined with its industrial, utilitarian design and form, and the range of insensitive external materials proposed, would be wholly at odds with the form of the surrounding domestic-scale buildings, and would represent a prominent and intrusive feature in the landscape that from the public highway, public rights of way, and private land, would detract from the established landscape qualities and character of the area
- Concern regarding light pollution from translucent panels in the external walls and roof of the building, arising from an outward glow of the building, raising the prominence and visual effects of the building detracting from the rural character and qualities of the area
- Development contrary to the National Planning Policy Framework and related saved Development Plan policies
- Enclosed and overbearing relationship with neighbouring 64 Lower End, detracting from residential amenities currently enjoyed
- Uncharacteristic landscaping proposed that would not afford any meaningful screening of the building and would not ameliorate the harmful amenity affects arising from a fundamental change in character and loss of the open and rural context. Further, landscaping conditions attached to previous planning permissions have either not been implemented as intended or have failed to deliver an appropriate landscape scheme
- Noise impacts, in particular resulting from the use within the building would be readily apparent from within their residential curtilage. Proposal would result in increase in number of vehicles using the access with associated advised amenity consequences arising from more general noise and disturbance, and damage to the access way
- Detriment to the setting of Grade II listed Fir Tree House, contrary to National Planning Policy Framework and associated Development Plan policies

- No details with regard to the surface water drainage proposals – essential requirements given the scale of the roof of the proposed building and the increase in surface water run-off rates that would result from such
- There has been considerable development on the site in the last few years - cumulative impact of the overall scale of the development on the site only adds to the unacceptable harm to the character and appearance of the area
- Impact of development will be felt by all villagers – consultation inadequate
- Size of building far in excess of all buildings in the village and will dominate the lower part of the village
- Proposed materials out of keeping and better suited to an industrial estate – no attempt at considering the surrounding vernacular for inspiration of material or design. The proposed clock tower does not compensate for the steel cladding and fibrous cement roofing both of which will only exacerbate the dominance of such an industrial style building in the village
- Whilst the applicant states that only she will use the indoor manege, such a large construction will inevitably be used by others. This will lead to a significant increase in towing vehicles in a quiet village
- Pedestrian residents have to use the roads for walking as there is only a short run of pavement at the other end of the village and on only one side of the road. Towing vehicles will be a traffic hazard on the quiet village roads. The road out of Lower End passes over a weight restricted rail bridge, and the further road is often under water. Thus any towing vehicles will pass through the village via either Widnell Lane (with blind corners) or Thame Road (with 3 right angled bends) on entry and exit, crossing the route of the school transport bus and across the path of children walking back home
- Quite why all the villagers should be negatively impacted for just one keen rider, who already has an outdoor manege, is beyond comprehension. Both horses and riders enjoy the outdoors, and all- weather facilities only make sense when activities have to take place almost 24/7 such as in commercial set ups, rather than for one part-time hobbyist.

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 AND NEIGHBOURHOOD FORUMS

6.2. Piddington Parish Council – objects, on the following grounds:

Piddington is a Category C village in Cherwell District Council's Local Plan where development is limited to extensions of existing properties and small amounts of infilling. Lower End is currently a section of ribbon development comprising a mixture of bungalow and two storey dwellings, with linear development along the road structure (a notable feature of Piddington village as a whole), current

development would be on land outside of the village envelope and currently of open aspect.

- Alien feature in rural village landscape, the size of a significant warehouse, which would overpower all adjacent properties and swamping all other properties in the vicinity, visible from highways, footpaths, all areas of the village and local viewpoints such as Muswell Hill.

- Development will bring intrusive urbanisation to the village with profiled metal cladding and fibrous cement profiled sheet roofing, which will effectively be an extremely large industrial building (as large as an aircraft hangar) immediately adjacent to residential properties in the village and completely out of keeping with strict design conditions that have been proposed on residential development within the village.

- Development takes up almost all of the space immediately behind 66 Lower End leaving little space between the building and boundary hedges, creating an enclosed effect for residents which the Parish Council believes to be unacceptable.

- Development will significantly adversely affect the setting of not only the village as a whole, but of listed buildings in particular, with at least one listed building of such architectural merit as to warrant and entry into Pevsner.

- If minded to approve, the Parish Council would expect to see planning conditions to achieve strict controls over water run-off from the building, to control potential light pollution and a condition limiting the use of the development for the personal use of the current owners of the property, with a requirement to remove the building should their ownership of the property cease.

#### STATUTORY CONSULTEES

6.3. OCC Drainage – no comments received at the time of writing.

6.4. Environment Agency – no comments received at the time of writing.

#### NON-STATUTORY CONSULTEES

6.5. CDC Ecology – recommend a note with regard to protected species, the protection of the existing hedgerow during construction works, and that opportunities are taken to provide bat or bird boxes on the proposed new building, for example at the eaves level, making enhancements for local wildlife and benefit biodiversity .

6.6. CDC Environmental Protection – no objections or comments to make on the application as presented.

6.7. CDC Landscape Services – no objection, but recommend that a detailed soft landscaping scheme is required to mitigate the impact of the development. The proposed tree planting is too formal and should be planted in irregular naturalistic groups.

6.8. OCC Single Response – no response received at the time of writing.

### **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
- ESD6 – Sustainable Flood Risk Management
- 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

#### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8 - Sporadic development in the open countryside
- C28 – Layout, design and external appearance of new development
- C31 - Compatibility of proposals in residential areas
- AG5 - Development involving horses
- ENV1 - Development likely to cause detrimental levels of pollution

- 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

## **8. APPRAISAL**

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

- Principle of development
- Design, and impact on the character of the area, including heritage assets
- Residential amenity
- Biodiversity
- Flood risk

#### Principle of development

- 8.2. The equestrian use of the site and adjacent land has already been established by the previous consents for a stable complex and outdoor manege. Saved Policy AG5 of the Cherwell Local Plan 1996 states that proposals for horse related development will normally be permitted provided that the proposal would not have an adverse effect on the character and appearance of the countryside; the proposal would not be detrimental to the amenity of neighbouring properties and the proposal complies with the other Policies in the Plan.

- 8.3. The impact of the development upon the character and appearance of the countryside and the amenity of neighbouring properties are assessed later in the report, although it is considered that the principle of horse-related development in this rural location is acceptable in accordance with saved Policy AG5 of the Cherwell Local Plan 1996.



## Design, and impact on the character of the area, including heritage assets

- 8.4. Government guidance contained within the NPPF attaches great importance to the design of the built environment and 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, in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality, and the desirability of new development making a positive contribution to local character and distinctiveness.
- 8.5. Policy ESD 13 of the adopted Cherwell Local Plan 2011-2031 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.
- 8.6. Policy ESD 15 of the adopted Cherwell Local Plan 2011-2031 states that new development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards. Saved Policy C8 of the Cherwell Local Plan 1996 seeks to resist sporadic development in the open countryside, although this will be reasonably applied to accommodate the needs of agriculture. Saved Policy C28 seeks to control new development to ensure that it is sympathetic to the character of its context.
- 8.7. There is no denying that the proposed building is of a large size, and that it would be visible from surrounding vantage points, including the rear facing openings of dwellings along Lower End. The footprint would be approx. 1315 sq m and the height would be 6.1 metres to the ridge, which is a substantial structure. Furthermore, the development would take place beyond the built-up limits of the settlement of Piddington, in the open countryside.
- 8.8. However, the fact that something would be visible alone is not considered a reason to resist an application, and furthermore, the loss of a particular or pleasant view from neighbouring properties is not a material planning consideration.
- 8.9. The topography of the site and immediate surroundings is largely flat, with the land gradually rising towards the east. A railway line also runs approx. 350 metres to the east. The buildings associated with nearby Brill Farm are currently visible to the south-east. The site itself consists of an existing stable complex and the outdoor ménage currently consists of a large surfaced rectangle surrounded by post and rail fencing.
- 8.10. Aside from the clock tower feature on the western facing elevation, it is considered that the building would appear as a large, functional design agricultural barn, with steel clad walls and fibrous cement roof, which is considered to represent an appropriate feature in the rural landscape. Whilst the proposed use of the building is not for agriculture, the principle of equestrian uses in the open countryside is generally accepted, as this is considered an appropriate location for such rural pursuits.
- 8.11. The proposed building would be positioned in open countryside, although it would be viewed as part of the existing stable complex, and such grouping of buildings is considered preferable to an isolated site away from other built form.

- 8.12. A Grade II listed building is positioned some 100 metres to the west of the site and due to this separating distance the site is not considered to play an integral role in forming the setting of the building. The site itself is not covered by any historic designations.
- 8.13. Existing landscape features, such as the hedgerow to the north and ponds are proposed for retention, and additional landscaping is proposed to the south of the proposed building. It is noted that the hedgerow to the north is not within the ownership or control of the applicant, and so it will not be possible to further enhance this boundary as requested by the Landscape Officer.
- 8.14. On balance, given that the development would involve an equestrian use in this rural location, the appearance of the structure as a large agricultural barn and the proximity of the site to other existing structures, Officers consider that the development would be in keeping with its rural context, and that it would not result in significant harm to the visual amenities of the locality. Further, the development would not materially harm the setting of the nearby listed building, in accordance with Government guidance contained within the National Planning Policy Framework, Policies ESD 13 and ESD 15 of the Cherwell Local Plan 2011-2031 and saved Policies C8, AG5 and C28 of the Cherwell Local Plan 1996.

#### Residential amenity

- 8.15. Government guidance contained within the NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy ESD 15 of the Cherwell Local Plan 2011-2031 states that development should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. In addition, saved Policy C31 of the Cherwell Local Plan 1996 seeks compatible development in residential areas, and saved Policy ENV1 of the Cherwell Local Plan 1996 seeks to resist development that would result in materially detrimental levels of noise, vibration, smell, smoke, fumes or other types of environmental pollution.
- 8.16. As previously mentioned, the equestrian use of the site has already been established. It is understood that the number of horses accommodated on site, and the existing provisions for the storage and disposal of manure would remain as existing. The indoor ménage would also be used on a personal basis by the applicant, as opposed to a commercial riding school. The number of vehicle movements to and from the site is anticipated to be the same as, or fewer than, those existing.
- 8.17. Based on the above, it is considered that the proposed development would not result in significant harm to the neighbouring properties in terms of a loss of amenity. Concerns regarding noise and light pollution are noted; although the Environmental Protection Team raises no objection to the proposals. That said, it is considered reasonable to restrict the provision of outdoor lighting to serve the development, and the hours of use, to ensure that associated activities do not result in disturbance to neighbours at unreasonable hours (e.g. moving horses from the manege to their stables, which are closer to residential dwellings than the proposed manege).
- 8.18. Subject to the above-mentioned conditions, the proposed development is not considered to cause significant harm to the living amenities currently enjoyed by neighbouring properties.

#### Biodiversity

- 8.19. Government guidance contained within the NPPF states that in determining planning applications local planning authorities should aim to conserve and enhance biodiversity. If significant harm resulting from a development cannot be avoided through locating on an alternative site with less harmful impacts, adequately mitigated, or, as a last result, compensated for, then planning permission should be refused. Policy ESD 10 of the adopted Cherwell Local Plan 2011-2031 seeks both the protection and enhancement of biodiversity and the natural environment.
- 8.20. An Ecology Survey undertaken during February 2015 has been submitted with the application, that was originally submitted in support of the application for the stable complex and outdoor manege. The report concluded that the site would have no impact to the Piddington Brook, and that there were no obvious enhancements that could be carried out.
- 8.21. The Council's Ecology Officer is content that no further surveys are required in connection with the current application, although wishes to highlight the protected status of the Great Crested Newt (of which there are records in the vicinity of the site) with the applicant. Protective fencing along the existing hedgerow is also requested, which can be secured via condition, and biodiversity enhancements in the form of bat or bird boxes at eaves level on the proposed building.
- 8.22. It is considered that the proposed development would not significantly harm biodiversity, and that the development accords with Government guidance contained within the NPPF and Policy ESD 10 of the Cherwell Local Plan 2011-2031.

#### Flood risk

- 8.23. Government guidance contained within the NPPF states that in determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere. Policy ESD 6 of the adopted Cherwell Local Plan 2011-2031 states that where development is proposed within areas at risk of flooding it should be safe and remain operational (where necessary) and proposals should demonstrate that surface water will be managed effectively on site and that the development will not increase flood risk elsewhere, including sewer flooding.
- 8.24. The site lies within Flood Zone 1, which is not considered to form a part of the flood plain. Piddington Brook, a Main River, is within 20 metres of the site, and comments received as a result of public consultation indicate that the site and surrounding land is known to suffer from drainage problems. Indeed, there are a number of small ponds in the vicinity of the site and during their visits to the site the Officer has noted that the land is wet.
- 8.25. At the time of writing, neither the Environment Agency nor OCC Drainage have provided comments on the scheme. In the absence of comments, it is to be assumed that no objections are raised. However, given the dimensions of the building and the requirement for proposals to demonstrate that surface water will be managed effectively on site so as to prevent the increase of flood risk elsewhere, it is considered reasonable to impose a condition requiring a scheme for the disposal of surface water within the site in order to avoid the worsening of existing drainage problems in the vicinity that have been highlighted as a result of public consultation.
- 8.26. Subject to the above mentioned condition, it is considered that the development would not result in the increase of flood risk elsewhere, in accordance with Government guidance contained within the NPPF and Policy ESD 6 of the Cherwell Local Plan 2011-2031.

## 9. PLANNING BALANCE AND CONCLUSION

- 9.1. Officers are of the opinion that the principle of the equestrian use of the site has already been established through the existing stable complex and outdoor ménage. The creation of an indoor ménage, that would be similar in appearance to an agricultural barn, would be of an appropriate use and appearance in this rural context. The development is not considered to result in significant harm to the visual amenities of the locality, or the living amenities or privacy currently enjoyed by neighbouring properties. Further, the development would not materially harm the setting of the nearby listed building, the biodiversity of the site or increase the risk of flooding elsewhere, in accordance with Government guidance contained within the NPPF, Policies ESD 6, ESD 10, ESD 13 and ESD 15 of the Cherwell Local Plan 2011-2031 and saved Policies C8, C28, C31, AG5 and ENV1 of the Cherwell Local Plan 1996.

## 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 following plans and documents: Application Form, Design and Access Statement dated December 2016, Drg No's. SK/06, SK/07 and 01 Rev. or

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

3. Prior to the commencement of the development hereby approved, and notwithstanding the submitted details, a schedule of the materials and finishes for the external walls and roof(s), including samples where appropriate, of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved materials.

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

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

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

(b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each

tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,

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

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

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

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

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

6. Prior to the commencement of the development hereby approved, a detailed scheme for the surface water drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, and prior to the commencement of any building works on the site the approved surface water drainage scheme shall be carried out and prior to the first use of the building the approved scheme implemented, and maintained as such thereafter.

Reason - To ensure satisfactory drainage of the site to avoid flooding of adjacent land and property and to comply with Policy ESD 6 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a mitigation strategy for great crested newts, which shall include timing of works and exclusion fencing, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the mitigation works shall be carried out in accordance with the approved details.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

8. Prior to the commencement of the development hereby approved, full details of a scheme for the location of bat and bird boxes shall be submitted to and

approved in writing by the Local Planning Authority. Thereafter and prior to the first use of the building the bat and bird boxes shall be installed on the site in accordance with the approved details.

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

9. No external lights/floodlights shall be erected on the land without the grant of further specific planning permission from the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the amenities of the occupants of the nearby dwellings in accordance with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. The indoor manege hereby permitted shall be used for private use only and no commercial use including riding lessons, tuition, livery or competitions shall take place at any time.

Reason - In order to maintain the character of the area and safeguard the amenities of the occupants of the nearby premises in accordance with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. The hours of use of the indoor manege shall be restricted to 8.00am to 10.00pm, unless otherwise approved in writing by the Local Planning Authority.

Reason - In order to maintain the character of the area and safeguard the amenities of the occupants of the nearby premises in accordance with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Planning Notes**

1. 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.

CASE OFFICER: Gemma Magnuson

TEL: 01295 221827

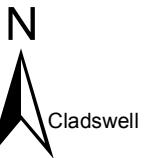
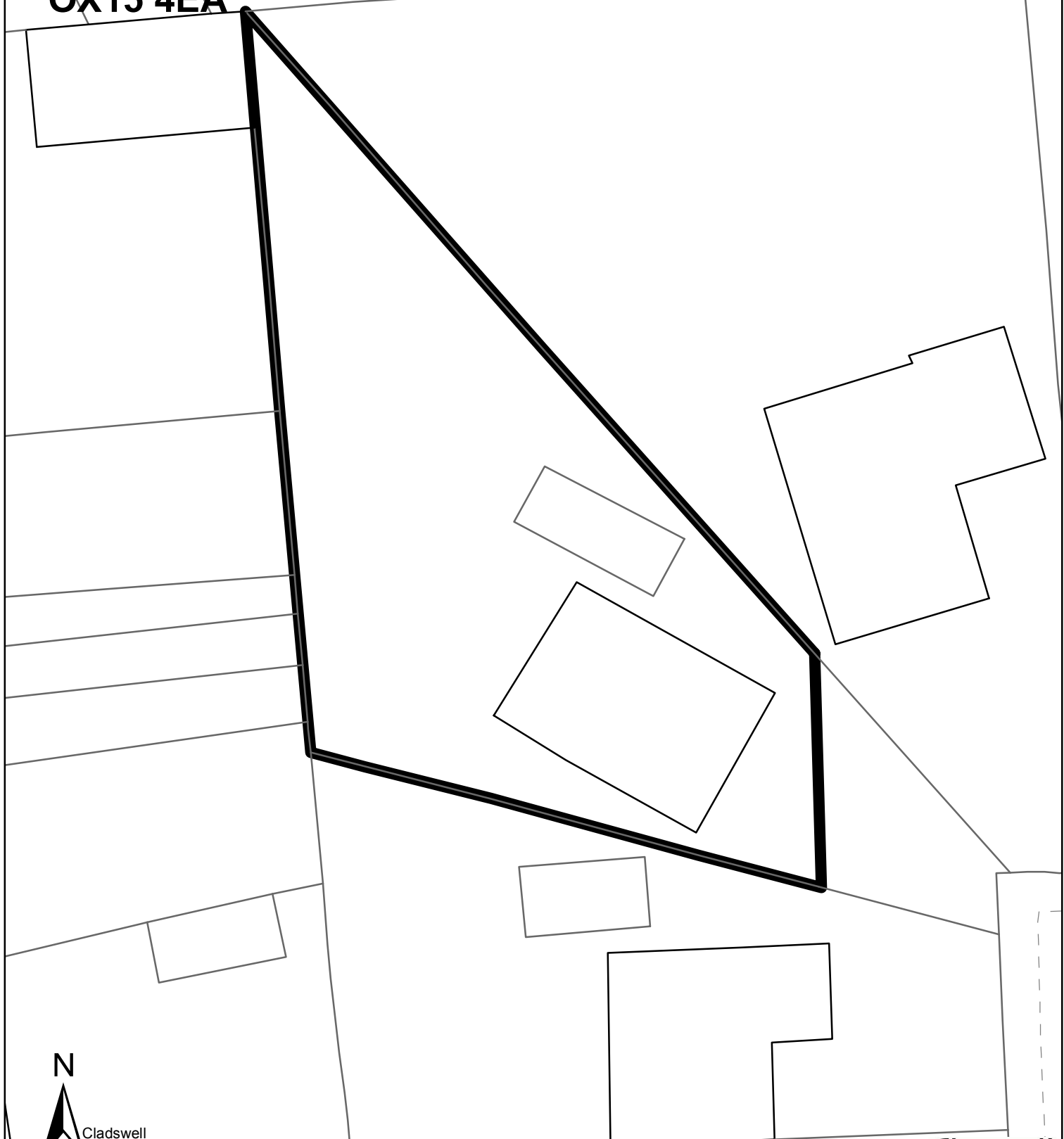
**17/00257/F**

**9 Deers Close**

**Bodicote**

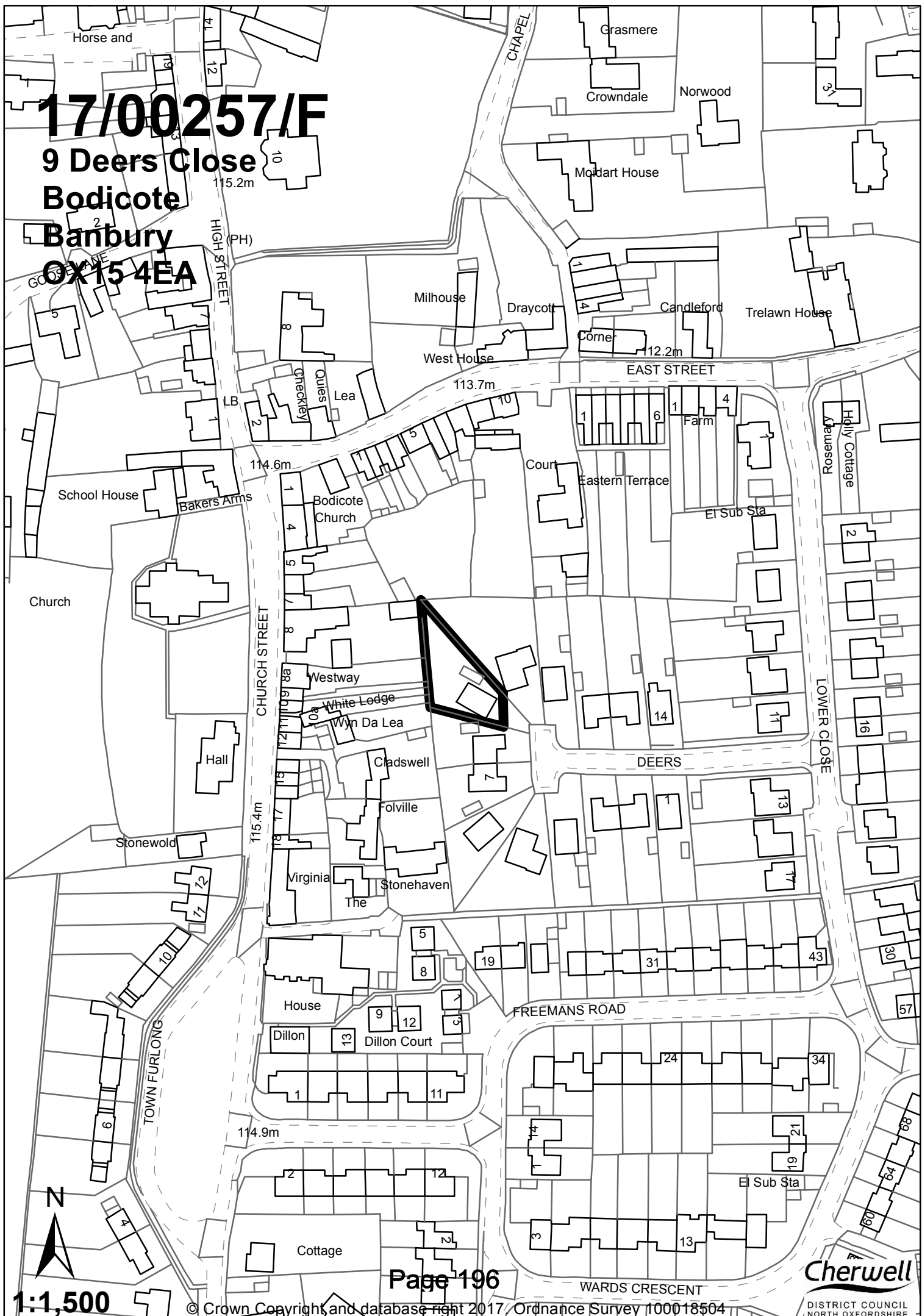
**Banbury**

**OX15 4EA**



**1:250**

**17/00257/F**  
**9 Deers Close**  
**Bodicote**  
**Banbury**  
**OX15 4EA**



**1:1,500**



**Applicant:** Mr & Mrs M Tibbetts

**Proposal:** Demolition, internal alterations and extension to existing bungalow forming 4 bedroom dwelling & garage along with the existing roof raised

**Ward:** Adderbury, Bloxham And Bodicote

**Councillors:** Cllr Andrew McHugh  
Cllr Mike Bishop  
Cllr Chris Heath

**Reason for Referral:** Applicant works for the LPA.

**Expiry Date:** 6 April 2017      **Committee Date:** 13<sup>th</sup> April 2017

**Recommendation:** Approve

---

## 1. APPLICATION SITE AND LOCALITY

- 1.1. The application site relates to a detached, single storey, bungalow located at the end of a quiet cul-de-sac in a residential area of Bodicote. The street is comprised of similar style properties (which are predominantly single storey detached and semi-detached) and have a distinct style and character.
- 1.2. The application site is gabled, fronting Deers Close, and is constructed of brick, render and wooden panelling (the materials being characteristic of this area). The property has a garden area to the front, with a driveway leading down the side of the property to a single storey garage at the rear (which has recently been demolished). To the rear of the property there is a more moderate sized garden, which is walled along the western boundary.
- 1.3. The application site is not a listed building and is not located within a designated Conservation Area. The site is, however, located adjacent to the Bodicote Conservation area (which abuts the site at the western boundary) and a number of Listed and Locally Listed Buildings.

## 2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. The application seeks permission for a single storey side extension; a 1.5 storey rear extension; a 1.5 storey rear/side extension; a roof dormer on the southern part of the property; and a roof dormer on the proposed 1.5 storey rear/side extension. The proposal would also see the ridge of the existing roof raised by 30cm (to facilitate the additional accommodation with the roof space) and the front garden block paved. The description of proposed development relates to drawings numbered 002B; 003B; 004C; 005B; 007B and 008B, which were submitted following concerns raised regarding the size, scale and design of the development.
- 2.2. The proposed single storey side extension would form a new garage and would be 3.2m wide (extending 5.7m along the side of the property) and would have a flat roof

(with an eaves height of 2.4m). This part of the proposal would contain garage doors on the principal elevation.

- 2.3. The proposal would remove the existing conservatory at the rear of the property and would extend the rear gable of the property by 4m, creating a new 1.5 storey rear extension (given the 30cm increase in ridge height). The new rear gable would have a window at first floor level and a set of bi-folding patio doors on the ground floor.
- 2.4. The proposal also includes a 1.5 storey rear/side extension, which protrudes 4.7m from side elevation of the existing dwelling house and the proposed rear extension. The side/rear extension would have a 6.3m wide gable and would have an eaves height of 2.7m and a ridge height of 5m. There would be a window on the ground floor of the side elevation; bi-folding patio doors on the ground floor of the rear elevation; a 3.15m wide box dormer on the roof slope of the rear elevation (which contains a window); and a door on the principal elevation (adjacent to the garage).
- 2.5. In addition, the proposal also seeks permission for a new box dormer on the southern part of the property. This would cover 10.8m of the roof slope (set back 1.1m from the front elevation and 3.25m from the rear elevation). The proposed box dormer would include three windows, one located centrally on the property and two located towards the front half. The rear two of these windows would serve the bathrooms and the one closest to the front of the property would serve a bedroom. An additional two roof lights would be inserted on the northern roof slope of the original dwellinghouse which would also serve this bedroom.
- 2.6. The materials proposed to be used would match those used on the existing dwelling, including the brickwork, roof tiles, timber cladding, windows and doors.

### **3. RELEVANT PLANNING HISTORY**

- 3.1. There is no planning history directly relevant to the proposal.

### **4. PRE-APPLICATION DISCUSSIONS**

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

<u>Application Ref.</u>	<u>Proposal</u>
16/00323/PREAPP	Removal of entrance porch to front and side aspect removal of chimney. Demolition of existing garage. Insertion of entrance door to front elevation in place of existing left-hand window. Rear extension 4m deep continuing out to right-hand boundary. Side extension running the length of the house, 2m subservient to the front elevation to include garage with flat roof and rear extension to living space with pitched roof.  Loft conversion with dormer to left hand elevation and dormer to rear elevation. Loft conversion to cover entire ground floor.  Insertion of triangular window in front elevation in roof space (see example attached). Rendering of the property in off-white render

4.2. The above pre-application was considered and the advice was provided on an incomplete set of drawings which were not to scale. The pre-application advised that there were some issues with the visual appearance of the proposal that, with minor amendments, could be addressed. It was, however, advised that more considerable amendments would be required to overcome the potential harm that would be caused to the residential amenity of the neighbouring properties.

## **5. RESPONSE TO PUBLICITY**

5.1. This application has been publicised by way of a site notice displayed near the site 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. Six letters of objection were received in relation to the original plans. These comments are summarised by the following:

- Objection to the window of the master bedroom on the principal elevation
- The raising of the roof by 1m would be out of keeping with the properties in the close
- Overall size/scale of the building
- Scale of development near to neighbouring boundary
- Loss of privacy
- Overshadowing

5.3. Following the submission of the amended plans, the neighbouring properties were re-consulted. At the time of writing the report, the consultation period had not expired. However, two further letters were received, one of which objects to the scheme (on similar grounds to the above) and one advises that they are more content with the reduced scale, but there are still concerns regarding loss of light on their property.

5.4. 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.

### **BODICOTE PARISH COUNCIL**

6.2. Bodicote Parish Council raises no objections to the proposal 'so long as it does not have a detrimental effect on neighbouring properties'.

## **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)

- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- C30 – Design of New Residential Development

- 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

## **8. APPRAISAL**

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

- Design, and impact on the character of the area
- Residential amenity
- Highway Safety

Design, and impact on the character of the area

- 8.2. Government guidance contained within The Framework states that developments should seek to provide good design and 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.
- 8.3. Policies C28 and C30 of the Cherwell Local Plan (1996) require the appearance of developments to be sympathetic to the character of its context as well as compatible with the existing dwelling. Proposals to extend an existing dwelling should be compatible with the scale of the existing dwelling, its curtilage and the character of the street scene.
- 8.4. The removal of the single storey porch to the front is considered to be a minor alteration to the property, but one which would be acceptable and would not be visually harmful to the character and appearance of the street scene.
- 8.5. The 4m gabled extension to the rear would elongate the existing form of the bungalow. This part of the proposal would not be readily visible from the street scene, but nevertheless is in keeping with the style and character of the host dwelling. Given the shape of the plot in which the bungalow is situated, this form of development is not considered to be detrimental to the visual amenity of the site or its surroundings.
- 8.6. The proposed side/rear gabled extension would be visible from the public domain and would run at a 90 degree angle to the original dwelling house and the rear extension. This part of the proposal has been amended from the pre-application so that the gable is no longer abutting the boundary with 10 Deers Close (but is instead

stepped back from the boundary by 1.4m, extending to 3.5m). The ridgeline of this part of the proposal is set at 5m (0.2m subservient to the main part of the dwellinghouse) and has an eaves height of 2.7m. This part of the proposal has been reduced in height from the original submission and is not considered to be visually excessive in scale or design.

- 8.7. The existing detached flat roof garage would be demolished and would be replaced by an integrated flat roofed garage which would be connected to the original house and the 1.5 storey side/rear extension. This part of the proposal is considered to be in keeping with the style of the existing garage and would visually be more connected to the proposal.
- 8.8. The proposed dormer to the north-west (located on the rear slope of the proposed side/rear extension) would not be readily visible from the public domain. There are a number of other dormers visible in the street and from the rear of the property and therefore, this type of development is not considered inappropriate in this location.
- 8.9. The proposed dormer on the southern roof slope of the application site would be partially visible from the public domain. Its scale is considered to be slightly excessive, covering 10.8m of the roof slope. However, given the orientation of the plot (and the property being angled away from the boundary with the neighbouring property) this length would not be visually perceived from the public domain. Furthermore, there are a number of other large dormers visible in the street scene (including at the neighbouring 10 Deers Close). It is therefore considered that this part of the proposal would, on balance, be acceptable.
- 8.10. The applicant also seeks permission for the raising of the roof by 30cm. The proposed 30cm is a reduction from the originally proposed 1m, and the amended scheme is considered to be an improvement in this regard. Whilst this is still considered to be slightly unfortunate, given the orientation of the existing buildings and the set back from the road, the increased height is unlikely to be perceived from the public domain and to therefore be acceptable.
- 8.11. The original scheme included the insertion of a window on the first floor of the gable on the principal elevation. This has been removed as part of the amended scheme and is considered to reduce any visual harm caused by the proposal. A condition is, however, considered necessary to remove permitted development rights for new windows above ground floor level.
- 8.12. The materials would match those used on the existing building including the brickwork, roof tiles, timber cladding, windows and doors.
- 8.13. For these reasons, it is considered that the proposal accords with Policy C28 of the CLP 1996, Policy ESD15 of the CLP 2011-2031 and Government guidance contained within the Framework.

#### Residential amenity

- 8.14. Policy ESD15 of the Cherwell Local Plan 2011-2031 requires new development to consider the amenity of both existing and future occupants, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space.
- 8.15. The proposed single storey, flat roofed, garage is not considered to have a detrimental impact on the residential amenity of the neighbouring property. There are windows on the side elevation of the neighbouring property (10 Deers Close) – however, one of these is obscurely glazed and the other windows would be set back sufficiently from the boundary to not be affected by this part of the proposal.

- 8.16. The proposed rear extension (containing first floor windows and a box dormer) is not considered to detrimentally impact the residential amenity of the neighbouring properties or the occupiers of the application site through loss of privacy or loss of light. The extension is located approximately 6m from the rear boundary with the properties of 9 and 10 Church Street. An objection was received from the rear neighbours at 8 Church Street (regarding the potential loss of privacy). However, the proposal would be located at approximately 11.5m from the boundary with their property (or approximately 38m from their dwellinghouse). Given that the application site contains a relatively large plot and the separation distances of approximately 40m, there is only considered to be a negligible impact on their residential amenity.
- 8.17. The side/rear extension (with the gable facing 10 Deers Close) is considered to only have a minor impact on their residential amenity, in regard to a loss of light. The existing single storey garage occupied approximately the same area (the garage extended slightly further into the garden) as the proposed side rear extension. Given the size of each of the plots and the fact that the properties are angled away from each other (with the distance between the extension and the neighbouring property increasing from 6m to 9m) the proposal is not considered to result in an overbearing form of development. Furthermore, the proposal is a reduced scheme in height (from the original scheme) and distance from the boundary (as considered at pre-app), as well as there being no windows proposed on the first floor of the gable. It is, therefore, considered that this would not be detrimental to the residential amenity of the neighbouring property through loss of light or privacy.
- 8.18. The side dormer occupies a large proportion (approximately 10.8m) of the roof plane adjacent to 8 Deers Close and as such, there would be a minor impact on their residential amenity through a perceived loss of privacy. The proposed box dormer would include three windows, one located centrally on the property and two located towards the front half. The rear two of these windows would serve the bathrooms and the one closest to the front of the property would serve a bedroom. In regard to the window serving the bedroom, it is not considered appropriate to require this to be obscurely glazed, given the orientation to the neighbouring property and the outlook that the window would have. It is, however, considered appropriate for a condition to be placed on any permission ensuring that the rear two windows are obscurely glazed (to protect the privacy of the neighbouring occupiers and the current/future occupiers of the application site) and that no new openings are inserted above ground floor level. By imposing these conditions, it is considered that any impact on residential amenity would be satisfactorily reduced.
- 8.19. Further to the above, it is also considered appropriate for the proposed two roof lights on the northern roof slope of the original dwellinghouse, to also be obscurely glazed, given the proximity with the neighbouring property's box dormer.
- 8.20. It is thus considered that the proposal is, on balance, acceptable and accords with Policy C30 of the CLP 1996, Policy ESD15 of the CLP 2011-2031 and Government guidance contained within the Framework.

#### Highway Safety

- 8.21. The proposal shows the demolition of the existing garage and the construction of a new integrated garage within the dwelling. The proposed hard standing and new garage is considered to provide ample off-street car parking provision for a dwelling of this size. It is, therefore, considered that the proposal would not be detrimental to highway safety or amenity.

### **9. PLANNING BALANCE AND CONCLUSION**

- 9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 9.2. The proposal is considered to be, on balance, acceptable and would respect the character and visual amenity of the site's surroundings; respond appropriately to the site's characteristics; not adversely affect the residential amenity; and not affect parking provisions. The proposal would thus comply with Policies C28 and C30 of the CLP 1996, Policy ESD15 of the CLP 2031 (Part1) and the relevant paragraphs of the Framework.

## **10. RECOMMENDATION**

That permission is granted, subject to the following conditions *OR* That permission is refused, for the following reason(s): (delete/amend as appropriate)

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: DDC-2017-440 001; DDC-2017-440 002B; DDC-2017-440 003B; DDC-2017-440 004C; DDC-2017-440 005B; DDC-2017-440 007B; and DDC-2017-440 008B

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. The materials to be used for the external walls and roofs of the extensions hereby approved shall match in terms of colour, type and texture those used on the existing building.

Reason – To ensure that the development is constructed and finished in materials which are in harmony with the materials used on the existing building and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. Notwithstanding the approved plans and prior to the first occupation of the development hereby approved, the first floor rooflights in the side (north) elevation of the dwellinghouse and the rear two windows of the box dormer on the side (south) elevation, the shall be fixed shut, other than the top hung opening element, and shall be fully glazed with obscured glass that complies with the current British Standard, and retained as such thereafter.

Reason - To safeguard the privacy and amenities of the occupants of the adjoining premises and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. Notwithstanding the provisions of Classes A, B and C of Part 1, Schedule 2 of

the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, no new window(s) or other openings, other than those shown on the approved plans, shall be inserted in the first floor walls or roof of the dwelling without the prior express planning consent of the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the amenities of the occupants of the adjoining dwellings in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Policies C28 and C30 of the adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### INFORMATIVE

- 1) Notwithstanding the approved plans, the LPA has noted that the proposed floor plans contain an inaccurate north arrow. The proposed floor plans shall be carried out strictly in accordance with the proposed 'Location Plan' and 'Site Plan'.

Further to the above, it has also been noted that an incorrect label is present on drawing 002B which states 'a 5m extension added'. The applicants are advised that planning permission is only granted for the scale of development as shown on the floor plans and elevation drawings.

CASE OFFICER: Matthew Coyne

TEL: 01295 221652



## Cherwell Council

### Planning Committee

13 April 2017

<p style="text-align: center;"><b>Changes to the designation regime for local planning authorities</b></p>
--

### Report of Head of Development Management

This report is public

#### Purpose of report

This report outlines government changes to the designation regime for local planning authorities.

#### 1.0 Recommendations

The meeting is recommended:

- 1.1 To note the report.

#### 2.0 Introduction

- 2.1 The changes are of direct relevance for Council performance in determining planning applications.

#### 3.0 Report Details

- 3.1 Government legislation in 2013<sup>1</sup> enabled the Government to designate local planning authorities as underperforming on the basis of the speed and quality of their planning decisions. Initially, the performance regime only extended to the determination of major applications. The repercussions of being designated as an underperforming authority were the opportunity for applications to be submitted direct to the Planning Inspectorate (thereby bypassing the Council), the loss of income arising from this and the negative reputational harm associated with such a designation.
- 3.2 The speed of major planning decisions was to be measured on the basis of how many were determined within 13 weeks (16 weeks with an Environmental Impact Assessment) or the deadline specified by an agreed extension of time or Planning

---

<sup>1</sup> Section 1 of the Growth and Infrastructure Act 2013 inserted sections 62A and 62B into the Town and Country Planning Act 1990. Section 62A allows certain applications to be made directly to the secretary of state, where the local planning authority has been designated for this purpose. Section 62B requires that the criteria for any such designation, or for revoking a designation, must be set out in a document published by the Secretary of State and laid before Parliament.

Performance Agreement (PPA). The threshold set by the government below which an authority could be designated as underperforming was 30% or fewer major applications determined within the relevant time period (the assessment period being the two years up to and including the most recent quarter for which data on planning application decisions are available).

3.3 The quality of major planning decisions was to be assessed on the proportion of major applications subsequently overturned at appeal. The threshold set by the government below which an authority could be designated as underperforming was 20% or more major applications being allowed at appeal (the assessment period being the two years up to and including the most recent quarter for which data on planning application decisions are available).

3.4 In 2014, the government increased the minimum performance threshold for speed of determination for major planning decisions to 40% (with no change to the quality of decision threshold). This speed of determination threshold was further increased to 50% in 2015 (with no change to the quality of decision threshold).

3.5 On 22<sup>nd</sup> November 2016, the Department for Communities and Local Government (DCLG) wrote to all Chief Planning Officers confirming that Ministers were proposing a change in the criteria in the next designation round (to take place in the first quarter of 2017). This stated that the Government was committed to extending the designation regime to include applications for non-major development<sup>2</sup>. The new criteria came into force on 19<sup>th</sup> January 2017, and the new criteria document (attached at appendix 1) sets out the following updated targets:

- For speed of decisions on applications for major development;- less than 50% of an authority's decisions made within the statutory determination period or such extended period as has been agreed in writing with the applicant (unchanged from the current threshold). However, this threshold will rise to 60% in 2018.
- For speed of decisions on applications for non-major development;- less than 65% of an authority's decisions made within the statutory determination period or such extended period as has been agreed in writing with the applicant. This threshold will rise to 70% in 2018.
- For quality of decisions, the Government will not assess local authorities' performance on the quality of their decisions for either major or non-major applications in 2017, but in the 2018 designation round, a threshold will be set at no more than 10% of an authority's total number of decisions being made during the assessment period being overturned at appeal (a decrease from the previous 20% set for major applications).

3.6 For designation decisions in the first calendar quarter of 2017 (January to March 2017), the two year assessment period for speed of decisions will be between October 2014 and September 2016. For quality of decisions, the two year assessment period would have been (if in force for 2017) from April 2014 to March 2016, with an additional 9 months allowed up until December 2016 (to allow appeals to pass through the system).

---

<sup>2</sup> Section 153 of the Housing and Planning Act 2016 amended sections 62A and 62B of the Town and Country Planning Act 1990 to enable non-major development to be included in the designation regime. Non-major development is defined as any development which is not major development as defined by regulation 3 of the Town and Country Planning (Section 62A Applications) (Written Representations and Miscellaneous Provisions) Regulations 2013.

3.7 Officers have assessed the Council's performance against the above targets and can confirm the following:-

- The Council's speed of performance for the determination of major applications in the 2017 designation round<sup>3</sup> is 91%. The Council has therefore met the government target of 50%.
- The Council's speed of performance for the determination of non-major applications in the 2017 designation round is 85%. The Council has therefore met the government target of 65%.
- Although there will be no designations based on quality of decisions in 2017, the Council's current quality of decision performance for major applications based on the relevant assessment period<sup>4</sup> is 0.5% of applications being allowed at appeal. The corresponding performance for non-major applications is 0.6%. The Council has therefore met what will be the 2018 government target of 10% for both major and non-major applications (the previous 2016 target for majors was 20%).
- The Council's current speed of performance for the determination of major applications in the 2018 designation round<sup>5</sup> is 90% The Council is therefore exceeding the 2018 government target of 60%.
- The Council's current speed of performance for the determination of non-major applications in the 2018 designation round is 92% The Council is therefore exceeding the 2018 government target of 70%.
- The Council's current quality of decision performance for major applications based on the 2018 assessment period<sup>6</sup> is 0% of applications being allowed at appeal. The corresponding performance for non-major applications is 0.67%. The Council is therefore currently exceeding the 2018 government target of 10% for both major and non-major applications.

## 4.0 Conclusion and Reasons for Recommendations

4.1 Given the difficulties encountered by Development Management over the last 3 years (some staff recruitment/retention issues, high volume of applications, and government changes to the planning system), the Council's performance has been exceptional in meeting all new government targets.

4.2 Provided the Service maintains a full complement of staff through the retention of existing officers and being able to attract new ones when vacancies arise, then going forward the risk of designation is considered negligible. However, should new issues arise in respect of staff retention and recruitment, the Council could be placed at increased risk of designation as an underperforming authority in respect of speed of determination for applications.

---

<sup>3</sup> October 2014 to September 2016

<sup>4</sup> April 2014 until December 2016 (2 years and 9 months)

<sup>5</sup> October 2015 to September 2017

<sup>6</sup> April 2015 until December 2017 (2 years and 9 months)

## **5.0 Consultation**

5.1 N/A

## **6.0 Alternative Options and Reasons for Rejection**

6.1 N/A

## **7.0 Implications**

### **Financial and Resource Implications**

7.1 None.

Comments checked by:

Paul Sutton, Chief Finance Officer, 0300 0030106  
Paul.sutton@cherwellandsouthnorthants.gov.uk

### **Legal Implications**

7.2 None.

Comments checked by:

Kevin Lane, Head of Law and Governance, 0300 0030107  
kevin.lane@cherwellandsouthnorthants.gov.uk

## **8.0 Decision Information**

### **Wards Affected**

All

### **Links to Corporate Plan and Policy Framework**

Corporate priorities of protecting the district, growing the district and serving residents & business.

### **Lead Councillor**

Councillor Colin Clarke (Lead Member for Planning)

## Document Information

Appendix No	Title
1	Improving Planning Performance: Criteria for designation (revised 2016), Department for Communities and Local Government (DCLG)
<b>Background Papers</b>	
None.	
<b>Report Author</b>	Andy Preston, Head of Development Management
<b>Contact Information</b>	01295 222244 <a href="mailto:Andy.preston@cherwellandsouthnorthants.gov.uk">Andy.preston@cherwellandsouthnorthants.gov.uk</a>



Department for  
Communities and  
Local Government

Draft to lie for forty days, during which period either House of Parliament may resolve that the criteria for designation should not be approved.

## Improving planning performance

Criteria for designation (revised 2016)

November 2016  
Department for Communities and Local Government





Department for  
Communities and  
Local Government

Draft to lie for forty days, during which period either House of Parliament may resolve that the criteria for designation should not be approved.

## Improving planning performance

Criteria for designation (revised 2016)

Presented to Parliament pursuant to section 62B of the Town and Country Planning Act 1990.

November 2016  
Department for Communities and Local Government





© Crown copyright 2016

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](http://nationalarchives.gov.uk/doc/open-government-licence/version/3) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at [www.gov.uk/government/publications](http://www.gov.uk/government/publications)

Any enquiries regarding this publication should be sent to us at [planningperformance@communities.gsi.gov.uk](mailto:planningperformance@communities.gsi.gov.uk)

Print ISBN 9781474138833

Web ISBN 9781474138840

ID P002845751 11/16

Printed on paper containing 75% recycled fibre content minimum  
Printed in the UK by the Williams Lea Group on behalf of the Controller of Her Majesty's Stationery Office

# Contents

	<b>Page</b>
<b>Introduction</b>	<b>1</b>
<b>Criteria for designation</b>	<b>3</b>
<b>Criteria for de-designation</b>	<b>10</b>
<b>Annex A: Data sources and adjustments</b>	<b>12</b>
<b>Annex B: Designation Process</b>	<b>15</b>

# Introduction

## Improving performance

1. Planning departments play a crucial role in enabling development to deliver home ownership, building homes people can afford to buy and supporting economic growth. An efficient and effective planning system facilitated by skilled and experienced planners is essential to support this. We want to support and work with local authorities to make sure that the planning system is valued, resilient and capable of providing the service that local people and planning applicants expect, and delivering on the increasing challenges being asked of it.
2. The performance of local authorities in deciding applications for planning permission is crucial to achieving this objective. Our existing approach to measuring the performance of authorities was introduced by the Growth and Infrastructure Act 2013 and is based on assessing local planning authorities' performance on the speed and quality of their decisions on applications for major development. Where an authority is designated as underperforming, applicants have had the option of submitting their applications for major development (and connected applications) directly to the Planning Inspectorate (who act on behalf of the Secretary of State) for determination.
3. The latest data shows that more decisions on applications for major development are being made on time than ever before. In April to June 2016, 83 per cent of major applications were decided on time<sup>1</sup> compared with 57 per cent in July to September 2012, the quarter in which the existing designation regime was first announced. This has been achieved despite the number of major applications increasing during the period<sup>2</sup> and a reduction in spending on planning and development services by local authorities<sup>3</sup>.
4. However, authorities must continually improve their processing of both applications for major and non-major development. Decisions that are unnecessarily slow, or which refuse development without good reason, can have a real impact by increasing costs for developers and hence delaying or discouraging investment. That is bad for the economy and bad for communities, so taking action where there is clear evidence that a service is not being delivered effectively is beneficial to all. This document sets out how we tackle persistent underperformance in local planning authorities.

---

<sup>1</sup> Within the statutory timeframe or an agreed extended period.

<sup>2</sup> 3,000 applications for major development were determined by local authorities in July to September 2012 compared with 3,800 in April to June 2016.

<sup>3</sup> A recent National Audit Office report found that there was a 46 per cent reduction in spending on planning and development services by local authorities in the period 2010-11 to 2014-15.

## Legislation

5. Section 1 of the Growth and Infrastructure Act 2013 inserted sections 62A and 62B into the Town and Country Planning Act 1990 (“the 1990 Act”). Section 62A allows certain applications to be made directly to the Secretary of State, where the local planning authority for the area has been designated for this purpose. Section 62B requires that the criteria for any such designation, or for revoking a designation, must be set out in a document published by the Secretary of State and laid before Parliament.
6. Section 153 of the Housing and Planning Act 2016 amended sections 62A and 62B of the 1990 Act to allow the Secretary of State to prescribe the descriptions of applications in respect of which an authority may be designated. The Town and Country Planning (Section 62A Applications) (Written Representations and Miscellaneous Provisions) Regulations 2013 have been amended by the Town and Country Planning (Section 62A Applications) (Amendment) Regulations 2016 to prescribe and define applications for “non-major development” alongside applications for “major development”.
7. This document sets out the criteria that the Secretary of State intends to use for making or revoking a designation in respect of a local planning authority’s performance in determining applications for major development and, separately, its performance in determining applications for non-major development. The criteria have effect from the day following the end of the statutory 40 day period during which Parliament may consider this document, provided neither House has resolved not to approve it<sup>4</sup>.
8. The criteria will be kept under review, with any further changes brought forward through a revised document that will be published by the Secretary of State and laid before Parliament.

---

<sup>4</sup> The calculation of the 40 day period is specified in section 62B of the 1990 Act.

# Criteria for designation

## Overall approach

9. A local planning authority can be designated only if, by reference to the criteria in this document, “the Secretary of State considers that there are respects in which the authority are not adequately performing their function of determining applications”<sup>5</sup>.
10. The performance of local planning authorities in determining major<sup>6</sup> and non-major development<sup>7</sup> will be assessed separately, meaning that an authority could be designated on the basis of its performance in determining applications for major development, applications for non-major development, or both. The assessment for each of these two categories of development will be against two separate measures of performance:
  - the speed with which applications are dealt with measured by the proportion of applications that are dealt with within the statutory time or an agreed extended period; and,
  - the quality of decisions made by local planning authorities measured by the proportion of decisions on applications that are subsequently overturned at appeal.
11. Therefore, the performance of local planning authorities will be assessed separately against:
  - The speed of determining applications for major development<sup>8</sup>
  - The quality of decisions made by the authority on applications for major development<sup>9</sup>;
  - The speed of determining applications for non-major development;
  - The quality of decisions made by the authority on applications for non-major development.
12. Where an authority is designated, applicants may apply directly to the Planning Inspectorate (on behalf of the Secretary of State) for the category of applications (major, non-major or both) for which the authority has been

---

<sup>5</sup> Section 62B(1)(b) of the 1990 Act.

<sup>6</sup> ‘Major development’ for this purpose is as defined in Article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

<sup>7</sup> “Non-major development” is defined as development that does not come within the ambit of the definition for “Major development” (see Regulation 3 of the Town and Country Planning (Section 62A Applications) (Written Representations and Miscellaneous Provisions) Regulations 2013.

<sup>8</sup> For unitary authorities, both district and county matter applications will be assessed separately.

<sup>9</sup> For unitary authorities, both district and county matter applications will be assessed separately.

designated, subject to the exceptions set out in paragraph 13. For example, where an authority has been designated as underperforming (either on the speed or quality measure) in relation to its performance in determining non-major applications, applicants for non-major development will have the option of being able to apply directly to the Planning Inspectorate (subject to paragraph 13), but applicants for major development will continue to apply directly to the local planning authority. Where a unitary authority is designated for either district or county matter applications, an applicant would only be able to apply direct to the Planning Inspectorate for the type of application for which the authority has been designated.

13. Where an authority is designated for their performance in determining applications for non-major development, householder applications<sup>10</sup> and retrospective applications<sup>11</sup> will not be able to submit their applications to the Planning Inspectorate as it is considered these applications are best dealt with locally. However, soon after a designation is made the local planning authority will be expected to prepare an action plan addressing areas of weakness that it identifies as having contributed to its under-performance. Where necessary, this action plan will directly address weaknesses in the processing of householder applications, providing the appropriate protection to applicants and the best access to a timely decision.
14. Data showing the performance of local planning authorities against the speed and quality measures are published by the Department for Communities and Local Government on a quarterly basis. The table below sets out the relevant Live Table for each measure of performance. The data are adjusted prior to publication (and prior to decisions about designations being made) to account for any gaps in the data provided to the Department. The adjustments are detailed in Annex A to this document.
15. The Secretary of State will aim to decide whether any designations should be made in the first quarter of each calendar year, based on the assessment periods for each measure set out in the table below. Exceptionally, designations or de-designations may be made at other times. Annex B provides a flowchart illustrating the designation process and expected timeframe for reaching decisions.
16. The remainder of this document sets out specific information on the speed and quality measures, exceptional circumstances and the de-designation process. The table below provides an overview of the thresholds and assessment periods for designation in 2017 and 2018 including the relevant Live Table for each performance measure.

---

<sup>10</sup> “Householder applications” is defined in article 2 of the Town and Country Planning (Development Management Procedure) Order 2015.

<sup>11</sup> As described in section 73A of the 1990 Act.

Table 1 – Designation thresholds and assessment period overview

<b>Measure and type of Application</b>	<b>2017 Threshold and assessment period</b>	<b>2018 Threshold and assessment period</b>	<b>Live Table</b>
Speed of major Development (District and County)	<b>50%</b> (October 2014 to September 2016)	<b>60%</b> (October 2015 to September 2017)	District - P151a County – P151b
Quality of major Development (District and County)	<b>N/A</b> – we are not assessing quality in this designation round	<b>10%</b> (April 2015 to March 2017 <sup>12</sup> )	District - P152a County – P152b
Speed of non-major Development	<b>65%</b> (October 2014 to September 2016)	<b>70%</b> (October 2015 to September 2017)	P153
Quality of non-major Development	<b>N/A</b> – we are not assessing quality in this designation round	<b>10%</b> (April 2015 to March 2017 <sup>13</sup> )	P154

---

<sup>12</sup> As set out in paragraph 23

<sup>13</sup> As set out in paragraph 23

## Speed of decisions

17. The **measure** to be used is the percentage of decisions on applications made:
- (a) within the statutory determination period<sup>14</sup>; or
  - (b) within such extended period as has been agreed in writing between the applicant and the local planning authority<sup>15</sup>;
- as recorded for major development in Live Tables P151a and 151b, and for non-major development in Live Table 153 from the data collected by the Department for Communities and Local Government.
18. The **assessment period** for this measure is the two years up to and including the most recent quarter for which data on planning application decisions are available at the time of designation. For example, a two year assessment period between October 2014 and September 2016 will be used for designation decisions in Quarter 1 2017. The average percentage figure for the assessment period as a whole is used.
19. The **thresholds** for 2017<sup>16</sup>, below which a local planning authority is eligible for designation are:
- a) **For applications for major development: less than 50 per cent of an authority's decisions** made within the statutory determination period or such extended period as has been agreed in writing with the applicant;
  - b) **For applications for non-major development: less than 65 per cent of an authority's decisions** made within the statutory determination period or such extended period as has been agreed in writing with the applicant.

---

<sup>14</sup> The statutory period is 8 weeks for applications for non-major development and 13 weeks for applications for major development, unless an application is subject to Environmental Impact Assessment, in which case a 16 week period applies.

<sup>15</sup> The extended period could be through a planning performance agreement or an agreed extension of time (which should be in writing, be agreed before the end of the statutory determination period, and set out a timescale for the decision).

<sup>16</sup> An overview of the designation thresholds and the assessment periods is provided in Table 1 on page 5



20. The thresholds for 2018 below which a local planning authority is eligible for designation are:
- a) **For applications for major development: less than 60 per cent of an authority's decisions** made within the statutory determination period or such extended period as has been agreed in writing with the applicant;
  - b) **For applications for non-major development: less than 70 per cent of an authority's decisions** made within the statutory determination period or such extended period as has been agreed in writing with the applicant.

## Quality of decisions

21. The **measure** to be used is the percentage of the total number of decisions<sup>17</sup> made by the authority on applications that are then subsequently overturned at appeal, once nine months have elapsed following the end of the assessment period, as recorded in Live Table P152a and P152b for major development and in Live Table 154 for non-major development from the data collected by the Department for Communities and Local Government and the Planning Inspectorate.
22. The nine months specified in the measure enables appeals to pass through the system and be decided for the majority of decisions on planning applications made during the assessment period.
23. The **assessment period** for this measure is the two years up to and including the most recent quarter for which data on planning application decisions are available at the time of designation, once the nine months to be allowed for beyond the end of the assessment period is taken into account. For example, a two year assessment period ending March 2017 will be used for designation decisions in Q1 2018, this allows for applications to be decided between April 2015 and March 2017 and a 9 month lag to December 2017 for appeals to be decided. The average percentage figure for the assessment period as a whole is used.
24. The **threshold** for designation on applications for both major and non-major development, above which a local planning authority is eligible for designation, is 10 per cent of an authority's total number of decisions on applications made during the assessment period being overturned at appeal. We will not assess local authorities' performance on the quality of their decisions on either major or non-major applications in 2017 but the threshold will apply from the 2018 designation round.

---

<sup>17</sup> See Paragraph 43 of Annex A for decisions which are included / excluded.

## Exceptional circumstances

25. Before any designations are confirmed, local planning authorities whose performance is below one of the thresholds will be given an opportunity to provide clear evidence to justify corrections to any data errors and to set out any exceptional circumstances (supported by evidence) which, in their opinion, would make a designation unreasonable. A period of at least **two** weeks (as specified by the department) will be allowed for this, and all such arguments will be taken into account before final decisions are made. Requests that exceptional circumstances should be considered are judged against two general tests:
- (a) whether the issue affects the reasonableness of the conclusions that can be drawn from the recorded data for the authority, over the assessment period; or
  - (b) whether the issue had a significant impact on the authority's performance, for reasons that were beyond its control.
26. The Secretary of State may also consider any exceptional circumstances which in his opinion would make a designation unreasonable. For example, the Secretary of State will take into account before confirming any designation whether he or she has made directions relating to, or intervened in the local authority's local plan<sup>18</sup> during the 24 month assessment period, and considers that the intervention is likely to lead to an improvement in the speed and/or quality of the authority's decision making in the year following the assessment period.

---

<sup>18</sup> The Secretary of State has powers under Part 2 of the Planning and Compulsory Purchase Act 2004 to direct a local planning authority to amend their local development scheme, or a local development document that the authority is preparing. The Secretary of State has further powers to intervene in the preparation of a development plan document (the local development documents which comprise the local plan), or to prepare a document (or invite another body to do so) where the local planning authority is failing to do so.

# Criteria for de-designation

## Overall approach

27. The Secretary of State will decide once each year whether any designations should be lifted, at around the same time as deciding whether any new designations are to be made. Exceptionally de-designations may be made at other times.
28. In assessing whether a designation should be lifted, consideration is given to:
  - (a) the potential capability of the designated local planning authority to deal effectively with applications for major or non-major development, as appropriate, in the future; and
  - (b) the effectiveness of the designated local planning authority in dealing with the relevant category of applications during the period of its designation.
29. Soon after a designation is made the local planning authority is expected to prepare an action plan addressing areas of weakness that it identifies as having contributed to its under-performance. In doing so the authority should draw upon sector support, particularly any support that is available through programmes funded by the Department for Communities and Local Government. The authority will need to agree the action plan with the Department.
30. Where an authority has been designated as under performing in respect of their performance in determining non-major applications, they are expected to provide specific detail on their approach to improving their performance on the determination of householder planning applications as these applications cannot be submitted directly to the Planning Inspectorate. The Department will make a formal assessment of progress against the action plan no later than eleven months following the date on which the local planning authority was designated.

## The criteria that will be taken into account

31. A designation will be revoked if the Secretary of State is satisfied that:
  - (a) the designated local planning authority has provided adequate evidence of sufficient improvement against areas of weakness identified in an initial assessment of its performance;and provided that the designated local planning authority,
  - (b) would not, at the time that decisions about de-designation are made, remain eligible for designation on the basis of the data available at the time;

- (c) has completed, within the timescale specified, any administrative tasks required of the authority in association with applications made directly to the Secretary of State in the area, in at least 80 per cent of cases during the designation period<sup>19</sup>; and
  - (d) has not, in the view of the Secretary of State, caused unreasonable delay in progressing and signing any section 106 agreements associated with applications submitted directly to him during the designation period.
32. If, having considered these criteria, the Secretary of State concludes that the designation should remain in place, the local planning authority will be given at least two weeks to set out any exceptional circumstances (supported by evidence) which, in its opinion, would make a continued designation unreasonable. Any decision on whether to lift the designation will be made on the basis of the factors set out in paragraphs 25-26.

---

<sup>19</sup> "Designation period" means the period since the local planning authority was designated under section 62B of the 1990 Act. The administrative tasks are those requirements set out in a development order made under the powers in section 76C(2) of the 1990 Act.

## Annex A

# Data sources and adjustments

## Planning applications

33. Information on planning applications, including the numbers decided in each period, the use of planning performance agreements and agreed extensions of time, and the speed of determination, is collected through the statistical returns supplied quarterly to the Department for Communities and Local Government<sup>20</sup>.
34. Data on the speed with which applications for major and non-major development are determined, reflecting the approach set out in this document, are published separately by the Department in March, June, September and December each year. This data will not take into account situations where a decision has been taken out of the local planning authority's hands, either through an appeal being made against non-determination within the statutory period, or where the application has been called-in by the Secretary of State (or, in London, by the Mayor of London).
35. The data reported by local planning authorities to the Department record the extent to which planning applications are subject to bespoke timetables set through Planning Performance Agreements and/or extension of time agreements, and whether such applications are determined within the time specified in the agreement.

## Adjusting for missing data

36. The Department uses a system of imputing values to provide estimates for quarters for which data are missing for particular authorities<sup>21</sup>. This is used to provide a complete set of data on which to calculate the associated statistics. The methodology for imputation has been considered and assessed by the UK Statistics Authority as following the Code of Practice for Official Statistics.

---

<sup>20</sup> Through the PS1 and PS2 returns for district matter authorities, and the CPS1 and CPS2 returns for county matter authorities.

<sup>21</sup> Imputing is not carried out for 'county matter' data, as the relatively small number of county matter applications, and the degree of quarterly fluctuation in the pattern of county matter applications received, makes the process insufficiently robust from a statistical point of view.

37. To calculate imputed values, local planning authorities are grouped geographically into 'grossing groups', so that any estimates can reflect the pattern of decisions in the same part of the country. To impute the total number of decisions in each category for non-responding authorities we use the proportion of decisions in the current quarter (for responding authorities in the appropriate grossing group), compared to the total for corresponding authorities in the previous quarter, and apply that to the number reported (or imputed) for each of the non-responding authorities in the previous quarter.
38. Once the total number of decisions has been imputed for a missing quarter, it is then proportioned across the remaining variables (such as the number granted, or number of decisions made in 8 or 13 weeks). Looking at the current quarter, the sum of each variable for the responding authorities in the grossing group is compared to the total number of decisions for the same authorities to form a factor. This factor is then applied to the total number of decisions that were imputed for each non-responding authority in the group to estimate the value for each variable.

### **Penalties for missing data**

39. To encourage data reporting by local planning authorities, a penalty is applied where more than two quarters of data are missing in any two year assessment period. The penalties are applied once any missing values have been imputed<sup>22</sup>, and are reflected in the performance statistics published by the Department on which decisions about any designations are based.
40. The penalties applied are as follows:
  - One or two missing quarters are disregarded and no penalty applied (but the missing values will be imputed as described above).
  - If three or four quarters of data are missing, a ten percentage point reduction is applied to the authority's average figure for the speed of determining applications over the assessment period.
  - If data for five or six quarters are missing, a fifteen percentage point reduction is applied to the authority's average figure for the speed of determining applications over the assessment period.
  - If data for seven or eight quarters are missing, the authority will be designated automatically, notwithstanding the specific criteria set out elsewhere in this document.

---

<sup>22</sup> In the case of 'county matter' authorities, the penalties are applied without any prior imputation for missing values.

## **Opportunities to correct or supply additional data**

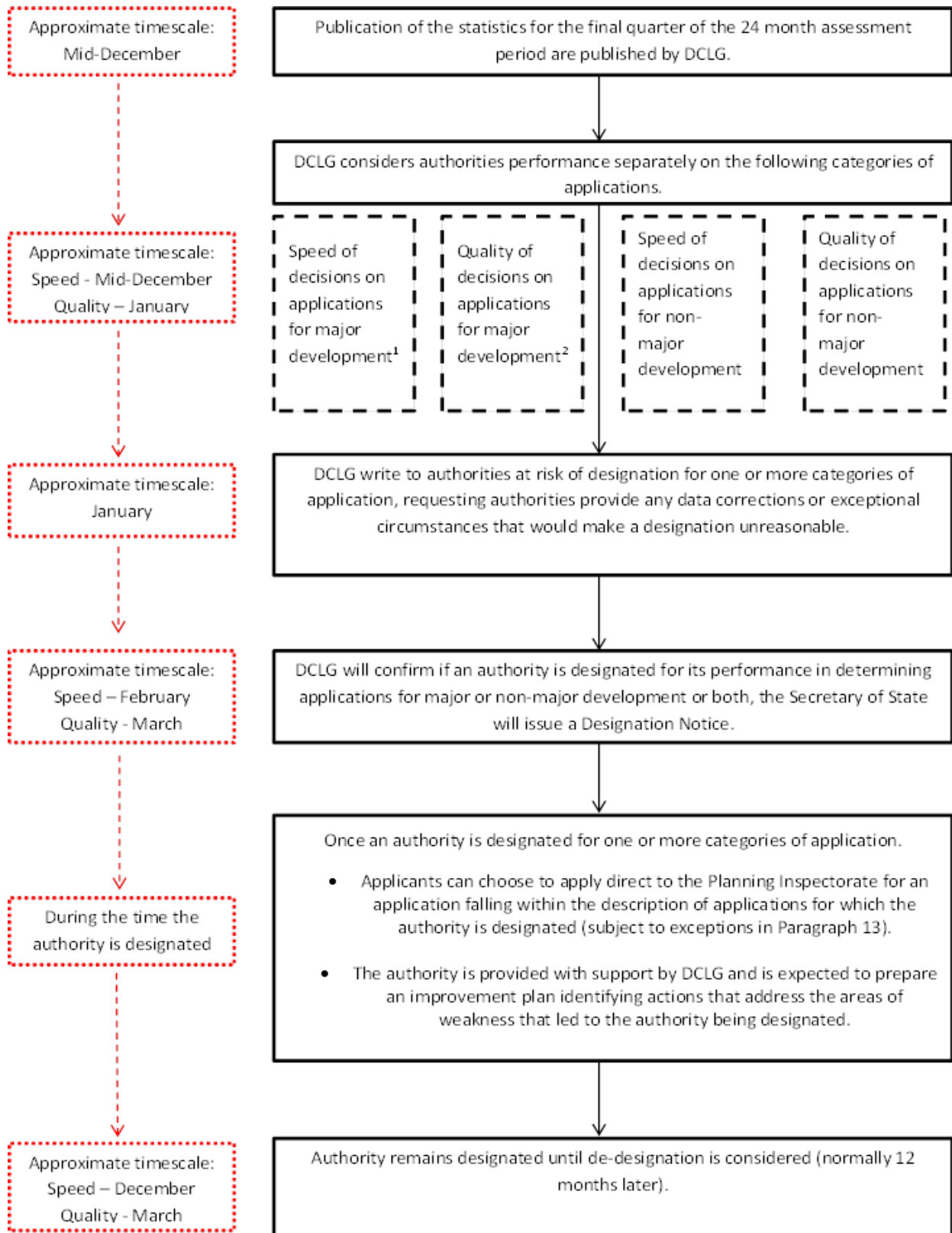
41. Local Planning authorities at risk of designation are given an opportunity to fill any gaps in the data reported to the Department before any designations are confirmed (in which case the statistics – including any imputed values and penalties that have already been applied – are recalculated to reflect the additional data that have been supplied). The local planning authority has at least two weeks to provide the missing data once the statistics up to and including the end of the assessment period are available.

## **Planning appeals**

42. Information on the number and outcome of planning appeals involving applications for major and non-major development is collected by the Planning Inspectorate. This is combined with the data on planning applications collected by the Department to allow the proportion of decisions on applications for both major and non-major development that are overturned on appeal to be calculated separately. This is done on a quarterly basis and the results published by the Department, shortly after the data on the speed of determining applications.
43. For the purpose of these calculations all appeals against a refusal of planning permission (or against planning conditions) during the assessment period are taken into account, including those arising from a 'deemed refusal' where an application has not been determined within the statutory period. Where a 'split decision' is issued on an appeal (i.e. part of the appeal is dismissed and part allowed), the appeal will be treated as if the local planning authority's decision has not been overturned. Similarly, appeals against conditions will not be treated as having gone against the local planning authority, bearing in mind that the authority will have approved the original application and it is only conditions that are being challenged.

# Annex B

## Designation Process



<sup>1</sup> For unitary authorities, both district and county matter applications will be assessed separately.

<sup>2</sup> For unitary authorities, both district and county matter applications will be assessed separately.







ISBN 978-1-4741-3883-3



9 781474 138833

# Agenda Item 15

## Cherwell District Council

### Planning Committee

13 April 2017

<b>Appeals Progress Report</b>
--------------------------------

### Report of Head of Development Management

This report is public

#### Purpose of report

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

#### 1.0 Recommendations

The meeting is recommended:

- 1.1 To accept the position statement.

#### 2.0 Report Details

##### New Appeals

- 2.1 **15/01326/OUT - OS Parcels 6741 And 5426 West Of Cricket Field North Of Wykham Lane, Bodicote.** Appeal by Gladman Developments Ltd against the none-determination of planning permission for an outline application of up to 280 dwellings (including 30% affordable housing), introduction of structural planting and landscaping, formal and informal public open space and play areas, surface water flood mitigation and attenuation, new priority junction arrangements to White Post Road, creation of section of spine road to link Bloxham Road with White Post Road as well as creation of 34 space car park and other associated ancillary works. All matters reserved except for access.

**16/01724/F – 51 Wise Avenue, Kidlington, OX5 2AT.** Appeal by Mr Slatter against the refusal of planning permission for the demolition of existing porch and construction of replacement single storey front extension to form entrance lobby and cloakroom.

**15/01275/F – 51 Wise Avenue, Kidlington, OX5 2AT.** Appeal by Mr Wilkes against the refusal of planning permission for the demolition of existing porch and construction of replacement single storey front extension to form entrance lobby and cloakroom.

**16/02243/F – 28 Barn Close, Kidlington, OX5 1SW.** Appeal by Mr Gardner against the refusal of planning permission for a two storey rear extension and internal alterations to form additional bedroom, repositioned bathroom and extended kitchen.

**16/02510/F - 87 Banbury Road, Kidlington, OX5 1AH.** Appeal by Mr Allen, against the refusal of planning permission for the demolition of the existing house to be replaced with a new detached two storey building (with mainly pitched roofs to match neighbouring properties and not exceeding current ridge lines) providing 4 No one bedroom flats and 1 No two bedroom duplex unit.

**17/00074/F – 14 Redwing Close, Bicester, OX26 6SR.** Appeal by Mr Lodge against the refusal of planning permission for raising existing roof to create second floor extension.

2.2 Forthcoming Public Inquires and Hearings between 13<sup>th</sup> April and 18<sup>th</sup> May 2017.

None.

## 2.3 Results

Inspectors appointed by the Secretary of State have:

**1) Dismissed the appeal by Mr Meadowcroft against the refusal of planning permission the formation of 3 No. studio dwellings in the roof space – re-submission of 15/02114/F. 16 – 30 Fairfax Centre, Kidlington. 16/01394/F – (Delegated).**

The proposal was for a large box dormer on the rear roof slope of a 3 storey building in Kidlington to accommodate 3 additional flats. The Inspector agreed with the Council that the proposal would be clearly visible from public views and the proposal would draw attention to the upper levels of the building adding to the bulk and mass of the structure. It would also dominate the rear elevation of the building. The appellant pointed the inspector to other examples of flat roof dormers in the area but the inspector noted many of these were on two storey buildings and not as dominant as the proposal. Furthermore many examples were unsympathetic development and therefore did not justify the proposal. The Inspector also noted that whilst the applicant had referred the proposal being 'affordable housing' given their small size but noted this did not comply with the NPPF definition. He therefore gave this argument little weight when dismissing the appeal.

### **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](mailto: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](mailto: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](mailto: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**

<b>Appendix No</b>	<b>Title</b>
None	
<b>Background Papers</b>	
None	
<b>Report Author</b>	Tom Plant, Appeals Administrator, Development Directorate
<b>Contact Information</b>	01295 221811 <a href="mailto:tom.plant@cherwell-dc.gov.uk">tom.plant@cherwell-dc.gov.uk</a>