

**Committee:** Planning Committee  
**Date:** Thursday 23 November 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 Andrew Beere</b>	<b>Councillor Colin Clarke</b>
<b>Councillor Ian Corkin</b>	<b>Councillor Surinder Dhesi</b>
<b>Councillor Chris Heath</b>	<b>Councillor Simon Holland</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>

### **Substitutes**

<b>Councillor Ken Atack</b>	<b>Councillor Hannah Banfield</b>
<b>Councillor Maurice Billington</b>	<b>Councillor Hugo Brown</b>
<b>Councillor Nick Cotter</b>	<b>Councillor John Donaldson</b>
<b>Councillor Timothy Hallchurch MBE</b>	<b>Councillor Jolanta Lis</b>
<b>Councillor Nicholas Turner</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 - 17)**

To confirm as a correct record the Minutes of the meeting of the Committee held on 26 October 2017.

**6. Chairman's Announcements**

To receive communications from the Chairman.

**Planning Applications**

7. **Phase 2 SW Bicester Parcel 7849 North Of Whitelands Farm Adjoining, Middleton Stoney Road, Bicester (Pages 21 - 32) 17/00522/DISC**
8. **Part Of OS Parcels 0625 And 0914 North Of Coopers, Buckingham Road, Bicester (Pages 33 - 61) 17/01428/F**
9. **Studley Wood Golf Club, The Straight Mile, Horton Cum Studley, Oxford, OX33 1BF (Pages 62 - 81) 16/02218/F**
10. **West Wing, Williamscot House, Street From Centre To North West, Williamscot, Banbury, OX17 1AE (Pages 82 - 89) 17/01034/LB**
11. **East Wing, Williamscot House, Street From Centre To North West, Williamscot, Banbury, OX17 1AE (Pages 90 - 98) 17/02025/LB**
12. **Caravan Park, Station Approach, Banbury, OX16 5AB (Pages 99 - 121) 17/01233/OUT**
13. **OS Parcel 1424 Adjoining And Rear Of Jersey Cottage, Heyford Road, Kirtlington (Pages 122 - 149) 17/01688/OUT**
14. **Field To Rear Of Cedar Barn, North Side, Steeple Aston (Pages 150 - 167) 17/01694/F**
15. **The Pheasant Pluckers Inn, Street Through Burdrop, Burdrop, Banbury, OX15 5RQ (Pages 168 - 185) 17/01981/F**
16. **Former Offices Cherwell District Council, Old Place Yard, Bicester (Pages 186 - 189) 17/00114/NMA**

17. **Cherwell District Council, Former Offices, Old Place Yard, Bicester**  
(Pages 190 - 193) **17/00119/NMA**
18. **27 Goodrington Close, Banbury, OX16 0DB** (Pages 194 - 200) **17/01829/F**

## **Review and Monitoring Reports**

19. **Appeals Progress Report** (Pages 201 - 211)

Report of Head of Development Management

### **Summary**

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

### **Recommendations**

The meeting is recommended:

- 1.1 To accept the position statement.

20. **Exclusion of Public and Press**

The following report(s) contain exempt information as defined in the following paragraph(s) of Part 1, Schedule 12A of Local Government Act 1972.

5 – Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Members are reminded that whilst the following item(s) have been marked as exempt, it is for the meeting to decide whether or not to consider each of them in private or in public. In making the decision, members should balance the interests of individuals or the Council itself in having access to the information. In considering their discretion members should also be mindful of the advice of Council Officers.

Should Members decide not to make a decision in public, they are recommended to pass the following recommendation: "That, in accordance with Section 100A (4) of Local Government Act 1972, the press and public be excluded from the meeting for the following item(s) of business, on the grounds that they could involve the likely disclosure of exempt information as defined in paragraph(s) 5 of Schedule 12A of that Act."

21. **Part Of OS Parcels 0625 And 0914 North Of Coopers, Buckingham Road, Bicester - Exempt Appendix** (Pages 212 - 216)

**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

**Yvonne Rees**  
**Chief Executive**

Published on Wednesday 15 November 2017

## Cherwell District Council

### Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 26 October 2017 at 4.00 pm

Present: Councillor David Hughes (Chairman)

Councillor Andrew Beere  
Councillor Ian Corkin  
Councillor Surinder Dhesi  
Councillor Simon Holland  
Councillor Alastair Milne-Home  
Councillor Mike Kerford-Byrnes  
Councillor Richard Mould  
Councillor Lynn Pratt  
Councillor G A Reynolds  
Councillor Barry Richards  
Councillor Les Sibley

Substitute Members: Councillor Ken Atack (In place of Councillor Chris Heath)  
Councillor Maurice Billington (In place of Councillor Nigel Simpson)  
Councillor Jolanta Lis (In place of Councillor D M Pickford)  
Councillor Barry Wood (In place of Councillor Colin Clarke)

Also Present: Councillor Sean Gaul

Apologies for absence: Councillor James Macnamara  
Councillor Colin Clarke  
Councillor Chris Heath  
Councillor Alan MacKenzie-Wintle  
Councillor D M Pickford  
Councillor Nigel Simpson

Officers: Paul Seckington, Senior Manager Development Management  
Bob Duxbury, Joint Majors Manager  
Nat Stock, Minors Team Leader  
Lewis Bankes-Hughes, Planning Officer - Obligations Monitoring  
Stuart Howden, Senior Planning Officer  
Matthew Coyne, Planning Officer  
George Smith, Assistant Planning Officer  
Ben Arrowsmith, Solicitor  
Aaron Hetherington, Democratic and Elections Officer

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**Declarations of Interest**

**9. Part Of OS Parcels 0625 And 0914 North Of Coopers, Buckingham Road, Bicester.**

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

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

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

**13. 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 had been consulted on the application.

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

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

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

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

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

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

Councillor Richard Mould, Declaration, as a member of the Executive and would leave the chamber for the duration of the item.

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

**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 had been consulted on the application.

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

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

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

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

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

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

Councillor Richard Mould, Declaration, as a member of the Executive and would leave the chamber for the duration of the item.

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

**15. Franklins House, Manorsfield Road, Bicester, OX26 6JU.**

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

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

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

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

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

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

102 **Requests to Address the Meeting**

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

103 **Urgent Business**

There were no items of urgent business.

104 **Minutes**

The Minutes of the meeting held on 28 September 2017 were agreed as a correct record and signed by the Chairman.

105 **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.

106 **West Wing, Williamscot House, Street From Centre To North West, Williamscot, Banbury, OX17 1AE**

The Committee considered application 17/01034/LB for Regularising historic internal and external works to the West Wing of Williamscot House at West Wing, Williamscot House, Street from Centre to North West, Williamscot, Banbury, OX17 1AE for Williamscot Estate.

In introducing the report, the Development Control Team Leader referred Members to the written update and that the officer recommendation had changed from approval to deferral to allow consideration of the Conservation Officers comments.

**Resolved**

That consideration of application 17/01034/LB be deferred to allow consideration of the Conservation Officers comments

107 **East Wing, Williamscot House, Street From Centre To North West, Williamscot, Banbury, OX17 1AE**

The Committee considered application 17/02025/LB for regularising historic internal and external works to the West Wing of Williamscot House - refer to supplementary sheet for details at East Wing, Williamscot House, Street from Centre to North West, Williamscot, Banbury, OX17 1AE for Williamscot Estate.

In introducing the report, the Development Control Team Leader referred Members to the written update and that the officer recommendation had changed from approval to deferral to allow for consideration of the Conservation Officers comments and for expiry of notification period.

**Resolved**

That application 17/02025/LB be deferred for consideration of the Conservation Officers comments and for expiry of notification period.



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**Part Of OS Parcels 0625 And 0914 North Of Coopers, Buckingham Road, Bicester**

The Committee considered application 17/01428/F for the erection of two-storey 64 bed care home for older people (Class C2 Use) with associated new access (off Skimmingdish Lane), parking and landscaping, and new linear park/public open space for Part Of OS Parcels 0625 and 0914 North Of Coopers, Buckingham Road, Bicester for LNT Care Developments Ltd/Greenlight Developments Ltd.

Councillor Sean Gaul, addressed the committee as Ward Member.

John Broad, on behalf of CPRE, and Pamela Roberts, addressed the committee in objection to the application.

Philip Rawle, agent for the applicant, addressed the committee in support of the application.

Councillor Mould proposed that application 17/01428/F be refused on the grounds of Policy R1 and ESD10, with the exact wording delegated to officers in consultation with the Chairman. Councillor Pratt seconded the proposal.

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

**Resolved**

That application 17/01428/F be refused on the grounds of Policy R1 and ESD10, with the exact wording delegated to officers in consultation with the Chairman

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**Land South Of Building 296/297, Heyford Park, Camp Road, Upper Heyford**

The Committee considered application 17/01680/F for an early years day care nursery and new footpath access with associated works (10 year period) at Land South Of Building 296/297, Heyford Park, Camp Road, Upper Heyford for Upper Heyford LP.

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

**Resolved**

That application 17/01680/F be approved, subject to:

- a) Delegation to the Senior Manager - Development Management to resolve the outstanding Local Highway Authority objection

- b) The following conditions with delegation provided to the Senior Manager - Development Management to negotiate final amendments to the wording of conditions:
1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.
  2. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and documents: Application Forms, Planning, Design and Access Statement dated August 2017 (Rev. D.0371), Flood Risk Assessment dated August 2017 (Ref. 16871/B4), Transport Statement dated August 2017 (Ref. 41744/5501) and Drawings Numbered: HEYF-5-781 Rev. A, HEYF-5-780 Rev. A, P16-0631\_28 Rev G, P16-0631\_31 Sheet 2, P16-0631\_31 Sheet 1 and P16-0631\_29 Rev. F.
  3. The Local Planning Authority shall be notified in writing of the date of first operational use of the site as nursery, no later than 14 days following this date. The use of the site as a nursery shall cease no later than 10 years after the date of the first operational use or within 6 months following the completion and occupation of an alternative, permanent, nursery building at Heyford Park, whichever is the sooner. The building and any associated development shall be removed from the site and the land restored to its former condition within 6 months of the cessation of the nursery use.
  4. The building hereby approved shall be used only for the purpose of a nursery and for no other purpose whatsoever, including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005.
  5. Notwithstanding the submitted details, the elevations of the development hereby approved shall be painted in the colour Cream (RAL1013).
  6. Prior to the commencement of the development hereby approved, and notwithstanding the submitted details, a revised boundary treatment plan 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 boundary treatment plan.
  7. The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA) (October, 2010. Waterman. Ref: C11234 ES 001) and the Flood Risk Assessment Compliance Report for Camp Road, Upper Heyford Nursery Site (August, 2017. Woods Hardwick. Ref: 16871/B4) and the following mitigation measures detailed within the FRA and associated FRA Compliance Report:
    - Limiting the surface water run-off generated by the 1 in 100 year critical storm so that it will not exceed the run-off from the

undeveloped site and not increase the risk of flooding off-site.(Paragraph 3.2 of the FRA).

- Attenuation by use of trench soak-away (Paragraph 6.3.1 of the FRA Compliance Report) and as shown on Proposed Engineering layout drawing ( 2017 / HEYF-5-781 / Woods Hardwick).
  - Attenuation and water quality improvement by use of Permeable Paving (Paragraph 3.11 and 4.6 of the FRA; and Paragraph 6.3.6 of the FRA Compliance Report).
  - Provision of a SuDS Management and Maintenance Plan to the proposed maintenance company for the development - (Paragraph 7.4.3 of the FRA Compliance Report).
8. Prior to the first use or occupation of the development hereby permitted, parking and manoeuvring areas shall be provided and laid out in accordance with details which shall firstly be submitted to and approved in writing by the Local Planning Authority. Such details shall include full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas. Thereafter, the approved parking and manoeuvring areas shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times.
  9. 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.
  10. 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.
  11. Prior to commencement of the development hereby approved full details of the proposed footway linking the nursery with Camp Road, a pedestrian crossing linking to existing footway on the south side of Camp Road, and a scheme of traffic calming on Camp Road, shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the footway, crossing and traffic calming have been provided in accordance with the approved details.

## **Plot 1 Mallories, Cherry Street, Stratton Audley**

The Committee considered application 17/01709/F for the removal of condition 7 (plan of wall, method of joining stonework) of 16/02630/F at Plot 1 Mallories, Cherry Street, Stratton Audley for Mr Michael Long.

Robin Boyd, speaking on behalf of the applicant, addressed the committee in support to the application. The address also covered the subsequent application 17/01710/F.

In reaching their decision, the committee considered the officer's report and presentation and the address of the public speaker.

### **Resolved**

That application 17/01709/F be approved, subject to the following conditions:

- 1 The development to which this permission relates shall be begun not later than 3 April 2020.
- 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 submitted with the original application 16/02630/F: Application forms, P/16/124/010 Rev. G, P/16/124/012 Rev. H, P/16/124/031, P/16/124/032, P/16/124/030 Rev. A, P/16/124/040, P/16/124/034 and P/16/124/033.
- 3 Prior to the commencement of the development hereby approved, a Programme of Works for carrying out the development in conjunction with that approved under 17/01710/F shall be submitted to and approved in writing by the Local Planning Authority. The Programme of Works shall include a timetable for each phase of development, and shall demonstrate how the two dwellings will be developed as a single building. Thereafter, the development shall be carried out in strict accordance with the approved Programme of Works.
- 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,

- (d) details of the boundary treatments including fencing and gates, both pedestrian and vehicular, and the materials used.

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

- 5 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.
- 6 Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.
- 7 Prior to the commencement of the development hereby approved, a Method Statement detailing how the stonework of the existing wall adjacent to Church Street shall be retained and incorporated into the development shall be submitted to and approved in writing by the Local Planning Authority. The Method Statement shall detail, as a minimum:
  - a) Method of demolition of the existing wall
  - b) Identification of stone to be re-used and stone to be discarded
  - c) Arrangements for the storage and labelling of stone to be re-used
  - d) Method of re-using the existing stone in the development

Thereafter, the works shall be carried out in accordance with the approved Method Statement.

- 8 Prior to any works commencing above slab level, a stone sample panel (minimum 1m<sup>2</sup> in size) shall be constructed on site in natural limestone to match the stonework of the existing wall adjacent to Church Street, which shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the new stonework to be used in the construction of the external walls of the dwelling hereby approved shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel.

- 9 Prior to the commencement of the development hereby approved, samples of the slate to be used in the construction of the external 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.
- 10 The rooflights hereby approved shall be Conservation Grade and of a design which, when installed, does project forwards of the general roof surface.
- 11 The rainwater goods to be installed in the development shall be cast iron or metal finished black, unless otherwise agreed in writing by the Local Planning Authority.
- 12 Prior to the first occupation of the dwelling hereby approved, full specification details (including construction, layout, surfacing and drainage) of the turning area and two parking spaces to be provided within the curtilage of the site, arranged so that motor vehicles may enter, turn round and leave in a forward direction and vehicles may park off the highway, shall be submitted to and approved in writing by the Local Planning Authority. 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.
- 13 Prior to the first occupation of the dwelling hereby approved, a plan showing the means of pedestrian access between the dwelling and the shared parking area, including where necessary details of gates, means of enclosure and hardstanding, shall be submitted to and approved in writing by the Local Planning Authority. The approved means of access shall be provided prior to the first occupation of the dwelling and shall be retained as such thereafter.

111 **Plot 2 Mallories, Cherry Street, Stratton Audley**

The Committee considered application 17/01710/F for the removal of condition 7 (plan of wall, method of joining stonework) of 16/02631/F at Plot 2 Mallories, Cherry Street, Stratton Audley for Mr Michael Long.

Robin Boyd, speaking on behalf of the applicant, addressed the committee in support to the application. The address also covered the previous application 17/01709/F.

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

**Resolved**

That application 17/01710/F be approved, subject to the following conditions:

- 1 The development to which this permission relates shall be begun not later than 3 April 2020.
- 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 submitted with the original application 16/02631/F: Application forms, P/16/124/010 Rev. G, P/16/124/012 Rev. H, P/16/124/031, P/16/124/032, P/16/124/030 Rev. A, P/16/124/040, P/16/124/034 and P/16/124/033.
- 3 Prior to the commencement of the development hereby approved, a Programme of Works for carrying out the development in conjunction with that approved under 17/01709/F shall be submitted to and approved in writing by the Local Planning Authority. The Programme of Works shall include a timetable for each phase of development, and shall demonstrate how the two dwellings will be developed as a single building. Thereafter, the development shall be carried out in strict accordance with the approved Programme of Works.
- 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,
  - (d) details of the boundary treatments including fencing and gates, both pedestrian and vehicular, and the materials used.

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

- 5 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.
- 6 Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.
- 7 Prior to the commencement of the development hereby approved, a Method Statement detailing how the stonework of the existing wall adjacent to Church Street shall be retained and incorporated into the development shall be submitted to and approved in writing by the Local Planning Authority. The Method Statement shall detail, as a minimum:
  - e) Method of demolition of the existing wall
  - f) Identification of stone to be re-used and stone to be discarded
  - g) Arrangements for the storage and labelling of stone to be re-used
  - h) Method of re-using the existing stone in the developmentThereafter, the works shall be carried out in accordance with the approved Method Statement.
- 8 Prior to any works commencing above slab level, a stone sample panel (minimum 1m<sup>2</sup> in size) shall be constructed on site in natural limestone to match the stonework of the existing wall adjacent to Church Street, which shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the new stonework to be used in the construction of the external walls of the dwelling hereby approved shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel.
- 9 Prior to the commencement of the development hereby approved, samples of the slate to be used in the construction of the external 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.
- 10 The rooflights hereby approved shall be Conservation Grade and of a design which, when installed, does project forwards of the general roof surface.



- 11 The rainwater goods to be installed in the development shall be cast iron or metal finished black, unless otherwise agreed in writing by the Local Planning Authority.
- 12 Prior to the first occupation of the dwelling hereby approved, full specification details (including construction, layout, surfacing and drainage) of the turning area and two parking spaces to be provided within the curtilage of the site, arranged so that motor vehicles may enter, turn round and leave in a forward direction and vehicles may park off the highway, shall be submitted to and approved in writing by the Local Planning Authority. 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.
- 13 Prior to the first occupation of the dwelling hereby approved, a plan showing the means of pedestrian access between the dwelling and the shared parking area, including where necessary details of gates, means of enclosure and hardstanding, shall be submitted to and approved in writing by the Local Planning Authority. The approved means of access shall be provided prior to the first occupation of the dwelling and shall be retained as such thereafter.

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

The Committee considered application 17/01879/CDC for the variation of Condition 2 (list of approved plans) of the previously approved application 16/01484/CDC to include additional land build up and tree planting, and an additional condition to prohibit access to the area of the site beyond (west and south of) the 1.8m high fence indicated by a solid brown line on drawing "LS-09 E" by anyone other than from time to time for grounds maintenance purposes in accordance with a management agreement or plan at OS Parcels 4083 And 6882 Adjoining And North Of Broken Furrow, Warwick Road, Banbury for Cherwell District Council.

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

**Resolved**

That application 17/01879/CDC 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 the planning permission ref 16/01484/CDC that is 30.09.2016.
2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with Site Location Plan (except as amended by other

plans listed in this condition), Ecological Appraisal (Willmott Dixon Housing Ltd, February 2016), Tree Survey Report (RGS, March 2016) drawings numbered "16022-GNA-A-ST-DR-A-0202 C3", "LS-02 D", "LS-03 D", "LS-04 D", "LS-05 D", "LS-06 D", "LS-07 D", "LS-08 D" and "LS-09 E".

3. The development shall be carried out in accordance with the Energy Strategy approved under application 16/00499/DISC and retained as such thereafter.
4. The development shall be carried out in accordance with the brick and tile samples approved under application 16/00499/DISC and retained as such thereafter.
5. The development shall be carried out in accordance with the amended design details for the front façade of the building and the entrance gates approved under application 17/00071/DISC and retained as such thereafter.
6. Prior to the construction of the development hereby approved above slab level, the proposed means of access between the land and the highway shall be improved to geometry as plans submitted, formed, laid out and constructed strictly in accordance with Oxfordshire County Council's specification and guidance.
7. The development shall be carried out in accordance with the full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas approved under application 16/00511/DISC prior to the first occupation of the development and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.
8. Notwithstanding the details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping the site which shall include:-
  - (a) details of the proposed tree and shrub planting including their species (which shall be native species of UK provenance), number, sizes and positions, together with grass seeded/turfed areas,
  - (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
  - (c) the reinforcement of the existing hedgerow along the Western, Eastern and Southern boundaries
  - (d) details of the hard surface areas, pavements, pedestrian areas, crossing points and steps.

- (e) Details of the minor artefacts/structures (ie. surfaces, benches, fencing, walling etc) which comprise public art works

The hard landscaping elements shall be carried out fully in accordance with the details approved and shall be retained as such thereafter.

- 9. All planting, seeding or turfing comprised in the approved details of landscaping on each phase identified in condition no. 6, shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner; and that any trees and shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.
- 10. a) No retained tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works.
- b) If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority.

In this condition a "retained tree" is an existing tree which shall be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) shall have effect until the expiration of five years from the date of the decision.

- 11. The development shall be carried out in accordance with the existing and proposed ground and finished floor levels approved under application 16/00511/DISC and retained as such thereafter.
- 12. The area of the site west and south of the 1.8m high fence indicated by a solid brown line on drawing "LS-09 E" as listed in Condition 2 of this permission must not be accessed by anyone other than from time to time for grounds maintenance purposes in accordance with a management agreement or plan.
- 13. The development shall be carried out in accordance with the updated badger mitigation strategy for badgers approved under application 17/00286/DISC and shall be retained as such thereafter.
- 14. The development hereby approved shall be implemented fully in

accordance with the Landscape and Ecology Management Plan (LEMP) approved pursuant to Condition 27 of 12/01789/OUT.

15. The development shall be carried out in accordance with the method statement for biodiversity enhancements and long term maintenance approved under application 17/00286/DISC and shall be retained as such thereafter.
16. The development shall be carried out in accordance with the street lighting scheme approved under application 17/00286/DISC and shall be retained as such thereafter
17. Unless otherwise agreed in writing by the local planning authority, the development hereby approved shall be implemented fully in accordance with the Construction Environment Management Plan (CEMP) approved pursuant to Condition 42 of 12/01789/OUT.
18. The development shall be carried out in accordance with the details of the covered cycle parking facilities approved under application 16/00511/DISC prior to the first occupation of the development and thereafter the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

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

The Committee considered application 16/00511/DISC for the discharge of Conditions 8 (specification of parking and manoeuvring), 12 (details of ground and finished floor levels) and 18 (cycle store /parking facilities) and Partial Discharge of Condition 9 (landscaping scheme) of the previously approved application 16/01484/DISC (16/00511/DISC) at OS Parcels 4083 And 6882 Adjoining And North Of Broken Furrow, Warwick Road, Banbury for Cherwell District Council.

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

**Resolved**

That officers be granted delegated authority to determine application 16/00511/DISC once an amended landscaping plan is received and considered acceptable.

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**Franklins House, Manorsfield Road, Bicester, OX26 6JU**

The Committee considered application 17/01792/F for the Change of use and conversion of the class B1 offices at second floor level to provide additional bedroom accommodation for the Travelodge Hotel, with alterations to the external appearance of the second floor of the building to facilitate the

conversion at Franklins House, Manorsfield Road, Bicester, OX26 6JU for Cherwell District Council and Travelodge Hotels Ltd.

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

**Resolved**

That application 17/01792/F be approved, subject to the following conditions:

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.
2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application Form, Planning, Heritage and Access Statement by Lyons, Sleeman and Hoare Architects dated 25th August 2017 and Drawing Numbers: 16064/P-001; 16064/P-100; 16064/P-101; 16064/P-103; 16064/P-104; 16064/P-106; 16064/P-107; 16064/P-300; 16064/P-301; 16064/P-302; and 16064/P-303 submitted with the application and Drawing Number 16064/P-304 received from the applicant's agent on 3rd October 2017.
3. The change of use hereby approved to a C1 use relates only to the second floor of the building as displayed in Drawing Number 16064/P-106 submitted with the application.

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**Appeals Progress Report**

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

**Resolved**

- (1) That the position statement be accepted.

The meeting ended at 6.16 pm

Chairman:

Date:

# Agenda Annex

## CHERWELL DISTRICT COUNCIL

### PLANNING COMMITTEE

23 November 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

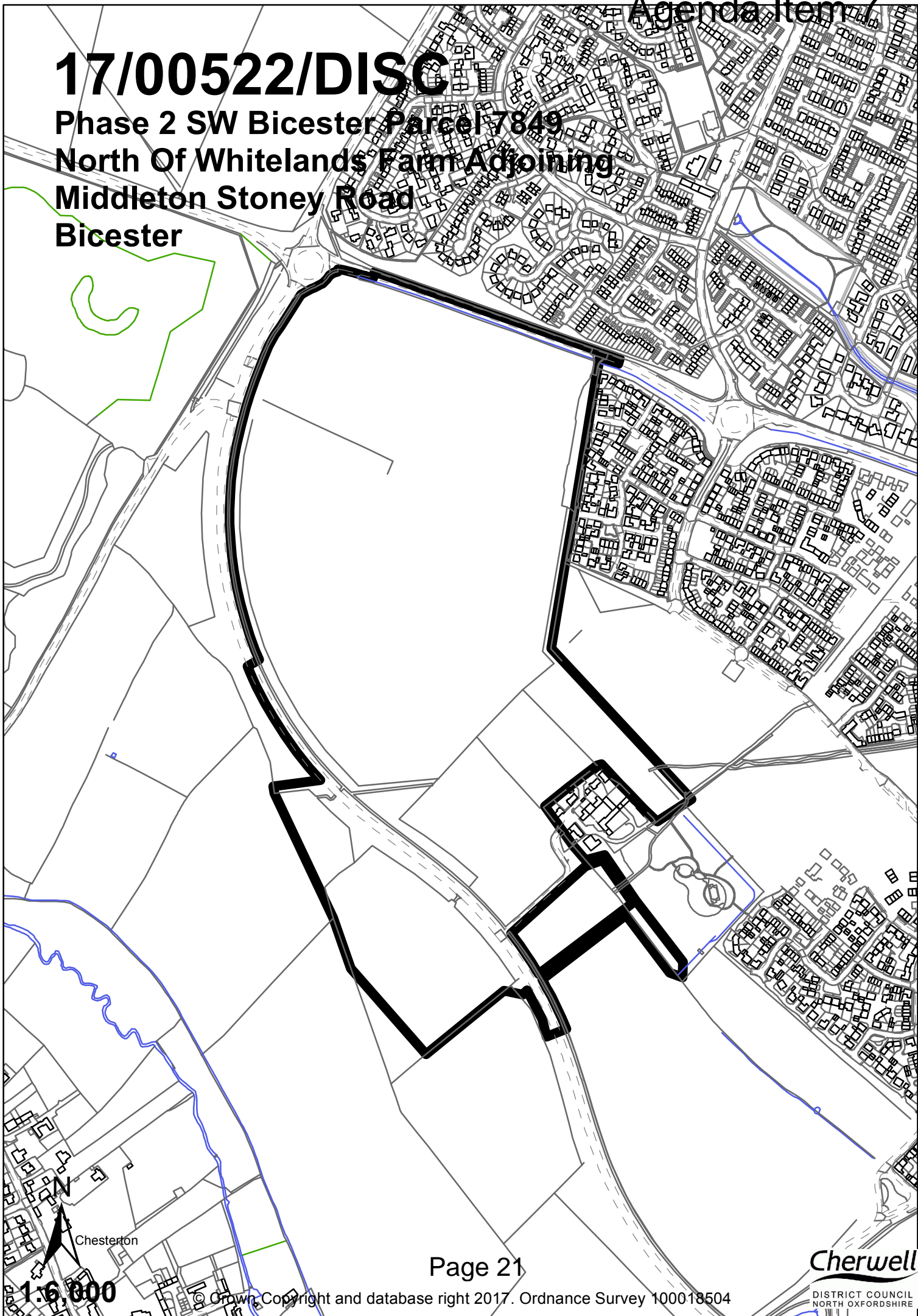
	<b>Site</b>	<b>Application No.</b>	<b>Ward</b>	<b>Recommendation</b>	<b>Contact Officer</b>
7	Phase 2 SW Bicester Parcel 7849 North Of Whitelands Farm Adjoining Middleton Stoney Road Bicester	17/00522/DISC	Bicester South And Ambrosden	Approval	Linda Griffiths
8	Part Of OS Parcels 0625 And 0914 North Of Coopers Buckingham Road Bicester	17/01428/F	Bicester East	Approval	Lewis Bankes-Hughes
9	Studley Wood Golf Club The Straight Mile Horton Cum Studley Oxford OX33 1BF	16/02218/F	Launton And Otmoor	Refusal	Caroline Ford
10	West Wing, Williamscot House, Street From Centre To North West Williamscot, Banbury OX17 1AE	17/01034/LB	Cropredy, Sibfords And Wroxton	Approval	Matthew Coyne
11	East Wing, Williamscot House, Street From Centre To North West Williamscot, Banbury OX17 1AE	17/02025/LB	Cropredy, Sibfords And Wroxton	Approval	Matthew Coyne
12	Caravan Park Station Approach Banbury OX16 5AB	17/01233/OUT	Banbury Glemsford And Hightown	Refusal	Bob Duxbury
13	OS Parcel 1424 Adjoining And Rear Of Jersey Cottage Heyford Road Kirtlington	17/01688/OUT	Fringford and Heyfords	Refusal	Shona King
14	Field To Rear Of Cedar Barn, North Side Steeple Aston	17/01694/F	Deddington	Refusal	George Smith
15	The Pheasant Pluckers Inn, Street Through Burdrop, Burdrop Banbury, OX15 5RQ	17/01981/F	Cropredy, Sibfords And Wroxton	Refusal	Bob Neville
16	Former Offices Cherwell District Council Old Place Yard Bicester	17/00114/NMA	Bicester South And Ambrosden	Approval	Shona King
17	Cherwell District Council Former Offices Old Place Yard Bicester	17/00119/NMA	Bicester South And Ambrosden	Approval	Shona King

18	27 Goodrington Close, Banbury, OX16 0DB	17/01829/F	Banbury Ruscote	Approval	Gavin Forrest
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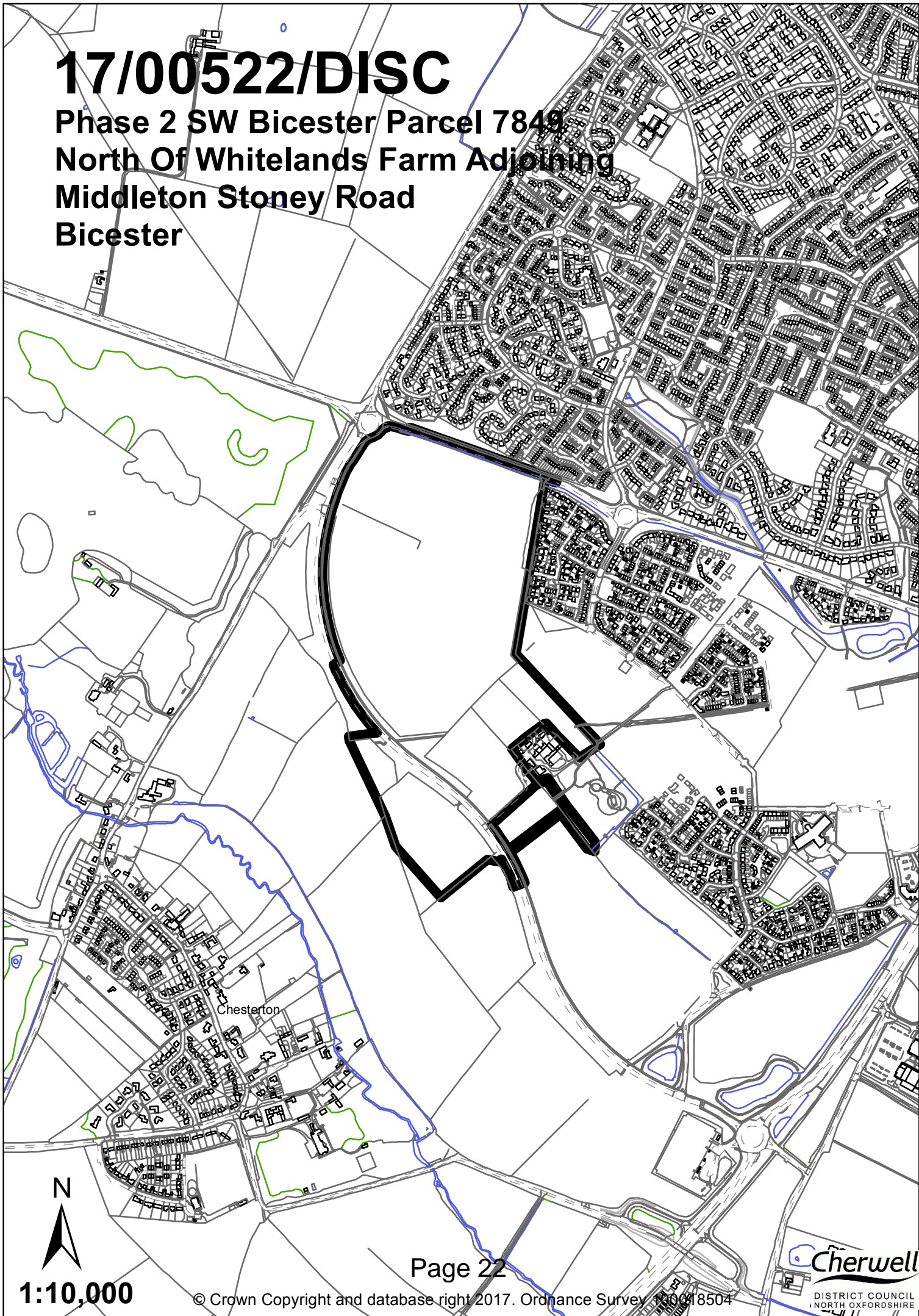
# 17/00522/DISC

Phase 2 SW Bicester Parcel 7849  
North Of Whitelands Farm Adjoining  
Middleton Stoney Road  
Bicester



# 17/00522/DISC

Phase 2 SW Bicester Parcel 7849  
North Of Whitelands Farm Adjoining  
Middleton Stoney Road  
Bicester



<b>Applicant:</b>	Countryside Properties (Bicester) Ltd		
<b>Proposal:</b>	Discharge of condition 6 (design code) of 13/00847/OUT		
<b>Ward:</b>	Bicester South And Ambrosden		
<b>Councillors:</b>	Cllr David Anderson Cllr Nick Cotter Cllr Dan Sames		
<b>Reason for Referral:</b>	To enable Members to consider the design code which will be used to guide the future development on Kingsmere Phase 2.		
<b>Expiry Date:</b>	22 December 2017	<b>Committee Date:</b>	23 November 2017
<b>Recommendation:</b>	Approve		

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

- 1.1. The application site relates to an area of approximately 36.9 ha which is currently in agricultural use. It is bounded by the Middleton Stoney Road to its northern boundary, the new Vendee Drive to the south eastern boundary and by the existing Phase 1 development along its eastern boundary. Further to the west is Bignell Park, a private estate mainly comprising open woodland and parkland.
- 1.2. There are no watercourses on the site although there is a farm ditch along the northern boundary. There are also existing drainage ditches in the form of swales along vendee Drive which have been provided in connection with phase 1 and the perimeter road. The southern part of the site is crossed by a public right of way that links Chesterton village with Bicester. The Whitelands Farm complex adjacent has been converted to residential use under a separate permission. These buildings are an important landmark, is an enclosure farm which whilst not listed, is of heritage value.

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

- 2.1. This report relates to the Design Code document that has been submitted in order to discharge condition 6 of the outline planning permission relating to the residential development at Phase 2 Kingsmere, Bicester. The purpose of the Design Code is to guide the detailed design of the development of the site. The development relates to the erection of up to 709 residential units (13/00847/OUT) refers, a strategic allocation in the adopted Cherwell Local Plan 2011-2031 – Policy Bicester 3. The Lead Developer (Countryside Properties (Bicester Ltd)) will be responsible for implementing the strategic infrastructure on the site which includes the primary streets, strategic foul and surface water drainage, structural landscaping, informal open space, greenways and strategic play facilities.

### 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>
09/01531/REM	Reserved Matters Planning Application for strategic highway infrastructure: New perimeter road, linked to development at South West Bicester: 'Kingsmere' (as amended by plans received 23.02.10 and 22.03.10)	Application Permitted
11/00380/REM	Reserve Matters (ref. Outline 06/00967/OUT) - Landscaping scheme for the Western habitat corridor (structural landscaping) at the SW Bicester (Kingsmere) development	Application Permitted
12/00005/SCOP	Scoping Opinion - Proposed phase 2 of residential development at South West Bicester	Scoping Opinion Issued
13/00847/OUT	OUTLINE - Residential development within use Class C3, Extra care facility, primary school, retail, formal and informal public open space, play facilities, sports pitches, allotments and associated infrastructure including landscaping, highways, footpaths/cycleways, drainage utilities and parking	Application Permitted
13/00041/SO	Screening Opinion - Residential development within use Class C3, Extra care facility, primary school, retail, formal and informal public open space, play facilities, sports pitches, allotments and associated infrastructure including landscaping, highways, footpaths/cycleways, drainage utilities and parking	Screening Opinion requesting EIA
17/00522/DISC	Discharge of condition 6 (design code) of 13/00847/OUT	Pending Consideration

### 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>
17/00237/PREAPP	244 Dwellings on first land parcel
17/00305/PREAPP	Design Code – meetings and workshop discussions followed by written response to agents. The submission is in response to the discussions and comments made to earlier draft documents.

## **5. RESPONSE TO PUBLICITY**

- 5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments is 30.11.2017, and any further comments received following Planning Committee will be taken into consideration.
- 5.2. No comments have been raised by third parties at the time of writing this report.
- 5.3. Any 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. Bicester Town Council: Comments awaited
- 6.3. Chesterton Parish Council: Comments awaited

### STATUTORY CONSULTEES

- 6.4. Environment Agency: Comments awaited
- 6.5. Thames Water: Comments awaited

### NON-STATUTORY CONSULTEES

- 6.6. Arboricultural Officer: Comments awaited
- 6.7. Landscape Officer: comments as follows:
  - The MUGA should be included in the correct orientation adjacent to the southern play area – all images should show this
  - Play equipment – custom made natural features/equipment must be discouraged because they are rarely robust and fit for purpose; they wear out quickly with increased maintenance and financial outlay. These play features are not subject to the rigorous play standards that designed and manufactured play equipment needs to comply with.

- Some of the plant species are not appropriate
- Central square illustrative plan – railings are a welcome addition to the scheme but must be of an appropriate design in terms of safety, the opening of the double gate will conflict with pedestrian flow from the school, at each single gate entrance there should be a recessed space to allow for the temporary parking of buggies and wheelchairs off the main circulation routes to ensure pedestrian flow is maintained
- Southern parkland should also include a LAP
- Balancing pond is acceptable
- Greenways – hoggin path will become muddy and material can travel if not drained properly and should therefore be replaced with ‘flexipave’ with limestone-coloured aggregate to associate with local stone/materials
- Landscape summary matrix – trees and shrub list is only indicative and the viability of species and cultivars will be assessed at the detailed reserve matters stage
- Hard landscape materials – delete hoggin footpaths as above. The proposed sections of wood sleeper surfacing can be very slippery.

6.8. Urban Design: the urban design officer has been involved in all discussions with the applicant and agent through the production of this document with many of the comments made addressed. Additional verbal discussions have been conveyed to the agent through the comments given on 7<sup>th</sup> November to which a response/amended Code is awaited.

6.9. Ecology Officer: comments awaited

6.10. Stage Coach: Comments awaited

6.11. OCC: Comments awaited

6.12. Kingsmere Residents Association: Comments awaited

## **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
- Policy Bicester 3

## 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)
- Kingsmere Design Code Phase 1 2008

## **8. APPRAISAL**

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

- Background
- The Requirement for Design Codes
- Planning Permission Conditions
- The Design Code Submission
- Character Areas
- Landscape Strategy
- Streets

### **8.2. Background**

**8.3.** Outline planning permission for the residential development of Phase 2 Kingsmere was granted on 30<sup>th</sup> May 2017 following the completion of the Section 106 Agreement. This permission is for up to 709 residential dwellings and a primary school and associated infrastructure (13/00847/OUT) refers. The permission included a condition requiring a Design Code to be submitted and approved prior to the submission of any application for reserved matters.

**8.4.** A Design Code for Phase 1 Kingsmere was adopted in 2008 and has been relatively successful in leading the development on the site. This document seeks to take forward the most successful elements of the Phase 1 design Code and to learn from the less successful. As part of the background to this document a review of the Kingsmere Phase 1 document was therefore undertaken by Officers with the Lead Developer Countryside Properties (Bicester Ltd). Whilst Kingsmere Phase 1 has generally been reasonably successful, there are a number of issues that we do not wish to see repeated in the Phase 2 Code. It is generally considered that away from the main spine road there is a general lack of greenery and street trees and the different character areas are more difficult to distinguish away from the central spine road. This was not helped by the cross-sections shown which did not show room for soft landscaping and this was not helpful when negotiating with developers. Some of the parking courts have not been successful. There is also a need to improve on the provision of marker buildings which have not been successful which were required to help aid legibility.

**8.5.** A number of workshops and discussions have taken place with stakeholders, Countryside Properties and their agents in helping to steer the Code now submitted for consideration.

### **8.6. The Requirement for Design Codes**

**8.7.** Design Codes are designed to deliver an improved quality of development and to ensure consistency across a site. They also give house builders interested in taking

one of the parcels an equal playing field in terms of what is expected. The use of design codes can also enhance the economic value of a site through better quality design and sense of place; give greater certainty to the planning process, and a more streamlined process. The aim of a design code is to provide clarity over what constitutes acceptable design quality for an area and therefore provide a level of certainty for developers and the local community generally. Codes are intended to focus around the design characteristics that are important to achieve and establish and firmly fix the 'must have' design elements.

- 8.8.** The NPPF – 'Requiring good design' advises that the government attaches great importance to the design of the built environment and that good design is a key aspect of sustainable development, indivisible from good planning, and should continue to contribute positively to making places better for people.
- 8.9.** Paragraph 59 advises – 'Local planning authorities should consider using design codes where they could help deliver high quality outcomes. However, design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of development in relation to neighbouring buildings and the local area more generally.
- 8.10.** Given that Kingsmere Phase 2 is a large strategic allocation of up to 709 dwellings on the edge of an existing settlement, it is vital that the scheme is considered very carefully in order to successfully integrate it with Phase 1 and the existing adjacent development.
- 8.11.** The submission of the design code will lead to better quality and consistency through all phases of the development. Whilst the lead developer (Countryside Properties (Bicester Ltd) will deliver the main strategic infrastructure, it is likely that, as on phase 1, that the residential parcels will be sold to other developers and the Code will provide clarity on what is expected across the site. The NPPG advises at paragraph 036 that 'codes should be succinct and carefully distinguish mandatory from discretionary components, avoiding ambiguous aspirational statements, unnecessary jargon and they should define any use of key technical terms'.

#### **8.12. Planning Permission Conditions**

- 8.13.** The outline planning permission was issued on 30<sup>th</sup> May 2017. Conditions 6 and 7 relate to the submission of a design code as follows:

Condition 6 - No reserved matters applications shall be made or development commenced until a Design Code for the site has been produced in accordance with condition 7 and following consultation with the Local Planning Authority and other stakeholders, and has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved Design Code.

Reason – A Design Code is required at the beginning of the development process to ensure that the subsequent reserved matters applications are considered and determined by the Local Planning Authority in the context of an overall approach for the site consistent with the requirements to achieve high quality design as set out in the Environmental statement and Policy Bicester 3 of the adopted Cherwell Local Plan and Government guidance within the National Planning Policy Framework.

Condition 7 – The Design Code shall include



- a) the character, mix of uses and density of each character area identified, to include the layout of blocks and the structure of public spaces
- b) the character and treatment of the structure planting to the development areas
- c) guidance of surface water control including design standards and methodology for sustainable drainage systems, detail of specific features and constraints, including appropriate options for SUDS features, considerations for implementing during construction, and adoption requirements
- d) the building height, scale, form, design features and means of enclosure that will form the basis of the character of each phase, sub-phase or parcel
- e) the street form and hierarchy and the features that will be used to restrict traffic speeds and create legibility and requirements for street furniture
- f) the approach to car parking and cycle parking within the phases, sub-phases and parcels and the level of car and cycle parking within each phase to be provided to serve the proposed uses
- g) the materials to be used within each character area
- h) the treatment of any hedge or footpath corridors and retained trees and woodlands and local areas of play within each phase, sub-phase or parcel
- i) the measures to be incorporated to protect the amenities of the occupiers of existing properties adjacent to the site measures to be incorporated into the development to ensure all properties have convenient locations for individual waste and recycling bins
- j) lighting proposals

Reason – A Design Code is required at the beginning of the development process to ensure that the subsequent reserved matters applications are considered and determined by the Local Planning Authority in the context of an overall approach for the site consistent with the requirements to achieve high quality design as set out in the Environmental Statement and Policy Bicester 3 of the adopted Cherwell Local Plan 2011-2031 and Government advice within the National Planning Policy Framework.

**8.14.** There are also a number of other planning conditions attached to the consent which require other details such as highway requirements, landscaping and ecology to be addressed. The clearance of planning conditions is ordinarily dealt with through officer delegation, but given the important role that the Design Code will have in securing the future appearance and design of the site it has been brought to Committee for Member's approval. Furthermore, if the Code is approved, this will influence schemes that come forward for reserved matters approval. These schemes will be dealt with at officer level under the Council's 'Scheme of Delegation' (unless requested to be brought to Committee).

#### **8.15. The Design Code Submission**

**8.16.** The Design Code has been produced to provide certainty for developers and their agents who will be building out the development, Officers determining the reserved matters applications as well as consultees and members of the public about the standard of development required. The Code will be used to inform pre-application discussions over the design of the various parcels of the development and will follow through to assist in determining the various applications. This Code has been based

very much on Phase 1 and seeks to promote traditional local vernacular although it does allow for an opportunity for contemporary design in the Whitelands Character Area.

**8.17.** The Code is broken down into chapters, namely, introduction; the vision; urban form and character; streets; landscape and delivery. These are considered further below:

**8.18.** The Code advises that all aspects within it are mandatory unless stated otherwise or identified by a 'G' logo. These elements are considered to be less important but are included as guidance for developers. Elements that are deemed to be unacceptable will feature a red logo and those that are considered to be more appropriate are identified by a green logo. As the code is designed to be a detailed book of 'rules' for developing the site, it is vital that the document is clear in its vision and what is required and that none of the statements are ambiguous. As currently submitted it is considered that the vision as set out lacks clarity and doesn't fully paint a picture. Many of the statements and illustrations are a little ambiguous and require further clarification; for example; it is not clear how the key words used to describe the character of each character area will be applied to successfully define how the areas will be conveyed through the development. The applicant's agent has been advised of these concerns and at the time of writing the report a revised document is awaited. A successful Design Code will be clear and unambiguous.

#### **8.19. Urban Form and Character Areas**

**8.20.** The Code identifies three main character areas: Core Area, Whitelands Area and Suburban Area. The Code deals with each of the character areas in turn. As each of the character areas is different in their character, location within the site or function, there are different rules for each of the areas. Each area is defined by a set of words which are supposed to epitomize their specific characteristics. Each character area also differs slightly in terms of density and building heights. The edges of the site are also treated slightly differently with three different edges created within the character areas, these being Middleton Edge, Vendee Edge and Phase 1 Edge. Having detailed character areas for each of the parcels in the development provides each of the various areas with subtle changes within the design and appearance of the areas, removing the risk of developing a large site with a lack of variation in typology or too much variation and also helps to provide legibility within the development. The key elements of each character area are summarised below.

#### **8.21. Core Character Area**

**8.22.** This is described as the urban core of the development and the community heart and focal point with central space adjacent to the school and potential retail facility. This area will have the highest building density and the highest buildings achieved through 2.5 and 3 storey buildings. Strong vistas, consistent and formal primary streets with near continuous frontages and the central square are the key features. A core area word grid is included to describe this area as mixed, lively, compact, enclosed, highest density, heart, formal, sense of place and focal point. The materials specified in this area are 60% red brick and 40% reconstituted stone. It is considered that some natural stone would be more appropriate to key buildings and frontages. A response in this regard is awaited.

#### **8.23. Whitelands Character Area**

**8.24.** The Code advises that this area which is located at the southern end of the development adjacent to the main public open space should seek to encapsulate a lower density, informal, fragmented form to reflect a character informed in part by barn typologies. The Whitelands area word grid describes this area as traditional,

fragmented built form, informal, barn inspiration for key buildings, contemporary opportunity, varied building line and geometric. Building heights are mainly 2 storey in this area. The materials specified are 65% stone and 35% red/weathered red brick. The illustration however does not convey the character described as barn or contemporary typologies are not shown and the house types are very sub-urban in their appearance. An amended illustration is awaited.

#### **8.25. Sub-urban Character Area**

**8.26.** This is the largest of the character areas. The code states that this area should showcase the landscape elements through tree, hedge and shrub planting and should be pedestrian focussed. The sub-urban area also includes three specific sub-areas, based upon responsive edge treatments to Vendee Drive, Middleton Stoney Road and the Phase 1 edge. The Suburban area word grid describes this area as rural, quiet, green informal, pedestrian focus, green streets, on-plot parking and low-medium density. Building heights are 2-2.5 storey with occasional 3 storey. The building materials specified are 70% red brick and 30% buff brick or cream render.

#### **8.27. Landscape Strategy**

**8.28.** At the very beginning of the document it states that the vision for the development of Kingsmere Phase 2 will be '*landscape led, including a green approach to the street scene*'. Although the planting within the primary streets in Phase 1 is successful, the lower order streets and courtyards lack any significant landscaping elements. It is hoped that the provision of a number of green spaces in the form of 'pocket parks' will help to address this together with a requirement for tree planting beyond the primary and secondary routes. The main area of open space is located at the southern edge of the development and will include play areas and a kick-about area. Greenways are also included within the development although it is considered that the specific design detail of these requires further clarification to ensure that they are successful. It is further considered that the Code should be clearer about the relationship of these areas with the adjacent development and their role in terms of ecology to ensure net biodiversity gain is made across the development. Neither does the document currently successfully address the landscape areas between the proposed development along the boundaries of the site to Middleton Stoney Road and Vendee Drive. As above, a revised Code is awaited which will clarify these matters.

**8.29.** In terms of proposed planting, the Council's Landscape Officer has no objection with the exception of a couple of species that he does not consider to be appropriate on this development and where proposed.

#### **8.30. Streets**

**8.31.** The County Council as Highway Authority have been involved in the development and completion of this document and they have endorsed the approach that has been detailed in the Code. The design of the streets follows closely those approved for Kingsmere Phase 1 which took guidance within Manual for Streets, the government guidance on street design. The road system within the development is made up of five main types of roads; primary, secondary, side street, lanes/mews and private drives. The main secondary street links through into Phase 1 alongside the proposed school site and will be the bus route through the development. This secondary street meets primary street A before it exits onto Middleton Stoney Road while a second primary street B will exit onto Vendee Drive. No on-street parking is allowed on primary street A or B. The primary streets will be tree-lined.

- 8.32.** The access onto Middleton Stoney Road is included within the Code and is referred to as the Northern gateway. The Code includes a description stating that it will feature a symmetrical form, with the development edge brought forward with a Marker building. The vision and illustrative plan however lacks detail, commitment and information regarding its design and delivery. If the document is not clear and unambiguous, it will be difficult to ensure that an acceptable scheme is delivered. Further information in this respect is awaited.
- 8.33.** A second southern gateway is proposed for the Vendee Drive entrance. Again the vision is unclear and the wording is ambiguous although the principle of what is illustrated is acceptable.
- 8.34.** The final chapter explains how the site will be delivered having regard to such matters as sustainability, implementation, travel, energy and waste, ecology and health. It also builds the possibility of the code to be reviewed or revised over time. There will be an opportunity for the lead developer and/or Cherwell District Council to request a review of the code after the notification of the 300<sup>th</sup> occupation, with the review completed within five months of the 300<sup>th</sup> occupation. This is important as it allows this council or developer to voice any concerns. Any changes to the code would be subject to mutual agreement between Countryside Properties and Cherwell District Council.

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

- 10.** The Design Code for Kingsmere Phase 2 has evolved through negotiation ensuring that the final document is moving towards a comprehensive and sufficiently detailed Code which can be used by developers, the Council, consultees and the general public to ensure a good quality development on the edge of Bicester.
- 11.** The revised Code submitted for consideration has taken into account a number of comments and criticisms that Officers have made, although as stated above, further refinement is still required. Subject to the most recent comments to the applicant's agent on 7<sup>th</sup> November 2017 being successfully addressed, it is considered that the code would be acceptable for approval, enabling the relevant planning condition to be discharged.

9.1.

## **12. RECOMMENDATION**

That the Design Code for South West Bicester Phase 2 be approved as satisfying condition 6 of the planning approval (reference 13/00847/OUT) and that delegated authority be given to Officers to agree the final submission having regard to the comments made to the agent on 7th November 2017 and subject to no adverse comments being received from OCC, Thames Water and Environment Agency and any other consultees prior to the expiry of the public consultation which ends on 30<sup>th</sup> November 2017.

CASE OFFICER: Linda Griffiths

TEL: 01295 227998

## Cherwell District Council

### Planning Committee

23 November 2017

**Planning Application 17/01428/F**  
**Erection of 64 bed care home (Class C2 use) with**  
**associated new access off Skimmingdish Lane,**  
**on land N of Coopers Green, Bicester**

### Report of Head of Development Management

This report is public

Appendix 3 to the report is exempt from publication by virtue of paragraph 5 of Schedule 12A of Local Government Act 1972

#### **Purpose of report**

To enable Members to consider again the planning application for a care home on the south side of Skimmingdish Lane, Bicester ("the Application") in light of procedural irregularities in reaching its decision on 26 October and failure to consider material considerations.

#### **1.0 Recommendations**

The meeting is recommended:

- 1.1 To approve application 17/01428/F.

#### **2.0 Introduction**

- 2.1 Members will recall that at the meeting of this Committee on 26 October 2017 they gave consideration to a report recommending approval of the Application. That report is attached as appendix 1. After extensive discussion it was resolved to refuse planning permission for the Application. However, the motion for refusal did not give specific reasons, but officers advised that, in the light of the debate, they considered that the reasons for refusal were (i) the proposal would be contrary to Policy R1 of the saved policies of the adopted Cherwell Local Plan 1996 as the site was identified for recreational use on the Proposals Map of that Plan; and (ii) the proposal would be contrary to Policy ESD 10 of the Cherwell Local Plan 2011-31 insofar as the proposal fails to protect the biodiversity of the site. It was agreed that officers of the Council would draft fuller reasons for refusal (based on those set out at (i) and (ii) above) and seek the concurrence of the Chairman of the Planning Committee to that wording.

### 3.0 Report Details

- 3.1 On 27 October 2017 (the day after the Committee meeting) the Council received a letter from one of the applicants expressing serious concern about the manner in which the decision was taken by Members. That letter is attached as Appendix 2.
- 3.2 It will be noted that the applicants consider that Members voted on a proposal to refuse based on no specific reasons for refusal. They are critical of this. They consider that the subsequent advice from officers on their assessment of the debate should have been the subject of further debate. In their opinion this process was flawed.
- 3.3 At this point the Head of Development Management took advice from the Council's legal officers who advised that the manner in which the decision was reached could be the subject of legal challenge and that this flaw could be overcome by returning the Application to Committee. The Chairman of Planning Committee agreed to this further consideration by this report.
- 3.4 It will be further noted that the applicant considers that the determination of the application also failed to consider two material considerations, namely (i) the recreational designation of the site and (ii) the lack of status of the site in ecological terms. Your officers do not accept this criticism as both the report and verbal answers given covered Policy R1 and the current private ownership of the site and clarified that the site is not a District Wildlife site. However, it is acknowledged that officers could have been clearer in confirming that, by granting permission for the proposal, the shortfall in the amount of recreational space in this ward of Bicester would be reduced.

### 4.0 Further representations received

- 4.1 The Council has re-publicised the return to Committee of this matter and has received the following representations (further to those contained in the Officer's Report at Appendix 1).

- a) An e-mail from the speaker from CPRE stating:

*Before the application was debated by the planning committee, Dr Pam Roberts and I tried to put over the major aspects against this application along with policies and process. As I often feel when speaking at the table, hardly anyone seems to take any notice of what is said; this being proved by the committee not using any of the ammunition we gave them.*

*Dr Pam Roberts provided both Local Plan policy and information on the importance of the site to both wildlife and to the residents of Bicester. You will note that I have highlighted the part of Pam's notes that shows the applicant has recognised the importance of the wildlife from their own report!*

*I gave the committee policy reasons why this application is jumping the gun as the site is not shown on LP 1 but is part of LP 2 and LP 2 is not yet complete. The fact that the site has been recognised by TVERC as requiring a survey before allocation as a District Wild Life Site has, I have*

*subsequently found out, been extensively delayed by your own ecologist, having been tasked with the job by TVERC, not getting on with the job!*

*At the very least I was expecting a deferral awaiting that survey completion. A refusal could also have been on the grounds that the application should be part of LP 2 and that it should be resubmitted at that stage.*

*By allowing this application to even be heard before due process on the Local Plan process is wrong.*

*To allow the application to proceed in the full knowledge that a full ecological survey is due by TVERC is another reason why it is wrong at this time.*

*What the applicants have now done, literally overnight, in destroying any wildlife by clearing the site should have them prosecuted although this would be small compensation for the wanton destruction they have caused to the site. By taking this action they have shown complete disrespect for the planning committee or the law regarding planning process!*

- b) An e-mail has been received from LNT Construction (the other applicant)

*Please see the attached report from Ecology Solutions Ltd (Ecological Consultants) in relation to the 'reptile transrelocation exercise' that has now carried out and completed on site.*

*This report explains the applicant position in respect of the exercise carried out and also includes the methodology employed. It also includes documentation of the timing of the works and impact of the exercise from a general ecological perspective.*

*I understand that you are aware of our reasoning for completing this exercise and of our position in relation to all environmental and planning legislation.*

*Trust that this report is of assistance and that it can be displayed on the Council's website, as soon as is reasonably possible, in order to inform all concerned with the current planning application and proposed development.*

That report is available on the Council's public access system.

- 4.2 The Council's ecologist has considered the submitted report referred to in para 4.1(b) and advises that

"Following our site visit this morning, the locations of the reptile fencing and two hibernacula are accurately shown within the reptile translocation report completed by the applicant's ecologist. As reported, the majority of vegetation has been cleared and it also appears that top soil has been removed and a large pile of brash and spoil is towards the south of the site with another pile of soil at the end of the access to the site. The fencing is largely intact, apart from at the access entrance to the site where the fencing has collapsed for a section of approx. 4 or 5 m. Here in this section of the capture area, there are areas of scrub and grassland and a small pile of brash/spoil still present which provide suitable habitats for reptiles. As the fencing has collapsed it is possible they may be present on site using these features for refugia/hibernation. As such this habitat should be retained and not removed as we are now within the hibernation period.

The applicant was aware of the known value of the site for biodiversity as a potential District Wildlife Site. Therefore the stripping of the site to remove all vegetation and existing grassland and habitat is considered to be bad practice as it may have been cleared unnecessarily. The habitat is of value to a variety of local wildlife, not only common lizard, but also for example amphibians, mammals and a variety of invertebrates. It is not clear why a reptile trapping and translocation exercise began prior to any planning approval.

The majority of the trapping exercise was undertaken during October which is not the ideal time of year, as reptiles are moving into hibernation sites at this time and they should not be trapped in the period leading up to hibernation. As stated in the guidance *Reptiles: Guidelines for Developers (English Nature, 2004)* "Moving reptiles in autumn can be problematic as they may find it difficult to adjust to the new site in time for the critical hibernation period. Capture should not be attempted after animals have sought refuge for hibernation, as they are difficult to find and easily harmed at this time". The trapping began prior to the fence line being installed, so taking the number of trapping days from 29 September to the last day on 29 October, there were a total of 30 days as stated in the report. Given that the temperature was within a suitable range for reptiles to be active and the last capture was on 17 October, it does appear that the methodology used was just about acceptable. However new guidelines on reptile translocation methods have not yet been published since the Natural England guidelines previously published in 2011 were withdrawn. The Herpetofauna Groups of Britain and Ireland (HGBI) advisory note *Evaluating Local Mitigation/Translocation Programmes* recommends 60 days minimum trapping days in good weather for a low population. The withdrawn 2011 guidelines suggest 30 days. I agree that it is true that it appears that the animals had probably not gone into torpor during the trapping exercise, as stated in the report, as the report states that the ecologists had seen active animals within the receptor area in late October. However I would not be able to state confidentially that all animals have been trapped out and removed from the site as lizards do seek hibernation sites during October. Had temperatures dropped during mid October, it would have not been possible to complete the trapping exercise as the animals would be finding hibernation sites underground. Subsequent destructive works to the ground therefore have potential to harm individuals underground. The exercise seemed to be done in a rushed manner, as best practice would be to start trapping earlier (between April and late June or August/September), with time to fully enhance the receptor site, prior to moving reptiles and to avoid the period prior to hibernation.

The report states that the destructive search started on 30th October which involved removal of vegetation under supervision of an ecologist, however it does not detail how this exercise was undertaken. Was the vegetation removed in stages in a precautionary and slow manner? Was the vegetation trimmed down first? I understand that the habitat was removed under ecological supervision but more information how this happened should be provided for clarification purposes. I would also ask if any other species of amphibians or reptiles were encountered during the trapping or site clearance work, including great crested newts. The balancing pond adjacent to the west appears to be a marsh habitat and was not retaining any water during the visit today, as such it is considered unlikely to hold sufficient water to be a suitable breeding habitat for great crested newts during the spring. However it is highly suitable terrestrial habitat for great crested newts and other amphibians and there are GCN records in the wider area. The nearest known pond is 400m from



the application site. As there are no other known ponds which are suitable breeding habitat, a GCN survey is not considered to be necessary however due to the records in the area and suitable terrestrial habitat, appropriate habitat manipulation measures and careful clearance of vegetation should be supervised by an ecologist. This should be secured in the CEMP should planning approval be granted.

Should the planning approval be granted, it will be important to ensure that the existing suitable habitats on site are retained, and enhanced with the aim of retaining the conservation status of the population within the site, in particular due to the likely future use of the site by the public. Therefore the receptor site should be subject to a long-term management plan which should be secured by a condition or Section 106 agreement. Please note this should include the financial arrangements of habitat maintenance in the long term to ensure this will be managed in the long term for the common lizard population. The timing, nature and responsibilities for the work should be clearly set out. The receptor site should be monitored for at least 5 years after translocation to include reptile surveys and habitat suitability assessments to ensure that the site is being managed favourably for the common lizard population and its survival in the long term.

Although two areas of the site have been retained outside of the reptile fencing, these appear to be smaller in area than that indicated on the illustrative plan. Due to the site clearance, I would recommend that a Biodiversity Impact Assessment (BIA) is undertaken to determine if a gain to biodiversity is now achievable within the scope of the proposed development. The BIA and biodiversity offsetting scheme could be secured by S106 or otherwise by condition (please see attached for condition wording which has been used in Warwickshire). The LEMP should include management details to enhance the biodiversity value of the whole application site, not only the open space, with the aim of achieving no net loss on site as a result of the development.”

## **5.0 Conclusion and Reasons for Recommendations**

- 5.1 The Application needs to be returned to Committee in order that Members can debate and reach a decision on the Application in a procedurally correct manner. Further, Officers are required to update Members on material considerations which were not given due consideration at the meeting of the Committee on 26 October 2017.

## **6.0 Consultation**

The Application has been re-publicised to all those who received previous notification of the Application prior to the meeting of the Committee on 26 October 2017.

## **7.0 Alternative Options and Reasons for Rejection**

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

Option 1: The Application is not returned to Committee. This option has been rejected on the grounds that the decision made by Members on 26 October 2017 will be appealed by the applicant. Given the procedural irregularities of the decision-making process, there is a good chance that the Council would lose any such appeal and have costs awarded against it.

Option 2: The matter is returned to Committee solely to clarify reasons for refusal. This option has been rejected given that the make-up of the Committee is likely to be different from that of 26 October 2017. It would be improper to return the matter to Committee solely on these grounds without having a proper debate on the matter and any stated reasons proposed either in favour or against the Application.

## **7.0 Implications**

### **Financial and Resource Implications**

- 7.1 By not returning the Application to Committee, there is a strong chance of the decision of the Committee of 26 October being appealed and, given the procedural irregularities associated with the way in which the decision was taken, it is likely that the Council will have costs awarded against it. By returning the Application to Committee, the Council has discharged its duty in ensuring that any decision made in made properly. If Members decide to refuse the Application again, but such decision is taken in a procedurally proper manner, it is less likely that the Council will be seen to have behaved unreasonably, lessening the chances of a successful costs application against the Council.

Comments checked by: Paul Sutton, Chief Financial Officer, 01295 221634  
paul.sutton@cherwellandsouthnorthants.gov.uk

### **Legal Implications**

- 7.2 The legal implications of not returning this matter to Committee is a likely appeal against the Committee's decision of 26 October 2017 and costs being awarded against the Council. Therefore, it is right that the Committee considers the Application afresh and it is imperative that any decision it makes (be it in line with or against Officers' recommendation) is made in a procedurally correct manner and that concrete planning reasons are given for any decision. Further information is set out in exempt appendix 3.

Comments checked by: Ben Arrowsmith, Solicitor, 01295 221690  
ben.arrowsmith@cherwellandsouthnorthants.gov.uk

## 8.0 Decision Information

### Wards Affected

Bicester East

### Document Information

<b>Appendix No</b>	<b>Title</b>
1	Report to Planning Committee 26.10.17
2	Letter from Greenlight Developments dated 27.10.17
3 – EXEMPT	Legal Advice
<b>Background Papers</b>	
None	
<b>Report Author</b>	Bob Duxbury, Joint Majors Manager
<b>Contact Information</b>	01295 221821bob.duxbury@cherwellandsouthnorthants.gov.uk

**Part Of OS Parcels 0625 And 0914 North Of  
Coopers  
Buckingham Road  
Bicester**

**17/01428/F**

**Applicant:** LNT Care Developments Ltd/Greenlight Developments Ltd

**Proposal:** Erection of two-storey 64 bed care home for older people (Class C2 Use) with associated new access (off Skimmingdish Lane), parking and landscaping, and new linear park/public open space

**Ward:** Bicester East

**Councillors:** Cllr Sean Gaul  
Cllr Richard Mould  
Cllr Tom Wallis

**Reason for Referral:** Major Application

**Expiry Date:** 13 October 2017      **Committee Date:** 26 October 2017

**Recommendation:** Approve

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

- 1.1. The application site is located to the north of Coppers Green, south of Skimmingdish Lane, east of Buckingham Road, and west of Sunderland Drive recreation ground.
- 1.2. The application site comprises a large rough grassed area with dispersed trees and shrubs, enclosed by hedgerows and tree lined boundaries. The site is currently used for informal recreation purposes such as dog walking and is crossed by a series of unmarked paths. It should however be noted that the site is not in public ownership and the current use is unauthorised.
- 1.3. The application site is located to the south of the RAF Bicester designated Conservation Area which contains a number of listed and locally listed buildings as well as Bicester Airfield Local Wildlife Site .
- 1.4. The application site is part of a proposed District Wildlife Site and is adjacent to Skimmingdish Lane Balancing Pond, an area of high ecological value.

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

- 2.1. Planning permission is being sought for the erection of a two-storey 64 bed care home with associated access, parking and landscaping incorporating a linear park and public open space.
- 2.2. The care home would be located to the southern part of the site (proportionally 54% of the application site) with the proposed linear park located to the north (proportionally 46%). The building would take the form of a rotated 'H' shape and would incorporate two courtyards with formal gardens to serve residents. The

building footprint would be 1,680m<sup>2</sup> and the overall height of the building would be approximately 9.5m.

- 2.3. The building would be constructed predominantly from brick with elements of render and cladding with a slate (or similar) roof. Full material details are to be confirmed.
- 2.4. The building would be accessed via an access road off Skimmingdish Lane and would be served by a car park with provision for 20 cars including 2 disabled spaces and a drop off zone.

### 3. RELEVANT PLANNING HISTORY

- 3.1. There is no recent planning history considered directly relevant to the current proposal although previous development proposals include:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
96/02065/OUT	Nursing home. OUTLINE.	Refused (Appeal Dismissed)
00/00005/OUT	Foodstore, 2 non-food retail units, 4 neighbourhood shops, social/community uses and car parking. (OUTLINE)	Refused
00/02147/OUT	Foodstore and carpark. (OUTLINE)	Refused
00/00358/OUT	Foodstore, 4 neighbourhood shops and car parking. Construction of new access onto highway. (OUTLINE)	Refused
02/02513/F	Erection of 1.8 metre high security fence	Refused
04/01610/OUT	Erection of 85 No. dwellings at a gross density of 73 No. dwellings per hectare including three storey dwellings and means of access (OUTLINE)	Refused (Appeal Dismissed)
05/01091/OUT	Resubmission of 04/01611/OUT: Erection of 85 No. dwellings at a gross density of 73 No. dwellings per hectare including three storey dwellings and means of access (OUTLINE).	Refused

### 4. PRE-APPLICATION DISCUSSIONS

- 4.1. Pre-application discussions have taken place with regards to the current proposal. Issues including the principle of development, balance between open space and built development, ecology, open space management, archaeology, access and S106 requirements were considered.

### 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 17 August 2017, although comments received after this date and before finalising this report have also been taken into account.
- 5.2. Comments have been received from 3 local residents and the local CPRE branch. Their comments are summarised as follows:
- The site is recognised by TVERC as a District Wildlife Site
  - The loss of such sites around the County must be stopped
  - Access to wildlife sites is important for the health and wellbeing of residents
  - The Council needs to protect green spaces especially those with an identified environmental importance
  - The access is in a dangerous position and crossed a footway and cycle path
  - The access will compromise vehicles trying to access the aerodrome
  - The proposed open space is intended to be reserved for the creation of a dual carriageway and not for improving biodiversity
  - Local residents would lose their present close access to one of the few remaining green spaces
  - Children attending Coopers School would suffer increase pollution from traffic on Skimmingdish Lane as the loss of vegetation that currently helps to absorb this would be lost
  - The site is very liable to flooding and would result in further flooding of nearby areas
  - Bicester is regularly promoted in the news as an Eco Town and with a Healthy Town Initiative, how does the building on a nature reserve – one of the few remaining open spaces in Bicester fit in with this?
  - There is provision for 46 staff but only 20 spaces – where is the additional parking?
  - There is a risk of overspill parking on nearby residential roads
  - The flood survey indicates a low probability of flooding, this is incorrect as the area floods on a regular basis
  - No consideration has been made for the current level of traffic created by the new development on the ring road
  - East ward is short of 4.36 hectares of open space (2011 report)
  - The plans will narrow the wildlife corridor along Skimmingdish Lane which has already been severely compromised by new housing and a new electricity substation to the east

- If this natural space is reduced in area, then residents of the East ward will be much deprived of this type of accessible well-used open space
- The site should not be developed as it is an important part of Bicester's green infrastructure and provides a sponge for rain water, shade, air purification and noise absorption.
- The land has been reserved as open space for many years (Policy R1, 1996 Local Plan)

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. Bicester Town Council: Objection.

- Skimmingdish Lane is already a very busy ring-road. Traffic trying to access and egress the site will have considerable difficulty cutting across the traffic, more so should Skimmingdish Lane become a dual carriageway as expected. The entrance is also very near the Buckingham Road roundabout and will cut across the cycleway and footpath increasing the risk of an accident.
- The application states there are 25 parking spaces however only 20 spaces can be identified on the plan and there will be 46 staff not to mention visitors, ambulances etc. This lack of sufficient parking is likely to cause parking issues in the nearby Coopers Green or Caversfield.
- This area of land is part of an area of natural/semi-natural space which has been selected by Thames Valley Environmental Record Centre as having district value for wildlife, as it is a priority habitat (unimproved lowland fen and marsh with a Thames Water attenuation pond). The Care Home proposal will negatively impact on the area's biodiversity as about half of the existing natural open space will be lost. The plans will narrow the wildlife corridor along Skimmingdish Lane which has already been severely compromised.
- This land is also subject to flooding and there is concern as to where the water will be dispersed if the land is built on. It is also used by dog walkers and for leisure activities. Bicester Town Council would wish to see protection of this site by resolution of Cherwell District Council as an amenity site identified in the Bicester Masterplan.
- Whilst a Care Home is to be welcomed in the town, this is in the wrong place both for the above reasons and for residents of the Care Home. If they are able bodied, then they have no nearby facilities to enjoy and if they are dementia sufferers this is an extremely dangerous area for them to negotiate should the worst happen and they get out of the home without supervision. Bicester Town Council therefore recommends REFUSAL.

## STATUTORY CONSULTEES

### 6.3. Local Highways Authority: No objection subject to conditions and legal agreements.

- Trip generation will have a minimal impact upon the surrounding highway network from an operational and traffic safety point of view
- Conditions are required in relation to the proposed access, access road, turning areas, car parking provision, cycle parking provision, drainage, Construction Traffic Management Plan (CTMP) and Travel Plan
- A S106 contribution of £22,500 is required to provide improvements to the S5 bus service which would serve the development
- A S106 contribution of £1,240 is required to enable the travel plan to be monitored for a period of 5 years
- A S278 agreement is required for works within the highway
- A S278 contribution of £2,600 is required towards the cost of creating a legally enforced 'no right turn' from the site onto Skimmingdish Lane
- Comments in relation to the potential dualling of Skimmingdish Lane should be noted

### 6.4. Planning Archaeologist: No objection subject to conditions.

- The site is located in an area of archaeological interest as identified through an archaeological field evaluation which recorded evidence of a Late Iron Age enclosure settlement that continued in use into the Roman period. A programme of archaeological investigation will be required ahead of any development on the site which can be secured through an appropriately worded condition.

### 6.5. MOD Safeguarding Officer: No safeguarding objections.

## NON-STATUTORY CONSULTEES

### 6.6. Planning Policy:

- The application site together with adjacent land to the north has been used for informal recreation purposes over a number of years, (albeit with no formal public access), for dog walking and by residents in development to the south west of the site to access the Town Council recreation site and school recreation land to the south east and south west of the site respectively. The site is identified as a District Wildlife Site and an area of potentially contaminated land is recorded in the southern part of the site.
- The application site is reserved for recreation use under saved and retained Policy R1 of the 1996 Cherwell Local Plan. The policy indicates that proposals that would conflict with recreation use will be resisted. A number of previous planning applications for development of the site, including for a care home (96/02065/OUT, Appeal ref APP/C3105/A/97/283860), have been refused with refusal reasons including proposals being contrary to Policy R1.



- The adopted Cherwell Local Plan 2011-2031 (Part 1) is a strategic plan and does not bring through the retained non-strategic policies other than indicated in Appendix 7 of the Plan, or seek to allocate new non-strategic areas of land for recreation or open space.
- The adopted Local Plan Part 1 does however contain Policy Bicester 7, which is directly relevant to the application and seeks to protect the existing network of green spaces and secure new open space and linear route provision, to create a circular route around the town. This is the continuation of a long term objective contained in previous local plans to improve accessibility to open space and link residential and employment areas.
- The PPG17 Study (2006), Green Spaces Strategy (2008) and Open Space Update 2011 evidence base documents informing the preparation of Local Plan Part 1 did not record the site as existing open space, as it was not a secured open space in terms of having official public access. However the evidence base does refer to the site in the context of the recommendations for addressing the deficiencies in provision identified:
  - The PPG17 Study recommendations included long term planning to be undertaken for new park sites on the periphery of Bicester (P and G 2) and investigating a new allotment site in the north of Bicester.
  - The Green Spaces Strategy 2008 refers to land along Skimmingdish Lane in the Action Plan: Parks and Gardens: “Develop an “urban edge” park totalling at least 10.9ha around the outskirts of the town (including land designated along Skimmingdish Lane), linking existing green spaces and with signposted footpaths and cycleways connecting to the town centre, and Allotments: Provide 5.4ha of space, with priority provision in North and West Ward (Skimmingdish Lane).
- These objectives were re-affirmed in the Open Space Update 2011, which indicated a shortfall in open space provision in Bicester East Ward.
- The review of non-strategic policies such as Policy R1 is a matter for on-going work on Local Plan Part 2 and has a relationship with on-going work on the Bicester Garden Town Masterplan. Paragraph B.161 of Local Plan Part 1 explains that the open space evidence base will be updated through work on the Bicester Masterplan and Local Plan Part 2 and that “the identification of sites for new provision, other than those identified on the Policies Map (see Appendix 5: Maps) and related to the strategic sites identified in the Local Plan, will be identified in Local Plan Part 2.” This was acknowledged in the Inspector’s report (paragraph 150).
- The Council’s open space evidence base is currently being updated to inform the preparation of Local Plan Part 2. This will update deficiencies in provision, help identify how any deficiencies in provision will be addressed, inform whether existing sites allocated for recreation use should be retained, and advise on delivery. It is anticipated that the open space, sport and recreation assessments will be completed later in 2017 but at this stage updated information on deficiencies in provision relevant to consideration of this application is not available.
- The site is a district wildlife site and in accordance with policy ESD10, an application would need to be supported by ecological surveys, and

demonstrate a net biodiversity gain and no net loss of any important habitats and species on the site.

- Adopted Policy BSC4 Housing Mix indicates that provision of specialist housing for older and/or disabled people will be encouraged in suitable locations close to services and facilities.
- The application site is assessed in the HELAA 2017 (part of larger site HELAA066) as being unsuitable for development, with reference made to the District Wildlife Site designation and the allocation for recreation use in the adopted 1996 Cherwell Local Plan.
- Development of the site would be contrary to saved Policy R1.
- The supporting information submitted as part of the application refers to a planning consent granted for residential development on land off Skimmingdish Lane in 2015 (14/00697/F), which was also a site reserved for recreation use under saved Policy R1. However at the time that application was submitted, the Council did not have a 5 year housing land supply and the Cherwell Local Plan Part 1 was not adopted. The Plan is now adopted and the 2016 AMR (March 2017) shows that the District presently has a 5.4 year housing land supply for the period 2016-2021 and a 5.6 year housing supply for the period 2017-2022 (commencing 1 April 2017).
- The proposals include provision of a linear park/public open space on the eastern part of the site. The Design and Access Statement accompanying the application (paragraph 5.8) indicates that the objectives of the public open space would be to:
  - design the open space as an area of natural/semi natural green space/amenity green space and management and maintenance of the land into the future and
  - develop a formal public right of way/pedestrian access through and across the land, in order to contribute to the delivery of a linear park.
- The public open space /linear park element of the proposal (comprising 46% of the site) would make some contribution towards the objectives of open space policy in securing some public open space with a linear route through connecting to the existing footpath/cycleway along Skimmingdish Lane, and with the potential to connect to land to the north of the application site and the recreation ground to the south.
- However the proposals would result in an overall loss of land reserved for open space use and it is noted from OCC's response that should the potential dualling of Skimmingdish Lane go ahead, land within the site boundary may be required to create lanes leading to the Buckingham roundabout, which could result in the loss of some of the land currently proposed as public open space. Further information would be needed to establish whether this is likely.
- The proposal is contrary to Saved Policy R1 in that it would result in overall loss of land reserved for recreation use. However the proposals would secure formal public access to open space on nearly half of the site with a linear route through, making some contribution towards the objectives of Policy Bicester 7 (provided there is some assurance that the linear park/open

space would not be significantly impacted by the potential dualling of Skimmingdish Lane).

- If it is considered that the policy issues identified above, including the ecological value of the site, have been sufficiently addressed so that on balance the benefits of the scheme and the contribution it would make to meeting the objectives of Policy Bicester 7 outweigh the overall loss of land reserved for recreation use, it should be ensured that:
  - public use of the linear park/open space land is secured
  - footpath cycleway connections are made through the site to connect with existing provision on Skimmingdish Lane and provide potential connections to both the existing recreation ground to the south and the balancing reservoir land to the north
  - the design of the open space maximises biodiversity gain

6.7. Ecology Officer: No objection subject to conditions.

- The Ecology Officer has provided written and verbal comments in relation to this application and has concluded that the information submitted demonstrates that there would be no biodiversity loss and that no Biodiversity Impact Assessment (BIA) is required however, there are further opportunities for biodiversity gain and this can be achieved through conditions requiring a Landscape and Ecology Management Plan and a Construction Environmental Management Plan.

6.8. Landscape Officer: No objection subject to conditions and legal agreement.

- The Landscape Officer has provided written and verbal comments in relation to this application and has requested conditions requiring a Landscape and Ecology Management Plan, a Construction Environmental Management Plan, Tree Survey, Arboricultural Method Statement and hard and soft landscaping scheme.
- S106 contributions of £3,620 and £55,600 will be sought towards the future maintenance of hedgerows and informal open space respectively.

6.9. Leisure and Recreation: No objection.

- Provided that there are adequate community facilities within the care home, then no contributions will be requested – as per the SPD which indicates no sport or recreation facilities requirement from care home developments.

6.10. Strategic Housing: This is a Use Class C2 application. There is therefore no requirement towards affordable housing on this site.

## 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)

- Policy PSD1: Presumption in Favour of Sustainable Development
- Policy BSC4: Housing Mix
- Policy BSC10: Open Space, Outdoor Sport and Recreation Provision
- Policy BSC 11: Local Standards of Provision Outdoor Recreation
- Policy ESD6: Sustainable Flood Risk Management
- Policy ESD7: Sustainable Drainage Systems
- Policy ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- Policy ESD13: Local Landscape Protection and Enhancement
- Policy ESD15: The Character of the Built and Historic Environment
- Policy ESD17: Green Infrastructure
- Policy Bicester 7: Meeting the Need for Open Space, Sport and Recreation

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

- Policy R1: Allocation of land for recreation use
- Policy C28: Layout, design and external appearance of development of new development
- Policy C30: Design control
- Policy ENV12: Contaminated land

#### NON-STATUTORY CHERWELL LOCAL PLAN (2011)

- Policy R1: Allocation of land for recreation use
- Policy ENV17: 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 development
- Access and transport
- Appearance
- Layout
- Scale
- Landscaping
- Biodiversity
- Drainage
- Planning contributions
- Other matters

#### **Principle of development**

- 8.2. The principle of development is guided by Policy PSD1 (CLP 2031 Part 1) which states that the Council will take a proactive approach to reflect the presumption in favour of sustainable development contained in the NPPF and will work proactively with applicants to jointly find solutions which mean that proposals can be approved wherever possible and, to secure development that improves the economic, social and environmental conditions in the area.
- 8.3. The proposed development is anticipated to generate between 40-50 new employment opportunities which are intended to be offered to suitable candidates from the local area. There is therefore an economic benefit associated with the proposed development.
- 8.4. The proposed development would provide a 64 bedroom care facility, designed to meet the identified needs of the local community, specifically older people and those requiring personal and dementia care on a residential basis. There is therefore a social benefit associated with the proposed development, with the development providing specialist housing for older and disabled people to meet the needs of the local community, as required by Policy BSC4 (CLP 2031 Part 1). The development would also contribute towards health and wellbeing as required by Policy BSC6 (CLP 2031 Part 1).
- 8.5. The proposed development is considered to provide an environmental benefit through biodiversity gain as required by policy ESD10. These benefits are considered in more detail later in this report.
- 8.6. Retained Policy R1 (CLP 1996) allocates the application site for recreational use and there has been a long term ambition for the site to become part of a linear park around the periphery or urban edge of Bicester. The policy ambitions for the site are outlined in detail in the consultation response from Planning Policy.
- 8.7. The development proposal therefore conflicts with Policy R1 (CLP 1996); however it has been recognised by Planning Policy and Development Management that the development of part of this application site could act as an enabler towards achieving the policy ambition for a recreation space in this location, which until now has not been forthcoming.
- 8.8. As part of the development proposal, 46% of the application site has been proposed as public open space. Importantly, this public open space would be transferred to the Council (via the Section 106 mechanism), enabling the site to become publically accessible. Although the design of the public open space is yet to be finalised, it is anticipated that a pathway will provide an alternative walking and cycling route through the site, with the park connecting existing green spaces and recreational areas and providing a green corridor along Skimmingdish Lane. The proposal is therefore considered, on balance, to enable the Council to meet its ambitions with regards to Policy R1 (CLP 1996) and Policy BSC10 (CLP 2031 Part 1), subject to conditions relating to landscaping and biodiversity enhancements.
- 8.9. On balance, taking into account the social, economic and environmental benefits of the proposal and the limited harm caused by the partial conflict with Policy R1, the principle of development is considered acceptable.

#### **Access and transport**

- 8.10. The proposed access arrangements are considered acceptable and are unlikely to cause harm in terms of highways safety subject to the conditions and requirements specified by the Local Highways Authority. The level of car parking provision for staff

and visitors is considered acceptable however precise details of the car park layout and cycle parking provision are required.

- 8.11. The Local Highways Authority has requested a contribution of £22,500 towards improvements to the S5 bus service and a contribution towards the cost of monitoring the travel plan associated with the development. A full justification for these contributions has been provided in the Local Highways Authority consultation response. The justification provided is considered to satisfy the tests outlined in the NPPF and CIL Regulations.
- 8.12. Although the development is located on the periphery of Bicester, it is located in a relatively sustainable location by virtue of its connections to existing walking and cycling networks and proposed improvements to the bus service. The proposal is therefore considered to comply with Policy SLE4 (CLP 2031 Part 1).

### **Appearance**

- 8.13. The proposed development would be constructed predominantly from brick with elements of render and cladding with a slate (or similar) roof. The materials proposed are considered acceptable however full details of the materials proposed will need to be provided via condition. The appearance of the building is consistent with buildings of similar age and function and is considered to be compatible within the local context.

### **Layout**

- 8.14. The proposed development is 'H' shaped and would incorporate two courtyards with formal gardens to serve residents. The building would be accessed via an access road which passes through the proposed public open space. The proportion of building form to open space is considered to be acceptable.

### **Scale**

- 8.15. The two-storey building would have a footprint of 1,680m<sup>2</sup> and overall ridge height of 9.5m, the scale of the building is therefore relatively large but this mass is broken up by the 'H' shape design and the use of projecting gables on each elevation.

### **Landscaping**

- 8.16. There are two key elements of landscaping associated with the proposal. The first is the landscaping associated with the care home and the second is the landscaping associated with the public open space.
- 8.17. The landscaping associated with the care home is formal with grassed areas, trees, shrubs and paths.
- 8.18. The landscaping associated with the public open space is informal and designed primarily for biodiversity gain. The existing scrub is to be retained where possible and will intersperse the open grassland. The boundary between the public open space and formal area will be strengthened with trees and shrubs. A path will run through the public open space, connecting the adjacent balancing pond with the site and Skimmingdish Lane. It is anticipated that this path will be suitable for both pedestrians and cyclists.
- 8.19. Although an indicative landscape plan has been submitted with the application, additional information regarding the design and management of the landscaping is required. It is recommended that this is sought by condition.

- 8.20. The Landscape Officer has requested planning contributions towards the future maintenance of the public open space and hedgerows. As the public open space and hedgerows are to be transferred to the Council and will need to be managed on an ongoing basis, these contributions are considered necessary and reasonable and satisfy the tests outlined in the NPPF and CIL Regulations.

### **Biodiversity**

- 8.21. The application site is part of a proposed District Wildlife Site and is adjacent to Skimmingdish Lane Balancing Pond which is an area of high ecological value. During the course of the application it has become apparent that there is some confusion as to the weight which should be attributed to District Wildlife Sites so it would be helpful to briefly explain their significance.
- 8.22. District Wildlife Sites are likely to have significant value for wildlife and support many different habitats and species. District Wildlife Sites are recommended to the Council by the Thames Valley Environmental Records Centre (TVERC) based on local expertise and knowledge. District Wildlife Sites are not considered sufficient to be of County importance but are worthy of recognition at the District level and with the appropriate management can attain the Local Wildlife Site designation. Until District Wildlife Sites proposed by TVERC have been adopted by the Council, they do not have the same weight as District Wildlife Sites. The application site is a proposed District Wildlife Site; therefore the weight which can be attributed to this designation is limited. This does not however mean that the ecological significance of the site is in anyway reduced and there is a still a requirement for the applicant to demonstrate that the proposal would not cause adverse harm to biodiversity.
- 8.23. The Ecology Assessment submitted by the application states that on the basis of the ecology surveys undertaken, the application site is not considered to be of high intrinsic value from an ecology and nature conservation perspective and that the design of the proposed development and implementation of the identified mitigation measures will ensure that there are no adverse effects on any designated sites or protected species as a result of development at the application site.
- 8.24. The Council's Ecologist has reviewed the information submitted with the application and agrees that the development would not result in biodiversity loss but there are opportunities for biodiversity gain and this can be achieved through conditions requiring a Landscape and Ecology Management Plan and Construction Environmental Management Plan. These conditions are considered both necessary and reasonable considering the limited level of detail provided by the application in relation to biodiversity enhancements. Subject to these conditions, the proposal is considered to comply with Policy ESD10 (CLP 2031 Part 1).

### **Drainage**

- 8.25. The application site is not located within flood zones 2 or 3 but is at risk of surface water flooding from the adjacent balancing ponds should they exceed their capacity. The proposed development therefore needs to be able to accommodate this potential flooding in terms of surface water drainage and storage, however the probability of a flooding event occurring is low. The applicant has submitted a drainage scheme as part of the application and this has been considered by the Lead Local Flood Authority (Oxfordshire County Council). Whilst the Lead Local Flood Authority has raised no objection to the proposal, it has concluded that the drainage scheme is still of an outline nature and has requested that a full detailed drainage design and supporting calculations are submitted via condition. Subject to this condition, the proposed scheme is considered to comply with Policies ESD6 and ESD7 (CLP 2031 Part 1).

## 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 proposed development would result in the development of a care home which is considered to provide social, economic and environmental benefits which on balance, taking into account representations made by consultees and members of the public, are considered to outweigh the partial loss of an allocated recreation site to development. However, the public benefit arising from the provision of public open space for the purposes of recreation is significant and should not be underestimated, especially given the long held aspirations for the creation of a linear park in this location.
- 9.3. The application is therefore recommend for approval subject to the completion of a satisfactory S106 agreement to incorporate the transfer of the public open space to the Council and necessary planning contributions and the conditions outlined below.

## 10. RECOMMENDATION

Resolve to grant planning subject to:

- a) Delegation of the negotiation of a satisfactory S106 agreement.
- b) The following conditions with delegation provided to the Development Services Manager to negotiate final amendments to the wording of conditions:
  - 1 The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.  
  
Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
  - 2 Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and documents: Application Forms, Planning Statement, Design and Access Statement, Geo-environmental Appraisal, Transport Statement, Travel Plan, Arboricultural Appraisal, Ecological Appraisal, Drainage and Flood Risk Assessment and Drawings Numbered OX26 4XJ-P-05 Rev. D, OX26 4XJ-P-06 Rev. C, OX26 4XJ-P-03 Rev. A, OX26 4XJ-A-04 Rev. D, OX26 4XJ-A-02  
  
Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government guidance contained within the National Planning Policy Framework.
  - 3 Prior to the commencement of the development hereby approved, full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the means of access shall be constructed and retained in accordance with the approved details.  
  
Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework.



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

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

- 5 Prior to the commencement of the development hereby approved, a plan showing car parking provision to be accommodated within 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 parking spaces shall be laid out, surfaced, drained and completed in accordance with the approved details and shall be retained for the parking of vehicles at all times thereafter.

Reason - In the interests of highway safety, to ensure the provision of off-street car parking and to comply with Government guidance contained within the National Planning Policy Framework.

- 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.

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

- 7 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 (Soakage Testing)
- Detailed drainage layout with pipe numbers
- SUDS - (Trench Soakaways)
- Network drainage calculations
- Phasing
- Maintenance and management of SUDS features (including details of who

will be responsible for maintaining the SUDS & landowner details).

Reason - To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

8 Prior to the commencement of the development hereby approved, and notwithstanding the details submitted, full details of the construction of the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the construction shall be carried out in accordance with the approved details. A Construction Traffic Management Plan (CTMP) will need to incorporate the following in detail (where necessary):

- The CTMP must be appropriately titled, include the site and planning permission number.
- Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
- Details of and approval of any road closures needed during construction.
- Details of and approval of any traffic management needed during construction.
- Details of wheel cleaning/wash facilities - to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
- Details of appropriate signing, to accord with the necessary standards/requirements, for pedestrians during construction works, including any footpath diversions.
- The erection and maintenance of security hoarding / scaffolding if required.
- A regime to inspect and maintain all signing, barriers etc.
- Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.
- The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.
- No unnecessary parking of site related vehicles (worker transport etc) in the vicinity - details of where these will be parked and occupiers transported to/from site to be submitted for consideration and approval. Areas to be shown on a plan not less than 1:500.
- Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.
- A before-work commencement highway condition survey and agreement with a representative of the Highways Depot - contact 0845 310 1111. Final correspondence is required to be submitted.
- Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution.
- Any temporary access arrangements to be agreed with and approved by Highways Depot.
- Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.

Reason: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and local residents, particularly at morning and afternoon peak traffic times.

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

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Policies SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

- 10 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 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.

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

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

- 12 Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on

site shall be carried out in accordance with the approved AMS.

Reason - To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 13 Prior to the commencement of the development hereby approved, a schedule of materials and finishes, including samples, for the external walls and roof of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved schedule and material samples.

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.

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

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

- 15 Notwithstanding any details shown to the contrary in the approved plans, all windows to be installed on buildings within the development shall be flush fitting balanced casements that are recessed a minimum of 75mm within the window surrounds unless otherwise agreed in writing by the local planning authority.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

- 16 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 ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

- 17 Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a Construction Environmental Management Plan (CEMP), which shall include details of the measures to be

taken to ensure that construction works do not adversely affect biodiversity, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved CEMP.

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

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

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

- 19 Prior to the first occupation of the development hereby approved, a public art scheme shall be submitted to and approved by the Local Planning Authority. Thereafter, the public art scheme shall be implemented, maintained and retained in accordance with the approved details.

Reason - To enhance the setting and environment of the proposed building in accordance with policy C28 of the adopted Cherwell Local Plan.

- 20 Prior to the commencement of the development hereby approved, full details of the proposed temporary access (to be used for construction purposes) shall be submitted to and approved in writing by the Local Highway Authority. Thereafter, it will be formed, laid out, and constructed strictly 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.

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TEL: 01295 221884

**17/01428/F**

**Part Of OS Parcels 0625  
And 0914 North Of Coopers  
Buckingham Road  
Bicester**

78.7m

CR

ED & Ward Bdy  
SKIMMINGDISH LANE

Mast

Recreation Ground



**1:1,000**

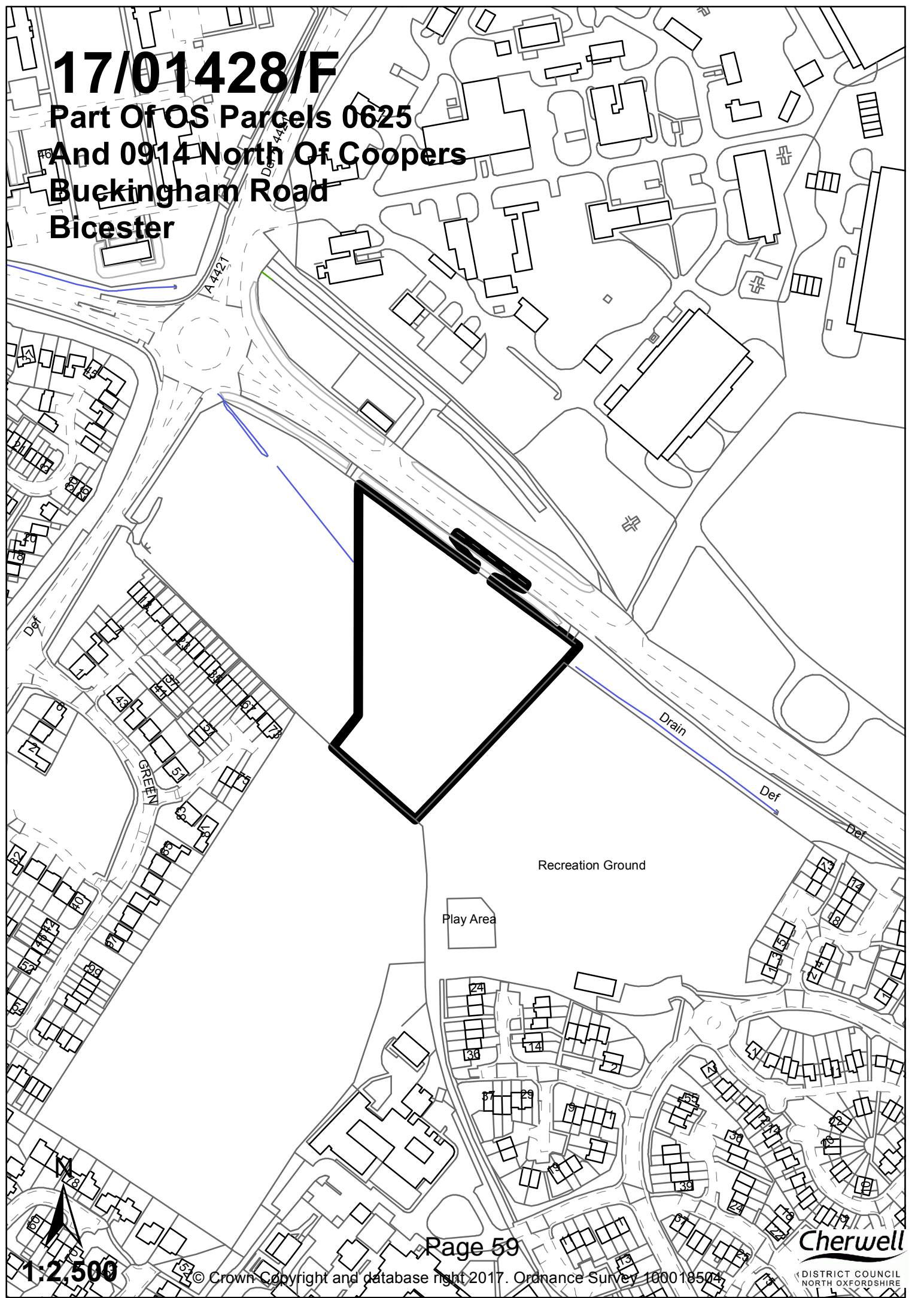
Page 58

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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

# 17/01428/F

Part Of OS Parcels 0625  
And 0914 North Of Coopers  
Buckingham Road  
Bicester



1:2,500



For the attention of: Bob Duxbury  
Development Control Team Leader  
Development Management  
Cherwell District Council

Set by email only: [Bob.duxbury@cherwell-dc.gov.uk](mailto:Bob.duxbury@cherwell-dc.gov.uk)

Date: 27<sup>th</sup> October 2017

LPA Ref: 17/01428/F  
GLD Ref: GLD16-06

Dear Bob,

**Re: Determination of Planning Application 17/01428/F at Planning Committee on 26<sup>th</sup> October 2017**

It is with regret that we have to write to you on this basis, but after yesterday's extremely disappointing Planning Committee resolution on planning application P17/01428/F, we are unfortunately left with no other alternative.

We have serious concerns about the manner in which the decision was taken by Members in deciding upon this application.

Following the Planning Committee, we have watched back and reviewed the televised recording of the meeting, and in turn have sought the advice of Counsel, particularly so on the manner in which Members decided to overturn the Officers' recommendation and refuse the application.

Members voted on a proposal to refuse the application based on no specific reasons for refusal.

The failure to consider any reasons to refuse this application, was compounded by the actions of the Committee post resolution. Just as the next item on the agenda was about to be presented, the Council's solicitor had to attract the attention of the Chairman, in order for the Committee to revisit the previous item on the agenda, i.e. this application; this was so some actual reasons could be cited as to why planning permission had just been resolved to be refused. This was not discussed again with the Members who had just voted, but the Officer simply stated that from the discussions the application was refused on the basis it was contrary to Policy R1, and Policy ESD10 ecological impact. Crucially, the vote previously taken by Members was not taken on this basis (no reasons for refusal had been proposed to inform that motion), it was simply proposed to refuse the application.

It is clear from reviewing the televised recording of the meeting that the determination of the application failed to consider two key material considerations.

Firstly, the site is open space and that it contributes to Bicester's recreational provision. This is factually incorrect; the site has only ever been reserved for recreational use under Policy R1 of the 1996 Local Plan, a policy ambition that has not been realised for in excess of 20 years, and never will be as the site is private land with no formal public access. It does not contribute to the open space provision for the District, but through the application scheme would do so, by delivering a linear park around on the urban edge of Bicester; meaning that it is actually in accordance with Policy Bicester 7 of the far more recently adopted Local Plan Part 1.





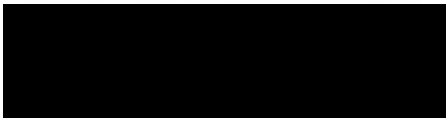
Secondly, the site was a District Wildlife Site and that it has high ecological value. This is factually incorrect; the site is not designated as a District Wildlife Site. The only ecological survey work on the site before the Committee was that of the applicants, with this survey work confirming that the site has limited ecological value. In fact, the application scheme not only delivers appropriate and proportionate mitigation, but will deliver a net gain for biodiversity in the local area, and this is confirmed by the Council's ecologist.

If these were in fact the two reasons that the Members were voting on in order to refuse the application, and we simply do not know this at the time of the vote, then Officers needed to have confirmed the facts of this application to the Committee, and advised Members that these are not substantive and justifiable reasons to refuse planning permission, particularly if the applicant were to appeal the decision, with there being a strong likelihood that costs could be awarded against the Council. The vote would then have been taken with this knowledge available to Members, but because of the series of events that took place, this was not the case.

As matters currently stand, it is wholly apparent that the determination of the application failed to consider two key material considerations, and that Members were not clear on the correct planning facts of the application, and in turn were unaware of the consequences of their actions, i.e. in the case of a subsequent appeal and associated costs. As things stand the current rationale for the refusal of this application could not be substantiated at appeal.

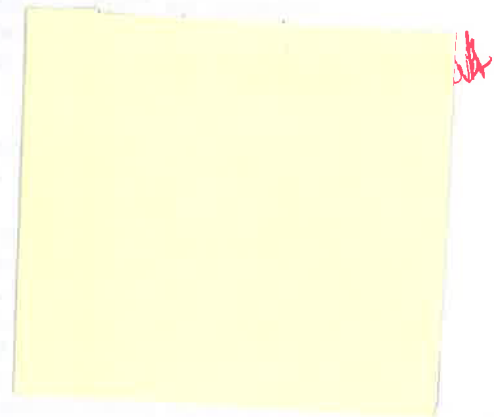
Given the severity of this situation, we would be grateful if you could reply back to me as a matter of some urgency, confirming that the Council, due to the reasons stated above, will be taking this planning application back to the next available Planning Committee for it be re-determined in the correct manner.

Yours sincerely



**Philip Rawle BSc(Hons) MA DipTP MRTPI  
Director**

Cc Alistair Wood – LNT Care Developments Ltd



Agenda Item 9

**16/02218/F**

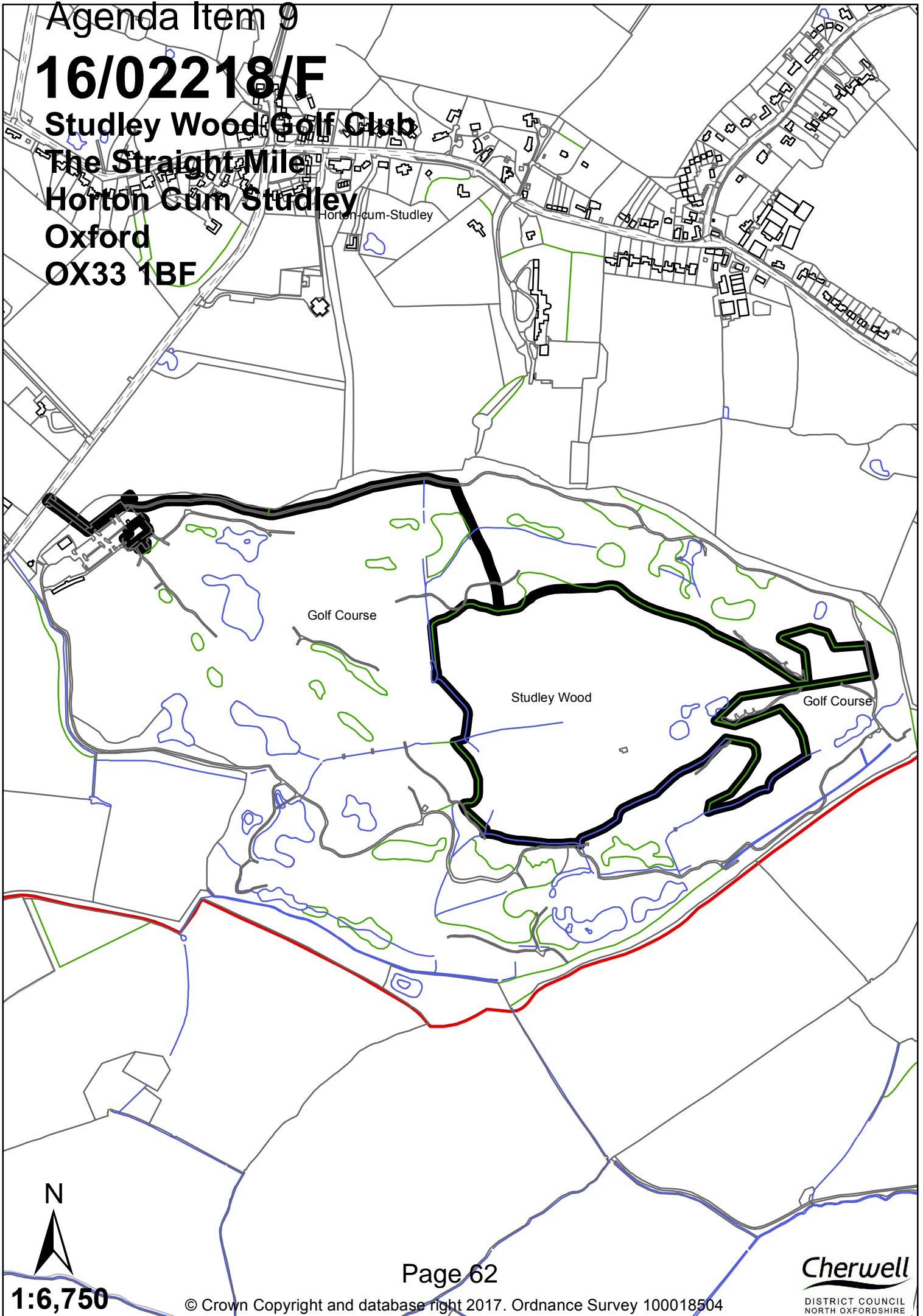
**Studley Wood Golf Club**

**The Straight Mile**

**Horton Cum Studley**

**Oxford**

**OX33 1BF**



Golf Course

Studley Wood

Golf Course

N  
1:6,750

# 16/02218/F

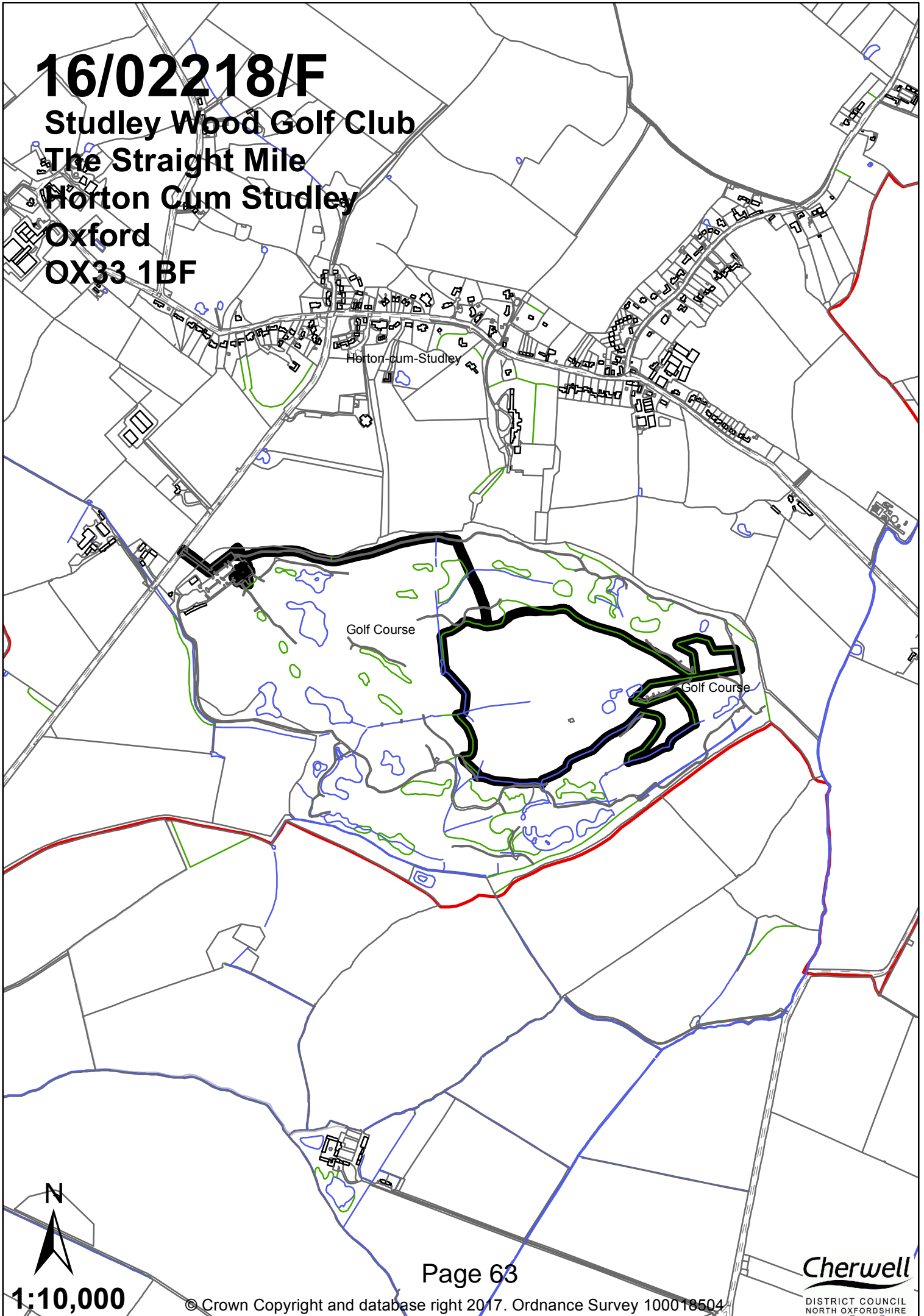
Studley Wood Golf Club

The Straight Mile

Horton Cum Studley

Oxford

OX33 1BF



Horton-cum-Studley

Golf Course

Golf Course

Studley Wood Golf Club  
The Straight Mile  
Horton Cum Studley  
Oxford  
OX33 1BF

16/02218/F

**Case Officer:** Caroline Ford                      **Ward(s):** Launton And Otmoor

**Applicant:** Studley Wood Golf Club

**Ward Member(s):** Cllr Tim Hallchurch  
Cllr Simon Holland  
Cllr David Hughes

**Proposal:** Change of use of part of golf course (woodland) to natural burial ground and associated buildings including ceremonial building and administration building and proposed pro shop and office and conversion of existing function room to staff flat at golf club - Re-submission of 15/01539/F

**Committee Date:** 23.11.2017                      **Recommendation:** Refusal

**Committee**

**Referral:** Major Planning Application (site area is over 1ha)

**1. Application Site and Locality**

- 1.1 Studley Wood Golf Club is situated to the south of Horton Cum Studley with access taken from The Straight Mile. The golf course extends to the east of The Straight Mile and is mostly formally laid out for that purpose albeit wrapping around a large area of woodland positioned in the middle of the course. The woodland itself extends to approximately 14ha. The clubhouse and associated car parking are positioned to the west of the golf course site, close to The Straight Mile. The development site relates predominately to the area of woodland, with an access leading to it and to three small areas, including and close to the clubhouse.
- 1.2 The site has a number of recorded site constraints. The land is situated wholly within the Oxford Green Belt and the land is ecologically sensitive; the woodland is classified as Ancient Woodland (ancient and semi natural woodland according to the Natural England MAGIC website), which is a UK Biodiversity Action Plan habitat (as part of Lowland Mixed Deciduous Woodland), it is a District Wildlife Site and it is within the larger Bernwood Conservation Target Area. A number of notable and protected species have been recorded on or close to the site, there are a number of other areas classified as Ancient Woodland within the vicinity and there are a number of SSSI sites all within 2km of the site. The site is also recorded as having archaeological potential.

**2. Description of Proposed Development**

- 2.1 This application seeks planning permission to change the use of the woodland part of the golf club to a natural burial ground. The proposal also seeks permission for two buildings directly

associated with the natural burial ground proposal – a ceremonial building to be positioned within the woodland (measuring 27.2m in length, 9.4m in width at its widest point and 5.35m in height) and an administration building to be positioned just to the north of the clubhouse (measuring 10.2m in length (including the veranda), 6.5m in width and 3.8m in height). The proposal also seeks permission for a further building, to be positioned just to the south of the clubhouse to be used as a reception/ office and pro shop for the golf course uses (this building is a cross shape and would measure 19m in length, 15.5m in width and 4.3m in height). The three buildings would be similar in design, each being single storey, but with the pitched roof extending almost to the ground and constructed from a timber frame and cladding, glazed oak framework and a natural slate roof. The proposal also seeks to make alterations to the clubhouse itself, to alter the ground floor to create a function room and convert the existing function room at first floor to a staff flat.

- 2.2 Upon assessment of the application and taking into account consultation responses, Officers wrote to the applicant identifying concerns with the proposal including its compliance with Planning Policy. Following a meeting with consultees, Officers agreed to accept additional information to support the planning application. The re-submission was received at the end of June 2017 and a re-consultation process undertaken. The assessment takes into account all submitted information. In addition and during the application process, the Case Officer and Landscape Officer have visited a woodland burial site run by the proposed operator of this burial ground (Green Acres) – their Chiltern Burial site close to Beaconsfield in Buckinghamshire. Green Acres runs a number of natural woodland burial sites and the submitted Management Plan sets out their philosophy and how their sites are run.
- 2.3 The application was reported to Planning Committee in September 2017. At the request of the applicant, the consideration of the application was deferred to negotiate further changes to the proposal and to allow a formal site visit. Following committee, Officers reviewed committee dates and determined that to allow sufficient time for the receipt and consideration of any additional information the applicant may wish to submit, that it was appropriate to target the November committee (rather than the October meeting, which would have resulted in very tight timescales). Specific dates were provided to the applicant for submission; however Officers have not received any further supporting information to support this proposal. In the circumstances, the application is therefore reported back to Members in the same form as the September committee. Members will also note that a formal site visit will be undertaken prior to the meeting as was required as part of the deferral.

### **3. Relevant Planning History**

- 3.1 There is recorded planning history relating to the golf club uses on the site and the application follows a similar application made in 2015, which was subsequently withdrawn (15/01539/F).

### **4. Response to Publicity**

- 4.1 The application has been publicised by way of a site notice displayed near the site and by advertisement in the local newspaper.

4.2 The only third party response received was from The Woodland Trust and their comments are summarised as follows:

- Strong objection on account of the damage and loss to Studley Wood, an area of ancient semi natural woodland.
- The history of Studley Wood is set out in the submitted report 'Landscape Ecology of Studley Wood' (2012), which details the remarkable continuity of the use of the site as woodland and confirms the remaining wooded section as a valuable part of the historic landscape. The site also still has significant ecological value.
- The usage of the wood is currently extremely light and non-invasive. The proposed change of use will greatly increase the levels of human activity and interference within the woodland area which will be harmful to the natural habitat.
- If the proposal is to secure the long term future of the golf club financially, then this would indicate high levels of use. The level of impact will depend upon the success of the business but the business case suggests that usage will be substantial.
- The use of the ceremonial building and the wood itself for funerals and others will lead to further levels of human impact and the size of the building indicates the number of people in the area would be substantial compared to the present.
- The increased intensity of activity within the ancient woodland will affect the rare, delicate ecosystems and vulnerable ecology it houses.
- At Studley Wood, the individual trees are, arguably of lesser importance than the woodland as a whole. What is irreplaceable is the existence of an area which has supported continuous woodland cover for such an extended time period, and the resulting ecology that comes from this continuity. One of the key values of ancient woodland is their unique soils.
- The proposals will inevitably lead to direct local damage both to tree roots and the soil structure which, given the predicted number of burials could lead to significant levels. Whilst no actual trees are planned to be lost, the excavations in close proximity to many of the trees within the wood would be highly detrimental in the long term.
- The proposed building would also cause substantial disturbance to the area of woodland and would have a detrimental impact on the surroundings. Its presence would cause direct loss of ground and soil compaction within the wood and generate far higher levels of disturbance (e.g. light and noise). The network of surfaced access routes would also result in loss of area and change of habitat.
- Ancient woodland is not an acceptable location for intrusive and damaging development. There are opportunities for sensitive management to protect and enhance its value, but these should be sought through other opportunities.

## 5. Response to Consultation

### Horton Cum Studley Parish Council:

5.1 Objections/ observations and make the following points:

- All development within the Green Belt is harmful to it and the village is a category C village.
- The operational interaction between golfers and funeral parties is unclear and there is concern as to the effect on golfers and villagers.
- The extension to the golf club is disproportionate to the existing building. The extension is partly for residential purposes that has no connection with the sport of golf.
- Distance of the new building from the woodland for which the change of use has been proposed.

- Increased traffic to the woodland and incompatibility with the sport of golf. Increased traffic on the Straight Mile.
- Ancient woodlands should be preserved and are irreplaceable. The effect of burial digging is not yet fully known.

5.2 Second response from Horton Cum Studley Parish Council:

- The proposed development by virtue of its positioning, size and scale is inappropriate development within the Oxford Green Belt.
- The proposed development by reason of its siting and scale would cause unacceptable harm to the rural character of the area.

5.3 Aylesbury Vale District Council  
No objection or comments

Cherwell District Council:

5.4 **Ecology:**

- The site is designated ancient woodland. This is a habitat of high ecological value as it cannot be recreated and is irreplaceable. Whilst it may not be the best example of ancient woodland, it is on the ancient woodland inventory and should receive protection.
- The site falls within a complex of four ancient woodlands within a few KMs of each other including the SSSI Shabington Woods, which increases its value as opposed to an area of isolated wood. It is within the Bernwood Conservation Target Area as being an area of high opportunity for biodiversity enhancement.
- The proposal is considered to conflict with policy ESD10, where development will not be permitted on these sites unless the benefit outweighs the harm and there is no proof that it does here. It does not appear that alternative sites have been considered and the full impact of the proposals is not clearly understood.
- The layout does not show where the proposed tracks through the site will be. It is stated that the informal paths will be allowed to revert after burial but surely the paths will need to be retained in some form to accommodate visitors to graves? The level of proposed footfall is unclear.
- The plans state that 5 graves will be placed around trees before being left for five years to allow restoration in deficiency of the trees root system. This suggests impact on those individual trees that would be buried around.
- The proposed woodland management plan does contain aspects that would be beneficial to the woodland in the long term, which is currently unmanaged to its detriment. However, it is stated that the management objectives may change as the site develops commercially and that damaged habitats will be offset with compensatory replacement like for like. This may not be possible however as ancient woodland and veteran trees cannot be recreated.
- There are also plans to close some areas, but these are not indicated. It is stated that excess subsoil will be placed in mounds, which will change the soil composition in those areas.
- The Great Crested Newt Survey makes recommendations for avoiding harm and these are considered acceptable.
- The nature of the proposal will change the ecological integrity of the site. There may be some positives as a result of management, these would be difficult to monitor and the proposals would entail significant and increasing disruption to the woodland into the future.

- Unsupportive of the plans as there are too many unknowns as to the impacts and the future of the site. The submitted survey stresses that owing to the sites status, intrusive works are not recommended.

Second response (received following a site visit)

- The site is Ancient Semi-Natural Woodland and from our site visit, the woodland is within moderately good condition. However a high population of deer are present in the woodland which are a considerable problem due to browsing pressures, which has appeared to limit the regeneration of trees and shrub understorey within the woodland which is lacking. The ground flora contains abundant bramble, which although does help with protection of saplings from deer browsing, it also limits the light reaching the woodland floor and would require management to improve the diversity of the ground flora of the woodland. Although we only made a walkover of the woodland and did not see all areas, the species assemblage of the woodland as described in the management plan does appear to be accurate.
- The management proposed within the management objectives of the management plan includes measures to increase biodiversity of the woodland, including selective thinning out of trees, creation of glades and rides, coppicing, retention of deadwood trees and deer management including culling and fencing which are welcomed.
- However the overall impact on ancient woodland by the increase in disturbance from increased footfall and digging within the root protection zones of mature trees is expected to outweigh the benefits of the management proposed. Concerns are raised regarding future continued impact and management of the site and the numbers and frequency of visitors expected within the site is not clear.
- Ancient woodland is a habitat which is impossible to re-create due to the prolonged evolution of the site's ecosystem. Local Plan Policy ESD10 states that "Development which would result in damage to or loss of a site of biodiversity or geological value of regional or local importance including habitats of species of principal importance for biodiversity will not be permitted unless the benefits of the development clearly outweigh the harm it would cause to the site, and the loss can be mitigated to achieve a net gain in biodiversity/geodiversity". We do not consider that the benefits set out within the proposals will outweigh the harm to an ancient woodland through the proposed impacts resulting from the burial use.
- Additionally, bat surveys of trees to be impacted, including those proposed to be felled along the access route, will be required.
- As such in line with the NPPF and local plan policy ESD10, due to the adverse impact on the woodland we would not be able to support the proposals.

Third response

- We stand by our previous recommendation for refusal of the application due to the adverse impact on the ancient woodland. The details of the impacts on the existing trees is a technical matter which the tree officer is best to provide advice on. However we do not see how all plots will be located outside of the RPA's of the trees and how this would be feasible in practice as we would expect very little ground to be available for burials. We consider that the digging and stockpiling of soils, building and pathways and the increase in disturbance through footfall within the ancient woodland will have an adverse impact on the regeneration of the understorey of the woodland and ground flora.
- Paragraph 118 of the NPPF is clear in this respect of the mitigation hierarchy and states:
 

"if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;"



"planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss"

- As such in line with the NPPF we would not be able to support the proposals in the location of ancient woodland and would suggest impact can be avoided by citing the burials in an alternative location to avoid the woodland.

#### 5.5 **Arboricultural Officer:**

- A tree survey, Arboricultural Method Statement and Tree Protection Plan for the proposed burial sites are required as the proposal involves excavation. This needs to identify which carefully selected trees are involved and must consider the proposed structures as well as burials.
- Serious concerns regarding the viability of the scheme on the following grounds:
- The site is classified as ancient woodland; this is a protected habitat, which should be considered sacrosanct, unless there are great requirements for the development. Other locations upon the site might be more suitable.
- The methodology document in the patent document is insufficient to satisfy the overall scheme due to the lack of specific detail regarding trees and the excavation locations. This may be satisfied by an encompassing tree survey, which would also need to address matters of the proposed building of structures in the woodland, the improvement of the access road and the other sundry matters that will impact upon the trees and woodland.
- In its present form the application does not provide sufficient information to satisfy the proposed development within a sensitive habitat. An innovative and very detailed approach may prove adequate to satisfy this particular element of the proposal.

##### Second response:

- The survey documents and proposed methodology for the road construction appears to be adequate.
- Concerns of potential damage to the trees during the burial process is negated as every burial requires a separate TPO application, tree detail and accompanying mini tree survey with RPA etc. compliant to BS 5837.
- No concerns regarding the building placement itself, however a separate detail on the construction technique of the foundations is required as the habitat is extremely sensitive.

#### 5.6 **Landscape Officer:**

- Endorse the comments from the Council's Ecologist.
- There is no proof that the small benefit of some management will outweigh the harm of digging 1.8m deep holes in the root zones of old trees, the provision of paths, disturbance from people and the introduction of a new building.
- Intrusive works should be avoided.
- Alternative sites have not been considered.

##### Second response (received after a site visit):

- The woodland is an attractive piece of damp Oak woodland. It consists mainly of Oak which is of a fairly uniform age. There are a few young Birch trees and a good amount of Bramble. There is a limited variety of ground flora, mainly tussocks of grass. There is plenty evidence of deer grazing which is preventing the establishment of a shrub layer and growth of young trees in the few areas of less dense canopy and at the periphery. Keeping the deer out would be the greatest contribution to management which could be made. This is unlikely to happen due to the cost.

- The canopy of this woodland is dense, there are very few glades and those that exist are very small. In addition Oak trees have spreading root systems which will interlock with each other. There will not be areas where root systems don't extend. This will make it impossible to dig without damaging and severing tree roots. The Greenacres patent will not be implementable in a woodland such as this.
- This is a small woodland compared to the Chiltern burial site. It is also entirely broadleaved where the Chiltern site was coniferous. One patented system does not fit all. The Chiltern site looks like a graveyard within a woodland. There are a variety of plaques, vases of flowers, no understorey, uneven ground due to digging and settlement.
- Understand that the road would only extend up to the Ceremonial Building yet how will pall bearers carry coffins further (i.e. to the far extremities of the woodland given the distance). There will be pressure to create more tracks within the woodland
- The proposed site of the ceremonial building wedges it into a small clearing. It will be very close to existing trees and their root zones and canopies.
- There is not really any more detail in this application over the previous one. No figures have been provided to indicate the anticipated number of burials a year. The woodland is small and will need very dense burials to make it viable. This is unacceptable.
- The management plan talks about selective thinning of max 10% in 5 years. It isn't clear how this ties up with the selection of sites for burial. The two may not be compatible. Natural regeneration will be difficult with so many deer around.
- The granting of permission would provide no benefits for this woodland at all. These are intrusive works which will damage the integrity of the woodland without providing any gains.
- I urge refusal of this application.

#### Third response

- These paths that circumnavigate the area have not been shown on a plan and there is no strategy to provide access as there hasn't been a network shown.
- Surrounding trees in the immediate area are very close to the proposed building.
- If burials will be outside the RPA's of the trees there will be very few burials as the trees are so close together and the roots so intertwined that there won't be any room. Digging graves into this mesh of roots will have an adverse effect on the trees. If this was a driveway going so close to trees like this we would be asking for 'No Dig' solutions. Why then should we consider digging 1.8m deep holes so close?
- Based on observations at Chiltern I don't believe that there will be habitat creation and restoration, rather what will be seen is bare ground mounded up and littered with plaques and inappropriate flowers.

#### **5.7 Environmental Protection:**

- No objections or comments

#### **5.8 Planning Policy:**

- No comments

#### Oxfordshire County Council:

#### **5.9 Transport:**

- No objection subject to conditions. A condition is recommended to secure details of arrangements of parking and turning around of the cortege and associated vehicles within the burial grounds/ woodlands.
- As the access arrangements and site layout appear to be the same as the previous application, the Transport response remains unchanged.

- The site is located on the rural road network with limited public transport, cycling and pedestrian access and as such, the development will be heavily reliant on the private car. The proposed burial ground already benefits from an existing vehicular access off Straight Mile Road, which links the village to Bayswater Road and eventually the A40.
- The site will utilise the 80 space car parking facility. Access beyond the car park will be controlled by staff managed barriers and limited to use as to only allow the cortege at burial times.
- Adjustments are likely to be required to the kissing gate between the car park and the administration building so as not to impede access to disabled members of the public.
- The proposal also seeks to pave and widen the existing paths into the woodland rides. There is also no mention of any hard standing for parking and turning for the cortege close to the burial grounds. If the cortege would use the woodland rides for parking and turning, specification details will be needed. There will be a requirement to provide some form of hard standing for the limited vehicles in/ around the woodlands to prevent vehicle wheels from bedding/ sinking into soft ground.
- There would be no significant change in traffic and highway safety resulting from the development. Traffic increase would be negligible in volume and duration and the impact on the surrounding network would therefore be small.

#### Second response

- There are no more significant changes to the application than assessed previously so the response as above remains the same.
- Comment made in relation to access to the ceremonial building for less mobile individuals or disabled people that are not part of the cortege. Where visitors park, is a long walk over what could be deemed as unsteady terrain in places, to reach the ceremonial building. As this is on private land, however, no objection is made but this should be considered.

#### **5.10 Archaeology:**

- No objection subject to conditions. The site is located in an area of archaeological interest and a staged programme of archaeological investigation will be required ahead of the development. This can be secured via condition.

#### **5.11 Ecology:**

- Advice should be sought from the CDC Ecologist and there is guidance available in the document titled 'Biodiversity and Planning in Oxfordshire'.

#### Other External Consultees:

#### **5.12 Natural England:**

- Natural England advises that the proposal is unlikely to affect any statutorily protected sites or landscapes.
- The Natural England Standing Advice on protected species should be referred to.
- The LPA should be satisfied that it has sufficient information to fully understand the impact of the proposal on any local site (e.g. a Local Wildlife Site) before it determines the application.
- The site includes an area of priority habitat as listed on Section 41 of the NERC Act 2006. The NPPF provides guidance on the conservation and enhancement of biodiversity.
- The proposals have the potential to adversely affect woodland classified on the ancient woodland inventory. Natural England has Standing Advice on ancient woodland.
- The application may provide opportunities to incorporate features into the design which are beneficial to wildlife. Measures to enhance biodiversity should be considered in accordance with para 118 of the NPPF.

### 5.13 Forestry Commission:

- The Forestry Commission is a Non Ministerial Government Department that works with others to protect, improve and extend our nation's forests and woodland, increasing their value to society and the environment. Attention is drawn to details of Government policy relating to ancient woodland and information on the importance and designation of ancient woodland.
- It is Government policy to discourage development that will result in the loss of Ancient woodland, unless 'the need for, and benefits of, the development in that location clearly outweighs the loss' (NPPF para 118).
- No opinion is provided supporting or objecting to an application. Information on the potential impact that the proposed development would have on the ancient woodland is provided.

### 5.14 Environment Agency:

- The application has been assessed as having a low environmental risk and therefore the EA has no comments to make.
- The applicant may be required to apply for other consents directly from the EA that they have a regulatory role in issuing and monitoring (i.e. consents/ permissions or licences for different activities – such as water abstraction or discharging to a stream).

#### Second response

- Repeated the response as above.

## 6 Relevant National and Local Planning Policy and Guidance

### 6.1 Development Plan Policies:

The Cherwell Local Plan 2011-2031 Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the Development Plan. Planning legislation requires planning decisions to be made in accordance with the Development Plan unless material planning considerations indicate otherwise. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

#### Cherwell Local Plan 2011 - 2031 Part 1

ESD1 – Mitigating and Adapting to Climate Change  
ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment  
ESD14 – Oxford Green Belt  
ESD15 – The Character of the Built and Historic Environment  
Policy Villages 1 – Village Categorisation

#### Cherwell Local Plan 1996 (Saved Policies)

H18 – New dwellings in the countryside  
C28 – Layout, design and external appearance of new development  
C30 – Design control

### 6.2 Other Material Planning Considerations:

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

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

## 7 **Appraisal**

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

- Principle of the Development and Green Belt;
- Ecology/ Ancient Woodland/ Arboriculture
- Transport
- Design/ visual amenity
- Archaeology
- Groundwater

### Principle of the development and Green Belt

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

7.2 The site sits within the Oxford Green Belt therefore Green Belt policy must be considered in respect to the principle of development. Policy ESD14 of the Cherwell Local Plan 2011-2031 is relevant. This policy confirms that the Green Belt boundaries within Cherwell District will be maintained for a number of reasons and it states that development proposals within the Green Belt will be assessed in accordance with Government Guidance contained within the NPPF and NPPG. Proposals for residential development will also be assessed against Policies Villages 1 and 3.

7.3 The Framework confirms that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The five purposes of the Green Belt are also set out. The Framework confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Local Authorities are advised to attach substantial weight to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

7.4 Paragraph 89 confirms that a Local Planning Authority should regard the construction of new buildings as inappropriate in Green Belt; however there are a number of exceptions to this, which are listed. Paragraph 90 sets out that certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These are also listed.

- 7.5 The proposal includes a number of different elements and these will be considered in turn.
- 7.6 The proposed change of use of land to a burial ground is not defined as being an appropriate form of development within the Green Belt by paragraphs 89 or 90 of the Framework. It can therefore be concluded that the proposal to change the use of the land to a burial ground is inappropriate development in the Green Belt when considered against the Framework. It would therefore, by definition, be harmful to the Green Belt and its openness and thus should not be approved except in very special circumstances.
- 7.7 In reaching this conclusion, regard has been paid to a High Court Judgement from early 2014 (later upheld by the Court of Appeal) – *Timmins v Gedling Borough Council*. This judgement (and the appeal judgement) concluded that any development in the Green Belt must be treated as inappropriate and can only be justified by reference to very special circumstances or by way of an exception to this general rule, as set out at paragraphs 89 and 90; finding that the ‘exceptions’ identified at those paragraphs are ‘closed lists’. As set out above, a change in the use of land is not quoted as an exception to the general rule in either paragraph 89 or 90 and this element of the proposal must be considered to be inappropriate development.
- 7.8 The proposal seeks permission for two buildings to be associated with the proposed burial ground. One forms a reception/ office building and would be located within close proximity to the existing clubhouse and parking. The other forms a ceremonial building to be positioned within the woodland itself. As above, the NPPF, at paragraph 89, sets out that a Local Planning Authority should regard the construction of new buildings as inappropriate in Green Belt, with a number of exceptions to this. One such exception is the *‘provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it’*. The provision of ‘appropriate facilities for... cemeteries’ cannot be considered to be appropriate development in the current circumstances where the burial ground does not exist and is itself inappropriate development (unless very special circumstances are proven). In any event, the wording ‘appropriate facilities for...’ suggests that this might address ancillary development which serves that land use. It is questionable whether a ceremonial building would constitute an ‘appropriate facility for’, however in any event, the buildings associated with the burial ground use must be assessed as part of the overall proposal for the change of use of the land to a burial ground and therefore would be inappropriate, by definition harmful and should not be approved except in very special circumstances.
- 7.9 Given the above conclusions in respect to the development representing inappropriate development, it should not be approved except in very special circumstances. In this case, the applicant’s very special circumstances case appears to centre on the following arguments:
- There is a significant demand for burial space and this demand will only increase in the future.
  - That the proposed natural burial ground would have no visual impact on the appearance of the Green Belt due to it being located within the existing woodland. This would therefore preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. This is not a typical cemetery use as there would be no distinguishable features such as gravestones.
  - The burial ground would go some way to maintain the viability of the golf course.

- The long term sustainability of the woodland management would be ensured through active management to restore key habitat.

7.10 The points set out above should be considered in turn. Corresponding to the points above, Officers view is as follows:

- The likely demand for burial space in the future is not necessarily disputed, however the need for this to be within the Green Belt (and an ecologically sensitive Ancient Woodland – covered below), is questionable. The submission states that a detailed site selection process has been undertaken as to whether there are any other suitable sites outside the Green Belt, but that none could be found. No evidence is provided to support this statement.
- The issue of visual impact is a separate consideration to openness. Any development, by its nature would have an impact upon openness. This is a primary characteristic of Green Belts. All development is restricted by Green Belt policy due to its harmfulness unless there are very special circumstances or there is an exception granted by paragraphs 89 and 90. Therefore it is clear that in concluding the proposal is inappropriate, the lack of visibility does not represent a very special circumstance, given that it will impact openness.
- Officers visited another of the Green Acres natural burial grounds and the character of the woodland had clearly changed, with areas cleared, pathways throughout and markers for graves visible. This site is different, however there is likely to be a need for pathways/ rides and burial markers would be provided (these are described as being small wooden memorials up to 400mm height and 150mm wide therefore are not as large as gravestones but still have a visual impact).
- No evidence is provided to support the submission that the long term financial future of the golf club would be secured. Whilst supporting economic growth in rural areas where appropriate is necessary, the site is within the Green Belt which attracts significant protection.
- The section below titled ‘Ecology/ Ancient Woodland/ Arboriculture’ addresses the last point in detail. However, it is relevant to note that as part of the S106 legal agreement attached to the original planning permission for the golf course, there were obligations around management of the woodland. Therefore as discussed below, there are benefits attached to the management of the woodland but this should not be given significant weight in considering whether the use is appropriate in the Green Belt given that this is a matter that is not directly interlinked to the proposed change of use of the land to a burial ground.

7.11 Given the above, it is not considered that there are very special circumstances in this case that would outweigh the harm to the Green Belt by reason of the inappropriate development proposed.

7.12 The proposal also seeks permission for internal alterations to the club house. Apart from some minor cosmetic alterations to the building, the development proposed would be contained within the extent of the building itself. The moving of the function room downstairs itself would

be appropriate within the Green Belt and is justified on the basis of making this a more accessible space. It is also proposed to use this space for the holding of wakes following funerals.

- 7.13 The proposal also includes permission for the provision of a building to house a new golf pro shop and office. These uses are currently accommodated within the existing club house and therefore the new building is proposed as a consequence of the internal alterations proposed. The provision of this new building would likely be considered 'an appropriate facility for... the outdoor recreation' use (as allowed for by paragraph 89 of the NPPF) and could be considered to preserve the openness of the Green Belt without conflicting with the purposes of including land within the Green Belt. Notwithstanding this view, this element of the proposal does have some link with the proposal for the burial ground use given the intention to use the clubhouse to support the burial ground use.
- 7.14 The creation of a staff flat, given its ancillary scale and the fact that it would be contained within the building itself, could be considered appropriate in the Green Belt if it is demonstrated to be essential. As such, the creation of a staff flat does require consideration against policies relating to where residential development is accommodated.
- 7.15 Policy H18 of the Cherwell Local Plan 1996 is a saved policy and relates to proposals for the construction of new dwellings beyond the built up limits of settlements. It identifies that the only circumstances where such development could be supported is where it is essential for agriculture or other existing undertakings, the proposal meets the criteria of policy H6 (which has now been replaced by Policy Villages 3 and relates to rural exception sites) or where there would be no conflict with other policies in the plan.
- 7.16 Studley Wood Golf Club is located beyond the built up limits of a settlement therefore a proposal for a residential use must be demonstrated as essential for the existing undertaking. The clubhouse already includes a one bed small unit of accommodation (including a kitchen/ dining/ lounge space) at first floor level. The applicant's intend that this space be used by the secretary manager who, because the club is open long hours, not only for the golf, but also associated evening events, has to be available during the day and evenings. The application documents describe that the club's insurers consider the location to be at risk as it is located outside the village limits, because police reaction time would be slow and a single member of staff would be isolated (a letter for which has been provided). It is intended that the flat would be tied to the golf club and should not be considered a separate residential unit.
- 7.17 Whilst the applicant's view and intentions are noted, the arguments made could apply equally to many isolated undertakings and does not, in the view of Officers constitute an 'essential' need; particularly in this case where the site already benefits from a small unit of accommodation. It is therefore not clear why this is inadequate for use by a member of staff or other individual employed for the purposes of security for the site. In this regard, it is considered that this element of the proposal conflicts with the Council's overall housing strategy by proposing a residential dwelling in an unsustainable rural location. Officers consider this matter, in addition to the principle of the development unacceptable.

#### Ecology/ Ancient Woodland/ Arboriculture

- 7.18 There is a statutory duty set out in the Natural Environment and Rural Communities Act 2006 at Section 40 to the purpose of conserving biodiversity. Additionally the European Habitats



Directive sets out requirements when considering a planning application where European Protected Species are affected.

- 7.19 Ancient Woodland benefits from significant protection – the Framework advises that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland unless the need for, and benefits of, the development in that location clearly outweighs the loss. Furthermore, Policy ESD10 confirms the need for there to be protection and enhancement of biodiversity and the natural environment. This is to be achieved by protecting, managing, enhancing and extending existing resources. The policy advises that development that would result in damage to or loss of a site of biodiversity or geological value of regional or local importance (which includes ancient woodland) including habitats of species of principal importance for biodiversity, will not be permitted unless the benefits of the development clearly outweigh the harm it would cause to the site, and the loss can be mitigated to achieve a net gain in biodiversity/ geodiversity.
- 7.20 As set out in paragraph 1.2, the site is ecologically sensitive, of high ecological value, with historic and cultural value and which cannot be recreated therefore is irreplaceable. In addition to the site being Ancient Woodland, a Tree Preservation Order covers the woodland. Ancient woodland covers approximately 0.68% of the Cherwell District and of that, 3.2% is found at Studley Wood within the application site. The site also falls within a complex of four ancient woodlands within a few KMs of each other including the SSSI Shabington Woods. Its value is therefore considered to be increased as opposed to an isolated wood. It is also within the Bernwood Conservation Target Area as being an area of high opportunity for biodiversity enhancement and is a District Wildlife site.
- 7.21 As set out in the consultation responses, there have been a number of objections to this proposal, on the basis of conflict with Policy ESD10 and the Framework given that development on ecologically sensitive sites such as this will not be permitted unless the benefit outweighs the harm. In this case, there are not considered to be benefits that would outweigh the harm to this ecologically important ancient woodland.
- 7.22 The application is supported by a suite of information and during the course of the application, as consultation responses have been received; additional information has been submitted to attempt to overcome the concerns raised. Objections continue to be raised as set out above. These concerns primarily result from the impacts caused to the ancient woodland (also a BAP S41 Priority habitat) in respect to the adverse impact on the regeneration of the understorey of the woodland and ground flora and increasing public access and the impacts that this would have.
- 7.23 The submission documents recognise the woodland has significant historical and ecological value, is a BAP habitat; and it is stated that ‘intrusive works that could compromise the integrity of the woodland are not recommended’. The documents do however note the benefits of management and advise that this should be implemented in full as well as ongoing ecological assessments to monitor the impacts of development.
- 7.24 The proposal raises a number of concerns. In respect to the burials themselves, the intention is for burials to be undertaken in circles around selected trees far enough away not to encroach upon the root protection area (RPA) with five burials allowed around one tree before

it is closed to allow restoration for five years before further burials could take place. Plots for ashes are located within the RPA for the tree but positioned to avoid major roots. The process of the burial will be undertaken in line with an approved UK Patent, which is used at the other Green Acres Burial sites. In recognising the importance of the soil structure, topsoil is removed prior to the digging of a grave and is put to one side before being replaced once the backfilling to a grave has been undertaken. Consultation responses have queried how in practice it will be possible to provide graves outside the RPA of trees given this is woodland with trees closely related to each other. In addition, a tree survey has been undertaken as requested which refers to the patent and how the requirements of the British Standard BS5837:2012 (Trees in relation to design demolition and construction) can be met. The Arboricultural Officer has advised that the concerns relating to damage to trees is negated as every burial will require a separate TPO application, tree detail and accompanying mini tree survey. This is because the Patent does not provide the level of detail required and because the whole woodland is covered by a TPO and the trees for burial are not yet chosen (as this would be a decision taken later by bereaved relatives). Whilst this view is expressed, it is not considered that this is a realistic process given that a TPO application can take up to 8 weeks for determination by the Council. This further demonstrates the difficulty likely to be faced with this process. The applicant's proposal seeks to avoid this need by demonstrating how burials are undertaken in line with the Patent. Without these separate TPO applications, the Arboricultural Officer would not be content with the proposal (as per the original comments) and has advised that the Patent does not cover all the information required to assess the proposal upon trees on the site.

- 7.25 The proposal involves the provision of a building (and access and turning space for the hearse) within the woodland (albeit in a location, which is questionable based upon the information and plans provided), the provision of routes, increased public access as well as an upgraded access to the woodland itself (with associated work to trees). Upon a request for additional information, a tree survey has been undertaken and the Arboricultural Officer has confirmed that he is content with the conclusions in respect to the proposed methodology for the road construction, however considers that further information as to the construction technique relating to the foundations of the ceremonial building are required as the habitat is extremely sensitive. The Tree report itself recognises that in the absence of a detailed site masterplan showing the footprint of all proposed buildings, structures and services and a topographical survey showing accurate location of trees and other site features, it has not been possible to fully survey these and recommends further surveys once the exact location and nature of the other structural elements of the development have been determined. This is of concern given this is a full application for planning permission and the exact location must be determined for assessment.
- 7.26 The implications of the proposal would be an increase in disturbance from increased footfall and digging within proximity of and within the root protection areas of trees as well as the stockpiling of soils, buildings and pathways and it is concluded that this would have an adverse impact on the regeneration of the understorey of the woodland and ground flora. As set out above, ancient woodland has a number of important characteristics, including its soil composition.
- 7.27 In addition the proposals would have a visual impact upon the woodland. The presence of burial markers, flowers and walkways (described as a series of surfaced paths utilising existing trackways, using locally sourced inert materials, with small pathways dispersing to

provide low intrusive access to burial sites) through the woodland would change its character. This was clear when Officers visited a natural burial ground run by Green Acres. Whilst it is understood that control would be placed upon how the site is managed and run, there would be an adverse change to the character of the woodland compared to a natural, albeit managed, woodland.

- 7.28 The proposal includes information as to management of the woodland for its long term benefit. The application submission includes a woodland management plan setting out various details as to how it is proposed the woodland would be managed including seeking to improve biodiversity. The intentions with regard to management, which include increasing biodiversity, the selective thinning of trees, creation of glades, coppicing, retention of deadwood trees and deer management are generally supported and it is recognised that these would bring improvements to the woodland. However, it is unclear why (other than financially), these are reliant upon the woodland accommodating burials and in fact this is likely to bring increased disturbance. Indeed there is an obligation upon the owner in any event to manage the woodland (as referred to above in respect to the S106 attached to the original planning permission for the golf course). The significantly intrusive work relating to the burials and the impact that this would have upon the woodland would not outweigh the benefits of management (that in any event are not interlinked to the burial proposal).
- 7.29 Given the above, it is clear that there are significant technical concerns as to the impact of the proposed burial ground development upon the woodland and its ecological significance. In these terms, the proposal cannot be considered acceptable. The benefits of management would not outweigh the harm caused and therefore would conflict with Policy ESD10 of the Cherwell Local Plan and the NPPF.
- 7.30 In respect to other ecological considerations, such as the potential presence of bats, great crested newts and others, it is expected that appropriate mitigation could be used to avoid harm to protected species.

#### Transport

- 7.31 As recorded above, the Highway Authority raise no objections to the application based upon the relatively low transport impact upon the highway network and the proposed use of the golf club car park albeit recognising the unsustainable nature of the site in that all visitors would be reliant upon the private car. Comments are made with regard to the requirements around routes to and through the woodland and the requirements to provide the ability for parking/turning for the hearse. The hearse would access the woodland but would go no further than the ceremonial building, with the coffin transported into the woodland either manually or a buggy converted into a hearse. The issue of accessibility is also raised given the distance from the car park to the woodland and ceremonial building there; the application documents describe how those attending funerals would park in the main car park and that there would be buggies available to help those access the woodland.

#### Design/ Visual amenity

- 7.32 The design of new development is an important consideration. The Framework confirms that good design is a key aspect of sustainable development. Policy ESD15 of the Cherwell Local Plan seeks to ensure that new development complements and enhances the character of its context through sensitive siting, layout and high quality design.

7.33 The proposed buildings are unusual in their design and not reflective of the local vernacular. However, given their position, both within the extent of the golf club (in proximity to the existing clubhouse) and proposed location within the woodland, as well as their relative scale, and lack of visibility from outside the golf club, Officers conclude that the harm in respect to visual amenity would be limited. In addition, the visual impact considerations in terms of the proposed use and its impact upon the character of the woodland and green belt are considered earlier in this report.

#### Archaeology

7.34 The Oxfordshire County Council response advises that the site is located in an area of archaeological interest (with the potential to encounter archaeological deposits related to the Roman period) and that a stage programme of archaeological investigation would therefore be required before any development commences. This is proposed to be secured through appropriately worded planning conditions. Officers do not disagree with this conclusion and would recommend planning conditions if the proposal were recommended for approval.

#### Groundwater

7.35 A tier 1 Groundwater risk assessment accompanies the planning application submission. This concludes that the site is of low sensitivity due to the onsite surface water features not connecting to local watercourses, the ground conditions, the site being outside of a groundwater source protection zone and the absence of water abstractions within the vicinity of the site. The proposal would therefore have very low groundwater vulnerability. The Environment Agency has assessed the application as having a low environmental risk therefore have no comments.

### **8. Conclusion and Planning Balance**

8.1 The above assessment has considered the various aspects of this proposal and a number of concerns are raised. The importance of Ancient Woodland, including its ecological, historical and cultural value, which benefits from planning policy to protect it is highlighted. Based upon the information submitted, it has not been demonstrated that this irreplaceable habitat will not be lost or deteriorate. Whilst positive management intentions are proposed and this is supported, it has not been demonstrated that the need for and benefits of the proposal would outweigh this loss, particularly as managing the woodland is not dependent on it being a burial ground.

8.2 In addition, the development represents inappropriate development in the Green Belt, for which it is not considered that very special circumstances have been demonstrated. For this reason, the proposal is also considered unacceptable. In addition, the proposal seeks to provide for an additional staff flat in an isolated, unsustainable location outside the built up limits of a settlement.

8.3 Whilst the proposal would not cause harm to highway safety and could be accommodated without causing harm to groundwater and archaeology (subject to the imposition of appropriate planning conditions), the principle of the development, as set out above is not

considered to be acceptable for the reasons set out throughout this report. For this reason the application is recommended for refusal as set out below.

## **9. Recommendation**

### **Refusal; for the following reasons:**

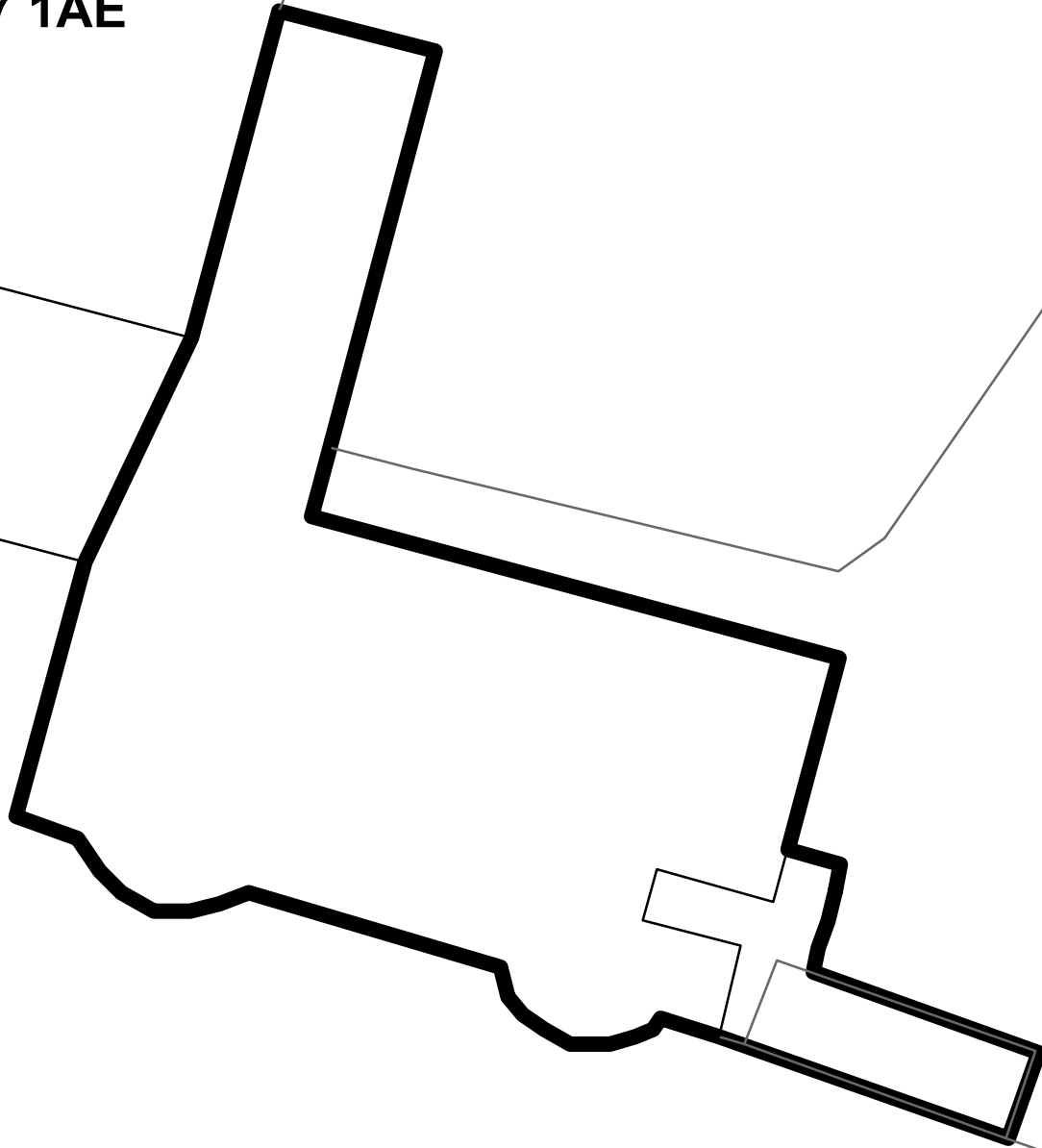
1. The proposed development constitutes inappropriate development in the Green Belt, which would be harmful to its openness. The Local Planning Authority do not consider there to be any very special circumstances, which would outweigh the harm caused to the Green Belt and the proposals are therefore contrary to Policy ESD14 of the Cherwell Local Plan 2011-2031 and Government Guidance contained within the National Planning Policy Framework.
2. The proposal would represent intrusive development within an area of Ancient Woodland covered by a Tree Preservation Order, which has significant ecological, cultural and historic value, and which is a BAP Priority Habitat - Lowland Mixed Deciduous Woodland. On the basis of the submitted information, the Local Planning Authority is not convinced that the proposal would not result in the loss and/ or deterioration of the irreplaceable habitats. It has not been demonstrated that the need for and benefits of the development in this particular location would clearly outweigh the loss. The proposal is therefore contrary to Policy ESD 10 of the Cherwell Local Plan 2011-2031 and Government Guidance contained within the National Planning Policy Framework.
3. The proposal involves the creation of a residential unit of accommodation beyond the built up limits of the nearest settlement for which it has not been demonstrated that there is an essential need. In its proposed location, the development would therefore be an unjustified and unsustainable form of development. The proposal is therefore contrary to Policies ESD1 and Villages 1 of the Cherwell Local Plan 2011-2031, Saved Policy H18 of the Cherwell Local Plan 1996 and Government Guidance contained within the National Planning Policy Framework.

**CONTACT OFFICER:** Caroline Ford

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# 17/01034/LB

West Wing  
Williamscot House  
Street From Centre To North West  
Williamscot  
Banbury  
OX17 1AE



# 17/01034/LB

West Wing

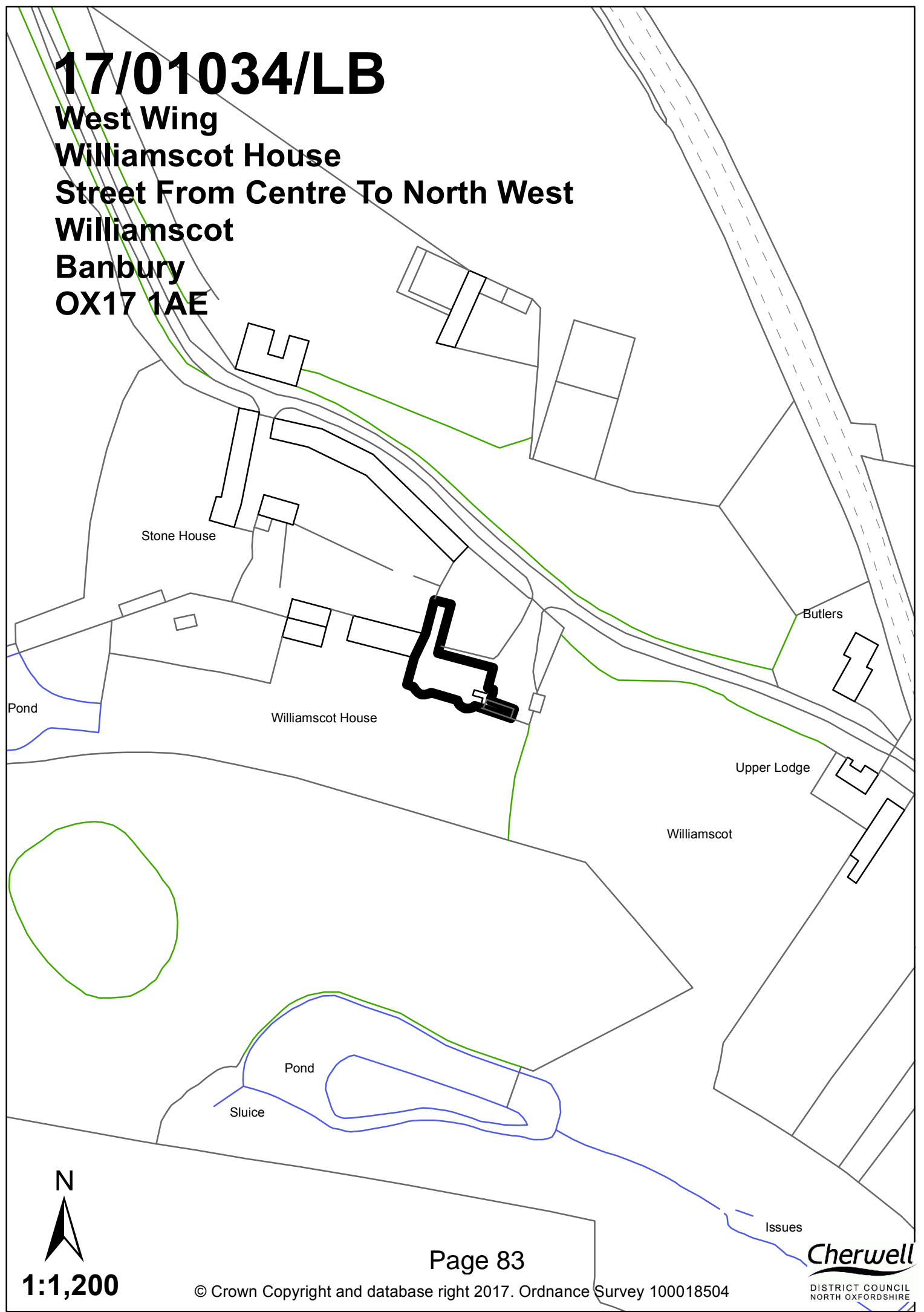
Williamscot House

Street From Centre To North West

Williamscot

Banbury

OX17 1AE



Stone House

Butlers

Pond

Williamscot House

Upper Lodge

Williamscot

Pond

Sluice

Issues



1:1,200

**Applicant:** Williamscot Estate

**Proposal:** Regularising historic internal and external works to the West Wing of Williamscot House - refer to supplementary sheet for details

**Ward:** Cropredy, Sibfords And Wroxton

**Councillors:** Cllr Ken Attack  
Cllr George Reynolds  
Cllr Douglas Webb

**Reason for Referral:** Member call-in request – Councillor Attack

**Expiry Date:** 28 September 2017      **Committee Date:** 23 October 2017

**Recommendation:** Approve

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

- 1.1. The application relates to East Wing at Williamscot house, a late sixteenth century building situated within Williamscot, a settlement to the north east of Banbury. The site is accessed from a private driveway which has two access points from Cropredy Lane and further along the road at 'Williamscot Road' (to the North West).
- 1.2. The house itself has historically been divided into two wings (East and West), with a latter addition to the west of the property being known as the Georgian Wing. The East and West Wings of Williamscot House are Grade II\* Listed and there are a number of Grade II Listed Buildings in close proximity, including the Georgian Wing; Orangery And Attached Wall Approximately 5 Metres West Of Williamscot House; Stable Range Approximately 25 Metres North West Williamscot House; and the Old School House. The site is also located within the designated Williamscot Conservation Area.

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

- 2.1. The planning history for the site is long and complicated. At some point between 1969 and 2014 a number of alterations were carried out to the listed building without Listed Building Consent. It is noted that the majority of these alterations were latterly included on plans for other Listed Building Consent applications (which were approved), but no consent was specifically sought for these works.
- 2.2. This application seeks to regularise the historic works to the Listed Building. Given the long and complicated history of the application site, it is difficult to identify which of these works require consent (and which have previously received it). Nevertheless, a schedule of works has been produced which, to the best of our knowledge, identifies these items.
- 2.3. The schedule of works has been produced jointly for the East Wing and West Wing and, in that respect, pages 14 to 23 of the document are relevant. Particular items of note are the creation of a new corridor parallel to the East Wing (including the



partitioning off of the bathroom) and the creation of a new doorway into the kitchen (and the blocking up of the old doorway).

- 2.4. A concurrent Listed Building consent application has been submitted for the East Wing, application reference 17/02025/LB.
- 2.5. Both the current application and the concurrent East Wing application (17/02025/LB) were before Members at the previous meeting of the Planning Committee. Members are reminded that, following the receipt of the Conservation Officer's comments (as well as a technical issue with the East Wing applications), the recommendation was amended to defer both applications. Consideration has now been given to the Conservation Officer's comments and the following sections have been updated accordingly.

### 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>
LB.B.9/69	Subdivision of property into 3 dwellings	Application Permitted
LB.B.25/72	New External Steps	Application Permitted
LB.B.28/72	Convert West Wing into self-contained dwellinghouse	Application Permitted
B.827/72	Convert 18th century wing into a self-contained dwelling	Application Permitted
12/01085/LB	Single storey extension	Application Permitted
12/01086/F	Single storey extension	Application Permitted
13/01142/LB	Internal alterations to reinstate East and West wings as 1 dwelling.	Application Permitted
13/00343/DISC	Clearance of conditions 5 & 6 of 13/01142/LB	Application Permitted
17/01034/LB	Regularising historic internal and external works to the West Wing of Williamscot House - refer to supplementary sheet for details	Pending Decision
17/01424/CLUE	Certificate of Lawfulness of Existing Use. The West Wing is a self-contained dwelling with its own entrance, kitchen and bathrooms. In the future it may be either sold together with the East Wing to make a "granny flat", or a large single dwelling, or sold separately on its own. For the foreseeable future we wish to rent the West Wing to tenants.	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 was 17.08.2017.

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

- The neighbouring occupiers objected the application (and the previous application for the East Wing) as they consider harm has been caused to the historic fabric of the listed building and 'no clear and convincing justification has been provided'. It is noted that they also produced a heritage statement regarding the proposed works, concluding that the majority of them should be refused consent (comments relating to pages 14-23 of the schedule of works).

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.

##### WARDINGTON PARISH COUNCIL

6.2. Wardington Parish Council raises no objections to the proposals.

##### STATUTORY CONSULTEES

6.3. Historic England originally advised that it did not wish to comment on the application and that advice should be sought from Cherwell District Council's conservation specialists. However, following on from the amount of neighbour and political interest in this application (as well as the complexity of the planning history of the site), Historic England was requested to provide comments.

6.4. Historic England carried out a joint site visit with CDC Planning and Conservation Officers on 18/09/2017 and has provided a written response, which concludes:

*Historic England supports the application on heritage grounds. Providing that the as proposed plans are amended as suggested above we consider that the application meets the requirements of the NPPF, in particular paragraph number 17. In determining this application you should bear in mind the statutory duty of section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. In our opinion granting this application would be consistent with paying special regard to the desirability of preserving the listed building.*

## NON-STATUTORY CONSULTEES

- 6.5. The Conservation Officer was involved in the assessment of the application and the investigations into the status of the works. Their formal comments are a joint response to the East Wing and West Wing applications. A summary of their response is provided below:
- 6.6. The Conservation Officer recommends that the application is refused on the basis of two aspects of work:
- The ground floor cloakroom (East Wing).
  - The new opening and en-suite bathroom at first floor (East Wing).
- 6.7. They further recommend that the applicants engage in pre-application discussions to discuss how the above can be rectified.
- 6.8. Members are advised that the Conservation Officer's objections relate solely to the works carried out in the East Wing and they have not raised any objections to the West Wing works (the subject of this application).

## **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)

- C18 – Proposals affecting a listed building
- C28 – Layout, design and external appearance of new development

- 7.3. Other Material Planning Considerations
- National Planning Policy Framework (NPPF)
  - Planning Practice Guidance (PPG)
  - Managing Significance in Decision-Taking in the Historic Environment: Historic England Good Practice (2015)
  - The Setting of Heritage Assets: Historic England Good Practice (2015)

## **8. APPRAISAL**

- 8.1. The key issue for consideration in this case is the impact on the historic significance and setting of the listed building(s).
- 8.2. Section 16(2) of The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that: *In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special*

*regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Further, under Section 72(1) of the same Act the Local Planning Authority has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.*

- 8.3. Listed Buildings and Conservation Areas are designated heritage assets, and Paragraph 129 of the NPPF states that: *Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise.*
- 8.4. Paragraph 132 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm loss should require clear and convincing justification.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.
- 8.5. When dealing with an application for listed building consent, it is imperative to understand the significance of the building. In this instance, the significance of the building lies within evidential value retained in the walls, floors, and roof structure of the building. A number of early internal features survive, including historic floorboards; the upper part of a newel staircase; the fireplace and chimneystack; and the lateral partitions dividing the northern rooms at first and second floors. Historic England has advised that these are *'of value in that they tell us about the early arrangement and plan form of the house'*. The rest of the interior appears to date largely from the second half of the 20th century; incorporating a number of reused doors and *'does not meaningfully contribute to the significance of the building'*.
- 8.6. This part of the building has undergone a great deal of change in the later 20th century and it is likely that the West Wing took its current form in 1969 when Williamscoth House was subdivided (and the consented plans were not implemented fully or accurately). As a result, many of the internal works in the West Wing do not benefit from listed building consent, despite the fact that the building has probably been in this state for approximately 50 years (although it is noted that some of the changes have been carried out more recently).
- 8.7. Historic England has advised that:

*When determining this application the Council need to be clear as to whether any of these unauthorised works actually harm the significance of the listed building. The Council also needs to be mindful that, if they fail to grant consent, that they must be willing to take enforcement action to deal with the unauthorised works. The unauthorised works, while different to those consented, have not in my opinion meaningfully harmed the significance of the building as they did not affect elements that contributed to this significance. Furthermore, requiring the applicant to restore the building to its supposed form in 1969 (which it probably never took) would not aid the preservation or enhance of the significance of the building in any way.*
- 8.8. Whilst it is noted that the neighbours have objected to the proposal (including submitting their own Heritage Statement), it is considered that these comments have not appropriately assessed what the significance of the building. Historic England has advised that these comments make, *'the error of assuming that the entire plan*

*form as shown in 1969 contributed to the significance of the building ... this is not the case'.*

- 8.9. Further to the above, the Conservation Officer has not raised any objections to the works carried out in the West Wing (which are the subject of this application). Whilst they have suggested some potential areas of work that could be carried out in the future (to improve the situation), Members are advised that a decision should be taken on what is before the Council (to retain the existing arrangement). In this instance, given the lack of objections from the Conservation Officer or Historic England, it is considered that the works carried out to the West Wing have not detrimentally affected the buildings historic significance.
- 8.10. Having regard to all of the above mentioned comments, it is considered that the proposals have not detrimentally affected the significance of the building (which lies in the evidential value retained in the walls, floors and ceilings) and would therefore be in accordance with Saved Policies C18 and C28 of the CLP 1996; Policy ESD15 of the CLP 2031 (Part 1); and Government guidance contained within the Framework.

## **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. In conclusion, the proposed works are not considered to be harmful to the historical significance of the listed building. It is therefore considered that the proposal complies with Saved Policies C18 and C28 of the Cherwell Local Plan 1996; Policy ESD15 of the Cherwell Local Plan 2011-2031; and Government guidance contained within the National Planning Policy Framework.

## **10. RECOMMENDATION**

That consent is granted, subject to the following conditions:

1. 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: 'Plan 1.0 WW Proposed'; and Williamscot House Schedule of Works Version 5 (Pages 14 to 23 only).

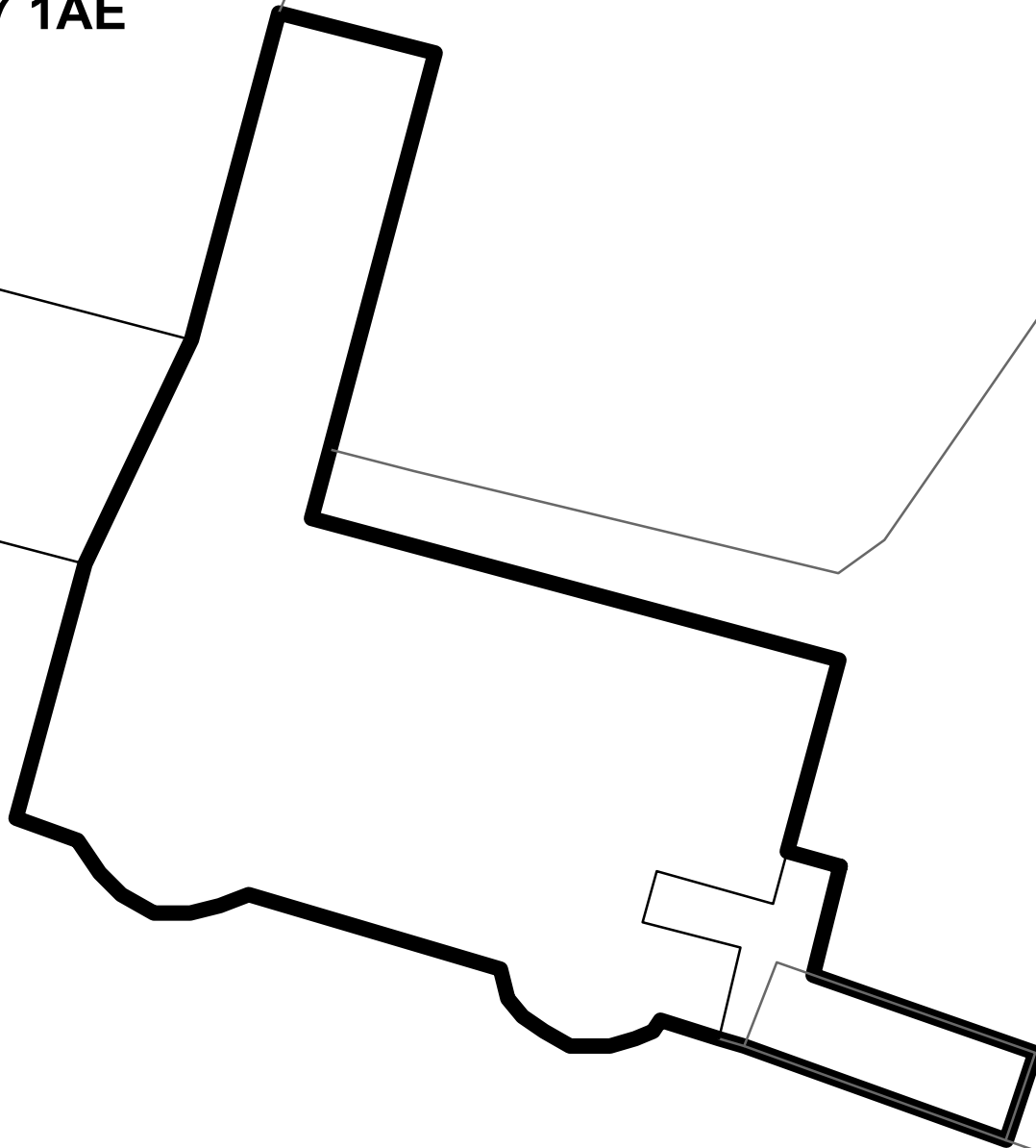
Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Matthew Coyne

TEL: 01295 221652

# 17/02025/LB

East Wing  
Williamscot House  
Street From Centre To North West  
Williamscot  
Banbury  
OX17 1AE



# 17/02025/LB

East Wing

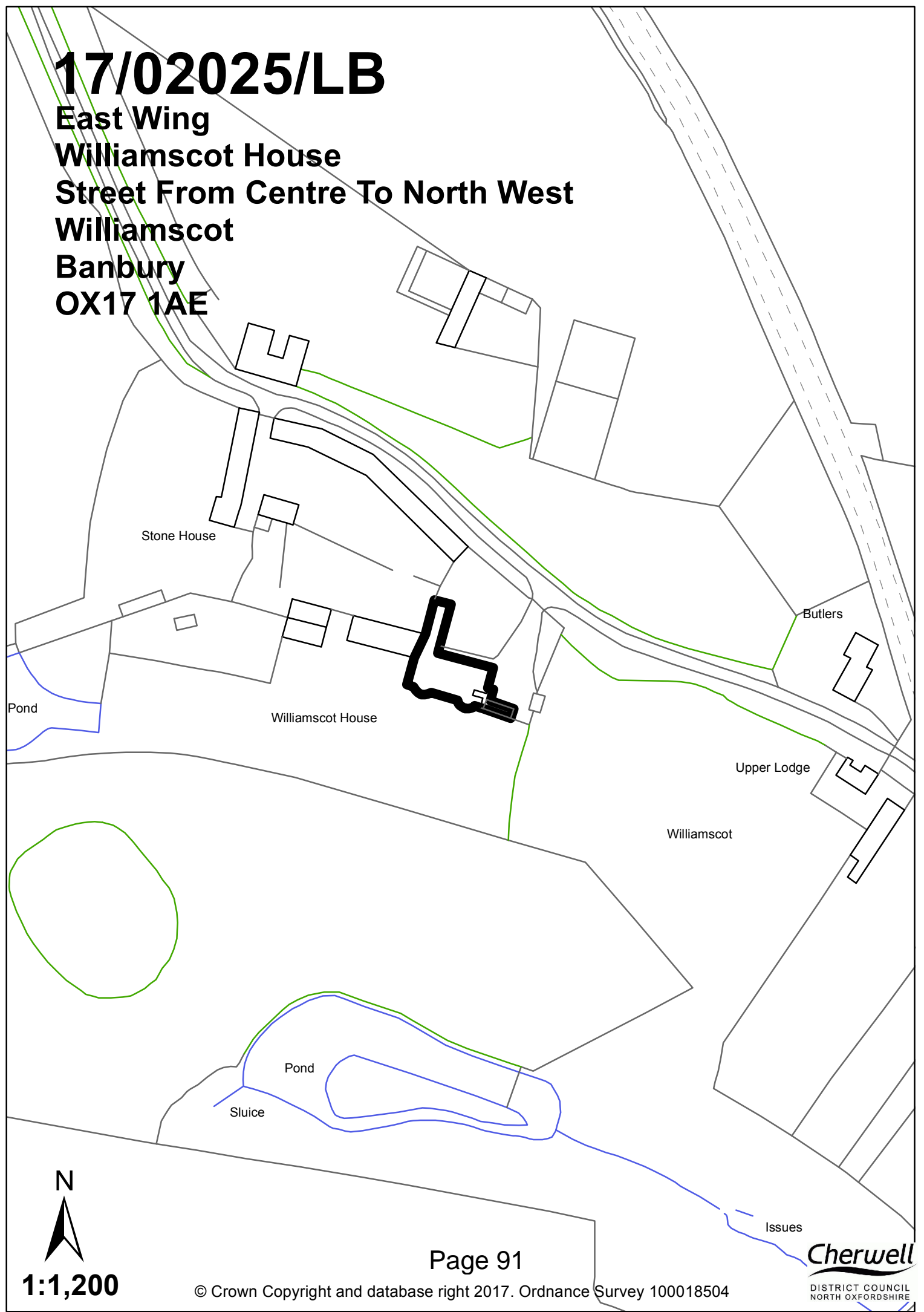
Williamscot House

Street From Centre To North West

Williamscot

Banbury

OX17 1AE



Stone House

Butlers

Pond

Williamscot House

Upper Lodge

Williamscot

Pond

Sluice

Issues



1:1,200

Page 91

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**Applicant:** Williamscot Estate

**Proposal:** Regularising historic internal and external works to the East Wing of Williamscot House - refer to supplementary sheet for details

**Ward:** Cropredy, Sibfords And Wroxton

**Councillors:** Cllr Ken Atack  
Cllr George Reynolds  
Cllr Douglas Webb

**Reason for Referral:** Member call-in request – Councillor Atack

**Expiry Date:** 28 November 2017      **Committee Date:** 26 October 2017

**Recommendation:** Approve

---

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

- 1.1. The application relates to East Wing at Williamscot house, a late sixteenth century building situated within Williamscot, a settlement to the north east of Banbury. The site is accessed from a private driveway which has two access points from Cropredy Lane and further along the road at 'Williamscot Road' (to the North West).
- 1.2. The house itself has historically been divided into two wings (East and West), with a latter addition to the west of the property being known as the Georgian Wing. The East and West Wings of Williamscot House are Grade II\* Listed and there are a number of Grade II Listed Buildings in close proximity, including the Georgian Wing; Orangery And Attached Wall Approximately 5 Metres West Of Williamscot House; Stable Range Approximately 25 Metres North West Williamscot House; and the Old School House. The site is also located within the designated Williamscot Conservation Area.

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

- 2.1. The planning history for the site is long and complicated. At some point between 1969 and 2014 a number of alterations were carried out to the listed building without Listed Building consent. It is noted that the majority of these alterations were latterly included on plans for other listed building consent applications (which were approved), but no consent was specifically sought for these works.
- 2.2. This application seeks to regularise the historic works to the Listed Building. Given the long and complicated history of the application site, it is difficult to identify which of these works require consent (and which have previously received it). Nevertheless, a schedule of works has been produced which, to the best of our knowledge, identifies these items.
- 2.3. The schedule of works has been produced jointly for the East and West Wings (pages 14 to 23 are not relevant in this instance as they solely refer to the West Wing). Particular items of note are the creation of a new corridor adjacent to the first floor master bedroom (with the creation of an en suite); and an access through the



existing wall to the bathroom. It is noted that a number of other alterations have been made to the plan form of the building, including a ground floor WC being inserted in the hallway between the front door and the downstairs second kitchen.

- 2.4. A concurrent Listed Building consent application has been submitted for the West Wing, application reference 17/01034/LB.
- 2.5. Both the current application and the concurrent East Wing application (17/02025/LB) were before Members at the previous meeting of the Planning Committee. Members are reminded that, following the receipt of the Conservation Officer's comments (as well as a technical issue with the East Wing applications), the recommendation was amended to defer both applications. Consideration has now been given to the Conservation Officer's comments and the following sections have been updated accordingly.

### 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>
LB.B.9/69	Subdivision of property into 3 dwellings	Application Permitted
LB.B.25/72	New External Steps	Application Permitted
LB.B.28/72	Convert West Wing into self-contained dwellinghouse	Application Permitted
B.827/72	Convert 18th century wing into a self-contained dwelling	Application Permitted
12/01085/LB	Single storey extension	Application Permitted
12/01086/F	Single storey extension	Application Permitted
13/01142/LB	Internal alterations to reinstate East and West wings as 1 dwelling.	Application Permitted
13/00343/DISC	Clearance of conditions 5 & 6 of 13/01142/LB	Application Permitted
17/01034/LB	Regularising historic internal and external works to the West Wing of Williamscot House - refer to supplementary sheet for details	Pending Decision
17/01424/CLUE	Certificate of Lawfulness of Existing Use. The West Wing is a self-contained dwelling with its own entrance, kitchen and bathrooms. In the future it may be either sold together with the East Wing to make a "granny flat", or a large single dwelling, or	Application Permitted

sold separately on its own. For the foreseeable future we wish to rent the West Wing to tenants.

#### **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 is 02.11.2017.

5.2. Whilst no comments were received at the time of writing this report it is noted 1 representation had been made in respect of an identical application for the East Wing which was previously withdrawn (application 17/01033/LB refers). Given that there has been no material change in the nature of the application, these comments have been taken into account in the assessment of this application.

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

- The neighbouring occupiers objected the application (and the concurrent West Wing application) as they consider harm has been caused to the historic fabric of the listed building and no clear and convincing justification has been provided. It is noted that they also produced a heritage statement regarding the proposed works concluding that the majority of them should be refused consent.

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.

##### WARDINGTON PARISH COUNCIL

6.2. Wardington Parish Council raises no objections to the proposals.

##### STATUTORY CONSULTEES

6.3. Historic England originally advised that it did not wish to comment on the application and that advice should be sought from Cherwell District Council's conservation specialists. However, following on from the amount of neighbour and political interest in this application (and given the complicated planning history of the site), Historic England was requested to provide comments.

6.4. Historic England carried out a joint site visit with CDC Planning and Conservation Officers on 18/09/2017 and has provided the following written response, which concludes:

*Historic England supports the application on heritage grounds. We consider that the application meets the requirements of the NPPF, in particular paragraph numbers 17 and 132. In determining this application you should bear in mind the statutory duty of section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. In our opinion granting this application would be consistent with paying special regard to the desirability of preserving the listed building.*

#### NON-STATUTORY CONSULTTEES

- 6.5. The Conservation Officer was involved in the assessment of the application and the investigations into the status of the works. Their formal comments are a joint response to the East Wing and West Wing applications. A summary of their response is provided below:
- 6.6. The Conservation Officer recommends that the application is refused on the basis of two aspects of work:
- The ground floor cloakroom (East Wing).
  - The new opening and en-suite bathroom at first floor (East Wing).
- 6.7. They further recommend that the applicants engage in pre-application discussions to discuss how the above can be rectified.

#### **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)

- C18 – Proposals affecting a listed building
- C28 – Layout, design and external appearance of new development

- 7.3. Other Material Planning Considerations
- National Planning Policy Framework (NPPF)
  - Planning Practice Guidance (PPG)
  - Managing Significance in Decision-Taking in the Historic Environment: Historic England Good Practice (2015)
  - The Setting of Heritage Assets: Historic England Good Practice (2015)

## 8. APPRAISAL

- 8.1. The key issue for consideration in this case is the impact on the historic significance and setting of the listed building(s).
- 8.2. Section 16(2) of The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that: *In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* Further, under Section 72(1) of the same Act the Local Planning Authority has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
- 8.3. Listed Buildings and Conservation Areas are designated heritage assets, and Paragraph 129 of the NPPF states that: *Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise.*
- 8.4. Paragraph 132 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm loss should require clear and convincing justification.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.
- 8.5. When dealing with an application for listed building consent it is imperative to understand the significance of the building. In this instance, the significance of the building lies within evidential value retained in the walls, floors, and roof structure of the building. The exterior of the building is also considered to contribute towards the significance of the building, being of architectural value.
- 8.6. This part of the building has undergone a great deal of change in the later 20th century and it is likely that the West Wing took its current form in 1969 when Williamscoth House was subdivided (and the consented plans were not implemented fully or accurately). As a result, many of the internal works in the East Wing do not benefit from listed building consent, despite the fact that the building has probably been in this state for approximately 50 years.
- 8.7. Historic England has advised that:

*The unauthorised works, while different to those consented, have in my opinion only meaningfully harmed the significance of the building in one respect: a doorway has been cut through primary fabric at first floor level to provide direct access from the landing to the bathroom. However, as the harm is purely to the evidential value of the building through loss of early fabric and this harm would not in any way be rectified or ameliorated by blocking this opening, there is no sound reason for refusing retrospective consent. Another issue is that the partitions forming at WC out of the passage linking the front door to the kitchen at ground floor level do separate off one light of a three light mullioned window. However, as this is not visible externally and the room in question is not of particular significance in itself I think that it would be reasonable to conclude that the level of harm is very low and could be justified (as is required by paragraph 132 of the NPPF) in the context of producing a workable plan for modern living. Requiring the applicant to restore other aspects of the house to its supposed form in 1969 (which*

*it probably never took) would not aid the preservation of, or enhance, the significance of the building in any way.*

- 8.8. The Conservation Officer has raised objections to two main elements in the East Wing (relating to the insertion of a ground floor WC; and the knocking through of the first floor corridor into the bathroom and the creation of an en suite. As previously identified, the significance of the building lies in the evidential data that can be obtained from understanding how the building can be built. The two elements of the scheme (as stated above), are less than ideal and harm to the buildings significance has been caused by this development. However, having regard to Historic England's comments, it is considered that this significance has been lost and in this instance, there would be no public benefit in refusing consent for these historic works. Whilst the Conservation Officer has objected to the proposal, having regard to HE's comments and taking the proposal as a whole, limited harm has been caused to the historic significance which would not warrant a refusal in this instance.
- 8.9. Whilst it is noted that the neighbours objected to the previous application for the East Wing works (including submitting their own Heritage Statement), it is considered that these comments did not appropriately assess the significance of the building. Historic England (in respect of the concurrent West Wing application) advises that this heritage statement makes, *'the error of assuming that the entire plan form as shown in 1969 contributed to the significance of the building ... this is not the case'*.
- 8.10. Having regard to all of the above mentioned comments, it is considered that the proposals have not detrimentally affected the significance of the building (which lies in the evidential value retained in the walls, floors and ceilings) and that the proposals therefore accord with Saved Policies C18 and C28 of the CLP 1996, Policy ESD15 of the CLP 2031 (Part 1), and Government guidance contained within the Framework.

## **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. In conclusion, the proposed works are not considered to be demonstrably harmful to the historical significance of the listed building. It is therefore considered that the proposal complies with Saved Policies C18 and C28 of the Cherwell Local Plan 1996; Policy ESD15 of the Cherwell Local Plan 2011-2031; and Government guidance contained within the National Planning Policy Framework.

## **10. RECOMMENDATION**

That consent is granted, subject to the following conditions:

1. 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: Design and Access Statement; 'History of East and West wings of Williamscot House since 1969'; site location plan 'SP4745NE'; 'Ground Floor Plan'; 'First Floor Plan'; 'Second Floor Plan'; and 'Williamscot House Schedule of Works Version 5' (with the exception of pages 14 to 23).

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.

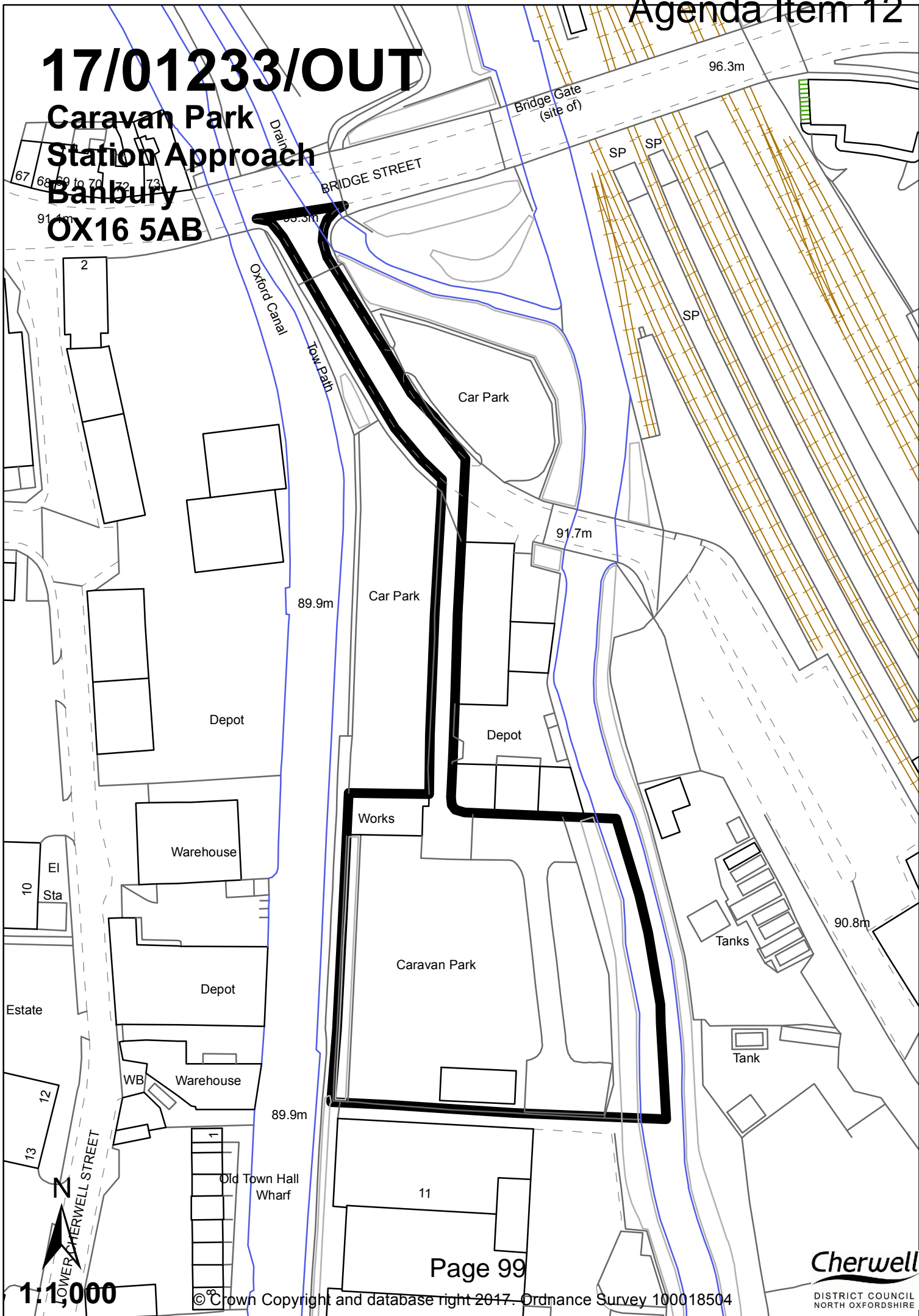
CASE OFFICER: Matthew Coyne

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# 17/01233/OUT

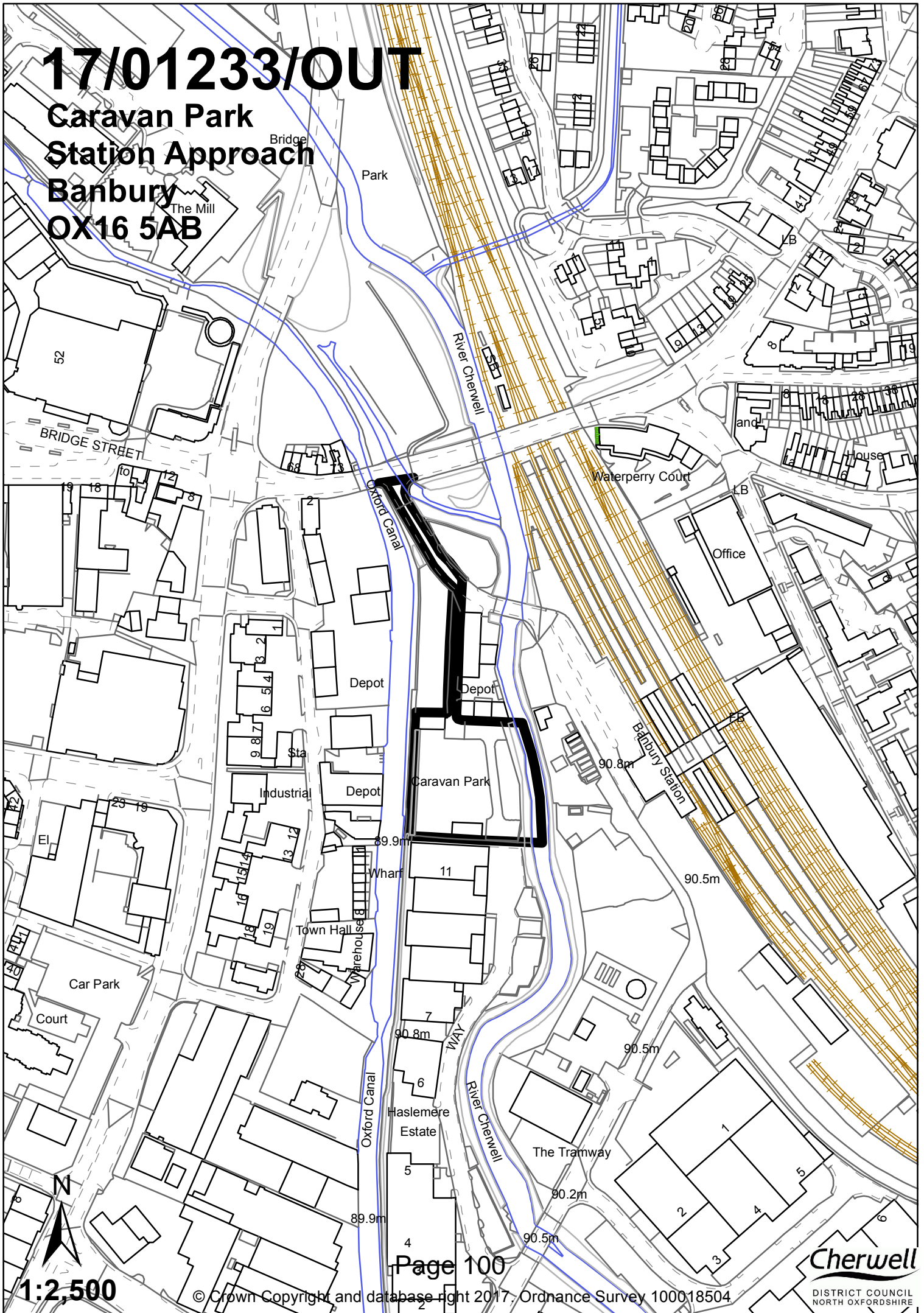
## Caravan Park Station Approach Banbury

### OX16 5AB



# 17/01233/OUT

## Caravan Park Station Approach Banbury OX16 5AB





**Caravan Park  
Station Approach  
Banbury  
OX16 5AB**

**17/01233/OUT**

**Applicant:** Land Group (Banbury) Ltd

**Proposal:** Outline application for the development of land to the west of Banbury Railway Station to comprise 44 apartments all within Use Class C3; provision of vehicular and cycle parking together with all necessary internal roads and footpaths; provision of open space and associated landscape works; and ancillary works and structures.

**Ward:** Banbury Grimsbury And Hightown

**Councillors:** Cllr Andrew Beere  
Cllr Claire Bell  
Cllr Shaida Hussain

**Reason for Referral:** *Major application*

**Expiry Date:** 7 September 2017      **Committee Date:** 31 August 2017

**Recommendation:** Refuse

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

- 1.1. This application relates to a 0.47 hectare site situated in the area covered by Policy Banbury 1: Banbury Canalside. It lies between the Oxford Canal and River Cherwell. It is accessed off Station Approach via an accessway that leads between a Chiltern Rail car park and a disused warehouse building. The site is currently in use as a residential caravan park with 18 pitches.
- 1.2. The site is bounded to the west by the Oxford Canal towpath from which it is separated by a 1.8 metre high fence. The towpath is about 1.5 - 2.0 metres below the existing application site level. On the opposite side of the canal are various commercial buildings and uses in Lower Cherwell Street. To the south lie the modern warehouse/industrial units in Haslemere Way, which is accessed off Tramway Road. To the east the site is bounded by the River Cherwell, which has extensive tree/shrub growth on both sides of the river. Further to the east is a fuel storage yard with above ground tanks and beyond that the station forecourt. To the north of the application site sits a car park used by Chiltern Rail and three brick buildings of various ages two of which all appear to be disused ( although the surrounding yard areas are used as public car parking) and the third (just south of the car park) is in use as a religious meeting room.

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

- 2.1. This application is made in outline with all matters reserved except access. The application is accompanied by illustrative site layout plans indicating that the flats

would be accommodated in three buildings, predominantly three stories high and two of which are to be linked, with one flat being in a landmark four storey tower situated on one end of the detached block in the south east corner of the proposed development. Affordable housing is proposed in accordance with Council policy in the separate building on the river side ( east) of the site.

2.2. Car parking for 44 cars is shown as being situated within an enclosed central courtyard and along the southern boundary of the site. Illustrative elevations are also provided showing that all buildings would have pitched roofs, with the block facing the canal shown with multiple gables facing the canal and balconies, and with the other buildings having a different contemporary design. The submitted drawings show the possibility of providing an east-west through-route for pedestrians across the southern part of the site with allowances made for bridges across the river and canal. The application does not include the provision of these bridges or routes to them from the station forecourt and Lower Cherwell Street, that would need to cross third party land.

2.3. The application is also accompanied by

- A flood risk assessment
- A transport statement
- A phase 1 habitat survey report
- A planning statement, and
- A design and access statement

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

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

3.2. The site has a planning permission granted in the 1970s as a caravan site

### **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>
16/00141/PREAPP	Redevelopment of caravan park at Station Approach

4.2. It was indicated that this proposal could not be given positive support in advance of the finalisation of an SPD for the Canalside area. Without that document it is difficult to form a view on the acceptability of this re-generation proposal. Concern was also expressed about the scale and density of the proposal ( which at that time was for 58 units) and about access issues

### **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 properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 13.07.2017, although comments

received after this date and before finalising this report have also been taken into account.

- 5.2. The only comments raised by third parties are restricted to a letter signed by the existing residents of caravans on the site in which they collectively sign to say that they support the proposals to redevelop the site; that none of them meet the definition of a gypsy and traveller in the Planning Policy for Traveller Sites; and that they all have alternative accommodation to move to outside Banbury.
- 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. **Banbury Town Council** object to the proposal on the grounds that "The total number of authorised Gypsy and Traveller pitches for Cherwell is 61, the district currently has a -1.1 year land supply for pitches. It is the view of the Town Council that the removal of this caravan site would leave an insufficient number of authorised sites and pitches for gypsies and travellers both within Banbury and the wider district".

### STATUTORY CONSULTEES

- 6.3 **Oxfordshire County Council** have initially objected to the proposal on transport grounds that
  - there is insufficient drainage information (SWDS) provided with this application;
  - the development does not comply with paragraph 32 of the NPPF, which states that there must be safe and suitable access for all and;
  - The LinSig junction modelling is not accurate and should be reassessed

In addition they commented that

- The Bridge Street/A4260 Cherwell Street/A4260 Concord Avenue junction was run through the model at an optimised time of 120 seconds, as opposed to the current signal times of 163 seconds (in the AM peak), 154 seconds (in the PM peak).
- We will require some sort of traffic calming at the access entrance, as the access road is 70m, which could see drivers driving unsuitably for their surroundings.
- We require tracking that demonstrates an 11.6m refuse vehicle can enter, turn and leave the site in a forward gear.
- It is not clear if this proposed development will be providing the footbridge infrastructure, or if it is expected that they will be provided by someone/thing else.
- Currently, the site offers no safe and suitable access for pedestrians and therefore does not comply with paragraph 32 of the NPPF
- A Travel Information Pack shall be submitted to and approved by the Local Planning Authority
- They also seek a contribution of circa £26K towards the provision of the footbridges and associated infrastructure to create the pedestrian link between the station and the town centre

There are extensive comments (available on the website) concerning drainage; trip generation ;the traffic impact on particular junctions; site access; vehicle tracking (the ability to turn a waste freighter); footbridges; pedestrian access; car parking and cycle parking

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

From further correspondence that we have been copied in to it would appear that these objections have been removed. The case officer is seeking confirmation of this. A written update will be given to Committee

6.4 The **Environment Agency** raise no objections subject to the imposition of a condition that the development to be carried out in accordance with the submitted FRA and fixing appropriate floor levels

6.5 **Thames Water** raises no objections

6.6 The **Canals and Rivers Trust** comment that the main issues relevant to the Trust as statutory consultee on this application are:

- a) Impact on the heritage, character and appearance of the waterway corridor
  - b) Increased use of the towpath
  - c) Impact on the structural integrity of the canal due to the proximity of the building to the canal.
  - d) Impact on the structural integrity of the canal due to the drainage proposals.
  - e) Impact on the biodiversity of the waterway corridor.
- With respect to these issues they comment as follows

- a) The site is located to the east of the Oxford Canal and has a direct frontage to the canal corridor. In principal, the development has the potential to make a positive contribution to the canal, and the overall townscape particularly if it becomes a primary link between the railway station and the town centre. It is understood that whilst this current development allows for this link and a footbridge crossing of the canal these elements are not proposed as part of this current application. However, to minimise the impacts on the waterway's operation and historic setting and character, the alignment of the crossing in plan should be perpendicular to that of the canal, as typical for historic canal bridges. This element of the masterplan for the site should be resolved before the precise configuration of the buildings is finalised as part of any reserved matters submissions. The bridge itself should be restrained and light-weight in appearance, not seeking to overly dominate the canalscape. Overall, the proposal appears to make a positive contribution to the canalside environment, towpath and to the setting of the Conservation Area. The scale, form and massing of the residential development, as indicated, seems appropriate to the location, and the importance of the canal corridor is recognised within the submission. The gabled canal-facing elevation appear to successfully reference the vernacular of wharf-side/ warehouse-type buildings and the staggered plan-form of the canalside units helps to break up the overall building mass.

The architectural materials proposed are interesting, and should be robust and of high quality. There are however reservations about the use of 'ribbed Eternit style panels' The use of a black brick (or some other shade if preferred) to continue the modern take on the robust warehouse style architecture

proposed would be the preferred approach. Similarly, a metal roofing material (zinc or terne-coated steel) should be used rather than single ply membrane with stick on standing seams. The full details on materials should be submitted with reserved matters applications.

- b) The proposed development includes the provision of a ramp directly to the towpath and this will significantly increase the demand on the towpath for use as a pedestrian and cycling route.

The towpath provides a public amenity and a sustainable free route for future occupants to local facilities. The towpath would also aid in providing safe, convenient and attractive walking and cycling network to promote health and well-being, consistent with the aims of the NPPF.

The Canal & River Trust generally seeks to maintain its assets in a “steady state”, and in the case of towpath maintenance, this is based on current usage. Where new development has the likelihood to increase usage we consider that it is reasonable to request a financial contribution from developers to mitigate this impact by, for example upgrading an access / towpath surface to a standard which is more durable and thus able to accommodate increased usage.

The towpath at this location is not in a condition that it could support this additional footfall and the Trust would therefore seek enhancements as part of any submission. The towpath further north of the site is to be enhanced as part of the Castle Quays 2 development. However, from the existing access, adjacent to the car park on Station Approach, to the application site the towpath would require improvement to support additional usage. An initial estimate of the cost of these works is £48, 600.

The Trust would therefore ask the local planning authority to seek agreement from the developer, prior to determination, that a contribution towards improvement of the towpath is included within any S106 agreement.

- c) With any development close the waterway there is the potential for adverse impacts on the infrastructure of the canal in terms of stability, drainage, pollution etc.

As you are aware, land stability is a material planning consideration and is referred to in paragraphs 120-121 of the NPPF, as well as being the subject of more detailed discussion in the current National Planning Practice Guidance. We consider therefore that this advice and guidance clearly identifies that the planning system has a role to play in minimising the risk and effects of land stability on property, infrastructure and the public.

We note that the application is in outline only, and that layout is a reserved matter. However, the submitted details show the development in close proximity to the canal boundary. In addition, the proposed ramp access to the towpath has the potential to impact on stability of the canal infrastructure. Accordingly, we would ask that details of all earthmoving, excavation and the design and construction of all foundations is secured by condition in order to ensure that the impact of such works can be properly quantified and assessed and any necessary mitigation works included.

- d) The drainage methods of new developments can have significant impacts on the structural integrity, water quality and the biodiversity of waterways. It is important to ensure that no contaminants enter the canal from surface water drainage and full details should be submitted and agreed. This detail could be required by condition.

- e) The waterways have a rich biodiversity, with many areas benefiting from SSSI, SAC, SLINC or CWS designations. Developments can have an adverse impact on the ecology of the waterways.

Potential contamination of the waterway and ground water from wind blow, seepage or spillage at the site should be avoided and details of pollution preventions measures should be provided. Works should also be carried out at appropriate times to avoid adverse impacts to nesting birds / bats etc. The Trust also wish to highlight that there is Japanese Knotweed adjacent to the industrial units on the towpath. This has not been noted in the submission but should be considered during any construction works.

These issues could be addressed by the imposition of a condition requiring the submission of a Construction and Environmental Management Plan.

### NON-STATUTORY CONSULTTEES

#### 6.7 Planning Policy comments

- Policy Banbury 1 provides for the redevelopment of Banbury Canalside including approx. 700 new homes and environmental/visual improvements to the area
- Proposals are expected to be in accordance with a Supplementary Planning Document for the site, should ideally be for the whole site and be accompanied by a detailed masterplan. The policy allows for applications for part of the site where it is clearly demonstrated that they would contribute towards the creation of a single integrated community.
- A Canalside SPD is under preparation. The draft pre-dates the adoption of the Local Plan
- The caravan site has been used as a gypsy and traveller site for many years – 20caravans (approximately 10 pitches)
- The proposed development would result in the loss of all these pitches
- Policy BSC6 seeks to meet the accommodation needs of the travelling communities including through the provision of 19 (net) additional pitches for G and T from 2012 to 2031
- As demonstrated in the Annual Monitoring Report 2016 there has continued to be a need to provide new pitches since Local Plan adoption and the district does not presently have a 5 year supply of pitches. The application site contributes to the existing supply
- A new Gypsy Traveller and Travelling Showpeople Accommodation Assessment(GTAA) for Cherwell, Oxford, South Oxfordshire and Vale of White Horse Councils has recently been published ( June 2017). It identifies new needs for each authority based on the new definition of travellers for planning purposes.
- The GTAA identifies a need for 7 additional pitches for households for Cherwell by 2031that meet the planning definition. The study also identifies a need for up to 20 additional pitches for unknown households ( where it is not possible to distinguish whether or not they meet the new planning definition.
- Para B139 of the Local Plan Part One makes clear that site identification under Policy BSC 6 will need to include the re-provision of pitches from the site that is likely to be redeveloped as part of the Canalside redevelopment (ie the application site)
- The aims of the Planning Policy for Traveller Sites 2015 (PPTS) include “ to increase the number of traveller sites in appropriate locations with planning

permission to address under provision and maintain an appropriate level of supply". It requires the maintenance of a 5 year supply and proper consideration of the effect on local environmental quality ( such as noise and air quality) on the health and well being of travellers.

- The PPTS states that local planning authorities should work with the planning applicant and affected traveller community to identify a site or sites suitable for relocation of the community if a major redevelopment proposal requires the permanent or temporary relocation of a traveller site. Local Planning Authorities are entitled to expect the applicant to identify and provide an alternative site providing the development of the original site is authorised.
- The benefits of providing housing ( including the required affordable housing) are acknowledged
- The present absence of an approved detailed masterplan for Canalside means that this proposal needs to clearly demonstrate that the proposals would contribute towards the creation of a single integrated community at Canalside. A deliverable alternative site for G and T would also need to be identified to replace the pitches lost ( particularly in view of the current need and supply position) notwithstanding the environmental benefits that could be achieved from redevelopment

The Policy recommendation an objection unless these matters can be resolved

6.8 CDC Recreation and Leisure seek infrastructure contributions towards outdoor sports facilities; indoor sports facilities; community hall improvement; and public art

6.9 CDC Environmental Protection Officer comments

**Noise:**

Prior to the development commencing a report should be provided and approved in writing by the local planning authority that shows that all habitable rooms within the dwelling will achieve the noise levels specified in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings) for indoor and external noise levels (if required then the methods for rating the noise in BS4142:2014 should be used, such as for noise from industrial sources). Thereafter, and prior to the first occupation of the dwellings affected by this condition, the dwellings affected by this condition, the dwellings shall be insulated and maintained in accordance with the approved details.

Prior to the commencement of the development, a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with approved CEMP.

**Contaminated Land:** The full contaminated land conditions (J12 – J16) will need to be applied to any approved permission.

**Air Quality:** No comments

**Odour:** There is a potential for the proposed residential properties to be affected by odour coming from the nearby industrial and commercial units which should be taken into account and assessed.

**Light:** No comments

- 6.10 CDC Landscape Services Indicate that an informal open space and Local Area of Play will be needed together with arrangements for their future maintenance
- 6.11 CDC Regeneration and Housing comment that this application is coming forward with regard to a currently occupied caravan site and the housing team would need to be reassured that a high level of engagement had been undertaken with the occupiers and that all occupiers had suitable alternative housing in place prior to any development commencing. We would want to be sure that the redevelopment did not lead to potential homeless application or unnecessary additional pressure on the housing register

The plans identify that one of the 3 blocks will be for affordable housing comprising of one and two bedroom flats. There is a high need for one and two bedroom units in Banbury, particularly for affordable rent. As far as possible we prefer the two bedroom flats to be on the ground floor.

The policy requirement for urban sites over 10 units is 30% equating to 13 flats. This usually breaks down into 70% for affordable rent (9 flats) and 30% for shared ownership (4 flats). However mixed tenure blocks do bring some issues regarding service charging and management and so we would want to explore the possibility of either a single tenure or a division of the block into 2 separate entrances. We would be happy to discuss this in more detail with the applicant.

We expect that 50% of the affordable rented units meet the Building Regulations Requirement M4 (2) Category 2: Accessible and Adaptable Dwellings requirement. In this case this would apply to the ground floor flats. 100% of the affordable rented housing units should be built to the Nationally Described Space Standards. The two bed properties should be provided with two parking spaces per property.

The registered provider should be agreed with the council.

- 6.12 CDC Ecology

Regarding the above application, I have read through the Phase 1 Habitat Survey Report submitted with the application which provides a full baseline survey of the site. The features of most ecological importance are the River Cherwell and Oxford Canal located adjacent to the site. However the report does not include an assessment of the potential impact on otter, through construction of potential proposed footbridges over the canal and the river. Otter and their holts (resting places) are protected species, as such I would recommend that in light of the proposed works, that an assessment for potential of the proposals to impact on otter is also provided by the applicant's ecologist prior to determination.

The existing buildings and trees within the site which are proposed to be removed have negligible bat roosting potential, however the buildings and trees could be used by nesting birds. As such I would recommend the below condition relating to nesting birds be attached to include appropriate timing of works for demolition and removal of existing trees. Should the works not take place within two years of the date of the report (i.e. July 2018), a further updated survey of the site would be recommended as the potential of buildings and trees for bats does change over time. I would be happy to provide suggested condition wording for an updated survey of the buildings and trees if needed.



Due to the proximity of the site to the River Cherwell and the Oxford Canal, I agree with the report that appropriate measures will be required during construction and operational phases of the development to avoid pollution of the watercourses in accordance with the Environment Agency Pollution Prevention Guidelines. I would recommend that the Environment Agency and the Canal and River Trust are consulted on the proposals, if not already, for their advice regarding specific pollution prevention measures. I would recommend that the plans are designed to include a buffer zone between the proposed buildings and the top of the river bank and the Environment Agency would be best placed to advice on this. There should also be a suitably wide vegetated buffer zone between the footpath and the top of the river bank, ideally this would be at least 8m in width. To avoid impacting on nocturnal species including bats, external lighting should be kept to a minimum within the site and in particular along the eastern and western boundaries along the watercourses, in line with the recommendations of the report.

There is good scope to provide ecological enhancement measures within the detailed design of the development, such as the use of native species planting of shrubs and trees and inclusion of bird and bat boxes. Any trees to be removed should be replaced by native species within the development and species of shrubs and herbs should be considered within any detailed landscaping scheme for their benefits for invertebrates such as bees and butterflies. There are several swift nest records within Banbury and the proposed scheme provides opportunities for inclusion of swift bricks within the proposed buildings, such as high up under the eaves or on the gable ends (such as the Schwegler swift box no. 25 which can be integrated into the walls of the buildings). There are also opportunities for inclusion of bat boxes/bricks within the buildings or on the existing mature trees alongside the watercourses. As such I would recommend a condition for the provision of a detailed scheme of habitat boxes, including for swifts, is attached to any permission granted with the aim of achieving net gain in biodiversity in line with the NPPF at any detailed design stage.

Conditions are recommended

- 6.13 CDC Arboricultural Officer comments that there are some significant trees on the site so an Arboricultural impact assessment, method statement and tree protection plan is required in line with BS5837

## **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)

- Policy Banbury 1 : Banbury Canalside
- Policy BSC2: Effective and efficient use of land
- Policy BSC 3: Affordable Housing
- Policy BSC 6 : Travelling Communities
- Policy ESD 6: Sustainable Flood Risk Management

- Policy 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

#### 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Adopted Banbury Masterplan 2016
- Planning Policy for Traveller Sites 2015 ( PPTS)
- Draft Banbury Canalside SPD 2009

## 8. APPRAISAL

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

- Principle of development
- Loss of caravan site
- Access for cars and pedestrians
- Wider transport impact
- Heritage impact
- Impact upon canal and river
- Drainage matters
- Environmental health matters
- Infrastructure

#### **Principle of Development**

8.2 Policy BAN1 of the adopted Local Plan provides a detailed policy for the regeneration of the Canalside area and the assessment of applications within the area. It proposes that the area will contain 700 houses and 15,000 m2 of commercial and town centre uses (the latter in the northern part of the site). The policy sets out the infrastructure needs for the development and a whole raft of key site specific design and place shaping principles.

Key site specific design and place shaping principles in Policy Ban 1 are set out below

- Proposals should comply with Policy ESD15
- A distinctive residential proposition for Banbury that integrates well and helps make connections with the adjoining town centre and Railway Station
- An appropriate location for higher density housing to include a mixture of dwelling styles and types
- A high quality design and use of innovative architecture, including the use of robust and locally distinctive materials, which reflect the character and appearance of Banbury, respect the setting of the retained historic buildings and in particular reference the canal side location
- Taking advantage of the accessibility of the town centre, an age friendly neighbourhood with extra care housing and housing for wheel chair users and those with specialist supported housing needs

- Retail, commercial and leisure uses focused in the north of the site adjacent to the town centre and station, not including any significant convenience retail
  - Units sized and located to attract small specialist leisure and niche retailers which combine to create a destination
  - Selected leisure and entertainment uses including art spaces and galleries, restaurants and cafes
- The potential inclusion of live/work units
  - A noise survey will be required to accompany any planning application
  - A layout that maximises the potential for walkable neighbourhoods and enables a high degree of integration and connectivity between new and existing communities. New footpaths and cycleways should be provided that link to existing networks, with provision of a designated pedestrian and cycle route from the station to the town centre over the canal and river and a new pedestrian / cycle bridge over the railway
  - New pedestrian and cycle bridges erected over the Oxford Canal and the River Cherwell to enable and encourage walking and cycling through the site
  - The River Cherwell should be maintained in a semi natural state and mature trees should remain
  - Provision of a landscape corridor along the edge of the river to facilitate a footpath and cycleway on one or both sides for the length of the river through Canalside to link the open countryside of the Cherwell Valley to the south with Spiceball Park to the north
  - Open/urban spaces provided in various locations within the site and new trees planted
  - High quality open spaces that follow the canal and river corridor and support greater connectivity of the area
  - The implementation of proposals in the Movement Strategy including improved junction arrangements on Bridge Street and Cherwell Street to improve traffic capacity but also to facilitate pedestrian movement between the town centre and Canalside
- T
- Buildings fronting Windsor Street enabling pedestrian permeability of the site to correspond with the proposed highway improvements which include frequent informal crossing points along Windsor Street
  - Parking provision that complies with County Council's Parking Standards for new Residential Developments Policy and will not exceed maximum standards. Some car free areas or areas of reduced levels of parking with innovative solutions to accommodating the private car
  - Good accessibility to public transport services should be provided for, including the provision of a bus route through the site with buses stopping at the railway Station and at new bus stops on the site
  - A transport assessment and Travel Plan to accompany development proposals
  - Development fronting on to the canal and public access to and from the canal
  - The continued use of canal boats for leisure purposes with a canal basin and mooring facilities located in the northern part of the site with the opportunity to enhance facilities and mooring in this area.
  - Preservation and enhancement of the biodiversity value of the site, with the enhancement, restoration or creation of wildlife corridors (recognising the importance of the river and canal corridors)
- Retention and integration of the most valuable historic buildings/structures

including the Grade II Listed Old Town Hall and the bridge over the river.

- The integration of existing historic buildings, which will enrich the environment and maintain the long term character of the area
- Public art should be provided and there is the opportunity for this to be creatively engaged through the creative refurbishment of existing buildings and new bridges to the canal
- Appropriate treatment and remediation of contaminated land
- Provision of sustainable drainage in accordance with Policy ESD 7: Sustainable Drainage Systems (SuDS), taking account of the recommendations of the Council's Strategic Flood Risk Assessment
- Compliance with policies ESD 1-5 on climate change mitigation and adaptation
- Take account of the Council's Strategic Flood Risk Assessment for the site
- Development proposals to be accompanied by a landscape and visual impact assessment together with a heritage assessment.

Additional requirements for this large complex site include:

- Development proposals will be expected to be in accordance with a Supplementary Planning Document (SPD) for the site. Ideally proposals should come forward for the whole site accompanied by a detailed masterplan but applications for parts of the site may be permitted provided that they clearly demonstrate their proposals will contribute towards the creation of a single integrated community. Applications should cover significant land area within the site in order to achieve continuity in design and delivery of the vision. Reduced levels of open space may be considered if it can be demonstrated that high quality urban spaces are being provided within the scheme and strong links are being provided to the open areas to the north and the south by improvements to the Canal walkway.
- The Council will expect an application to demonstrate it has complied with the SPD and has taken into account the known or anticipated implications of the proposals on adjoining areas. The Council will expect applications to comply with the requirements for each character area in the SPD, but will not expect applications to necessarily cover the same geographical area.
- The Council believes that the most effective and equitable means of promoting development at Canalside will be based on an outline planning application being made by consortia of key landowners and/or their developer partners, supported by a masterplan. It is expected that key landowners will have agreed a means of capturing and mutually benefiting from the uplift in land values as a result of a successful development scheme.
- The Canalside area falls primarily within Flood Zones 2 and 3 at present. It has been subject to flooding in recent years and the Environment Agency (EA) has completed a scheme to provide flood alleviation to the town centre. The scheme will provide a defence for flood events up to the 1 in 200 year (0.5% annual probability) by constructing a flood storage area upstream of the town centre and bunds in places in the Canalside area. To assess the potential flood risk in the Canalside area, a level 2 Strategic Flood Risk Assessment has been undertaken to assess both the fluvial flood risk to the development proposals from the River Cherwell and the flood risk associated with the Oxford Canal. This confirms that with the implementation of the Flood Alleviation Scheme and the implementation of other measures on the site the site can be redeveloped safely. Applications will be required to follow the requirements set out in the

Strategic Flood Risk Assessment and a detailed Flood Risk Assessment (FRA) for the site will be required with any planning application.

- The proposals for Canalside mean that nearly all existing land uses, buildings and businesses could be removed in the long term. One of the Council's key priorities is to ensure that businesses remain in Banbury or the District. The actual amount of land needed to accommodate operational businesses at Canalside is not significant and there are several options available to businesses. In terms of locations where businesses may wish to relocate to this could include within vacant units/premises elsewhere or in new buildings elsewhere. This could include on existing employment sites (through intensification) such as on the former SAPA and Hella sites, or in/on new buildings/sites allocated in the Council's Local Plan or Local Plan Part 2 such as on land near the motorway. The re-development of Canalside will provide businesses with the opportunity to expand and invest for the future and the Council's Economic Development team will assist any businesses to relocate. The redevelopment of Canalside is a long term plan and therefore it is possible some businesses may want to remain on a temporary basis for some time. All of the existing businesses could be relocated but the Council will encourage existing businesses which are offices, retail units and community uses which are conducive to the aims of this Policy and the SPD to remain and occupy new buildings on the site, potentially helping them to expand and prosper in this town centre location. A number of the older buildings and the site of former industrial premises, offer considerable opportunities for re-use or re-development for industrial enterprises. Some of the industrial uses (B use classes) could remain and 700 dwellings can be delivered on the site with some of these remaining on the site. The particular uses and businesses that remain will be explored further in the SPD for the site which will include further consultation with landowners and businesses.

8.3 Para C.137 of the Local Plan and the latter part of the Policy indicate that a Supplementary Planning Document (SPD) will be prepared for the site and that applications will be expected to be in accordance with that SPD. The Policy can be read in full in the Local Plan. The Canalside SPD has yet to be formulated. At the meeting of the Council's Executive on 6 November the following timetable for the Canalside SPD was agreed

- Evidence Base Review (September 2017- February 2018)
- Internal officer/stakeholder/Member meetings (September 2017 - February 2018)
- Meeting with County Highways (October 2017)
- Banbury Traffic Advisory and Chiltern Railways Meetings (6 December 2017)
- Banbury Development Board (18 December 2017)
- Four week period of informal public consultation with draft proposals and a public survey (Starting November 2017 to February 2018)
- Workshop 1 - Council officers and Members on draft proposals (January 2018)
- Workshop 2 - Landowners and occupiers on draft proposals (January 2018)
- One to one meetings with relevant landowners (November 2017 – January 2018)
- Member presentation on draft SPD (April 2018)

- Executive for draft SDP (March or April 2018)
- Four week formal public consultation on draft SPD with exhibition/leaflets (April-May 2018)
- Adoption – (July 2018)

8.4 In December 2016 the Council adopted the Banbury Vision and Masterplan as a supplementary planning document. That document includes proposals to connect the town centre to the rail station and has a section that identifies the key urban design and development principles for strategic sites identified in the Masterplan including the Canalside area. It says the following

Canalside is a strategic site, which has the potential to have a profound effect on the long term vitality and attractiveness of the town centre. It is located between the railway station and the retail heart of the town, but is separated from it by the busy Cherwell Street. The development area extends to approximately 20 hectares and includes land to the east of Cherwell Street and to the south of Bridge Street. It has the potential to play a vital role in enhancing activity in the town centre by the relocation of traditional employment uses to more appropriate sites and developing the land for residential, mixed use and related town centre uses. It can also play an important role supporting the planned investment in the railway system, by improving connectivity between the station and the town centre and by providing development opportunities next to the station

Canalside is a diverse area with a wide variety of businesses and uses. It is rich in history and will require a sensitive approach to redevelopment, which should retain listed and locally listed buildings wherever possible. The process of change will take time and include consultation with all those working and living in the area.

Canalside can become a vibrant, modern, mixed-use quarter containing residential, office, commercial and retail uses. There is the potential for higher density development to the north of Canalside and close to the town centre, and lower density residential development to the east of Tramway. In some places reduced levels of car parking may be appropriate considering that some living near to the town centre may have less need for access to a private car. Some of the existing buildings could be redeveloped for a mixture of uses, particularly alongside the canal. The density can be achieved with a majority of family homes on the south and east of the development area, with apartments and three storey town houses to the north and closer to the town centre. The Local Plan identifies that the Canalside site will accommodate 700 dwellings. However, there is potential for more to be accommodated, possibly up to 1,000 new homes.

There are significant movement issues to be

addressed in the development of Canalside, which must improve connectivity and reduce existing traffic congestion. Cherwell Street should be widened into an attractive tree lined boulevard that is suitable for traffic and pedestrian activity. The Bridge Street junction will require significant modification to improve traffic management and connectivity.

The railway station is served by a multi-storey car park to the north-east of the railway line and a surface car park on the south-west. There is the potential for an additional multi-storey car park to serve the railway station on the western side of the railway lines. The existing road from Bridge Street to the station should be retained and used for taxis, buses and customer drop off. Tramway Road should be extended to access the station surface car park, which will reduce the amount of traffic using Bridge Street.

Cherwell District Council will need to lead the redevelopment process by preparing a SPD, promoting change, investing in infrastructure and enabling the development. This will involve the relocation of existing businesses to enable the comprehensive regeneration of the area, and the possibility of CDC using compulsory purchase powers to bring the different land parcels together ready for development by the private sector. Canalside will be comprehensively redeveloped whilst it may come forward in phases, based upon an overall masterplan and SPD. A joint venture with a private sector partner, supported by an element of public sector funding, may provide a potential solution to delivery.

Key actions include:

- Collect any further information and evidence required for a SPD;
- Prepare a SPD and site masterplan that develops the principles set out in this document and the Local Plan, and is deliverable and fundable;
- Commission a Business Plan to identify the delivery mechanism and the level of any public sector investment that may be required;
- Work with the land owners and identify one or more development partners who shares the vision for this site and will work with CDC and OCC to deliver the scheme;
- CDC will identify suitable land and premises in Banbury for the relocation of existing businesses and will work with those businesses to facilitate their relocation; and
- In terms of applications that may come forward for parts of the Canalside site, the impact of remaining industrial uses on new dwellings will require careful consideration.

- 8.5 An appendix to the Masterplan contains an urban framework plan and a list of key principles. This can be seen on the Council's web-site and will be displayed at Committee
- 8.6 In the absence of a Canalside SPD it is difficult to form an accurate assessment of the way in which this small site would integrate into this wider regeneration and development opportunity. In your officers opinion the site should be brought forward in conjunction with the areas of land to the north, so that all of the area between the canal and the river, north of Haslemere Way can be considered together. Furthermore without clear knowledge of the likely land uses and form of development to west and east on the opposite sides of the canal and river respectively it cannot be guaranteed that this development would not prejudice what may be promoted on those sites. Whilst the illustrative plans show the opportunity to form bridges across the canal and river, it is not known, and will not be known until the adoption of an SPD, whether these necessary connections are in the right place. Although this is an outline application with layout reserved for further consideration the application seeks to establish whether a set number of dwellings can be provided. The illustrative layout does that with a particular block disposition reliant on the bridge positions chosen by the applicants (albeit that the choice has been informed by the drawing in Appendix 1 of the Masterplan). The applicants agent disagrees with these emerging conclusions and wrote to the case officer on 29 September to express contrary views. That e-mail is attached as Appendix 1.
- 8.7 In the opinion of the Head of Development Services in the absence of a Canalside SPD the proposal may therefore be prejudicial to the redevelopment of the Canalside area in a properly planned way. Whilst the policy, and your officers in pre-application advise, have acknowledged that applications for part of this large and complex site may come forward it is also noted in the policy that such less than comprehensive proposal must clearly demonstrate that they will contribute to the creation of a single integrated community. It is recognised that the early approval and delivery of an appropriate site may act as a catalyst for the bringing forward of other sites, but it is considered that this advantage does not outweigh the concerns that this scheme may be prejudicial to other sites and the achievement of the key urban design principles.

#### **Loss of the caravan site**

- 8.8 As noted in the Planning Policy officers comments the site currently is a caravan site which has been included in the Council's gypsy and traveller site provision. Policy BSC 6 of the adopted Local Plan deals with the issue of making provision for the needs of the travelling community and Para B.139 of the Local Plan specifically refers to the need to ensure re-provision of any loss as a result of the Banbury Canalside proposals.
- 8.9 In the Annual Monitoring Report 2016 it was demonstrated that there continued to be a need to provide new pitches for travellers and gypsies as the Council cannot currently demonstrate a five year supply. The recently published GTAA identifies a need for 7 additional pitches for households that match the re-defined definition of who constitutes a traveller or gypsy. The study also identifies a need for up to 20 additional pitches for unknown households (where it is not possible to distinguish whether or not they meet the new planning definition). Current occupiers of the site may well fall into this latter category.



- 8.10 The national Planning Policy on Traveller Sites(PPTS) states (para.21 of Policy G) that local planning authorities should work with the planning applicant and the affected traveller community to identify a site or sites suitable for relocation of the community if a major development proposal requires the permanent or temporary relocation of a traveller site. Local Planning Authorities are entitled to expect the applicant to identify and provide an alternative site, providing the development of the original site is authorised.
- 8.11 The applicant's agent does not accept that this is a site to which the above policies apply as the tenants are considered to be non- gypsy and non-traveller, but in any event they seek to demonstrate that the current owner also owns or controls other sites that his tenants could move to. These are listed as being in Mollington, two in Coventry, Shipston on Stour and Trowbridge. There must be some doubt attached to this assertion as it is claimed that none of the existing tenants are gypsy/travellers but the Mollington site only has permission for occupiers who comply with the definition of gypsy and travellers. Furthermore the other sites are considered too far distant to meet the needs of these tenants who presumably would wish to remain Banbury based. A further site to the south of Tramway Road has also been tabled , but this seems to be unlikely to be acceptable.
- 8.12 Discussions with the County Council Gypsy and Travellers Officer have confirmed that none of the existing caravan pitch occupiers are Gypsies and Travellers , and that it may be some time since such occupiers have used the facility. Furthermore that permission granted in the 1970s was not specifically for or limited to such occupiers. In these circumstances your officers consider that a refusal based on the loss of this facility could not be sustained at appeal.

#### **Vehicular and pedestrian access**

- 8.13 As submitted both vehicular and pedestrian means of access to Station Approach were proposed to be solely provided via the existing access way which passes between the car park and commercial buildings to the north of the site. This is narrow. Whilst it is wide enough to allow two cars to pass this needs care and is not sufficient for wider vehicles to pass one another. There is no separate protected provision for pedestrians who would have to share this width. The County Council originally objected on grounds including this issue. It is understood that OCC may be withdrawing its objection; this will be clarified for Committee.
- 8.13 Notwithstanding the County's position your officers consider that this shared access arrangement is not satisfactory and is inherently unsafe. This route is also used to gain access to the existing adjacent religious meeting place use. The applicants have indicated that they are willing to fund the provision of improved access along the canal towpath. Given the change in levels involved this would require ramps to the canal path level both at the site end and at Station Approach, together with the provision of a tarmac surface on the towpath itself. The Canal and River Trust appear willing to allow this, albeit that no plans of how this is achieved have been submitted, and no costs have been calculated to see if this is viable. The applicant has confirmed a willingness to provide adequate connection to the towpath. It is not clear if they are prepared to pay the full amount that would be required to facilitate a high quality alternative route to Station Approach. In any event a judgement needs to be reached as to whether this improved alternative route would be used regularly, or whether pedestrians would nevertheless continue to use the inadequate access along the access way – this will depend on detailed layout be is a residual concern.
- 8.14 Policy BAN 1 and the masterplan identify the need to improve connectivity within Canalside and between the rail station and the town centre, and that this would

require the provision of more crossings across the canal and river. This application proposal recognises that need and shows positions where these could be placed leading to and from their site. The County Council has suggested a formula by which bridge contributions could be calculated and the applicants have indicated their willingness to contribute to that extent. However your officers consider that only through the mechanism of an SPD can the infrastructure requirements of the Canalside be identified and quantified and their costs apportioned to individual developments. This is seen as further evidence of how this proposal may prejudice the wider delivery of the regeneration proposals and is premature to the conclusion of the SPD.

### **Wider transport impact**

8.15 OCC objected and commented in their original consultation response that

*The Bridge Street/A4260 Cherwell Street/A4260 Concord Avenue junction was run through the model at an optimised time of 120 seconds, as opposed to the current signal times of 163 seconds (in the AM peak), 154 seconds (in the PM peak).*

- We will require some sort of traffic calming at the access entrance, as the access road is 70m, which could see drivers driving unsuitably for their surroundings.*
- We require tracking that demonstrates an 11.6m refuse vehicle can enter, turn and leave the site in a forward gear*

It is understood that all these issues have been addressed and that the County Council will confirm the withdrawal of its objection

### **Heritage impact**

8.16 The Oxford Canal (and its towpath) and the land between the canal and Lower Cherwell Street is a Conservation Area. A brick commercial building on the opposite bank of the canal is a locally listed building. The listed former town hall building in Lower Cherwell Street lies further away to the south on Lower Cherwell St. The redevelopment of this site for 3 and 4 storey residential use is considered acceptable and the change from a caravan site can be seen as a positive improvement to the setting of the Conservation Area. The application is accompanied by illustrative elevations which show building positions and designs which are considered by both the Canal and Rivers Trust and your officers to be likely to be acceptable, but of course these are not for formal consideration at this time. Consequently it is considered that the development could be undertaken in such a way that it will not cause harm to the character or appearance of, and setting of' the Conservation Area, nor will it be detrimental to the setting of the locally listed building

### **Impact upon the canal and river**

8.17 With regards to the canal other than heritage which is discussed above there is also the need to consider the impact upon the structural integrity of the canal due to the proximity of the building to the towpath and its ecology (Drainage issues are discussed below under a separate heading)

8.18 The Canal and Rivers Trust point out that land stability is a material consideration. Both the buildings and the ramps to the towpath have the potential to impact upon the stability of the canal infrastructure. This matter can

be adequately dealt with at outline stage however by the imposition of a condition requiring that the details of all earth moving, excavations, and foundation design should be submitted to and approved by the local planning authority.

- 8.19 Clearly both the canal and the river have rich biodiversity. The Canal and River Trust express concern about the potential for a detrimental impact upon the biodiversity of the canal through the construction period and consequently wish to see a condition requiring a construction and environmental management plan attached to any permission granted. The CDC ecologist notes that the phase 1 habitat survey provides good baseline information on all matters except the potential impact upon otters. If this application were recommended for approval further details would be required.

It is further advised that a 8 metre wide buffer is provided between the buildings and the top of the river bank. It has been ascertained that this can be done without impacting upon the delivery of the number of housing units proposed. It is suggested that there are good opportunities to provide ecological enhancement as a function of this development through landscaping, provision of bat and bird boxes etc.

### **Drainage matters**

- 8.20 The site lies within a wider area that is within Flood Zones 2 and 3 albeit that it is provided with protection from flooding by the Banbury Flood Alleviation Scheme. The application site itself however is a small island of Zone 1. The Environment Agency raise no objections to the proposal provide that the submitted Flood Risk Assessment measures are carried out
- 8.20 OCC initial lodged an objection on drainage grounds but these seem to have been overcome.

### **Environmental Health matters**

- 8.21 Issues related to noise, construction environmental and contaminated land can be dealt with by condition. The EPO also draws attention to the potential for the proposed residential properties to be affected by odour coming from the nearby industrial and commercial units.

### **Infrastructure**

- 8.22 Given the housing mix proposed (22 1-bed and 22 2-bed) the level of education contributions is relatively low and as a consequence of the CIL Regulations OCC do not consider that contributions are warranted. A contribution of £25,916 has been requested for the footbridges but as explained above this seems somewhat spuriously calculated.
- 8.23 The liability for infrastructure contributions on this strategic housing site needs to be assessed on the basis of the emerging SPD for Canalside. Such matters as transport, education, sports facilities, open space and play provision (amongst others) need assessing holistically so that a fair apportionment per housing unit can be established in cases where the site is coming forward in a non-comprehensive way (as in this case).

## **PLANNING BALANCE AND CONCLUSION**

- 9.1. It is recognised that the proposal has advantages in terms of the earlier delivery of housing, including affordable housing, and because it has the potential to act as a catalyst for further redevelopment within this important sustainable regeneration area. However these advantages do not outweigh the concerns that this development may prejudice the development of adjacent sites and the bringing forward the remainder of the site as a single integrated community with appropriate contributions to the necessary wider infrastructure requirements of this strategic site.

## **10. RECOMMENDATION**

That permission is refused, for the following reason(s):

1. The proposal for the development of this small part of the Canalside regeneration area is contrary to the requirements of Policy Ban 1 of the adopted Cherwell Local Plan 2011-2031 in that in the absence of a Supplementary Planning Document or detailed strategic site-wide masterplan it is not possible to form a view on how the proposal will fit in with the overall aspirations of the strategic site and how it will contribute towards the creation of a single integrated community. In these circumstances the proposal may prejudice the development of adjacent sites and may frustrate the provision of necessary infrastructure across the wider site.
2. The Local Planning Authority consider that the access way which will provide vehicular access to the site is inadequate to also serve as the pedestrian access to the site and whilst alternative access for pedestrians may be possible along the canal towpath this has not been secured through agreement with the land owner and a Section 106 agreement and will therefore be contrary to Policy SLE4 of the adopted Cherwell Local Plan.
3. In the absence of a satisfactory Planning Obligation, the Local Planning Authority is not convinced that the necessary infrastructure directly required both on and off site as a result of this development, in the interests of safeguarding public infrastructure, mitigating highway concerns, delivering mixed and balanced communities by the provision of affordable housing and securing future site maintenance arrangements will be provided. This would be contrary to Policy INF1, BSC2, BSC9, BSC11 and ESD7 of the adopted Cherwell Local Plan 2011-2031 and Government advice within the National Planning Policy Framework.

CASE OFFICER: Bob Duxbury

TEL: 01295 221821

**From:** Steve Hinsley [<mailto:steve.hinsley@Tetlow-king.co.uk>]  
**Sent:** 29 September 2017 16:38  
**To:** Bob Duxbury  
**Subject:** Station Caravan Park

Dear Bob

Further to our recent meeting and telephone conversation I write setting out our client's position:

Firstly, there can be no question of our proposal being prejudicial to the future development of the land to the east and west, on either side of canal and river. Development here is only ever going to be residential as that is the only use which is going to generate sufficient value to assist in providing necessary infrastructure. As you know my client has approached owners of these portions of land and no appetite has been shown for residential development. Even in the albeit highly unlikely event of some B.1 units going in on those sites, that is a use which by definition will not cause harm to residential amenity so once again there would be no conflict.

Secondly, you have accepted that the bringing forward of my client's site will act as a catalyst to the bringing forward of other sites. But it is more than that: it is pivotal as it provides the central part of any new crossing of river and canal. Without my clients site there is no possibility of an alternative crossing. Not only has my client agreed to making a financial contribution towards the construction of the bridges, but also the dedication of the land across his site to enable the link is a benefit commanding significant weight.

Thirdly, as outlined in our meeting my client and the existing landowner has identified a site that they can obtain for the provision of caravans which could act as a relocation site for the existing tenants and/or provide 10 Gypsy and Traveller pitches. The provision of these 10 pitches would of course compensate for the 10 pitches your authority has mistakenly understood there to be on the application site. An early planning application could be made for this.

Fourthly, my client has secured the opportunity to purchase the car park immediately to the north of the application site. He is prepared to apply for early planning permission for this site as a "second phase" of development to the main site. Bringing this in overcomes one of your concerns about site size.

To conclude, we have continued to work very hard to bring forward this site and to address all concerns raised. We have reached the point where we have a site which is pivotal to securing important elements of Ban 1 and its development will act as a catalyst to bring forward other sites in the vicinity. We can provide a relocation site for existing residents and/or provide 10 Gypsy and traveller pitches.

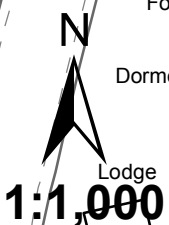
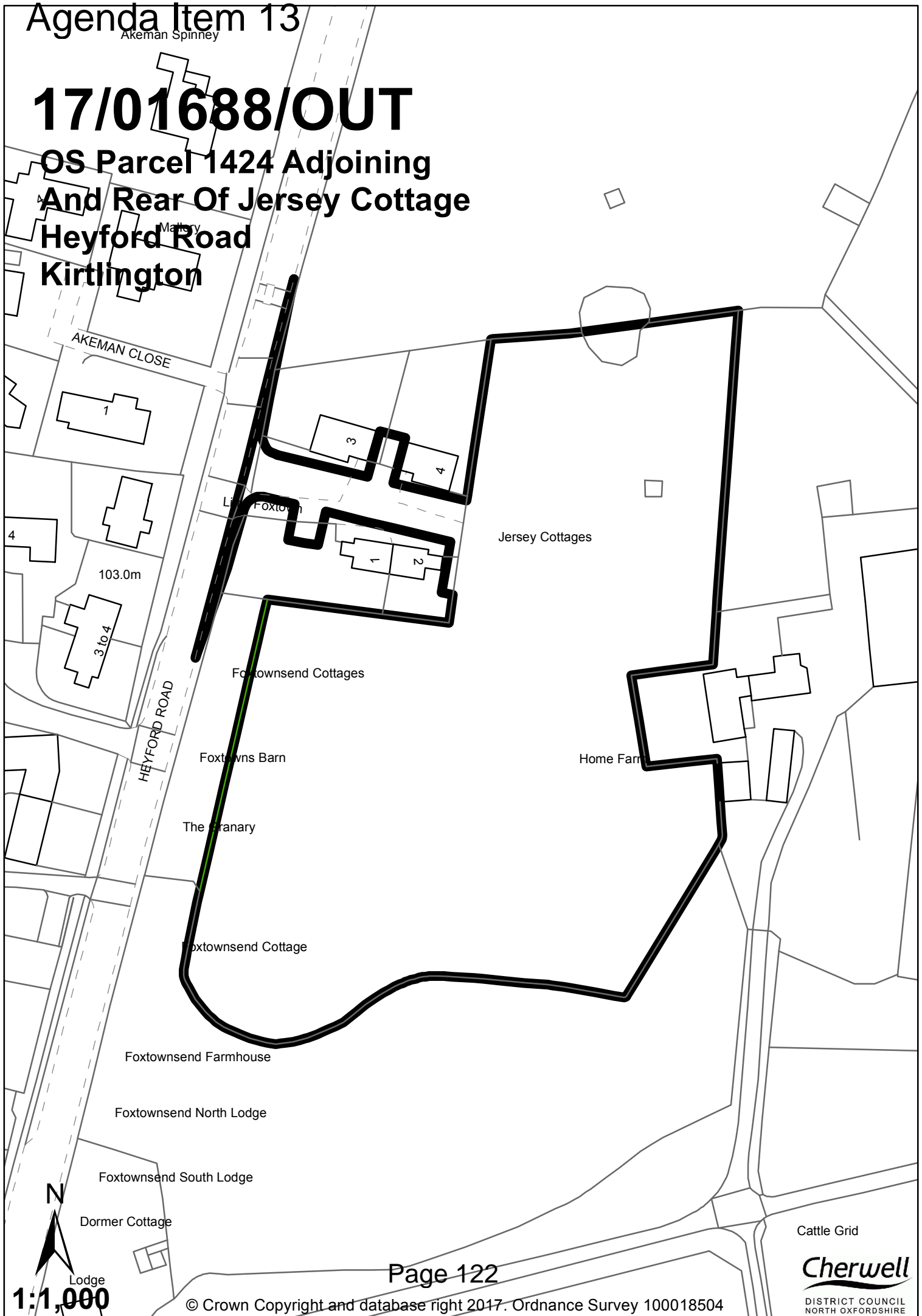
I firmly believe that we have a scheme which is worthy of your officer's support and look forward to seeing your report to the next planning committee recommending approval. As discussed, my client will appeal against any refusal of planning if necessary. You properly accepted that this is in no way a threat, but it would be a pity if we had to take this route given the constructive discussions we have had with officers over 18 months. As pointed out, in any appeal my client would not progress with the development of the car park site to the north and would not pursue the relocation site.

I look forward to hearing from you soon.

Regards

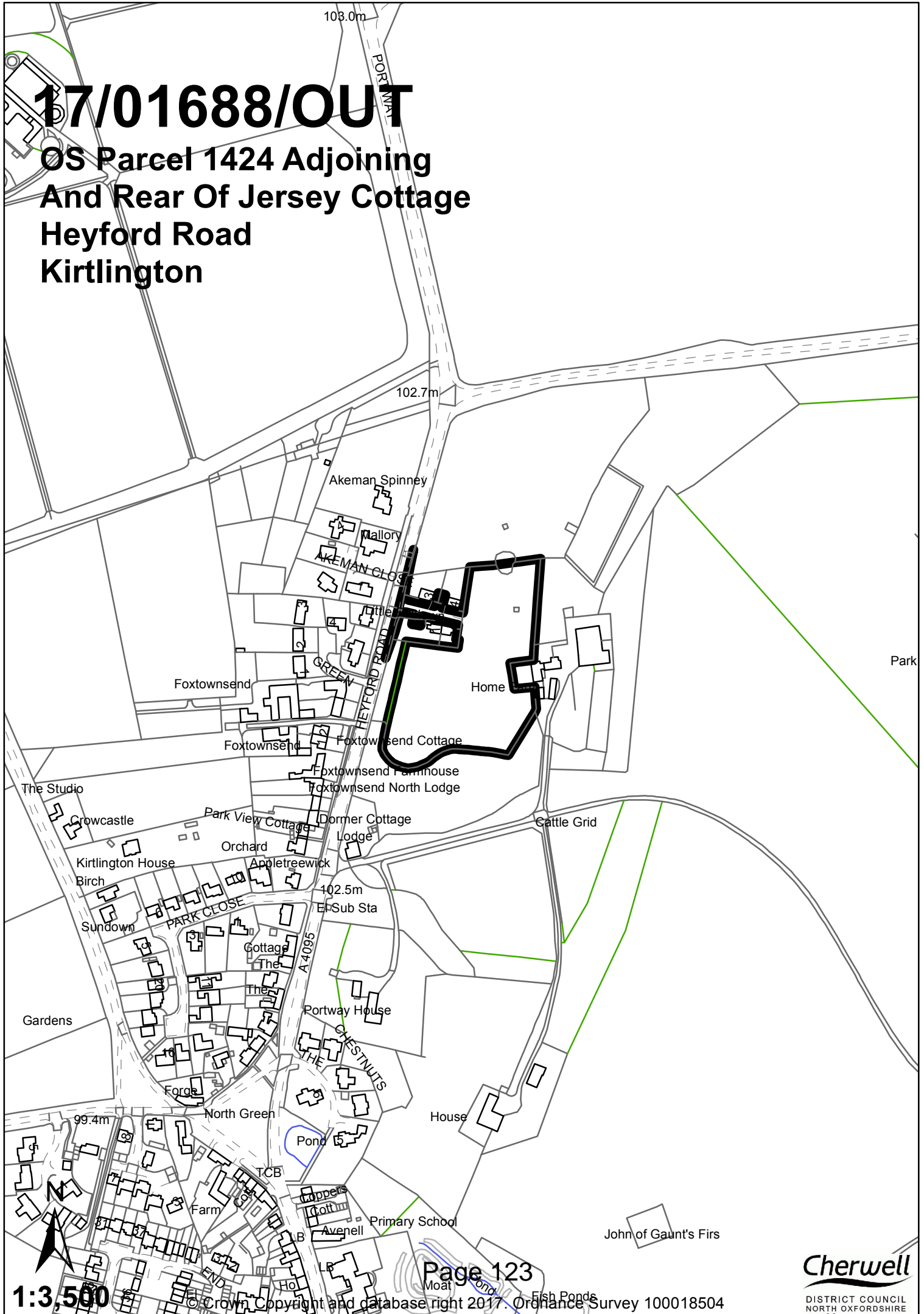
# 17/01688/OUT

OS Parcel 1424 Adjoining  
And Rear Of Jersey Cottage  
Heyford Road  
Kirtlington



# 17/01688/OUT

OS Parcel 1424 Adjoining  
And Rear Of Jersey Cottage  
Heyford Road  
Kirtlington



1:3,500

<b>Applicant:</b>	Manor Farm Developments Ltd, S Nicholson, JF Budgett, DC Grayland, CM Budgett & HC Tylor	
<b>Proposal:</b>	OUTLINE – Proposed residential development for up to 20 new dwellings and associated works with all matters reserved except access	
<b>Ward:</b>	Fringford and Heyfords	
<b>Councillors:</b>	Cllr Ian Corkin Cllr James Macnamara Cllr Barry Wood	
<b>Reason for Referral:</b>	Major Development	
<b>Expiry Date:</b>	09 November 2017	<b>Committee Date:</b> 23 November 2017
<b>Recommendation:</b>	Refusal	

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

- 1.1 The application site is located to the northern side of Kirtlington to the east of Heyford Road. It comprises land to the south and east of 1-4 Jersey Cottages and paddock and is approximately 1.26ha in area.
- 1.2 The northern boundary of the site is defined by a hedge, trees and fences. The western boundary comprises a dry stone wall, approximately 1.6m high, with a belt of mature trees within the site. The southern boundary of the site is formed by woodland which extends along the entire southern boundary and merges with a larger block of woodland to the east of the site. The eastern boundary is defined with a post and rail fence which borders Home Farm and its associated agricultural buildings.
- 1.3 To the south of the site, beyond the woodland, is the driveway into Kirtlington Park and parkland; to the north is a paddock forming part of Home Farm. The western side of Heyford Road is characterised by a strong building line of dwellings fronting onto Heyford Road with a couple of cul-de-sacs, Akeman Close and Foxtowns. Conversions of traditional farm buildings have also taken place to the rear of Foxtownsend Farm.
- 1.4 The application site lies partly within the Conservation Area and partly within the Grade II Registered Park and Garden of Kirtlington Park. There are several Grade II listed buildings adjacent to the application site including Home Farm.
- 1.5 There are no Tree Preservation Orders within the site. The site is within 2km of a SSSI (Kirtlington Quarry) and there are records of Spotted Fly catchers, a legally protected species within 250m of the site. There are also records of common swift within 250m which are a UK BAP Priority and Section 41 Species and it abuts a UK BAP Priority and Section 41 Habitat, lowland mixed deciduous woodland. The site lies



within a buffer zone for potentially contaminated land and is a site of medium level archaeological interest.

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

- 2.1 Consent is sought for the erection of up to 20 dwellings with open space and associated works. The application is in outline with only access to be considered at this time. Appearance, landscaping, layout and scale are reserved for subsequent approval.
- 2.2 Vehicular access is to be via the existing access serving Jersey Cottages. It is proposed to upgrade the access to provide footways either side of the estate road with footways either side of the junction with Heyford Road. It is also proposed to provide a road narrowing scheme to the south of the access.
- 2.3 An indicative layout has been submitted showing 20 dwellings served by a single access from Heyford Road with an area of open space to the east, between the development and Home Farm.

## **3. RELEVANT PLANNING HISTORY**

- 3.1 An application was received in 2015 for residential development which included the replacement of Jersey cottages, 15/01128/OUT; this was withdrawn by the applicant. A subsequent application 17/00539/OUT for up to 20 dwellings including the retention of Jersey Cottages was received in March 2017 but this too was withdrawn by the applicant in order to respond to consultation comments and address the concerns of officers regarding the impacts of the development.

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

- 4.1 Pre-application advice was sought in December 2016, under application 16/00329/PREAPP, for the development of the site for 20 dwellings. The conclusion of the advice given was that the site was not considered to be acceptable for residential development in the form and scale proposed due to the impact on the visual amenities and rural character of the village and its setting. It was also considered to be harmful to the traditional settlement pattern and would have a significant adverse impact on Kirtlington Park, neither preserving nor enhancing the character and appearance of the Conservation Area nor the setting of Home Farm, a listed building.
- 4.2 Further advice was given that if the scheme received clear support from the Parish Council and a significant number of village residents and any harm to the heritage assets and visual amenities of the area could be shown to be limited and outweighed by public benefits, it may result in a positive officer recommendation being given having regard to the presumption in favour of sustainable development contained within the NPPF.

## **5. 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 03.10.2017, 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 at the time of writing this report are summarised as follows below and the letters can be viewed in full in the application documentation that is published online on the Council's website.

5.3 10 letters have been received objecting to the proposal, including one from a representative of an objector. They are summarised as follows:

- Within Kirtlington Park a Registered Park and Garden
- Within the Conservation Area
- Impact on the setting of the listed building (Home Farm)
- Highway safety and increased traffic
- Impact of loss of trees and dry stone wall to create access on Conservation Area and visual amenities
- Capacity of school
- Low cost housing will be too expensive for local families due to setting
- Noise and pollution from road narrowing
- Impact on wildlife
- Within the overall landscape scheme of park designed by Capability Brown
- Detrimentally affect character and appearance of Registered Park and its setting
- Set a precedent for building within the park
- Less sensitive areas in the village for development
- Impact on rural and linear character of the village
- Visual impact of the development
- Environmental Impact Assessment needed
- Strain on local infrastructure and amenities
- Distance from village facilities and reliance on cars
- Benefits of scheme don't outweigh the harm to the Conservation Area and Registered Park and Garden
- No consideration of alternative sites for development within the village
- Light pollution
- Other sites considered by PC in 2012 for affordable housing still available for development
- Tree planting will not screen the development and will prevent sunlight reaching gardens
- Moving badger setts risks spreading TB
- Letters of support from residents close to another proposed development site

5.4 37 letters in support of the proposal have been received including 3 letters offering support for the principle of the development but objecting to the traffic calming, signage and size of units. The comments are summarised as follows:

- Developer has addressed concerns of villagers
- Current residents can remain in the village
- Supports the local community
- Affordable housing and mix of smaller units
- In keeping with layout of village and does not contradict linear form
- Not visually intrusive/screened by trees
- Materials appropriate for Kirtlington
- Retains Jersey Cottages
- Shows advantages of development by a local family rather than outside developers
- Provision of green space for community use
- Reinstatement of original Town Green
- Not historically part of the historic park

- It is not in the historic park
- Will not adversely affect setting of park
- Improves setting of Home Farm
- Woodland Management Plan
- Meets housing need for village
- Affects the least number of people in the village
- Well contained and not intrusive
- Improve appearance of the village
- Good access and will fit into the public transport system
- Existing trees to be retained
- Wildlife provided for
- Designed to have minimum impact on the character of the village
- Minimal impact on traffic flow
- Within current boundaries of the village
- Minimal harm to residents
- Other development proposals are speculative and do not offer any benefits to the village

5.5 In addition to comments received from the public, three responses have been received from national campaign groups and their comments are summarised as follows:

CAMPAIGN TO PROTECT RURAL ENGLAND (CPRE): **Object.** The applicant has attempted to address some of the objections to the previous application but the majority still apply. CPRE state that they agree with the response from The Gardens Trust especially regarding the legal case where it was stated that heritage assets can be harmed by development in their settings without there necessarily being any visual impact.

CPRE's objections to the previous application (ref: 17/00539/OUT) were as follows:

- Cherwell has a 5 year housing supply
- Represents a mass increase in the size of the village
- Unsympathetic to the character of the village due to its form and to the landscape and due to its location and proximity to Kirtlington Park
- Not sustainable due to the lack of facilities in the village such as the small school, loss of green space and increase in traffic
- It is in the Conservation Area

SAVE: **Comment** that whilst acknowledging some changes have been made to the previous application, their position remains the same:

- This site is not suitable for residential development.
- The application proposes to chip away at the edge of the registered landscape and will damage the integrity of the whole; development outside a park shelter-belt can be just as damaging as development inside

Their objections to the previous application (ref: 17/00539/OUT) were as follows:

- Endorses points made by the Gardens Trust below
- Kirtlington and its park is an outstanding example of the 18<sup>th</sup> century English genius for architecture and landscape design
- Eroding edges of such landscapes damages their integrity
- Highly damaging to have to have development outside a park shelter-belt as inside, as the protecting trees are intended to be seen from without as well as from within
- Country house parkland is a key feature of English landscape and must be protected from damaging development.

WOODLAND TRUST: **Object** and comment that:

- Long history as a parkland and historic landscape and priority wood pasture and parkland habitat on the site
- Likely that this parkland is of national value for its special trees and therefore there should be no loss of any trees from this historic landscape that would reduce its resilience and continuity of habitat
- Development, even of a small parcel on the edge of the main parkland area would reduce and impact on the overall significance of national assets
- The development will result in direct and/or indirect impacts on areas of priority wood pasture and parkland habitat and important trees and as such is contrary to national policy
- No clear and convincing justification for this development proposal, which would cause substantial harm and loss to Kirtlington Park
- Residential development in the western part of the park will impact on its setting
- Impact on heritage and biodiversity has been inadequately assessed and is contrary to national planning policy
- Tree preservation orders should be made on all significant trees
- Avoidance of damage to trees of amenity values is crucial

## 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 KIRTLINGTON PARISH COUNCIL: **supports** the application in principle for the following reasons:

Continued engagement by the applicants with the PC and villagers to address the concerns has resulted in improvements over the previous application (ref: 17/00539/OUT) in particular:

- Revision to access and entrance
- commitment to implementing a Woodland Management Plan
- mix of housing

The majority of local comment has been in support of the application particularly with regard to the provision of smaller properties.

The Parish Council welcome changes to the access including the reconstruction and restoration of the boundary wall to the full extent of the site's frontage onto Heyford Road with no additional lighting proposed at the access/pedestrian crossing.

The objections raised lie chiefly in concerns from external organisations over the perceived impact on the heritage assets comprising the RPG, Conservation Area and listed building. The Parish Council consider that the site does not form part of the historic park designed by Capability Brown and they consider it to be suitably screened from it. It is within the estate walls but is so well screened from it that development on this site would not harm any original design intent such as vistas or the setting of Kirtlington Park House.

The PC does not consider that it will set any precedent for further development within the RPG.

Several objections focus on seeking alternative sites outside the Conservation Area that might be considered less sensitive. The Parish Council (PC) considers that it is the increased level of control and restriction that is advantageous.

The PC expects that the applicant's engagement with the PC and village would continue to address any items through Reserved Matters and Conditions.

Wish the District Council to consider the following points in consideration of/conditional to the application:

- Provision of the new 'Town Green' restricting dwellings within 35m of the listed building, Home Farm, to reduce perceived harm to its setting and include details on long term ownership of the space and ongoing maintenance,
- Controls to mitigate impact on arboricultural aspects,
- Details for the repair of the wall along the full length of the application site, responsibility and timeframe,
- Schedule of parking spaces

The PC considers this to be the most suitable site in the village to meet Kirtlington's commitments to housing provision for the following reasons:

- Linear aspect of the village
- Strong reasons for defining the settlement's eastern and western boundaries
- Promised improved screening from the road and park
- Proposed dwelling types benefitting those most in need in the village
- It has evolved over time taking into account of local desires and needs
- Other sites have been considered by the Parish and District Councils but have been found compromised in respect of landscape/visual, access and historic issues that outweigh those of this application
- Of the sites in the Housing and Economic Land Availability Assessment (HELAA) none were shown to be suitable for development in Kirtlington

6.3 In addition to their original response to the consultation, a further letter from the Parish Council has been submitted and they comment that:

- Kirtlington Parish Council believes that this is currently the only site available in the village with the ability to accommodate development without adverse impacts on its linear settlement form, or on its heritage assets,
- The access to the site is already established, and reflects the form of access of the majority of other developments in the village,
- It is well screened from Heyford Road by the existing 'estate' wall and by belts of trees,
- They appreciate the commitment shown by the landowners to prepare a woodland management plan and to increase the depth of screen planting along the northern site boundary. In addition they welcome the commitment to restore and maintain the stone walling,
- They believe this would make the northern end of the village more attractive and make a positive contribution to the Conservation Area,
- The Parish Council sees the 'Town Green' and communal space as a benefit to the village and a proportionate response to respecting the setting of the listed building of Home Farm. The Parish Council's previous responses to the District Council have shown (with maps from 1750 to 1997) that they do not consider this site to be part of the historic park, designed by Greening and Capability Brown, nor do the proposals change any current vistas of or within the historic park,

- Kirtlington wants to meet its housing obligations as a Category A village, but wants housing of the right type and in the right location. The current HELAA was unable to identify land that was developable without causing harm. The Parish Council believes this site to be the only one suitable for new homes of the quantity that allows affordable homes but is commensurate with the village's current population size and in keeping with its current settlement form,
- It is important to the village that this proposal offers seven affordable houses and (illustratively) three single storey homes, because housing in Kirtlington has become too expensive for family members of many villagers. The affordable element of this proposal is what will benefit this village the most, as it is recognised that this will keep the families of this village together. Small homes have often been requested in Kirtlington, as elderly villagers wish to downsize in order to stay in the village. They consider that smaller units are needed in the village whether for downsizers or first-time buyers. They insist that of the 20 dwellings proposed, at least seven should be affordable houses and an additional three should be single storey dwellings with priority for those with family connections still in Kirtlington in the allocation of affordable houses. Previous applications, past and currently at appeal, have not offered accommodation of this type so desperately needed in the village,
- They state that it is not typical for people to respond to the District Council in favour of a planning application in the numbers that they do when they oppose one. This application has stimulated positive responses from villagers and the Parish Council considers that the District Council should take note of the individual responses in support from different parts of the village. The landowners of the site are a local family, who are also owners of the adjacent fields. The Parish Council expects the landowners to continue to have an interest that all the conditions are fulfilled,
- The Parish Council is confident that it represents a strong majority in the village. Such support does not happen very often and it is hoped that the District Council will recognise this and look favourably on the application and recommend it for approval.

### STATUTORY CONSULTTEES

#### 6.4 OCC HIGHWAY AUTHORITY: **Object** on the following grounds:

- Access location is not acceptable
- The kerb build out may give rise to minor safety issues and complaints from adjacent residents
- Drainage infiltration is not proven as viable

In addition they have commented that:

- Traffic impact will be acceptable
- Travel information packs will be required for residents
- A legal agreement is required to secure:
  - Financial contribution of £2,180 to provide improvements to the bus stop infrastructure
  - Section 106 contribution of £1000 per dwelling towards the cost of enhancing the bus service towards a Connector level of service, as defined in the Local Transport Plan 4, with two daytime buses per hour in both directions with some evening and Sunday buses.
- A Section 278 Agreement is also required to be entered into between the applicant and OCC for works in the highway, to include:
  - A new access onto the Heyford Road
  - Improvements to the bus stop infrastructure to include the provision of what is stated above

- Provision of a hardstanding area on the southbound carriageway, to accommodate waiting area for bus stop
  - New pelican crossing as detailed in the Transport Assessment, drawing number 15013/103.
- If consent is granted the Highway Authority has requested the attachment of conditions relating to the access specification, provision of visibility splays, surface water drainage scheme, and preparation and submission of a travel plan along with provision of a Travel Information Pack for each dwelling.

6.5 OCC DRAINAGE: **Object:** Concerned about the location of the proposed outfall which is in a location potentially off-site and outside the red line boundary on the “Indicative Drainage Layout” (Drawing No.15013/ 101 REV A). The County is seeking reassurance that this proposal is viable as infiltration is not proven as viable yet at this site. Therefore the requirement for soakage testing will need to be specified as a condition.

Para 9.6.1 of the Applicant’s FRA incorrectly states that the Highway Authority do not adopt permeable paving. The County does adopt permeable paving provided it does not drain privately owned surfaces. Therefore the County would request that this incorrect statement be changed in the submitted FRA, to make clear that permeable paving will be used where it is practicable to do so. Otherwise the submitted SuDS strategy does not maximise SuDS potential for the site and a concern was raised that a pond alone does not constitute a SuDS ‘treatment train approach’ to improve water quality. This is contrary to principles of SuDS design. The provision of a SuDS Management and Maintenance Plan for the development is a requirement.

Consideration at detailed design stage of flood flow-paths in exceedance conditions of the surface water drainage capacity and their management is a requirement of the County as Lead Local Flood Authority.

6.6 HISTORIC ENGLAND: **Do not wish to offer any comments** recommending the Council seeks advice from its own specialists. However they have confirmed that the site is within the Registered Park and Garden.

6.7 THE GARDEN TRUST AND OXFORDSHIRE COUNTY GARDENS TRUST: **Object.** The new application does not differ markedly from the previous one and so the comments of 23rd March 2017 are all still applicable. The main objection concerns the building of houses on a site within a Registered Park and Garden (RPG) that would set a regrettable precedent. They comment that there does not appear to have been any further exploration of whether other sites not affecting a designated heritage asset were considered, and why a less sensitive area was not chosen in preference.

They also draw attention to a Planning Court Judgement in response to the Heritage Impact Assessment which states that the site has little or no visibility from within the RPG and does not form any part of the way the park is experienced. They state in their response that: *on 22nd June 2017 the Planning Court handed down judgment in Steer v SSCLG, a s.288 challenge to a Planning Inspector’s decision to grant planning permission for housing development on a site located less than 1km away from Kedleston Hall, a Grade I listed building standing within a Grade I Registered Park and Garden and co-extensive Conservation Area. The Court agreed with the Claimant and Historic England that the Inspector had “adopted an artificially narrow approach to the issue of setting which treated visual connections as essential and determinative”, and that this had amounted to an error of law. The assessment of harm to heritage assets is sometimes conflated with the assessment of visual or landscape harm, but this judgment is a timely reminder that heritage assets can be harmed by development in their settings without there necessarily being any visual*

*impact. The Court made substantial reference to Historic England's (HE) Historic Environment Good Practice Advice in Planning No 3, The Setting of Heritage Assets (GPA3) and the guidance it contains about identifying impacts arising from development in the setting of heritage assets, including the staged approach to decision making and the list of 'attributes' (including non-visual attributes) which may help to elucidate its contribution to the significance of the asset. Decision makers should ensure that they are familiar with this guidance. HE's GPA3, whilst not formal government policy, is intended to provide information on good practice in implementing historic environment policy in the NPPF and PPG.*

6.8 ENVIRONMENT AGENCY: **No comment to date**

6.9 THAMES WATER: **No objection** with regard to sewerage infrastructure capacity or water infrastructure capacity based on the assumption that foul flows will be connected to the public sewer by gravity (not pumped) and that no surface water flows will be discharged to the public sewer.

#### NON STATUTORY CONSULTEES

6.10 CDC PLANNING POLICY: **No comment to date**

6.11 CDC DESIGN AND CONSERVATION: **Object**. It is considered that the proposed development is fundamentally unaltered in essence and the additional information supplied in relation to heritage issues (letter from Asset Heritage dated 31st May 2017) does not remove the significant concerns with the principle of development in this location. The full comments in respect of 17/00539/OUT should be taken into account but in essence these are:

*The overall, accumulative impact of the proposed development is considered to cause substantial harm to the registered park, conservation area and historic Town Green and less than substantial harm to the setting of the listed buildings of Home Farm, 3-4 Foxtownsend Cottages and the wider setting of the grade I listed Kirtlington Park. There is not considered to be a substantial public benefit to outweigh this harm and there is no evidence produced as part of this application that the proposed benefits of meeting local housing need could not be provided elsewhere in a more suitable location.*

6.12 CDC ECOLOGY: **Comments** that the updated ecological reports which have been submitted with the application, which include the updated Extended Phase 1 Habitat Survey, Reptile Survey, and Biodiversity Enhancement Scheme (all dated June 2017) fully address previous comments on the previous planning application.

In particular the reptile survey has identified a low population of grass snake on site, and suitable mitigation measures have been provided within the report to safeguard this species prior to site clearance. Common frog and common toad were also recorded during the reptile survey. Amphibians fall into roadside gully pots, where they become trapped and unable to escape. It is recommended that the opportunity to prevent mortality is included in the preparation of the drainage design of the development.

If at the detailed design stage any buildings or trees require removal, then further bat surveys will be required at this stage to ensure that appropriate mitigation is in place.

The biodiversity enhancement scheme includes appropriate on site enhancements and appropriate locations for bat and bird boxes within the development. Provision for swift nesting also proposed with the inclusion of integrated swift bricks. Due to the presence of badgers using the site for foraging and presence of an inactive badger



hole on site, an updated badger survey should be undertaken approx. 4-6 weeks prior to any works commencing on site in line with the recommendations of the report. A Construction Environmental Management Plan (CEMP) and a detailed Landscape and Ecological Management Plan (LEMP) is recommended to be submitted at any detailed design stage, based on the recommendations within the biodiversity enhancement scheme.

Any new lighting scheme should be sensitively designed to avoid lighting the buildings or foraging/commuting routes, as this could lead to abandonment of the roost.

Conditions are recommended if any approval is granted:

- Mitigation Strategy for badgers
- No Works Between March and August Unless Agreed to protect nesting birds
- Submission and approval of a Landscape and Ecology Management Plan (LEMP)
- Submission and approval of a Construction Environmental Management Plans (CEMP) for Biodiversity
- Use of native species for planting proposals

6.13 CDC BUSINESS SUPPORT UNIT: **No comment** received but the comment on the previous application was that: *It is estimated that this development has the potential to attract New Homes Bonus of £101,926 over 4 years under current arrangements for the Council. This estimate includes a sum payable per affordable home.*

6.14 CDC STRATEGIC HOUSING: **Comments** that the proposal for the affordable housing made as part of the application is acceptable. The proposed mix is:

Affordable Rent

2x 1Bed 2 person maisonette  
3 X 2Bed 4 person house

Shared Ownership

2X 2Bed 4 person House

All properties should meet the nationally described space standards  
50% of the properties should meet Building Regs Part M4(2).

It is preferred that the parking adjoins the property where possible. Each property of 2 bedrooms and above should have 2 allocated parking spaces.

The registered provider will need to be agreed in advance with the District Council.

6.15 CDC RECREATION AND LEISURE: **Comments** that the following contributions will be sought for off-site Sports, Community and Arts provision:

Sports Facilities Provision:

Off-site contribution towards providing increased outdoor sports facilities capacity within the locality of Kirtlington (actual project to be specified when district sports studies are published later this year). Based on 20 residential dwellings x 2.39 persons x £476.75 per person = £22,788.65

Off-site contribution towards creating additional indoor sports facilities capacity within the locality of Kirtlington (actual project to be specified when district sports studies are published later this year). Based on 20 dwellings x 2.39 persons x £321.49 = £15,367.22

#### 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	£107.14
2 bed	£154.69
3 bed	£240.80
4+ bed	£331.15

#### Public Art:

For residential development of less than 25 units and non-residential development of less than 100m<sup>2</sup> developers are expected to explore artistic additions to the development by seeking to employ local artists and crafts people in the construction of features within the site such as signage, gates and door furniture which contribute to the public realm. No financial contribution will be required.

6.16 CDC LANDSCAPE SERVICES: **Comments** that the following contributions are required:

- Provision of an unequipped play area and a financial contribution of £12,394.26 towards maintenance.
- Attenuation basin – financial contribution of £11.63 per sq m towards maintenance.
- Provision of public open space – 1104 sq m minimum provision and a financial contribution of £9.32 per sq m.

6.17 CDC ARBORICULTURALIST: **No objections**

6.18 CDC WASTE AND RECYCLING: **Comments** that accessible and adequate storage for waste and recycling is required. Guidance is 1.8 sqm per household.

A Section 106 contribution of £106.00 per property will also be required

6.19 OCC ARCHAEOLOGIST: **No comment to date**

6.20 OCC PLANNING AND PROPERTY: **No objection.** OCC is not seeking Education contributions to mitigate the impact of this development on early years education, primary, secondary and SEN school infrastructure. Existing school capacity is forecast to be sufficient, taking into account this proposed development and other developments already approved

## **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)

- VIL1 - Village Categorisation
- VIL2 - Distributing Growth Across the Rural Areas
- VIL4 - Meeting the Need for Open Space, Sport & Recreation
- BSC3 - Affordable Housing
- BSC4 - Housing Mix
- BSC10 - Open Space, Outdoor Sport & Recreation Provision
- BSC11 - Local Standards of Provision - Outdoor Recreation
- ESD3 - Sustainable Construction
- ESD7 - Sustainable Drainage Systems (SuDS)
- ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 - Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built Environment

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

- H18 - New dwellings in the countryside
- C8 - Sporadic development in the open countryside
- C28 - Layout, design and external appearance of new development
- C30 - Design of new residential development
- C33 - Protection of important gaps of undeveloped land
- ENV12 - Development on contaminated land
- TR1 - Transportation funding

### 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Kirtlington Conservation Area Appraisal
- Mid-Cherwell Neighbourhood Plan: The Mid Cherwell Neighbourhood Plan remains at an early stage of preparation following the formal designation of

the Neighbourhood Area on 7 April 2015. Consultation on a pre-submission draft Plan was undertaken earlier this year, and further work and consultation will be required prior to submission for examination by a Government appointed Inspector. Therefore only limited weight can be afforded to the Neighbourhood Plan at this stage.

## **8. APPRAISAL**

8.1 The key issues for consideration in this case are:

- Planning policy and principle of the development
- Visual amenity and landscape impact
- Design issues and form of development (including residential amenity)
- Heritage asset and Archaeology
- Transport and access
- Ecology
- Flooding and drainage
- Planning obligations
- Planning balance

### Planning policy and principle of the development

8.2 The Development Plan for Cherwell District comprises the Cherwell Local Plan 2011-2031 and saved policies in the Cherwell Local Plan 1996. 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 regard to the provisions of the Development Plan, so far as is material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purposes 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.

8.3 The site in question is not allocated for development in any adopted or draft plan currently forming or proposed to form part of the Development Plan. Neither is it proposed for allocation in the draft Mid-Cherwell Neighbourhood Plan. Kirtlington is designated as a Category A settlement in the Cherwell Local Plan 2011-2031 and as such is one of the more sustainable villages in the district, where minor development, infilling and conversions will be permitted within the built-up limits of the village. However the site is not within the built up limits and the proposal does not therefore qualify for consideration under Policy Villages 1.

8.4 Saved Policy H18 of the Cherwell Local Plan 1996 restricts new dwellings beyond the built up limits of settlements in open countryside to those which are essential for agriculture, or other existing undertakings, or where dwellings meet an identified and specific housing need that cannot be met elsewhere. Quite clearly the development proposed fails to comply with this policy and in doing so also potentially conflicts with Policy C8 which seeks to prevent sporadic development in the open countryside, which includes new housing development, in the interests of sustainability and to protect the character and amenity of the countryside.

- 8.5 Policy Villages 2 of the Cherwell Local Plan 2011-2031 is concerned with the distribution of housing growth across the rural areas. It states that a total of 750 homes will be delivered at Category A villages in addition to the rural allowance for small site 'windfalls' and planning permission for 10 or more dwellings as at 31 March 2014. In identifying and considering sites particular regard will be given to a number of criteria including:
- Whether land has been previously developed land or is of lesser environmental value;
  - Whether significant adverse impact on heritage or wildlife assets could be avoided;
  - Whether development would contribute in enhancing the built environment.
- 8.6 Notwithstanding the conflict with saved Policy H18 and C8, the provision of some additional housing at Kirtlington could therefore accord with the Development Plan, subject to development proposals being acceptable having regard to these criteria and other material considerations. In this case the application site is, as stated previously, within a Grade II Registered Park, in the setting of Grade II listed buildings and within the Kirtlington Conservation Area. It is also in an area of archaeological interest and has ecological potential as habitat for protected species. The proposal would also extend development into the countryside and would introduce an area of built development in a presently very loose knit part of the village. These issues will be considered further below.
- 8.7 The Cherwell Local Plan 2011-2031 and the saved policies within the Cherwell Local Plan 1996 are considered up-to-date. The NPPF advises that proposed development that conflicts with the Development Plan should be refused unless other material considerations indicate otherwise.
- 8.8 The NPPF is a material consideration in respect of the consideration of this proposal. The NPPF at paragraph 14 states '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 plan making and decision taking'.....For decision taking this means:
- Approve 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 policies in this Framework taken as a whole, or
  - Specific policies in this framework indicate development should be restricted
- 8.9 Paragraph 49 of the NPPF states 'housing applications should be considered in the context of a presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered to be up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites'. The Council can currently demonstrate a five year housing land supply and the enhanced presumption in favour of sustainable development set out in the NPPF does not apply. Therefore the test in this case is whether there is conflict with the Development Plan, and if so, whether there are other material considerations that outweigh that conflict such that the proposal can be considered sustainable development.
- 8.10 The other material considerations in this case are expanded upon below however material considerations include whether there is public support for the scheme and whether there are any other more suitable sites for development within Kirtlington.

- 8.11 The Parish Council has advised that they support the principle of the development and a significant number of members of the public have also made representations supporting the scheme. A smaller number of members of the public have made representations objecting to the application including from 3 national campaign groups. However, whilst the number of supporters clearly exceeds the number of objectors and the strength of support from the Parish Council is a consideration which should be given weight, in the context of the issues raised and the Council's current ability to demonstrate a 5 year housing land supply, it is considered that the support for the scheme is not so overwhelming that it would outweigh the conflict with the Development Plan. In particular, as expanded on later in this report, the proposal is considered to cause clear and considerable harm to designated heritage assets, and planning law and case law has held that considerable weight must be given to such harm in the planning process. Furthermore, a significant proportion of the 750 allocation under Policy Villages 2 has already been met, and in the context of a 5 year housing land supply, there is not an overriding need or justification for additional housing in a location which is otherwise considered to be in conflict with the Development Plan.
- 8.12 No other sites have been put forward or discounted as potential development sites within the village by the applicant. However they have undertaken a public consultation exercise prior to the submission of the application and a summary of the results is included in the design and access statement submitted with the application. This shows that 34 people attended an exhibition in the village (January 2017) and 25 responses were received. 76% of these were supportive, 8% were unsupportive with 16% either providing no comments or requesting additional information. The Parish Council in their representation has stated that other sites have been considered by the Parish and District Councils but have been found compromised in respect of landscape/visual, access and historic issues that outweigh those of this application. These issues will be considered further below however the application site is considered to be in a very sensitive location with potential for significant harm to heritage assets and to the visual amenities of the area. The other sites that have been considered for development in the Housing and Economic Land Availability Assessment 2017 were outside the Registered Park and Garden and did not affect the setting of listed buildings. Whilst these sites were discounted, it should be noted that not every Category A Village is necessarily required to accommodate additional housing under Policy Villages 2.
- 8.13 Whilst the Mid-Cherwell Neighbourhood Plan can only be given very limited weight at this stage, nevertheless it is relevant insofar as it shows current thinking on how the various communities within the Neighbourhood Plan Area wish to see their villages develop in the future. Draft Policy PD1 of that document states that residential proposals at Kirtlington for infilling, conversions and minor development will be supported in principle within the settlement areas set out in the plan and any residential development outside the settlement area must have regard to the following criteria:
- The site should be immediately adjacent to the settlement area
  - The site should be previously developed land or of lesser environmental value and not land of best and most versatile agricultural value
  - The development should avoid creating significant adverse landscape and visual impact
  - The development should not give rise to coalescence with any nearby settlement
- 8.14 Policy PD4 of that document requires that development in or adjacent to a Conservation Area should not cause significant harm to the Conservation Area and its

setting, other heritage assets, or historic street and villages views and longer distance vistas.

- 8.15 Whilst the proposed development lies immediately adjacent to the settlement area it will clearly create a significant adverse impact on both the landscape and visual amenities of the area as well as to the setting of the Conservation Area, as considered later in this report. It is not previously developed land and is adjacent to priority habitat. Therefore it is considered that the proposed development does not comply with either draft Policy PD1 or PD4 of the emerging Mid-Cherwell Neighbourhood Plan.

#### Visual amenities and landscape impact

- 8.16 The application site lies beyond the existing built up limits of Kirtlington in an area of open countryside which forms part of the Grade II Kirtlington Park. Saved Policy C8 of the Cherwell Local Plan 1996 seeks to protect the landscape, preventing sporadic development that would cause harm to the topography and character of the landscape, and the explanatory text states that tight control should be exercised over all development proposals in the countryside if its character is to be retained and enhanced. Careful control of the scale and type of development is necessary to protect the character of these designated areas. Policy ESD 13 of the Cherwell Local Plan 2011-2031 seeks to conserve and enhance the distinctive and highly valued local character of the entire district. The NPPF also advises that the open countryside should be protected for its own sake.
- 8.17 Whilst the development will have a limited effect on the wider landscape it will be visible from the north when entering the village along Heyford Road as well as from Akeman Street and from within the village itself. In your officer's opinion a housing development in this location would have a detrimental impact on the setting of the village introducing an urban feature into this very rural edge to the village. The required upgrading of the access, proposed traffic calming and laying of footways will increase this urbanisation of this part of Kirtlington to the further detriment of the rural character and visual amenities of the area. Therefore the development is considered to be contrary to saved Policy C8 of the Cherwell Local Plan 1996 and Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031.
- 8.18 The proposal will also represent an extension of the village contrary to the established linear settlement pattern of Kirtlington. The Council's Countryside Design Summary SPD suggests that "new development should reinforce the existing street pattern, which creates the basic village form. In linear villages, development should strengthen the dominant street scene and limit backland development." The proposed development does not respect the street pattern as it is primarily a cul-de-sac development extending over 100m to the east of Heyford Road with limited frontage onto Heyford Road, and so is not well integrated with the village and is considered to harm the character of the settlement and visual amenities of the area. Further the Countryside Design Summary SPD states that "development in historic parklands or within their setting must maintain or enhance the specific character, which defines this part of the District." The proposed development does not maintain or enhance the parkland character as it introduces a sizeable new residential cul-de-sac on land that is currently open; this issue is considered further in later sections of this report.

#### Design issues and form of development (including residential amenity)

- 8.19 The NPPF advises that 'securing high quality and inclusive design goes beyond aesthetic considerations', and that decisions should 'address the connections between people and places and the integration of new development'. Supporting advice in the Planning Practice Guidance (PPG) says that 'achieving good design is

about creating places or spaces that work well; successful integration of new development with their surrounding context is an important design objective, irrespective of whether a site lies on the urban fringe or at the heart of a town centre; proposals should promote accessibility and safe local routes by making places that connect appropriately with each other and are easy to move through; a place should have an appropriate number of routes to and through it; and that designs should ensure that new and existing buildings relate well to each other, that spaces complement one another.'

- 8.20 Access is the only matter to be considered at the current time and with this development proposal accessibility would be limited to the northern part of the site. The development would have a very limited connection with the village and in your officer's view it would appear as a separate housing estate on the edge of the village. It would not be well integrated into the fabric of the built environment of Kirtlington and this would be emphasised by the siting behind the park wall and a mature tree belt. It would therefore fail to comply with the Framework and would not amount to sustainable development. If additional access points were to be created to link the site better into the village the wall enclosing the Park would need to be breached which would have an adverse impact on the character and appearance of the Conservation Area and the setting of the Park.
- 8.21 The illustrative layout submitted with the application has the appearance of a suburban estate with no connectivity through and terminating in private drives, and whilst this is only an indicative plan it is difficult to see how an alternative layout could be achieved without increasing the potential harm to the heritage assets such as introducing further access points into the wall bounding Heyford Road. It further demonstrates the lack of integration with the settlement.
- 8.22 The Design and Access statement indicates that a larger proportion of smaller dwellings are proposed along with single storey dwellings to provide a greater opportunity for people from within the village to live on the development. It also states that the single storey dwellings will help to mitigate any impact on the local heritage assets. Whilst these are positive attributes of the development and further, precise details could be agreed at reserved matters, this is not considered to outweigh the fundamental concern with the siting and form of the development and lack of potential to properly integrate with the existing settlement.
- 8.23 The layout is indicative only however officers are concerned about the proximity of a number of the plots to the trees around the site. In particular officers are concerned about the proximity of the dwellings, and the size of the gardens, to the trees to the southern boundary of the site. It is likely that there will be pressure from the occupiers of those properties to fell/carry out works to the trees due to proximity to and overshadowing of gardens/windows and the nuisance related to leaf loss in the autumn. This weighs against the proposal.
- 8.24 On the matter of whether an acceptable living environment for existing and proposed occupiers can be achieved, whilst the layout is indicative only, due to the relationship with other dwellings it does not appear that the proposal will result in any detriment to the residential amenities of the existing residents nearby, nor to those of the new residents. Adequate details of the layout of plots and the detailing of elevations can be secured at reserved matters stage in this respect.

#### Impact on the Heritage Assets

- 8.25 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that "in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning



authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses". Likewise section 72 of the same Act states that in considering proposals for development in a Conservation Area, "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area".

- 8.26 Paragraph 132 of the NPPF states that "when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset the greater the weight should be". It continues "substantial harm to or loss of a grade II listed building, park or garden should be exceptional".
- 8.27 There are a number of heritage assets affected by the proposal. The site is partly within the Kirtlington Park Registered Park and Garden and the Kirtlington Conservation Area. There are a number of listed buildings surrounding the site including Grade II listed Home Farm and further to the east, the Grade I Listed Kirtlington Park. It is also within an area of archaeological interest.
- 8.28 The Council's Conservation Officer has objected to the application as it is considered that the proposed development will be harmful to the Registered Park and Garden, listed buildings adjacent to the site and the Kirtlington Conservation Area. It is also considered that there will not be a substantial public benefit to outweigh the harm and there is no evidence produced as part of the application that the proposed benefits of meeting local housing need could not be provided elsewhere in the District in a more suitable location.
- 8.29 Whilst it is argued by the applicant that the application site is distinct from the wider, formal landscaped parkland and as such does not have the same level of significance, it is as a matter of fact within the boundary of the Registered Park and the development is considered to be inappropriate resulting in harm to the Park and its setting. The Gardens Trust has objected to the application as they consider that development on this site will set a regrettable precedent. The loss of this area of park land will in your officers' opinion weaken the understanding of the estate and park land lying behind the stone boundary wall eroding its significance.
- 8.30 Whilst the site lies beyond the tree belt enclosing the formal parkland, currently the site provides a traditional rural setting to the parkland and views across the site on the approach to the village help inform an understanding of the extent of the parkland and its deliberate enclosure. The introduction of modern housing in this location would significantly erode this character and setting and would cause harm to the significance of the Grade II Registered Park and Garden, and the wider setting of Kirtlington Park House.
- 8.31 The proposed development will result in harm to the setting of the Grade II listed Home Farm but it is acknowledged with the provision of the 'green' to the west of Home Farm some semblance of a rural setting for the listed farm is retained. The Heritage Impact Assessment also refers to the removal of unsightly barn structures associated with Home Farm; these are outside the red and blue line areas and do not appear to form part of the proposal and therefore the Council has no control over their removal. In any case, modern farm buildings are not necessarily inappropriate in a rural setting, and the benefits arising from their removal are limited. Works to Home Farm itself could be a public benefit however officers are not persuaded that the proposed residential development is necessary to secure this benefit.
- 8.32 Notwithstanding the concern in principle with development in this location, there are concerns with a form of development at the gateway to the village which is designed to be inward looking and being concealed behind boundaries, and which would

therefore read as a modern self-contained cul-de-sac development. This form of development does not preserve, enhance or better reveal the character and appearance of the conservation area or registered parkland. The proposal does not integrate well with either the historic parkland or the village and is not considered to be a sustainable form of development. As noted earlier in this report the Conservation Officer has also raised concerns about the urbanising effect of the various road improvements proposed along Heyford Road, with harm resulting to the character and appearance of the Conservation Area.

- 8.33 The NPPF states at paragraph 137 that 'Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance'. The proposed development cannot be considered to either preserve or enhance, or better reveal, the significance of any of the heritage assets.
- 8.34 All in all the proposed development is considered to cause significant, albeit on balance less than substantial harm, to the heritage assets and their settings, and it is not considered that public benefits exist that could potentially outweigh this high degree of harm. In particular, whilst the strength of local public support is noted, in the context of the Council being able to demonstrate an up-to-date 5 year housing land supply and given the high level of harm identified to a number of designated heritage assets (which are afforded a high level of protection in planning policy and law), this level of support is not considered sufficient to outweigh the harm in this case.
- 8.35 Furthermore there is no direct link between the proposed development and the long term viability of the heritage assets, other than a proposal to repair the stone boundary wall as proposed in the Heritage Impact Assessment submitted with the application. This is considered insufficient justification for the level of harm proposed.
- 8.36 Turning to archaeology, the site is located in an area of significant archaeological interest to the south of the Roman Road of Akeman Street and to the east of a second possible Roman road, the Portway. Iron Age settlement has been recorded to the north of the site, North of Akeman Street along with Iron Age and Roman burials and two possible Saxon burials have been recorded immediately south of Akeman Street. A gold Roman coin has been recovered immediately south of the proposed site and a second Roman coin has been found in the vicinity. A Roman stone building has been recorded along the line of the Portway, to the south of Kirtlington.
- 8.37 Comments have not been received from the County Archaeologist to date. However, an archaeological evaluation has been submitted with the application which was carried out following the withdrawal of the previous application on the site (15/01128/OUT). The conclusion of the evaluation advises that there is little evidence of any activity within the site dating from late pre-historic to early modern periods. Little evidence of archaeological importance was exposed by the evaluation and none of the geophysical anomalies appear to have been of any archaeological significance. In response to the pre-application submission which included this evaluation the County Archaeologist raised no objection. Therefore, and in the absence of further comment from the County Archaeologist, the impact on archaeology is considered acceptable and could be mitigated by condition.

#### Transport

- 8.38 Policy ESD15 of the CLP 2031 Part 1 states, amongst other matters, that new development proposals should: *be designed to deliver high quality safe...places to live and work in*. This is consistent with Paragraph 35 of the NPPF which states that: *developments should be located and designed where practical to...create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians*.

- 8.39 The Highway Authority has objected to the application on the grounds that the access and proposed traffic calming are not in an acceptable location and should be moved midway between Akeman Close and Foxtowns Green. In response to the previous application (17/00539/OUT) the Highway Authority raised no objections to the location of the access. Officers have sought clarification on why it is now considered to be unacceptable and Members will be updated at the Committee Meeting as to whether this objection still stands, and whether this should form a reason for refusal. In addition a revised Transport Statement has been submitted by the applicant and comments from OCC Highways are awaited.
- 8.40 Further information regarding drainage is also required in addition to a swept path analysis. However their response also indicates that subject to conditions relating to the submission of a drainage scheme their objection in this regard could be overcome. They have also stated that the traffic calming may give rise to minor safety issues and complaints from adjacent residents and a period of statutory consultation will be required before it is considered appropriate.
- 8.41 The Highway Authority has stated that in terms of traffic generation and impact there is likely to be an insignificant effect on the adjacent highway network as a result of the proposed development.

#### Ecology

- 8.42 Paragraph 99 of Circular 06/05 states that: "it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision". Likewise Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that: "every public authority must in exercising its functions, have regard...to the purpose of conserving (including restoring/enhancing) biodiversity".
- 8.43 The Council's Ecologist has advised that the reptile survey has identified a low population of grass snake on site, largely found in close proximity to the stone wall and tall ruderal habitat along the edge of the eastern boundary of the site and within the woodland in the south of the site. Grass snake are protected against killing and injury under the Wildlife and Countryside Act (1981) and suitable mitigation measures have been provided within the report to safeguard this species prior to site clearance, to include a finger-tip search of vegetation by an ecologist, strimming of the grassland in two stages and ecological supervision of removal and reconstruction of the stone wall habitat.
- 8.44 Common frog and common toad were also recorded during the reptile survey. It has been known for many years that amphibians (frogs, toads and newts) fall into roadside gully pots, where they become trapped and unable to escape. The Ecologist therefore recommends that for all development where populations of amphibians are known to be present on site, that the opportunity to prevent mortality is included in the preparation of the drainage design of the development. As such to avoid amphibian deaths on the road it is recommended that gully pot design is carefully considered within any drainage and road design details.
- 8.45 It is understood no buildings or trees will require removal, however if at the detailed design stage any do require removal, then further bat surveys will be required to ensure that appropriate mitigation is in place.

- 8.46 The biodiversity enhancement scheme includes appropriate on site enhancements and appropriate locations for bat and bird boxes within the development. The provision for swift nesting is also proposed with the inclusion of integrated swift bricks. Due to the presence of badgers using the site for foraging and presence of an inactive badger hole on site, an updated badger survey should be undertaken prior to any works commencing on site in line with the recommendations of the report. It is also recommended that a Construction Environmental Management Plan (CEMP) and a detailed Landscape and Ecological Management Plan (LEMP) be required to be submitted at any detailed design stage, based on the recommendations within the biodiversity enhancement scheme. Also any new lighting scheme should be sensitively designed to avoid lighting the buildings or foraging/commuting routes, as this could lead to abandonment of the roost.
- 8.47 Subject to the above mitigation and enhancement measures being secured by condition, your officers consider that the impact of the development on ecology and biodiversity can be made acceptable.

#### Flooding and Drainage

- 8.48 Policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 seek to ensure that new development is directed to areas at lowest risk of flooding, and that new development does not increase the risk of flooding elsewhere. The use of sustainable drainage systems to manage surface water run-off within the site is supported.
- 8.49 The applicant has provided a Flood Risk Assessment (FRA) the conclusions of which are that no significant flood risks have been identified and that appropriate surface water drainage management will ensure that the development will be safe from surface water run-off and there will be no increase in run-off from the development.
- 8.50 Thames Water has raised no objections to the scheme on either sewerage infrastructure capacity or water infrastructure capacity.
- 8.51 Oxfordshire County Council as the Lead Flood Authority has advised that a SuDS Management and Maintenance Plan should be provided. They have raised as an issue that the FRA erroneously states that the Highway Authority does not adopt permeable paving so it has not been used in the development. They advise that the FRA should be changed to make clear that permeable paving will be used where it is practicable to do so. Otherwise the submitted SuDS strategy does not maximise SuDS potential for the site. They further advise that a pond alone does not constitute a SuDS 'treatment train approach' to improve water quality. A revised Flood Risk Assessment has been submitted by the applicant and comments on this from OCC and the Environment Agency are awaited.
- 8.52 No other technical evidence has been submitted that contradicts the applicant's evidence. Therefore, provided no further objection is received from either OCC Drainage or the Environment Agency, the scheme is considered to be acceptable in this regard subject to conditions.

#### Other Matters

- 8.53 An email from the applicant has been received, forwarded by the applicant's agent, raising concerns about the weight being given to the support from the Parish Council. They consider that the PC's letter was the most thorough and considered ever seen from any Parish Council, but not considered to be sufficient by officers to recommend the site for approval. They consider that previous concerns have been taken on board including listening to the concerns of the village residents as well as working closely with the PC. They state that this is the third application for the site following an open

dialogue with local residents and the PC over the course of 2 ½ years with clear evidence of growing public support as follows:

1. 15/01128/OUT – 21 letters of objection & 1 letter of objection from PC
2. 17/00539/OUT – 9 letters of support, 9 letters of objection & Luke warm letter of support from PC
3. 17/01688/OUT – 30 letters of support, 10 letters of objection & incredibly strong letter of support from the PC.

8.54 The applicant goes on to state that of the 10 letters of objection from third parties:

- 3 have come from owners (1 resident in Padbury) of an alternative site which has been refused twice and appeals dismissed.
- 3 have come from owners of another alternative site which has been refused and currently at appeal. (none of them village residents)
- 4 local residents (3 of which are ironically tenants of the landowners).

8.55 Reference is made by the applicant to the alternative site in the village (16/02295/OUT – Mill Lane) which was recommended for approval by officers but subsequently refused by Committee. They comment that the PC did not support the scheme “in any shape or form and it attracted 54 letters of objection from the local residents, offered no social benefits such as social housing or the provision of smaller units & single storey dwellings suitable for the elderly, yet in spite of all this it was recommended for approval which makes no sense when you compare like for like”.

8.56 They also refer to the two applications by Gladman in Kirtlington (90 & 75 units – 14/02139/OUT – 14/01531/OUT) and state that both were “refused and subsequent appeals dismissed, both of these applications received no support from the PC and received 90 & 107 letters of objection respectively”.

8.57 They state that the PC and neighbourhood plan steering group has considered and dismissed alternative sites all as unsuitable and considers the current site as the best option for Kirtlington meeting its own housing needs.

8.58 The weight to be afforded to relevant material considerations in the planning balance is a matter of judgement for the decision maker. Your officers fully recognise the strenuous efforts of the applicant to seek to negotiate positively with the local community and the resulting strength of local support of this latest application, and this must be taken into account in the planning balance. However, for the reasons already expanded on earlier in this report, your officers are of the view that this strength of support is not sufficient reason to overcome the clear conflict with Development Plan policy and the resulting harm to designated heritage assets. Members are, of course, entitled to come to a different judgement on the planning balance in this respect.

#### Planning Obligations

8.59 The proposal generates a need for infrastructure and other contributions to be secured through a planning obligation to enable the development to proceed. New development often creates a need for additional infrastructure or improved community services and facilities without which there could be a detrimental effect on local amenity, service provision, and the quality of the environment. National Planning Policy sets out the principle that applicants may reasonably be expected to provide, pay for or contribute towards the cost of all or part of the additional infrastructure/services necessary to make the development acceptable. Obligations are the mechanism to secure these measures.

8.60 In respect of planning obligations the NPPF advises at paragraph 204 that these should only be sought where they meet all 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.

8.61 Having regard to the above the following contributions would be sought in the event that planning permission was to be granted:

#### Affordable housing

7 units with 70% of these to be affordable rent and 30% to be for shared ownership. The mix would be 2x 1Bed 2 person maisonettes and 3 X 2Bed 4 person house for Affordable Rent, and 2X 2Bed 4 person House Shared Ownership. All properties should meet the nationally described space standards with 50% of the properties meeting Building Regs Part M4(2). It is preferred that the parking adjoins the property where possible. The registered provider will need to be agreed in advance with the District Council.

#### Off-site sports provision

£22,276.23 - outdoor sports (based on 20 residential dwellings x 2.39 persons x £466.03 per person)

£15021.63 – indoor sports (based on 20 dwellings x 2.39 persons x £314.26)

#### Community Halls

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

<u>Unit</u>	<u>Contribution</u>
1 bed	£104.73
2 bed	£151.21
3 bed	£235.39
4+ bed	£323.70

Play space - Provision of an unequipped play area and a financial contribution of £12,394.26 towards maintenance

Attenuation basin - a financial contribution of £11.63 per m<sup>2</sup> towards maintenance

Public open space - Provision of public open space (1104 m<sup>2</sup> minimum provision) and a financial contribution of £9.32 per m<sup>2</sup>.

Although a contribution toward the provision of public art has also been sought, this is not considered to meet the tests outlined above and in particular is not necessary to make the development acceptable in planning terms.

#### Oxfordshire District Council

Contribution of £2,180 to provide improvements to the bus stop infrastructure. This contribution is comprised of £1,090 for a pole, flag, and timetable case at the northbound stop and another £1,090 for the same provision at the southbound stop.

Contribution of £1000 per dwelling towards the cost of enhancing the bus service towards a Connector level of service, as defined in the Local Transport Plan 4, with two daytime buses per hour in both directions with some evening and Sunday buses.

## **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 Economic role – The NPPF states that the planning system should do everything it can to support sustainable economic growth. Whilst there will be an economic benefit provided by the construction of the proposed dwellings, sourcing materials through local building suppliers and future maintenance by local tradespeople along with the use of local services and facilities by future residents which will help to support services and shops etc. it should be noted that employment opportunities within the village and the immediate area are very limited. In sustainability terms therefore, the long term economic benefits of the development are tempered.
- 9.3 Social role – The social role to planning relating to sustainable development is to support strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations. The proposal will deliver affordable housing and the Parish Council's support for the scheme is based in part on this benefit, and the mix of housing that would be provided. Significant weight should be attributed to this benefit. Conversely however, objectors have expressed concern that the development will put strain on the existing village facilities and services, and it has been acknowledged in previous appeal decisions for housing within the village that it is a relatively unsustainable location to accommodate additional housing growth. In addition to this the location of the application site and its form are considered to create a development that is not well integrated with existing streets and public spaces and prevents an appropriate level of interaction with the existing village. This reduces the weight that can be afforded to the social benefits of the scheme.
- 9.4 Environmental role – for development to be acceptable it must contribute to the protection and enhancement of the natural and built and historic environment. These issues have been covered in the sections above. The development is considered to result in serious harm to the various heritage assets affected which, whilst less than substantial, is cumulatively at the high end of harm. Significant weight must be attributed to this in the planning balance.
- 9.5 To conclude the site is not considered to be acceptable for residential development in the form and scale proposed due to its impact on the visual amenities and rural character of the village and its setting. It will also be harmful to the traditional settlement pattern and will have a significant adverse impact on Kirtlington Park and will neither preserve nor enhance the character and appearance of the Conservation Area nor the setting of Home Farm. The proposal is in conflict with the relevant policies of the Development Plan in this respect.
- 9.6 Turning to other material considerations, the Parish Council has advised that they support the principle of the development and a number of members of the public have also made representations supporting the scheme. Paragraph 17 of the NPPF emphasises the importance of planning “empowering local people to shape their surroundings” and so some weight should be afforded to this expression of local support. Nevertheless a number of members of the public, albeit a smaller number, have made representations objecting to the application, and currently the

Neighbourhood Plan is at an early stage of preparation and does not propose the application site for allocation for housing. Paragraph 17 also emphasises, in the same bullet point, the importance of planning decisions being “genuinely plan-led”. The application site is not currently identified as suitable or the preferred option for development in any local or neighbourhood plan, and in the context of an up-to-date 5 year housing land supply, the high level of harm caused by the development to designated heritage assets and other harm identified, and the resulting conflict with the relevant Policies of the Development Plan, is not in your officers’ opinion outweighed by the level of local support that has been expressed.

- 9.7 No other sites have been put forward or discounted as potential development sites within the village by the applicant, but it is noted that there have been a number of schemes put forward on alternative sites to the east of the village that have been dismissed at appeal or refused planning permission. This does not mean however that there could not be other more suitable sites forthcoming, and in the context of a 5 year housing land supply, there is not an immediate pressure to release land for housing that would justify allowing the harm caused by the current proposal. Neither is there a requirement under Policy Villages 2 for every category A village to accommodate some additional housing growth.
- 9.8 In conclusion the development would not constitute sustainable development and the presumption in favour does not apply. In particular the benefits of providing affordable housing and enhanced bus infrastructure along with the level of public support shown for the proposal does not outweigh the serious harm to heritage assets and visual amenities of the area, and the lack of integration with the existing settlement pattern.

## **10. RECOMMENDATION**

**Refusal** for the following reasons:

1. By virtue of its siting, scale, size and form the proposal fails to respect the traditional linear settlement pattern of Kirtlington extending well beyond its built up limits to the east into open countryside and into Kirtlington Park, resulting in an incongruous and inappropriate form of cul-de-sac development which would relate poorly to the remainder of the village, and cause demonstrable harm to the rural character and setting of the village and visual amenities of the area. Therefore the proposal is contrary to saved Policies H18, C8, C27, C28 and C30 of the Cherwell Local Plan 1996, Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 and Central government advice within the National Planning Policy Framework.
2. The proposed development would by reason of its location, scale, and form cause considerable harm to the character and significance of the heritage assets of Kirtlington Conservation Area and the Grade II Registered Kirtlington Park, and would cause unacceptable harm to the settings of nearby listed buildings in particular Home Farm and the wider setting of Kirtlington Park House. Whilst, on balance, this harm is less than substantial the public benefits do not outweigh this harm. Therefore the proposal is contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 and the National Planning Policy Framework in particular paragraph 17 ‘Core planning principles’ and section 12 ‘Conserving and enhancing the historic environment’, and the Planning Practice Guidance.
3. In view of the harm identified in refusal reasons 1 and 2 above and in the context of the Council being able to demonstrate an up-to-date 5 year housing land supply, the proposal is considered to be unnecessary, undesirable and unsustainable new housing development that would conflict with the criteria for assessing proposals for minor development listed under Policy Villages 2 of the Cherwell Local Plan 2011-2031. Therefore the proposal is unacceptable in principle contrary to Policy Villages 2



of the Cherwell Local Plan 2011-2031 and Central government advice within the National Planning Policy Framework.

4. In the absence of a satisfactory planning obligation the Local Planning Authority is not convinced that the infrastructure required to mitigate the impacts of the development on existing community infrastructure and services, along with the affordable housing directly required as a result of this scheme, will be delivered. This would be contrary to Policies BSC3 and INF1 of the Cherwell Local Plan 2011-2031 and central government guidance within the National Planning Policy Framework.

CASE OFFICER: Shona King

TEL: 01295 221643

**17/01694/F**

**Field To Rear Of Cedar Barn  
North Side  
Steeple Aston**

The Old  
School House

Manor

Court

Rectory  
Farm

Cedars Barn

Rectory Farmhouse

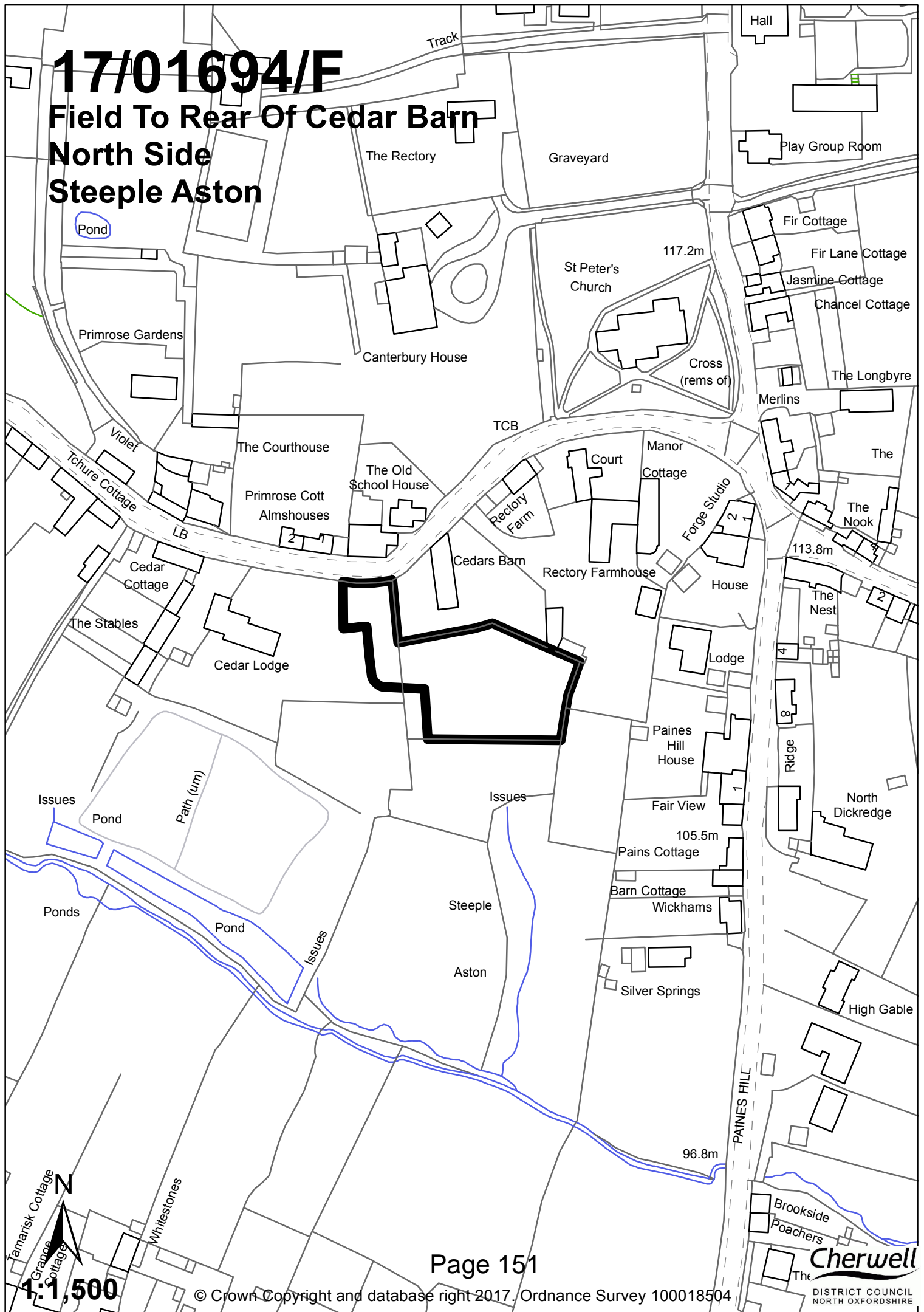
Issues



**1:500**

# 17/01694/F

## Field To Rear Of Cedar Barn North Side Steeple Aston



**Applicant:** Mark & Kate Kewley

**Proposal:** Erection of single dwelling, involving formation of new driveway served off an existing access, car parking and turning area, creation of new opening through side boundary wall, erection of new boundary walls and enclosures and associated landscaping

**Ward:** Deddington

**Councillors:** Cllr Bryn Williams  
Cllr Hugo Brown  
Cllr Mike Kerford-Byrnes

**Reason for Referral:** Member call-in – Cllr Mike Kerford-Byrnes

**Expiry Date:** 17 October 2017      **Committee Date:** 23 November 2017

**Recommendation:** Refusal

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

- 1.1. The application site is located towards the centre of the village of Steeple Aston, forming part of the historic core of the village, to the south of North Side. The site is contained within the designated Steeple Aston Conservation Area. The 'red line' site area consists of a section of the existing residential curtilage of Cedar Lodge and agricultural land to the east of the dwelling. The site slopes noticeably down from north to south, towards the valley bottom that separates North Side and South Side.
- 1.2. The western part of the site currently forms a section of the driveway/curtilage of Cedar Barn. Cedar Lodge itself is Grade II Listed, and the wall which intersects the two sections of land is curtilage listed. The listing description describes Cedar Lodge as a substantial building, thought to be mid-18<sup>th</sup> century, made of limestone and marlstone rubble some wooden lintels, with Stonesfield slate and Welsh slate roofs and brick stacks. The building benefits from a large garden curtilage to the south, and the agricultural paddock land to the east is also within the same ownership. The existing dwelling has two accesses to North Side and features a large driveway/courtyard area to the front, separated from North Side by a large stone wall.
- 1.3. The boundaries to the paddock as existing are treated predominantly with low picket fencing to the south and east, and larger stone walls to the west and north. The paddock is currently used for grazing and in planning terms is agricultural land. There is an existing metal storage shed located in the far northwest corner of the paddock area.
- 1.4. Constraints relevant to planning in this case include naturally elevated arsenic identified on the site, which is relatively common across the Cherwell District, and the Common Pipistrelle which has been identified within the locality.

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

- 2.1. The applicant seeks planning consent to erect a residential dwelling on the site. The dwelling would be part single, part two storey, and have 2 bedrooms. Materials used would natural stone and timber cladding, with slate roof and corrugated metal sheeting above, with timber doors and windows. Access is gained from North Side using one of the two existing accesses for Cedar Lodge. The applicant would create an area within the site for a shared car access with gates and landscaping.
- 2.2. The building would have an 'L' shape comprising two distinct two parts, sited either side of the stone wall connected by a flat roof valley. The applicant proposes to also remove a section of this curtilage listed wall in order to provide this access from the kitchen to living/dining area.
- 2.3. The curtilage area of the site would contain planted fruit trees to the south-east of the dwelling, encompassing the existing paddock land. A small area would be kept separate to the south-west of the dwelling, which indicates it would be utilised for vegetable planting. To the north of the dwelling is an area for parking and bin and cycle storage.

## **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>
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17/00091/PREAPP	Pre-Application Enquiry - Proposed single new dwelling
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- 4.2. The pre-application enquiry submission showed a single storey dwelling contained entirely within the paddock. Officers considered that a dwelling on this site could not supported, as it would be sporadic, backland development failing to follow the existing historic pattern of development, and would result in an unnecessary and unjustified erosion of the undeveloped and open character of this part of the Conservation Area causing demonstrable harm to the character of the Conservation Area. Officers advised that the design of the dwelling would not alleviate this harm.
- 4.3. A revised plan was submitted to prior to the Council issuing its response to the pre-application enquiry. This plan showed an 'L' shaped dwelling which straddled the paddock and the curtilage of Cedar Lodge. It was advised that the new proposal would have an impact on the curtilage listed wall, appearing more contrived and would still not address the objection to an encroachment on to the central area of undeveloped land.

## **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 21.09.2017,

although comments received after this date and before finalising this report have also been taken into account.

- 5.2. A number of public comments have been received, both objecting and in support. The comments raised by third parties are summarised as follows:

#### Object

- Development on a piece of land within the green centre of village, within Conservation Area.
- Windows give the appearance of a residential property rather than agricultural building
- Precedent for future development in the green centre
- Loss of privacy
- Contrary to Mid-Cherwell Neighbourhood Development Plan which puts this development outside the Village Settlement Area

#### Support

- Infill development
- Attractive, modest, sensitive building in keeping with locality, through use of materials
- Landscaping and removal of corrugated shed will improve site
- No visibility from opposite side of Steeple Aston
- Would allow young people to return to the village (*Officer comment: It would not be reasonable to require this by condition or obligation, and so no weight can be given to this benefit.*)

Comments have also been made by the owner of Cedar lodge, on behalf of applicants, in support of the application.

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. STEEPLE ASTON PARISH COUNCIL: **No objections** - pleased that a much needed two bedroomed house will be built in the village

### STATUTORY CONSULTEES

- 6.3. OCC HIGHWAYS: **No objections** – the officer makes note that the shared access arrangement would cause a safety concern if vehicles would to

enter/exit simultaneously. However, given the low speed and number of these manoeuvres, it is not demonstrated that there would be severe harm caused to highway safety. It is also noted that the pedestrian footpath is on the opposite side of the road, and traffic on North Side is relatively light.

#### NON-STATUTORY CONSULTTEES

#### 6.4. CDC CONSERVATION: **Objects**

*The proposed development lies in the Steeple Aston Conservation Area in land historically associated with Cedar Lodge. The proposals have been the subject of pre-application discussions.*

*The proposed development comprises a development on two different aspects and land parcels. The structure to the east is contained on paddock land and the structure to the west is within the original boundary of Cedar Lodge. These two aspects of the development will be considered separately as there are different issues.*

##### **Development to the east**

*Concern was expressed at pre-application stage with the principle of development in this location, primarily due to its location within the distinctive open square in the centre of Steeple Aston; this is referred to in both Steeple Aston Conservation Area and the emerging Mid Cherwell Neighbourhood Plan – Heritage and Character Assessment.*

- *The **Steeple Aston Conservation Area Appraisal** summarises the character of Steeple Aston ‘The village has developed around an open square containing paddocks, orchards and gardens. The plots within the square are a legacy of the pre-Inclosure closes, possibly from the reduction of the manor in the 16th century. These areas of land played a major role in forming the structure of the settlement and in controlling further development. Many boundaries remain intact from this period.’*

- *The central square lies within the character area of Central Valley and is part of the core significance of the character of the area . It is described as ‘The square of paddocks, orchards and gardens forms the centre of the conservation area, split in two by the stream and crossed north to south by a footpath known as ‘The Tchure’. The area is free of development, and respects the pre- Inclosure closes. This openness is a major part of the central character of the village. It visually supports the trees and vegetation throughout the remainder of the settlement’.*

- *The **Mid Cherwell Heritage and Character Assessment** of Steeple Aston identifies one of the key characteristics of the settlement as ‘Rectangular village layout enclosing an open area of orchards, grazed land and gardens’ and ‘Historic enclosed green space crossed by a public footpath’. It is also listed as one of the ‘Positive aspects of character ‘The surviving historic layout of the settlement in a linear manner along a rectangle of roads around a narrow but steep valley’ and ‘The village’s central green space which enhances the rural setting of the village’*

- *The section on Green Spaces and Public Realm describes the area in more detail. 'At the centre of the village there is a non-publically accessible area of green space that includes gardens, grazed land and orchards. A brook flows through this green space, lined by mature deciduous and coniferous trees which create a sense of separation between the north and south sides of the village. Parts of this green space are famed and the presence of livestock in historic enclosure strongly enhances the rural characteristics of the village'.*

- *The area is also discussed in relation to views 'The village's location around a small valley on high ground along the western side of the Cherwell Valley gives rise to attractive and often far reaching views through the village and across the landscape. Through the village the dip in landform between North Side and South Side creates intermittent views across the central green space between the two sides of the village. The most notable location for these views is along Paines Hill, where there are interesting and attractive views along the road from both its northern and southern ends. .... The central green space is an important open part of views along the street. .... From along the public footpath through the village's central green space there are views across the surrounding gardens and paddocks and onto the rear of properties that back onto the green space. These views have an enclosed and historic character'.*

- *In Issues to be addressed the 'Lack of public open access to the central green space' is identified and in Sensitivity to change 'The undeveloped central greenspace at the centre of the village' and '...the historic layout of the village still evident today'.*

- *It is therefore considered that the undeveloped green space is considered fundamental to the significance of the settlement of Steeple Aston. There is an objection in principle to residential development in this area regardless of design. It should also be noted that were this development to be permitted it would be a very small property within a large plot of land, the principle of residential would have been established and the site would be vulnerable to large, intrusive extensions.*

- *It is appreciated that the development has been located in a discrete area of the site and that the aesthetic appearance of the design has been modelled on a simple agricultural building. However, notwithstanding the objection in principle, there are some specific elements of concern / harm that can be identified with the portion of the development that lies within the paddock area.*

- *The entire paddock of land is included within the red line area of the site and the development description includes 'erection of new boundary walls and enclosures and associated landscaping' thus indicating that the area would become residential garden space. It is appreciated that the current plans show a fruit tree orchard and meadow grass around the area, but if the*



space is classified as residential curtilage / garden there would be no control over future development of the site.

- The design shows patio doors opening out on to the paddock area and this would involve large areas of glazing. At a site visit on 27th April 2017 a walk was taken along The Tchure, (when the trees were partially in leaf) and there was a distinct glinting coming through the trees from the area in close proximity to the proposed development site. It was unclear which building or part of building this came from, but could have been a greenhouse, rooflights or solar panels. The effect on site was marked and detracted from the central green space.

- The proposed development also leads to harm through the loss of part of the original stone boundary wall which forms part of the original curtilage of Cedar Lodge.

### **Development to the west**

There are no objections in principle to development in this location.

The current design shows a single storey building in this location of relatively small proportions, but there would be no objections to a two storey structure of slightly larger length.

The general design of an outbuilding or barn would be considered to be suitable in this location.

The proposal to utilise the existing opening from North Side and to create a shared access for both Cedar Lodge and the new development is considered positive as this retains the important historic boundary wall. There are no objections to the provision of car parking space, and cycle and bin storage to the northern frontage of the plot.

There are no objections to the provision of a kitchen garden to the south / rear of the plot or to access to the paddock or proposed orchard through the existing opening.

There are no objections to the creation of a boundary between Cedar Lodge and the new development, but a solid wall may be more appropriate than a hedge.

### **Development as a whole**

The proposed development (taken as a whole) is considered to cause harm to the essential character and core significance of the Steeple Aston Conservation Area, as identified by both the Steeple Aston Conservation Area Appraisal and the Mid Cherwell Heritage and Character Assessment.

There is not considered to be a public benefit to outweigh this harm as a single dwelling could be provided on the site without the need for this harm.

*The proposed development is therefore considered to be contrary to the National Planning Policy Framework.*

*The proposed development is also considered to be contrary to Policy ESD 15 of the Cherwell Local Plan 2011-2031 as it does not:*

- *Contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views.*
- *Conserve, sustain and enhance designated and non-designated heritage assets including buildings, features, archaeology, conservation and their settings and ensure new development is sensitively sited and integrated in accordance with advice in NPPF and NPPG.*
- *Respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings.*

6.5. CDC ENVIRONMENTAL PROTECTION: **No objections**

6.6. CDC ARBORICULTURE: **No objections** – subject to conditions for tree retention and that the recommendations as set out in the Arboricultural Impact Assessment are adhered to.

6.7. CDC ECOLOGY: **No objections** – subject to condition regarding nesting birds and note for applicant regarding separate legislation.

## **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
- ESD1 – Mitigating and Adapting to Climate Change
- ESD3 - Sustainable Construction
- ESD7 - Sustainable Drainage Systems (SuDs)
- ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- Policy Villages 1 – Village Characterisation

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

- C28 - Layout, design and external appearance of new development
- C30 - Design of new residential development
- C33 – Protection of important gaps of undeveloped land

#### 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Steeple Aston Conservation Area Appraisal 2014

## **8. APPRAISAL**

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

- Principle of development
- Impact on Heritage Assets
- Design, and impact on the character of the area
- Residential amenity
- Highway safety
- Ecology

#### Principle of development

- 8.2. Paragraph 14 of the National Planning Policy Framework states that a presumption of sustainable development should be seen as a golden thread running through decision taking. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.
- 8.3. Paragraph 12 of the NPPF notes that the development plan is the starting point of decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.
- 8.4. Cherwell District Council can demonstrate a five-year supply of deliverable housing sites. Therefore, as the NPPF advises, the presumption in favour of sustainable development will need to be applied in this context.
- 8.5. Policy ESD1 of the Cherwell Local Plan (2011-2031 Part 1) states that measures will be taken to mitigate the impact of development within the District on climate change. This will include; distributing housing growth to the most sustainable locations as defined by Policy Villages 1, and delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars.
- 8.6. On balance, this application site is considered within the built up limits of Steeple Aston, given its relative close proximity to other dwellings and the loose-knit nature of dwellings and outbuildings in the immediate context. The principle of residential development is therefore assessed against Policy Villages 1 in the Cherwell Local Plan Part 1.

- 8.7. Steeple Aston is recognised as a Category A village in the up to date local plan. Category A villages are considered the most sustainable settlements in the District's rural areas to accommodate growth, and residential development will be allowed for the conversion of non-residential buildings, infilling and minor development within the built up limits of the village. This development is not for the conversion of an existing building, and nor is it considered infilling which is defined as "development of a small gap in an otherwise continuous built up frontage".
- 8.8. Development is therefore considered to be 'minor development'. In assessing whether proposals constitute acceptable 'minor development', regard will be given to the following criteria:
- The size of the village and the level of service provision
  - The site's context within the existing built environment
  - Whether it is in keeping with the character and form of the village
  - Its local landscape setting
  - Careful consideration of the appropriate scale of development, particularly in Category B (satellite) villages.
- 8.9. Therefore, the principle of the development could be acceptable in general sustainability terms, but subject to other material planning considerations which are discussed below.

#### Impact on Heritage Assets

- 8.10. The dwelling would be sited within a designated Conservation Area, set within close proximity to a number of Grade II listed buildings and result in the loss of part of a curtilage listed wall.
- 8.11. 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, LPAs 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.
- 8.12. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.
- 8.13. ESD15 states that new development proposals should: *"Conserve, sustain and enhance designated 'heritage assets' (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG."*
- 8.14. Saved Policy C23 of the Cherwell Local Plan 1996 states that there will be a presumption in favour of retaining walls and other features which make a positive contribution to the character and appearance of a conservation area

Paragraphs 126 and 131 of the NPPF makes clear that Local Planning Authorities should take in to account the desirability of sustaining and

enhancing the significance of heritage assets, putting them into viable uses consistent with their conservation

- 8.15. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. The importance of preserving and enhancing the historic environment is emphasised in both local and national planning policy, and Policy ESD15 of the Cherwell Local Plan states that development should “conserve, sustain and enhance designated heritage assets...and their settings”.
- 8.16. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 8.17. The Steeple Aston Conservation Area Appraisal makes numerous references to the importance and significance of this open square historically. Paragraph 7.1 states: “*These areas of land played a major role in forming the structure of the settlement and in controlling further development. Many boundaries remain intact from this period.*” The boundaries of the paddock are still clearly defined in this location, with high stone walls flanking the west and north boundaries. It was clear from my site visit that the stone walls distinguish and define the areas of existing built development and of open space.
- 8.18. The Steeple Aston Conservation Area Appraisal also notes the significance of the central valley as a key character area, below is text taken from paragraphs 8.3.1 and 8.3.2 respectively.
- “The square of paddocks, orchards and gardens forms the centre of the conservation area, split in two by the stream and crossed north to south by a footpath known as ‘The Tchure’. The area is free of development, and respects the pre- Inclosure closes. This openness is a major part of the central character of the village.”*
- “...within the main area, views are terminated by the undulations of the road, the characteristic stone boundary walls and overhanging tree cover. Glimpses of open fields to north and south can be seen through the mature trees and over the manicured gardens.”*
- 8.19. The importance of the openness of the central valley to the character of the Conservation Area is made explicitly clear in the Steeple Aston Conservation Area Appraisal.
- 8.20. It is therefore considered that the proposal would cause significant harm to the character of the Conservation Area, in particular where the development protrudes into the area of open paddock land, and indeed that any new residential development in this area must be resisted.
- 8.21. The new dwelling and change of use of the land by its very nature and location would erode this important and significant agricultural character, causing less than substantial harm to the character and appearance of the Steeple Aston Conservation Area.

- 8.22. The Conservation Officer states “...*the undeveloped green space is considered fundamental to the significance of the settlement of Steeple Aston*” and objects to the principle of residential development in this central valley.
- 8.23. Notwithstanding the above paragraph, it is noted that the part of the site within the open paddock is not clearly visible from the majority of the public domain and therefore the impact of the paddock element of the building on the appearance of the Conservation Area is more limited in this case, as the paddock is not readily visible from the public domain. However, it must be emphasised that there are glimpsed views across the valley from points along Tchure Lane and Paines Hill. Having regard to this, it is noted that while the dwelling has been designed in a way to appear of an agricultural nature, the heavy use glazing and the introduction of a chimney in particular are not appropriate in this case. It is also likely that the glazing and metal roof would be visible from across the valley in sunny conditions, causing detriment to the rural appearance of this open space.
- 8.24. There are a number of listed buildings on this part of North Side of traditional appearance, built predominantly in stone. The dwelling would be visible in the gap that currently forms the entrance to Cedar Lodge from North Side, which also provides the proposed entrance to the application dwelling.
- 8.25. The design of the building as viewed from North Side is considered to poorly relate to the existing built form of the locality. Of particular note is the use of fenestration, twinned with the choice of materials i.e. coursed stone and timber boarding, would therefore appear neither contemporary nor traditional in this context. The differing size and style of the windows, and the fact that they would sit proud of the façade, together with the setback of the upper timber section behind the face of the stone wall, is considered wholly inappropriate in this location, failing to reinforce local distinctiveness. The building would clearly be read in the same context of the Grade II Listed Cedar Lodge, sharing the same access and courtyard area. The dwellings design and appearance is therefore considered to have a significant and demonstrable impact on the setting of this designated heritage asset and character and appearance of the designated Steeple Aston Conservation Area, failing to conserve, sustain or enhance these designated heritage assets. This impact cannot be mitigated through landscaping/tree planting.
- 8.26. The ‘red line’ site area is considered large in this context, encompassing the whole of the upper paddock area from the stone wall to the north down to the existing picket fence to the south. This area is currently defined in planning terms as agricultural. The granting of this dwelling would in turn grant a change of use of the entirety of this ‘red line’ area to residential. Despite the applicant providing a site plan indicating that trees will be planted in this location and labelling it as ‘orchard’ land, there is no distinction through fencing or other that this land is separated from the dwelling.
- 8.27. In addition, Court of Appeal decision “Barnett v Secretary of State [2009] EWCA Civ 476” states:

*“Permission to construct a new dwelling on non-residential land will carry with it permission to use the new building for residential purposes: see section 75(3) of the 1990 Act. Thus there is the sense a built-in application for a change of use of land in such cases, and the extent of the land covered by the implicit permission for a change of use will normally be ascertained by reference to the site as defined on the site plan. Thus the*

*part of the site not built on can be used for purposes ancillary to the dwelling unless there is some obvious restriction shown on the permission itself. The site boundary shown on the plans defines the area of the new use.”*

- 8.28. It is therefore considered that the ‘red line’ site area would constitute the new dwellings residential curtilage. This is a substantial area of existing open, agricultural land which currently contributes to the significance of the Conservation Area and a number of Grade II Listed Buildings, which would be lost to residential development. Officers are minded that in granting a change of and thus establishing the principle of residential development in this ‘red line’ area, there would be severe implications on the protection of future development on this site and would weaken the significance of other areas of existing open space within Steeple Aston.
- 8.29. Paragraphs 133 and 134 of the NPPF both require the decision maker to weigh this harm against the public benefits of the proposal. Where the proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 8.30. As noted in the above paragraphs, the proposal is considered to cause less than substantial harm to the designated Conservation Area. Further, the proposed development would lead to a loss of part of the existing stone wall which separates the curtilage of Cedar Lodge and the open paddock, to make way for a passage between the kitchen and dining room of the proposed dwelling. It is considered that this would result in less than substantial to the curtilage listed wall. This would clearly result in a loss of historic fabric and alter the existing form and appearance of the wall. It is also clear that the benefits of this alteration are largely of a private nature, providing social housing in the form of one dwelling and allowing a local family to return to the area. This is therefore extremely limited and does not outweigh this harm, and therefore the proposal would therefore fail to comply with Paragraph 134 of the NPPF.
- 8.31. Clearly as the proposal would result in a loss of curtilage listed wall, a Listed Building application is also required for works to proceed. Given the above, officers would recommend a refusal of this application given the harm caused to the wall without sufficient public benefit, also resulting in clear and significant harm to the setting of the Grade II Listed Cedar Lodge. So as stated above, while a Listed Building application in this case would be required, given officers’ recommendation it was not considered reasonable or necessary in this case to invite a Listed Building application for these works.

#### Design, and impact on the character of the area

- 8.32. Policy ESD15 of the Cherwell Local Plan (2011 – 2031 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 expected to meet high design standards. Development should contribute positively to an area’s character and identity by creating or reinforcing local distinctiveness. Where development is in the vicinity of any of the Districts distinctive historic assets, delivering high quality design that compliments the asset will be essential.
- 8.33. Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new development to ensure that the standards of layout, design and external

appearance are sympathetic to the character of the urban or rural context of that development.

- 8.34. Saved Policy C30 of the Cherwell Local Plan 1996 exercises control to ensure that new housing development is compatible with the appearance, layout and density of existing dwellings in the vicinity.
- 8.35. Policy ESD10 of the Cherwell Local Plan (2011-2031 Part 1) has regard for the protection of trees, with an aim to increase the number of trees in the District.
- 8.36. The dwelling in this location is considered to constitute unacceptable backland development, particularly referring to the element within the existing area of open paddock. The paddock as existing is south of and set entirely behind Cedar Barn and Rectory Farmhouse. The paddock is also set behind the residential properties along Paines Hill which are to the east, and is accessed from the existing curtilage of Cedar Lodge which is to the west. The dwelling would have a poor relationship with the existing built development on North Side, and the most substantial part of the building (i.e. the element within the paddock) would lack a physical or visual relationship with the existing street frontage, predominantly hidden from views on North Side. The dwelling would result in a sporadic, sprawling pattern of development that would not relate well to the existing built form along North Side or Paines Hill.
- 8.37. The form and grouping of the buildings in this location are also considered detrimental to the character of the area. The dwelling would be an 'L' shape of two separate dual pitched roofs. The development straddles two parcels of land and a curtilage listed wall. The double garage of the adjacent Cedars Barn is located in close proximity. Given their spatial relationship the three elements are read together. It is considered that their combined siting would have a negative impact on the character of the area, creating a contrived and awkward juxtaposition and a tight-knit relationship which would not be in keeping with the surrounding built form. The scale of the element that is visible from the public domain on North Lane appears to replicate that of an outbuilding/garage which is also considered to cause harm to the built form.
- 8.38. The proposal would therefore fail to relate well to the existing built environment, and the development would be out of keeping with the character and form of the village. Given the above, the proposal is not represent acceptable 'minor development, failing to comply with Policy Villages 1 of the CLP 2031 Part 1.
- 8.39. As detailed in the above section, the detailing of the proposed dwelling is also considered to cause significant and demonstrable harm to designated heritage assets and the character and appearance of the area.
- 8.40. The Arboricultural Officer has raised no objections to the application, given the Arboricultural Method Statement ensures the retention of the protected tree to the west of the dwelling. It is recognised that the number of trees planted would have a positive impact on the character of the area; however, as noted in the above section, this would clearly not mitigate the impact of the proposal on designated heritage assets or the character and appearance of the area.

#### Residential amenity

- 8.41. Policy ESD15 of the Cherwell Local Plan (2011 – 2031 Part 1) states that new development proposals should consider the amenity of both existing and future development, including matters of privacy outlook, natural lighting, ventilation, and indoor and outdoor space.



- 8.42. Saved Policy C30 of the Cherwell Local Plan (1996) states that new housing development should provide a standard of amenity and privacy acceptable to the Local Planning Authority.
- 8.43. The only dwellings that through their siting could be materially impacted by the proposal are Cedar Barn and Cedar Lodge.
- 8.44. Cedar Barn: The dwelling is largely enclosed and screened from Cedar Barn by existing stone walls and the neighbour's detached garage. In addition there are no openings which face towards this property above the existing boundary wall.
- 8.45. Cedar Lodge: The proposed dwelling would share a driveway with Cedar Lodge, however, this property benefits from a large plot and the separation distance is sufficient for there to be no material harm caused. Notwithstanding this, there is a large intervening tree which restricts any loss of privacy.
- 8.46. Given the proposed location of the dwelling and its relationship with neighbouring properties, it is not considered that there would be any significant material impact caused by the proposal in regard to loss of light, outlook or privacy.

#### Highway safety

- 8.47. Paragraph 32 of the NPPF states that planning decisions should take account of whether safe and suitable access to a site can be achieved for all people. However development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. It goes on to state that development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported. Further, Policy ESD 15 of the Cherwell Local Plan 2031 Part 1 states that: *"New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work in. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions."*
- 8.48. The application site is accessed through an existing entrance to Cedar Lodge, which is proposed to be shared between the properties, formalised through the erection of swing gates to each and marked by planting. The Highway Liaison Officer has not raised any objection to the proposal, stating that, while there is likely to be a conflict should a situation arise of cars exiting and entering the site at the same time from the same direction, this is considered to be low harm given the likelihood of the event and the relatively small vehicular movements along North Side. Officers agree with this assessment.

#### Ecology

- 8.49. 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.

- 8.50. 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. This requirement is echoed by Policy ESD10 of the CLP 2031 Part 1.
- 8.51. The Ecological Officer has not raised any objections to the proposed development. The Officer has recommended a condition be attached regarding timing of works to avoid bird nesting season, and I see no reason to disagree with this condition. There are therefore no concerns in regard to Ecology.

#### Other matters

- 8.52. A third party has raised the Steeple Aston policy map contained within the Mid-Cherwell Neighbourhood Development Plan, stating that the paddock is outside of this area.
- 8.53. The Mid-Cherwell Neighbourhood Plan Area extends across several parishes including Steeple Aston, and work is under way on the preparation of a draft Neighbourhood Plan for the area. Draft Policies were published for public comment in January 2017, but as yet no formal consultation has been undertaken in respect of a draft Plan, and no Plan has been submitted to Cherwell District Council. As such, in accordance with Paragraph 216 of the NPPF, officers consider that little weight can be attached to the Neighbourhood Plan at this stage.

### **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. By virtue of its form and appearance, the proposed new dwelling would appear as contrived development that would poorly relate to the existing built form, and is sited in a location that would represent a significant and demonstrable visual intrusion into the existing rural character of the area, thereby causing demonstrable harm to the setting of the Grade II Listed Cedar Lodge and the designated Steeple Aston Conservation Area.
- 9.3. The proposal would also result in the loss of a section of a curtilage listed wall. The benefits of the scheme are largely of a private nature, which is not considered to outweigh the less than substantial harm identified. The proposal is therefore contrary to the Policies set out in section 7 of this report for the reasons as set out below.

### **10. RECOMMENDATION**

That permission is refused, for the following reason(s):

1. The proposal, by virtue of its siting and form, would fail to integrate successfully with the existing built form of the settlement resulting in sporadic, backland development. Therefore the dwelling would fail to represent acceptable 'minor development' in a Category A settlement, failing to accord with Policy Villages 1 of the Cherwell Local Plan (2011-2031 Part 1), and government guidance contained within the National Planning Policy Framework.

2. The proposed development by reason of the inappropriate form, massing, detailing, appearance and extent of the site area, would result in less than substantial harm to designated heritage assets, in particular the designated Steeple Aston Conservation Area. It is considered to represent a visual intrusion into the important open space and fails to integrate well with the significant rural character, qualities and setting of the site and would detract from the character and appearance of the area without public benefits outweighing this harm, contrary to Policy ESD15 of the Cherwell Local Plan (2011-2031), C28 and C30 of the Cherwell Local Plan (1996) and government guidance contained within the National Planning Policy Framework.
3. The proposed development, by virtue the partial loss of a curtilage listed wall, is considered to cause less than substantial harm to the historic character and significance of the Grade II Listed Cedar Lodge. It has not been demonstrated that the loss of this historic fabric is justified or that the harm would be outweighed by public benefits, and as a result fails to comply with Policy ESD15 of the Cherwell Local Plan (2011 - 2031 Part 1) and Government guidance contained within the National Planning Policy Framework.

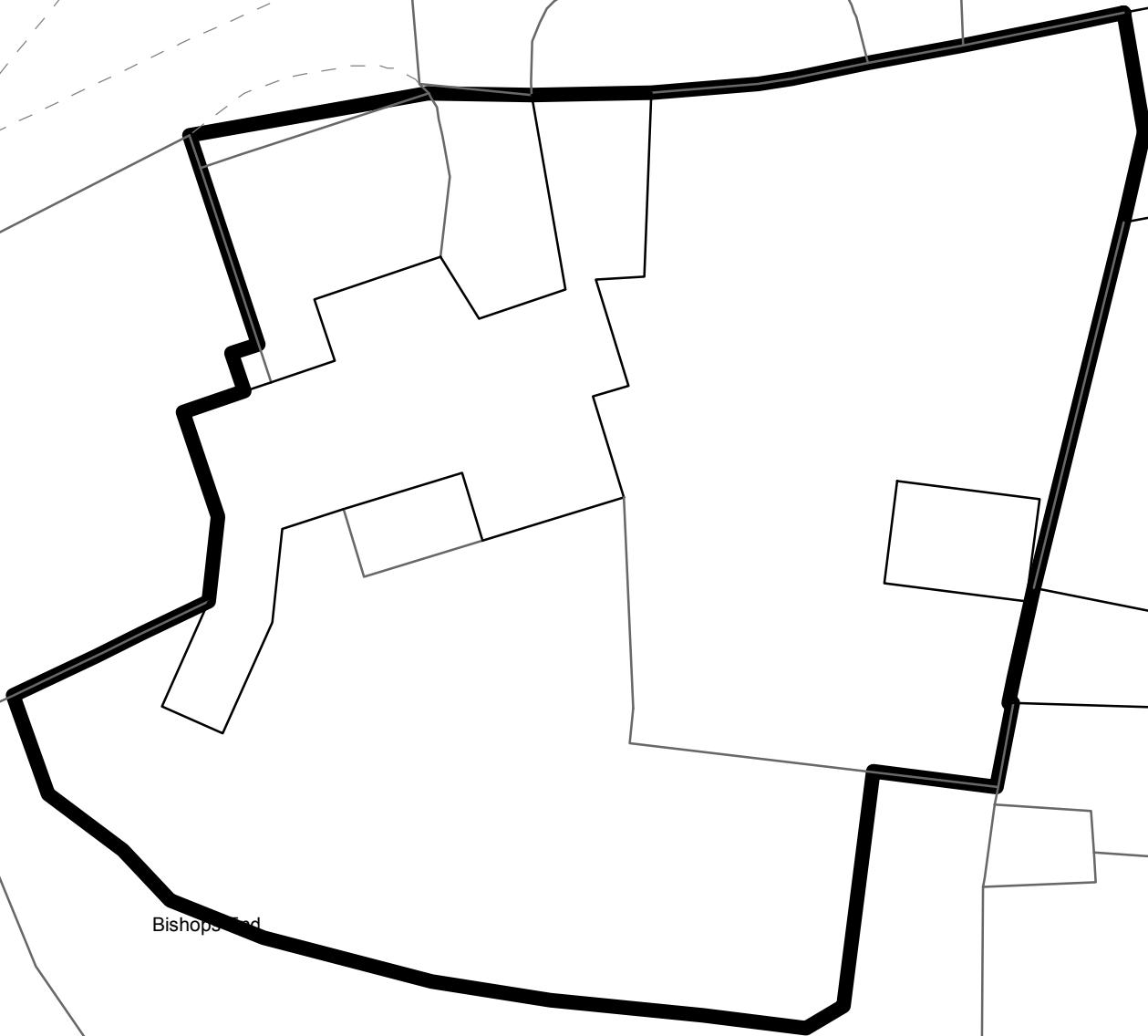
CASE OFFICER: George Smith

TEL: 01295 221899

Agenda Item 15

**17/01981/F**

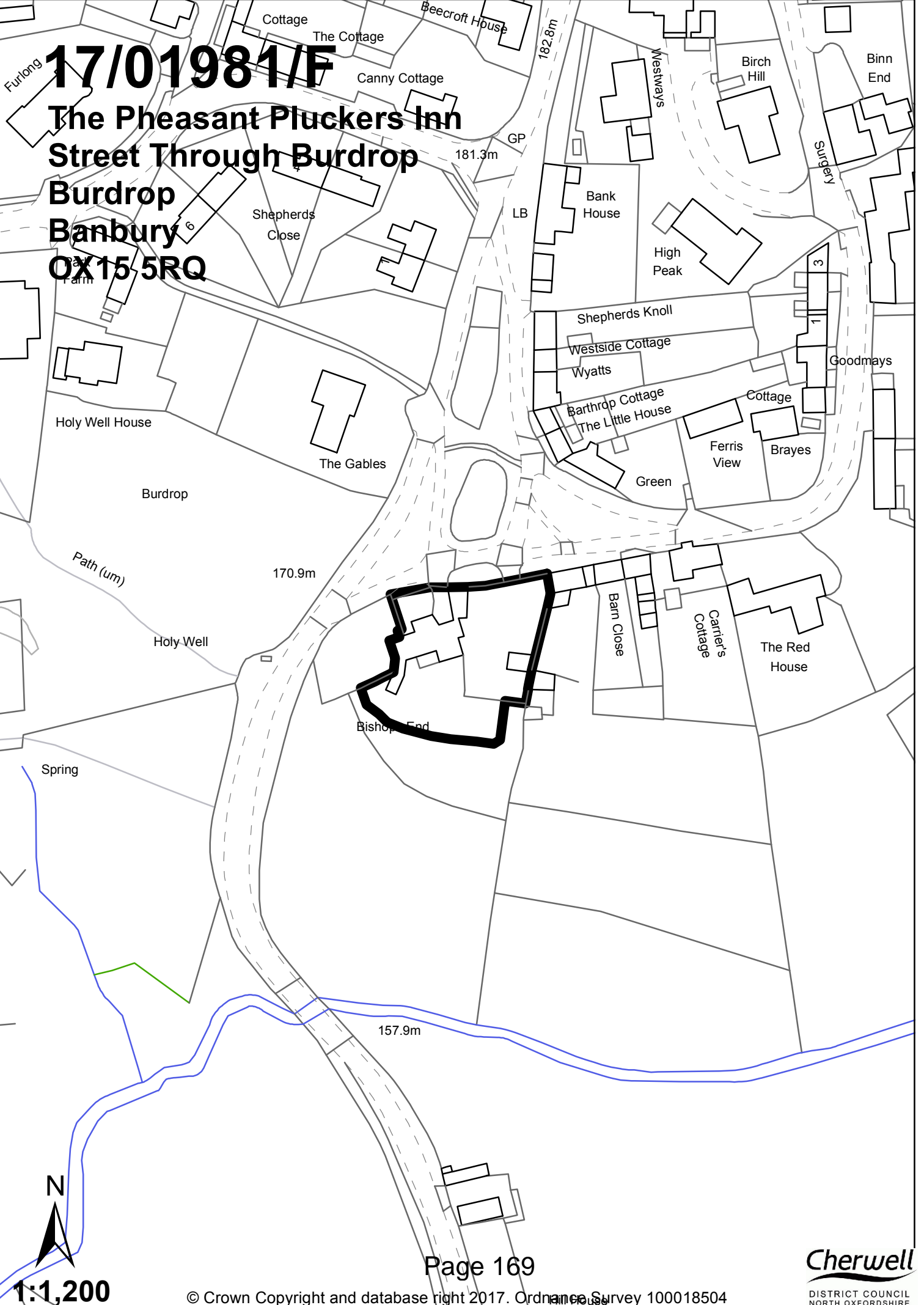
**The Pheasant Pluckers Inn  
Street Through Burdrop  
Burdrop  
Banbury  
OX15 5RQ**



Bishops



**1:300**



**17/01981/F**

**The Pheasant Pluckers Inn  
Street Through Burdrop  
Burdrop  
Banbury  
OX15 5RQ**

**1:1,200**

**The Pheasant Pluckers Inn  
Street Through Burdrop  
Burdrop  
Banbury  
OX15 5RQ**

**17/01981/F**

**Applicant:** Mr Geoffrey Richard Noquet

**Proposal:** Change of use from A4 to C3 (ACV Listed)

**Ward:** Cropredy, Sibfords And Wroxton

**Councillors:** Cllr Ken Atack  
Cllr George Reynolds  
Cllr Douglas Webb

**Reason for Referral:** In light of public interest

**Expiry Date:** 22 November 2017      **Committee Date:** 23 November 2017

**Recommendation:** Refusal

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

- 1.1. The application site is public house located within Burdrop, a small settlement which forms part of the Sibford Gower/Ferris village settlement. The site is a stone built property under a slate roof, on the edge of Burdrop, overlooking the 'Sib-valley' which separates Sibford Gower and Burdrop from Sibford Ferris. The site also includes a former bottle store which is attached to the public house and is now in use as a holiday let ancillary to the public house. Immediately to the east of the site lies an existing vehicle access and associated existing car park.
- 1.2. In terms of site constraints, the site lies within the Sibford and Burdrop Conservation Area, the public house is identified as a Locally Significant Asset within the Conservation Area Appraisal and was designated as an Asset of Community Value (ACV) in February 2016. There are a number of grade II listed buildings within the vicinity of the site with the nearest being Barn Close ~12m east of the site. To the south of the site, beyond the car park and the pub garden the land drops away into the valley known as the Sibford Gap.

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

- 2.1. The application seeks planning permission for the change of use of the existing public house to a residential dwelling.
- 2.2. By way of background, as can be seen from the planning history detailed below, the site has previously been the subject of a number of similar applications (4 no. change of use applications (one withdrawn prior to decision) and 2 no. Certificate of Lawful Development applications) made by the applicants for the change of use of the property to residential use which have previously been refused. The application is put forward in this instance by the applicant on the basis of *'fresh evidence of professional valuations and the marketing of the public house and the fact that there have not been any realistic offers from anyone to acquire the property as a viable business'*.

- 2.3. The application's site boundary was amended during the course of the application to omit an area of paddock land which, whilst in the applicant's ownership, was not considered to form part of the curtilage of the public house. The applicant submitted a revised location plan in this respect and a further consultation exercise undertaken on the revised site boundary, with neighbours and the Parish Council being re-notified and a revised site notice being posted to the front of the property.
- 2.4. Unfortunately due to the timing of the planning committee in relation to the application's determination period, the application will go over its 8-week determination target date by the time of the planning committee on the 23/11/2017. The applicant was made aware of this issue early on in the application and an agreement was reached with regard to an extension of the determination period; to allow for sufficient time to resolve any outstanding issues and issuing of any such decision notice following the committee meeting and any resolution of the committee with regards to the acceptability or otherwise of the application.

### 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>
82/00329/N	Change of use of the premises to a single dwelling (The application was withdrawn as a condition of the approval was that the liquor licence had to be surrendered prior to a decision being issued. The licence was not surrendered and the pub was sold as a going concern)	Application withdrawn
85/00698/N	Change of use to a single dwelling (resolution to approve the application but a condition of any approval was that the liquor licence had to be surrendered prior to the decision being issued. The landlord at that time wished to keep the pub open and withdrew the application)	Application withdrawn
99/01783/F	Single storey extensions to bar area and to form a new freezer store and replacement garden store, as amended by plans received 5.11.99.	Application permitted
06/00248/F	Single storey bar extension to provide non-smoking restaurant facility.	Application permitted
06/01697/F	Change of use from licenced premises to dwelling house.	Application refused
07/00630/F	Resubmission of 06/01697/F - Change of use from licenced premises into dwelling house	Application refused

09/01275/F	Alterations and extension to barn to provide 4no. en-suite letting rooms.	Application withdrawn
09/01557/F	Change of use from closed public house to dwelling	Application withdrawn
12/00011/CLUE	Certificate of Lawful Use Existing - Use as a single dwelling house	Application refused. Appeal against subsequent enforcement notice dismissed at Public Inquiry
12/00678/F	Change of use of a vacant public house to C3 residential (as amended by site location plan received 18/07/12)	Application refused and appeal dismissed
12/00796/CLUE	Certificate of Lawful Use Existing - Use as a single dwelling house	Application refused
13/00116/F	Retrospective - New roof to barn; 3 No rooflights and door installed to the upper floor	Application permitted
13/00743/F	Erection of two new dwellings	Application withdrawn
13/00781/F	Change of use of a redundant barn/store into a 1 bedroom self-contained holiday letting cottage	Undetermined. Non-determination appeal allowed
13/00808/CLUE	Certificate of Lawful Use Existing - Change of use from A4 to A1.	Application refused
13/01511/CLUE	Certificate of lawful use existing - A1 use for the sale of wood burning stoves and fireside accessories	Application returned
14/01383/CLUP	Certificate of Lawful Use Proposed - Change of use from A4 to A1.	Application refused
15/01103/F	Removal of conditions 3 and 4 of planning permission 13/00781/F to allow occupation of holiday let cottage as a separate dwelling	Application refused and appeal dismissed
16/01525/F	Erection of a two storey cottage with 2 en-suite bedrooms, kitchen, dining and lounge facilities. Permission is also required for the siting of a garden shed	Application refused
16/02030/F	Erection of a single storey building	Application refused and



providing 3 No en-suite letting rooms - appeal allowed  
re-submission of 16/01525/F

17/00020/F

Erection of a Storage Shed

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 initial final date for comment on this application was 09.11.2017; however, following the submission of a revised site location plan, reducing the applications red line site boundary, and a further 14 day consultation, which over-lapped with the original consultation period, the final date for comments was 10.11.2017; any further consultee responses or comments received post preparation of this report will be conveyed to committee members as a written update prior to the meeting on the 23<sup>rd</sup> November.

5.2. 33 no. letters/emails have been received in objection to the application as a result of the consultation process. The comments raised by third parties are summarised as follows:

- The Pheasant Pluckers Inn is valued community facility, that is ACV listed, and is needed as a place to meet and socialise, and has previously been well supported.
- This amenity should be protected as the village will expand.
- The pub is in a good location with views of the Sib Valley.
- The pub has a long history and was previously run successfully, and should be returned to a thriving family pub.
- The pub has been deliberately run down, to make way for redevelopment.
- All signage has been removed and it is unclear when the pub is open.
- It is clear that serious attempts by the owners to make it a viable business have not succeeded simply because it has been accessible for a minority of the week and poor to non-existent marketing.
- If the pub was open during normal pub hours it would be a viable business with the right landlords.
- The property has been marketed with an unrealistic valuation and the price expected by the applicants makes no allowance for the cost of restoring the interior of the pub to commercially viable present day standards.
- It is impossible for The Community, or any potential buyers, to formulate a business plan, when the fixed sale price is £100k above the valuation, the trading accounts are withheld and viewings are deferred.
- There are businesses that wish to operate at the location and have made serious offers, in line with the market value and investment required.
- It is possible to run a profitable pub in this area - witness The Chandlers Arms at Epwell

- The applicants flout planning law with the use usage of a public house and the ancillary cottage whilst not trading.
- There have been numerous historical applications and associated appeals for change of use to residential previously refused / dismissed.

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. SIBFORD FERRIS PARISH COUNCIL: Comments: *'With regard to the application for a change of use from A4 to C3, the Parish Council has not changed its general view that this public house when functioning as such was a successful and an important community asset and its current Category A4 should be retained.'*

*However, with regard to specific claims made in this application, that the business is neither viable nor economic to sell, In the absence of publicly available accounts and other relevant financial information, the Parish Council does not believe it is possible to form an opinion, and believes the application should be withdrawn'.*

6.3. SIBFORD GOWER PARISH COUNCIL: **Objects**, commenting: *'This application was briefly discussed at a Parish Council meeting on 9<sup>th</sup> October 2017, on the basis of which a preliminary response was drafted and discussed at a Planning Sub-committee on 30<sup>th</sup> October. At the latter meeting there were present four councillors, the Clerk and sixteen local inhabitants, including the applicants. Parishioners were given the opportunity to speak, and two did so; the Chairman also asked questions of the applicants for clarification and invited them to reply. As a result we make this response.*

*Sibford Gower Parish Council wishes once again to object to the application for change of use on the Pheasant Pluckers Inn (late Bishop Blaize) from A4 to C3 residential use for the following reasons:*

*There have been nine refusals of previous applications for change of use on this property since 2006; two have gone to appeal (2013 and 2014) and have been rejected each time by Inspectors. In addition the owners were on 29<sup>th</sup> Sept 2014 convicted in court of failure to comply with a valid order to cease to use the property for solely residential purposes. They continue to defy this court order.*

*The property has been subject to an ACV designation since Feb 2016, which precludes change of use. In order to challenge this, the owners put forward two arguments.*

#### **1. The property is unsaleable as a public house.**

**Response:** *The record of their recent attempts to market the property is curious. In May 2017 they provided evidence in the form of an email from the agent Sidney Phillips that during the twenty months it was on sale from October 2015 to May 2017 there had indeed been one inquiry, but not a single request to view (Complaint of Councillor Misconduct: 11 May 2017 by Mrs Noquet against Councillor Murray). In the last four months they appear to claim that there were 32 viewings and four offers. They should be asked to explain this strange disparity.*

*In 2012-3 the value of the property was established in two public enquiries, and agreed by professional valuers representing both sides to be between £240/275,000 (for the Council) and £262,000 (for the appellants: APP/C3105/A/13/2190714). The*

four offers received by the Noquets in the last months confirm these valuations: all offers were £300,000 or less.

It is therefore clear that the asking price of £395,000 overvalues the property by at least £100,000. It has not been accepted by the open market, and we question whether it was ever so intended. The claim that their agents have supported this price, if true, suggests that they are out of touch with the local market.

It was for this reason that the community of the Sibfords did not think it worth proceeding to mount an offer to purchase under the AVC procedure, until the owners indicated that they were willing to accept a realistic market price.

We also draw attention to the recent experience of a very similar property, the Chandlers Arms in Epwell. This was purchased in Sept 2013 in a run-down state for £215,000. It was completely refurbished for approximately £190,000, and was sold in 2016 as a going concern with considerable goodwill for £395,000. In the meantime the dynamic owners had achieved a weekly turnover of £7,000 and in 2016 an annual certified turnover of £366,718, with an annual profit of £72,534.

This example demonstrates that the Pheasant Pluckers would be currently viable, and might indeed achieve a sale price close to their desired figure, if the owners were minded to run it as a public house.

But the pub is closed and (according to their agents) no longer on the market. The owners seek the same price as the Chandlers Arms for a property without certified accounts, no longer trading, without goodwill and requiring considerable renovation to make it operation. This is clearly an unrealistic offer for sale.

The applicants were invited to comment on the fact that they had provided no documentary evidence of the price that their agents had suggested for the property, and had refused to respond to the request of Cherwell District Council for supporting evidence of viability studies, detailed financial records, valuations, viewings and marketing exercises (Mr Neville's email of 9/10/17). They simply repeated that any such evidence was available privately to individuals under strict conditions. In our opinion this amounts to a refusal to make full disclosure of all evidence in support of their application. This means that there is no possibility of assessing the validity of their statements, and that therefore the application should fail.

## **2. Public Meeting 20th June 2016:**

The public meeting called by the Chairman of Sibford Gower and Sibford Ferris Parish Councils was intended to gauge the extent of support for the ACV, and to discuss various ancillary activities that might run alongside a reopened pub in order to assess their usefulness in relation to existing village operations. The description offered by the applicants completely misrepresents the discussions that took place. These ended with a unanimous endorsement by approximately 100 residents of continuing to press for the reopening of the public house as an Asset of Community Value, and the formation of a group of volunteers to take this matter forward if and when a realistic opportunity for purchase arose. We also rather naively hoped that the owners might take up some of these ideas, if they genuinely wished to reopen the pub.

In one respect the comments of Mrs Noquet appear to be correct (5.5). She states that she was approached after the meeting by a man with a proposal of accommodation between the parties involved. In fact in early May 2016 the Chairman of Sibford Gower had indeed been approached by an occasional resident in the village with such a proposal. The Chairman formed the opinion that the proposal seemed both illegal and immoral, and anyway lay outside of the powers of the Parish Council: he therefore declined to present it to the PC or permit it to be discussed at the forthcoming meeting. The approach to Mrs Noquet, while it may well have happened, is therefore a personal initiative (as the individual seems to have stated to Mrs Noquet), not support by anyone else in the community'.

#### STATUTORY CONSULTEES

- 6.4. HIGHWAYS AUTHORITY: **No objections**, subject to a condition securing details of parking provision for two vehicles.
- 6.5. THAMES WATER: No comments received.

#### NON-STATUTORY CONSULTEES

- 6.6. BRUTON KNOWLES (Property Consultants):
- 6.7. CAMRA (Campaign for Real Ales): **Objects**, commenting: *'We still consider that this could be a viable public house if it were being run as such. The pub, then called The Bishop Blaize, had been listed in the CAMRA Good Beer Guide in 2003, 2004, 2005 and 2006, the year that Mr and Mrs Noquet purchased it. It was a going concern, popular with the village and with others from the villages around.*

*The more recent renaming and re-opening has been done in such a way as to deter anyone from visiting. There is nothing outside the property to advertise it is a public house, nor is there anything that advertises that the property is for sale. It now looks, as Mr and Mrs Noquet consider it to be, a private house. We do not believe that the current owners have proved that this is not a viable public house; they have only proved that if you over-value a public house it is not then possible to sell it as such.*

*There have been offers made to purchase the pub and run it but these have been declined as the owners are determined that they will not take any offers that are not at the valuation they have received. We would suggest that the offers were made by those who have experience of the licensed trade in the local area and that they were reasonable offers.*

*We would ask that the Council refuse this application for change of use as they have previous applications on the grounds that nothing has changed; this property is a viable public house and should be in use as such.*

- 6.8. CONSERVATION: **Objects**, commenting: *'The proposal relates to the change of use of the former public house to residential. It is noted that there is a substantial planning history relating to this issue stretching back to 2006. There is also clearly strong public opinion about the issue.*

*The building is an Asset of Community Value and is also of cultural value to the area. The original name for the public house, Bishop Blaize Inn, relates to the important wool industry in the settlement. The Sibford Ferris, Sibford Gower and Burdrop Conservation Area Appraisal describes the importance of the woollen industry and states 'It is therefore of no small surprise that the former public house, the Bishop Blaize at Burdrop is named after the patron saint of the weavers (St Blaise, 4th century martyr). Legend says that wool auction were held on Burdrop Green, outside the inn, which bars on its wall the date 1640'.*

*The conservation area appraisal acknowledges the building as a non-designated heritage asset which makes a positive contribution to the area. In Features of special interest it acknowledges 'Former Bishop Blaize, Public House – as this building shows typical vernacular construction of the period' and states 'The above buildings are undesignated heritage assets which contribute significantly to the conservation area'. It also acknowledges the community function of the building and under 'Threats' includes 'Loss of local facilities such as the village pub and village hall which help reinforce Burdrop's identity as a separate hamlet, not just a residential suburb of Sibford Gower'.*

*The proposed change of use of the property to residential is considered to cause harm to the character and appearance of Burdrop Conservation Area through the loss of the central community function played by the public house. The change of use also impacts on the physical characteristics of the property including the loss of*

*signage and the lack of public/community features such as clear entranceway and public garden. This harm is existing, but relates to the lack of active use of the building as a public house and the significance could be reinstated if the building were to return to its current and original use.*

*There is not considered to be any public benefit to outweigh the harm to the character and appearance of the designated heritage asset of the Sibford Ferris, Sibford Gower and Burdrop Conservation Area nor the non-designated heritage asset of the Bishop Blaise (Pheasant Plucker's Inn) Public House'.*

6.9. ENVIRONMENTAL PROTECTION: **No objections.**

6.10. HOUSING STANDARDS: No comments received.

## **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)

- Villages 1: Village categorisation
- SLE 3: Supporting Tourism Growth
- BSC 12: Indoor Sport, Recreation and Community Facilities
- 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
- S29: Loss of existing village services
- H21: Conversion of buildings within settlements

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Town and Country (General Permitted Development) (England) Order 2015 (as amended) (GPDO)
- Sibford Ferris, Sibford Gower and Burdrop Conservation Area Appraisal 2012
- Neighbourhood Planning Act 2017
- Localism Act 2011

## **8. APPRAISAL**

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

- Relevant History
- Principle of development
- Impact on the character of the area
- Impact on heritage assets
- Highway Safety

Principle of development:

- 8.2. Government guidance contained within the NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 8.3. Paragraph 6 of the Framework sets out the Government's view of what sustainable development means in practice for the planning system. It is clear from this that sustainability concerns more than just proximity to facilities, it clearly also relates to ensuring the physical and natural environment is conserved and enhanced as well as contributing to building a strong economy and sustainable communities.
- 8.4. Paragraph 12 of the NPPF notes that the development plan is the starting point of decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.
- 8.5. Paragraph 14 of the National Planning Policy Framework states that a presumption of sustainable development should be seen as a golden thread running through decision taking. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.
- 8.6. The principle of development in this case is clearly dependent on two distinct elements; the principle of residential development on the site and the loss of the public house facilities. The principle of residential development on the site shall be dealt with first.
- 8.7. Cherwell District Council can demonstrate 5.6 years supply of deliverable housing sites, therefore the presumption in favour of sustainable development, as advised by the NPPF, will need to be applied in this context.
- 8.8. The principle of residential development in Burdrop is assessed against Policy Villages 1 in the CLP 2031. Burdrop is recognised as a Category A village in the Cherwell Local Plan 2011 – 2031 Part 1, by virtue of its close association Sibford Ferris and Sibford Gower. Within Category A villages residential development is restricted to minor development, infilling and conversions.
- 8.9. Saved Policy H21 of the CLP 1996 states that within settlements the conversion of suitable buildings to dwellings will be favourably considered unless conversion to a residential use would be detrimental to the special character and interest of a building of architectural and historic significance. In all instances proposals will be subject to the other policies in this plan.
- 8.10. Whilst the site currently contains ancillary residential accommodation associated with the public house, the proposed development would involve the conversion of the entire public house (A4) to a private dwelling house (C3). The Pheasant Pluckers Inn is located within the built up limits of Burdrop and therefore in this respect the proposed development is considered to comply with the housing policies

of the development plan and is acceptable in this regard, subject to the loss of the village service and its acceptability in terms of other material planning considerations.

8.11. Turning now to the loss of the public house. Within the NPPF the Government demonstrates the need for supporting both existing and new community facilities within rural areas. It advises that polices should look to support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development; and that there should be support for sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should also include promotion of the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship (NPPF, Para. 28).

8.12. Further at paragraph 70 of the NPPF that:

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

- *plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;*
- *guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;*
- *ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community; and*
- *ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.*

8.13. The Government appears to further acknowledge that the loss of public houses/drinking establishments is a growing issue, with recent amendments to the permitted development regime (The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2017) with regard to A4 (Drinking Establishments) and permitted changes under the GPDO; with the only permitted changes of A4 uses, now currently being restricted to A3 (Restaurants and Cafes) or AA (Drinking Establishments with expanded food provision); where previously changes to A1 (Retail) and A2 (Professional and Financial Services) had been considered permitted development, subject to conditions, including that the building was not an ACV.

8.14. Policy BSC12 of the CLP 2031 Part 1 does not specifically refer to public houses, however the policy does cover the provision of community facilities and states that the Council will encourage the provision of community facilities to enhance the sustainability of communities and will seek to protect and enhance existing facilities. Policy SLE 3 further looks to support development which enhances tourism opportunities within the district.

8.15. Saved Policy S29 of the CLP 1996 covers the loss of existing village services. The policy states that proposals that will involve the loss of existing village services which serve the basic needs of the local community will not normally be permitted. The policy does go on to state, however, that it is also recognised that it will be difficult to resist the loss of such facilities when they are proven to be no longer financially viable in the long term.

- 8.16. There is significant planning history at the site and significant concerns have been raised by the local community with regard to the potential loss of the pub as a community facility both during the current application and with previous applications at the site. Media reports from CAMRA (Campaign for Real Ale) highlight the difficulties that public houses are currently facing and suggest that there are 21 net pubs closures every week (CAMRA 23/03/2017, 'CAMRA celebrates pub planning loophole closure'). The Public House was designated an Asset of Community Value (ACV) in February 2016, and there is still strong support for the pub to be brought back into regular use; as demonstrated by the significant number of objections to the application, and which has also been the case with previous applications at the site.
- 8.17. As with previous applications much comment has been made with regard to the viability of the public house, designated as an Asset of Community Value, given its restricted opening hours and current levels of service it provides. The applicants have provided details of marketing that has been undertaken with Sidney Philips during period from October 2015 to August 2017, at an asking price of 'offers in region of £395,000'. During this time it is indicated that there have been 3237 online requests for information, 32 viewings and 4 offers made. At the time of the preparation of this report Sidney Phillips had confirmed to the case officer, during a telephone call, that although the property was still advertised on some websites that it had actually been withdrawn and was not for sale.
- 8.18. Giving the issues raised with regard to viability, the Council commissioned an independent assessment which was undertaken by Bruton Knowles, a leading property consultant. The applicant has also resubmitted a viability report prepared by Barry Voysey in 2012 (which was previously submitted in relation to a previous application (12/00678/F) and subsequent appeal APP/C3105/A/13/2190714).
- 8.19. The report prepared by Bruton Knowles (BK) highlights the competition faced by The Pheasant Pluckers Inn from a significant number of other venues in the surrounding area (including public houses, garden centres and other visitor attractions); the potential styles of operation in which the public house could operate; and the business levels and resulting viability of Pheasant Pluckers Inn.
- 8.20. The BK report notes the currently consistently low level of business, and states that the most likely viable trading model for the Pheasant Pluckers Inn would be as a gastropub, offering restaurant services whilst still catering for local drinkers; but notes that the current low business levels may be down to the choice of the owners and that *'the trading level will certainly not be attractive to the majority of potential buyers/operators'*. The report also notes the lack of a properly fitted working bar service and lack of trading space as two factors that weigh heavily against the Pheasant Pluckers Inn being viable in its current format.
- 8.21. The BK report identifies that the immediate environment is most attractive and that the wider demographic may consider a renovated property to be a desirable venue. However, it is considered that building in which the public house is contained is not physically large enough to accommodate the necessary space required to operate a successful gastro-pub; but that this could be remedied with an extension which may provide additional seating; in this respect it is to be noted that the Council has previously been supportive of such proposals with the granting of planning permission for a single storey bar extension to provide non-smoking restaurant facility in 2006 (06/00248/F). The report goes on to note that the site is somewhat constrained by its lack of car parking provision, but again that this could potentially be remedied with an extension of the existing area.
- 8.22. Whilst the Council has not had the Pheasant Pluckers Inn valued by a professional agent, it did advise the applicant to provide further viability and marketing evidence at a very early stage in the application, to help to establish a realistic price for the Pheasant Pluckers Inn, due to the lack of supporting information.



- 8.23. The applicant has provided records which indicate that several offers had been received; both as 'Freehold' (3 no. offers) and 'Leasehold' (2 no. offers), but that these fell below the asking price and were subsequently rejected. Whilst the applicants have supplied emails from agents (Guy Simmonds (2016), Christies (2016) and Sydney Phillips (2015)) confirming that £400,000 was a marketable price, no detailed valuation has been submitted to establish that this was a realistic asking price for the property as an on-going concern as a public house. Bruton Knowles suggests a value of £376,740, but this would depend upon generation of turnover and profit levels. Notwithstanding the above, the Council considers that the interest that has been clearly demonstrated by the number of interested parties and viewings *confirms* a market demand for the extant use. The success of other pubs within the area, including the Chandlers Arms in Epwell, is further testament to the fact that there is a demand for such services within the rural areas.
- 8.24. The applicant has also provided financial information which, while not detailed audited accounts, indicates income and out-goings for the period of July 2016 to October 2017. These records indicate that over the last year there had been a loss sustained over that period by the applicants. This has also been the case put forward in previous applications. The applicant has indicated that the public house has been open for business during lunchtimes and on some instances in the evenings at weekends; although this does not appear to be advertised to the wider public, other than by an A-board being positioned to the front of the property. Officers have requested confirmation of more recent operational hours from the applicants, but at the time of the preparation of this report this had not been received. The applicant has also supplied reviews received their Facebook page which show the public house and holiday let business in a positive light, again indicating support for such services in this location.
- 8.25. The applicant has indicated that they have made improvements to the property to make the Pub more attractive to buyers including; the completion of the Holiday Cottage; the installation of 2 no. improved ladies toilets, a new bar and substantially upgraded catering kitchen. However, officers consider that the benefit that these improvements have had on the sale price are in many ways countered by other alterations that have taken place over the years and features that detract from the attractiveness of the property as an on-going public house business; including the removal pub signage from the property; the removal of the original bar and ability to provide draft ales, ciders etc. and the appearance and accessibility of the car park, and these issues are likely to require capital investment to remedy; this is borne out in the comments made by potential purchasers viewing the property, saying 'too much work involved', as reason to discontinue interest, as stated in the applicants marketing evidence and comments made in the BK report.
- 8.26. The BK report ultimately concludes that whilst the necessary investment required to bring the property into a viable use would make the taking on the business a higher than average financial risk, that this did not negate viability and that the Pheasant Pluckers Inn could still be viable as a public house, but that this would be subject to certain factors and improvements. Taking into account all the evidence submitted by the applicant and that within the BK report, officers consider that the applicant has failed to satisfactorily demonstrate that, notwithstanding that the public house is not currently be run under a viable business model, that the Pheasant Pluckers Inn could not be viable in the long-term; contrary to the provision of saved Policy S29 CLP 1996.
- 8.27. As noted in inspectors decisions in dismissing appeals (APP/C3105/C/12/2170904 in 2012 and APP/C3105/A/13/2190714 in 2013) against previously refused applications at the site, the proposed change of use of the Pheasant Pluckers Inn has been consistently considered contrary to the provisions and aims of saved Policy S29 of the CLP and policy guidance with the NPPF. These decisions included a full consideration of viability; including an assessment of Barry Voysey's viability

report again submitted in support of this current application. There remains very strong evidence from the community of a wish to see the Pheasant Pluckers Inn (formerly Bishop Blaize) retained as a public house and there is further support for the holiday let cottages supporting tourism in the area. Officers see no new conclusive evidence to consider that circumstances in this respect have significantly changed since previous refusals at the site. The Pheasant Pluckers Inn is clearly not viable whilst being run under the current business model, with limited offerings and irregular opening hours and regrettably the owners appear to have lost the support of the local community, as has previously been noted in previous inspector's decisions.

- 8.28. The pub has previously provided a much valued facility and service, and it is considered that its previous period of closure and subsequent current reduced operations, initiated by the applicants over the years, has reduced the local community's ability to meet its day-to-day needs. As such the proposals are considered contrary to the identified policies of development plan and Government advice and guidance with regard to protecting and retaining valued community facilities and therefore are considered unacceptable in principle.

Impact on the character of the area:

- 8.29. The purpose of the planning system is to contribute to the achievement of sustainable development and the Framework defines this as having 3 dimensions: economic, social and environmental. Also at the heart of the NPPF is a presumption in favour of sustainable development and in the context of this application would also include conserving and enhancing the historic environment.
- 8.30. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. These aims are also echoed within Policy ESD15 of the CLP which looks to promote and support development of a high standard which contribute positively to an area's character and identity by creating or reinforcing local distinctiveness.
- 8.31. The site is within the Sibford Ferris, Sibford Gower and Burdrop Conservation Area, which was designated as such in 1985. Conservation areas are designated by the Council under Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990; with the aim being to manage new development within such areas to ensure that the character or appearance of the Conservation Area, and the special architectural or historic interest which it may possess, is preserved and where possible enhanced.
- 8.32. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
- 8.33. The NPPF (Para. 126) advises that Local Planning Authorities should positively set out strategies for the conservation and enjoyment of the historic environment, and should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance. It further states that in developing this strategy, local planning authorities should take into account:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
  - the desirability of new development making a positive contribution to local character and distinctiveness; and

- opportunities to draw on the contribution made by the historic environment to the character of a place.
- 8.34. Policy ESD 15 of the CLP is consistent with the advice and guidance within the NPPF with regard to the conservation of the historic environment and looks for development to:
- Contribute positively to an area's character and identity by creating or reinforcing local distinctiveness;
  - Conserve, sustain and enhance designated and non-designated Heritage Assets, including their settings, ensuring that new development is sensitively sited and integrated;
  - Respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings.
- 8.35. The 2012 Sibford Ferris, Sibford Gower and Burdrop Conservation Area Conservation Area Appraisal document identifies the public house as a Locally Significant Asset and is therefore a non-designated heritage asset within the Conservation Area. The Pheasant Pluckers Inn (Former Bishop Blaize Public House) is described as a significant building within the vernacular tradition of the area. It is also a visually significant building being located on the lip of the valley. This significance is enhanced by its slight physical separation from the neighbouring buildings.
- 8.36. Whilst there is no operational development proposed as part of this application, the change in use of the property from a functional public house to a residential property would result in a change in the character and appearance of the site. Some of the impacts of the proposed change of use have already been realised with the loss of the previous public house signage, and as noted in comments made in objection to the application, and as observed by officers during site visit, the property currently has very little which would identify the property as public house and attract visitors/customers into the building; with only two occasional A-boards being placed outside the property, advertising the bar as being open for sales of bottled drinks and further advertising an 'En-Suite Shepherds Hut' for B&B purposes.
- 8.37. The use of the property for purely residential purpose would have a significantly different appearance to that of active public house, and in this respect the proposed change of use would not sustain the established character and appearance of the conservation area. The NPPF (Para. 134) advises 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. It is considered the public benefit gained would not outweigh the harm that would be caused to the character and appearance of the designated heritage asset of the Sibford Ferris, Sibford Gower and Burdrop Conservation Area nor the non-designated heritage asset of the Bishop Blaize (Pheasant Pluckers Inn) Public House'; therefore failing to comply with the provisions and aims of Policy ESD 15 of the CLP 2031 and policy guidance within the NPPF.

Highway safety:

- 8.38. The Highways Authority has assessed the proposals and raises no objections subject to details of parking provision for two vehicles being secured by way of an appropriate condition attached to any such permission, should the Council be minded to approve the application.
- 8.39. Officers see no reason to disagree with this opinion. The site has an existing car park area associated with the existing public house, which although this area is currently somewhat restricted by storage of various items and materials, there still remains sufficient space for vehicles to enter and leave the site in a forward manner; and further there is additional parking to the front of the property.

8.40. The proposals would not result in any increase in vehicular movements to and from the site and no further parking requirement above the current situation. The proposals would not result in any significant impact on the safety and convenience of other highway users, and subject to the requirements of the Highways Authority being satisfactorily being met, would not result in any significant impact on highway safety, and are therefore considered acceptable in this regard.

Residential amenity:

8.41. Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2031 which states that: 'new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space'.

8.42. Whilst no detailed plans have been submitted with application, officers consider that it is highly likely that the conversion of the public house to a three bedroom would provide levels of both indoor and outdoor amenity that would allow for a very good standard of living for potential future occupants of the property and therefore could be considered acceptable in this regard.

8.43. Given the context of the site, the relationship with neighbouring properties and the nature of the development (that there would be no operational development) it is considered that the proposed change would not result in any significant impacts on neighbour amenity above those currently experience and is therefore also acceptable in this regard.

Other matters:

8.44. Comment has been made with regard to the applicants apparent lack regard to planning regulations and previous enforcement notice requirements with regards to the occupation of the ancillary residential accommodation. Given that the public house is currently being opened for a use as such, albeit on limited occasions, the applicants are not be in breach of planning regulations in this regard, and this is not considered a material planning consideration in the context of the current application.

8.45. Further comment is made with regards to the positioning and use of a shepherds hut at the site. This does not form part of the application and is a matter that is being separately dealt with by the Council through the planning enforcement team.

## **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. In reaching an informed decision on planning applications there is a need for the Local Planning Authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. It is also necessary to recognise that Section 38 of the 1990 Act continues to require decisions to be made in accordance with the development plan and the NPPF highlights the importance of the plan led system as a whole.

9.3. Given the above assessment in the light of current guiding national and local policy context, whilst a residential use in this location could be considered acceptable in

terms of the sustainability of the location and would be acceptable in terms of highway safety and residential amenity, it is considered that a change of use of the public house – a valued community facility designated as both an Asset of Community Value and a non-designated heritage asset – would result in the loss of a valued village service. On the basis of the application and the contributions received, it has not been conclusively demonstrated that the existing facility is not viable in the long-term. The proposal would also detrimentally impact on the character and appearance of the surrounding conservation area. It is further considered that any potential public benefits of the change of use to residential would not outweigh the harm identified above and the proposals are therefore considered contrary to the above mentioned development plan policies; as such the application is therefore recommended for refusal for the reasons set out below.

## **10. RECOMMENDATION**

That permission is refused, for the following reason:

1. The proposal would result in the loss of a valued village service and Asset of Community Value which, on the basis of the application and the contributions received, it has not been conclusively demonstrated as not being viable in the long-term. As such, the loss of the service would lead to an unacceptable impact on the character and appearance of the conservation area and the local community and would therefore be contrary to saved Policy S29 of the Cherwell Local Plan 1996, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and Government advice on supporting a prosperous rural economy and promoting healthy communities contained within the National Planning Policy Framework.

### **PLANNING NOTES:**

For the avoidance of doubt, the plans and documents considered by the Council in reaching its decision on this application are: Application forms, supporting statement dated 26.09.2017 submitted with the application, the amended site location plan received 24/10/2017 and further items received in correspondence from the applicant during the application.

CASE OFFICER: Bob Neville

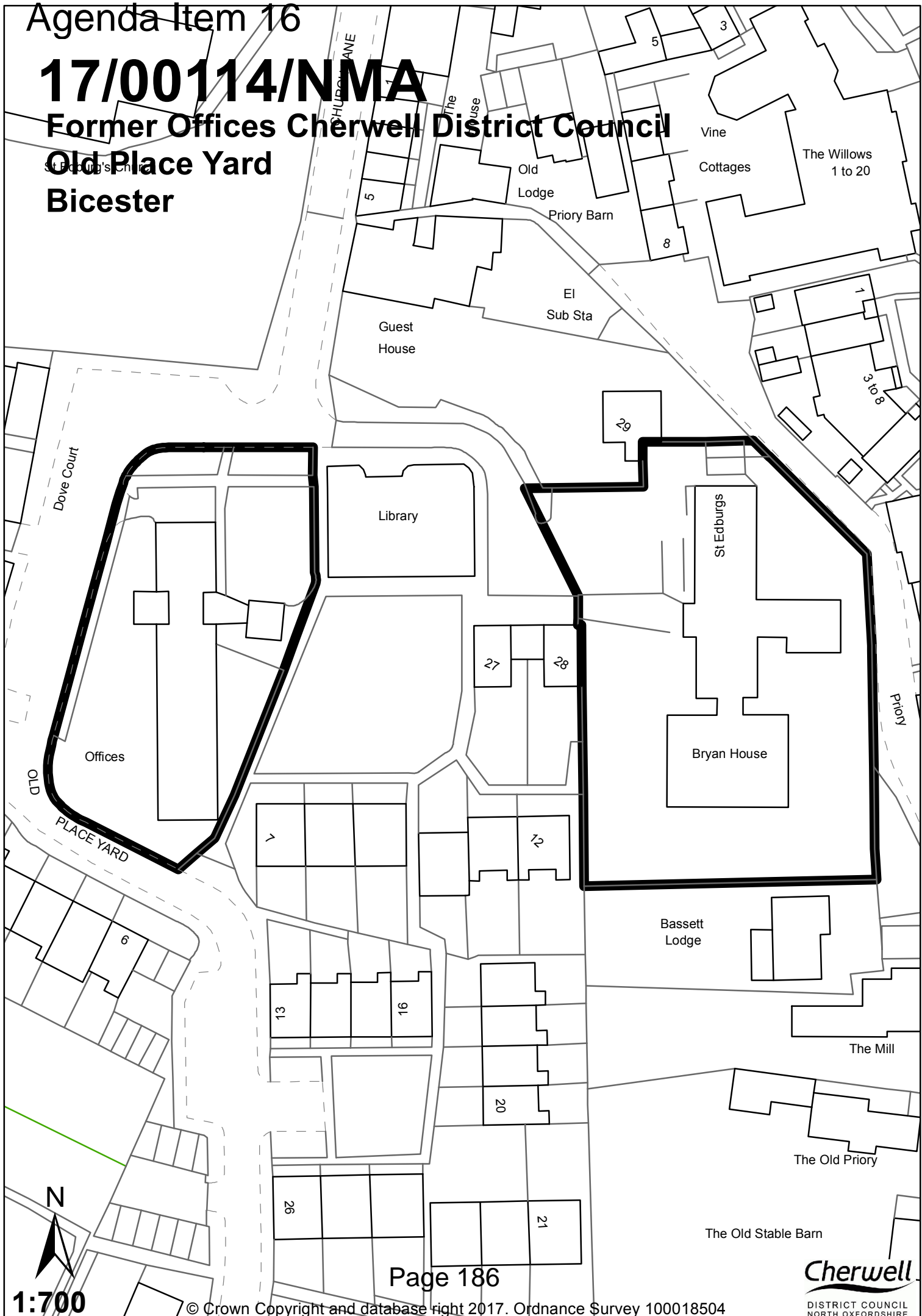
TEL: 01295 221875

# 17/00114/NMA

## Former Offices Cherwell District Council

### Old Place Yard

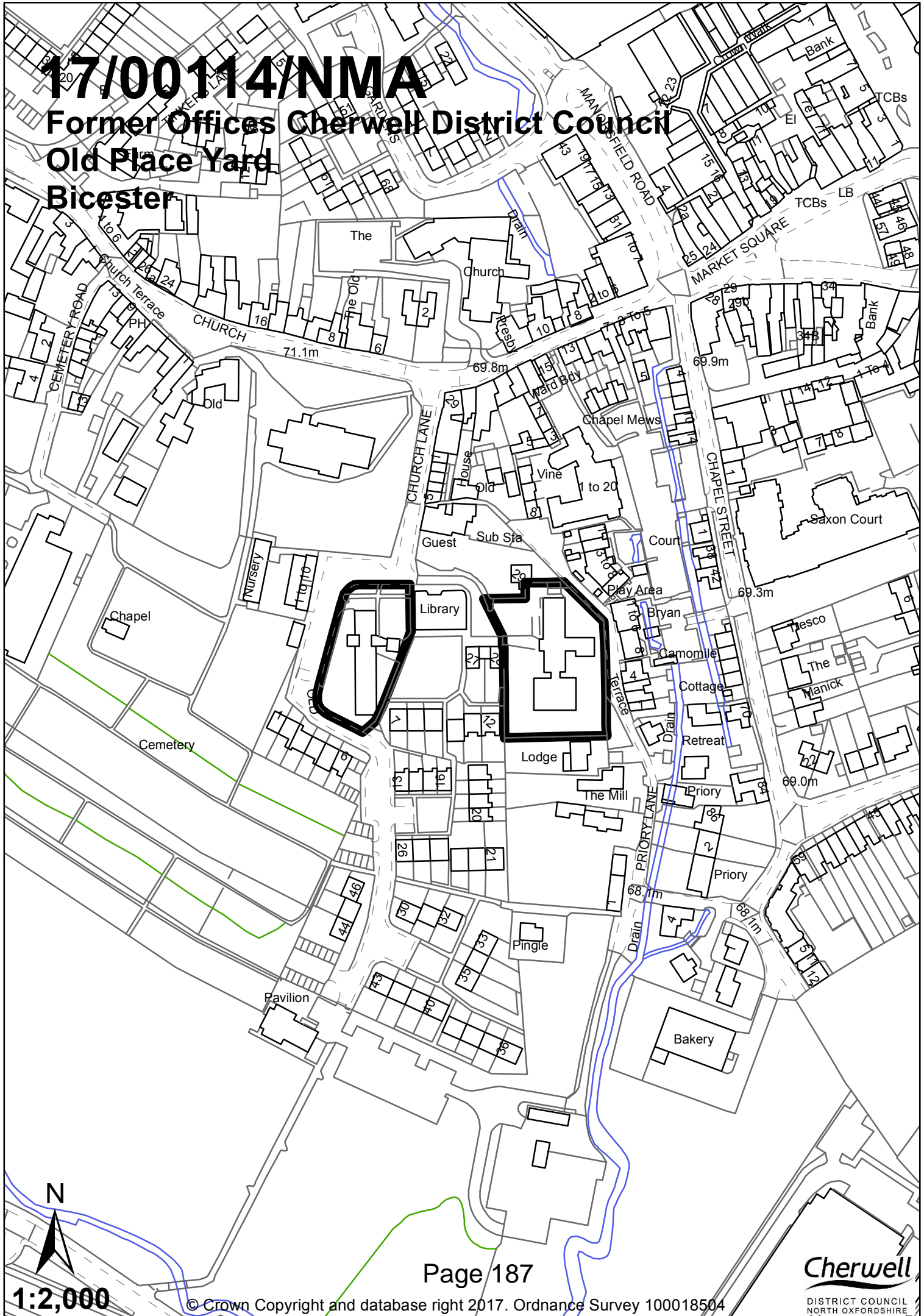
### Bicester



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# 17/00114/NMA

## Former Offices Cherwell District Council Old Place Yard Bicester



**Applicant:** Cherwell District Council

**Proposal:** Non-Material Amendment to 16/00043/F - Alterations to external Door ED.A.06 and Window W.A.16 swapped positions as indicated on elevation G to Building A and External cupboards added to courtyard elevations E and F to Building B.

**Ward:** Bicester South And Ambrosden

**Councillors:** Cllr David Anderson  
Cllr Nick Cotter  
Cllr Dan Sames

**Reason for Referral:** The Council is the applicant

**Expiry Date:** 8 November 2017      **Committee Date:** 23 November 2017

**Recommendation:** Approve

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

- 1.1 The application sites are located immediately to the south of Bicester town centre. They comprise two sites to the west (Site A) and east (Site B) of the library, and following demolition of the buildings that were previously on the sites, are currently vacant.
- 1.2 Immediately adjacent to the western-most site (Site A) is a Grade II listed dovecote. The sites are also within the setting of the Grade I listed St Edberg's Church and the Grade II\* listed building known as The Old Priory. The boundary wall to the east of the site, forming part of the boundary with Priory Lane, is listed. The sites lie outside but adjacent to the Bicester Conservation Area. The site lies within an area of significant archaeological interest, being the site of Bicester Priory, and is currently being considered for scheduling by Historic England.
- 1.3 There is an adopted footway running along the eastern boundary of Site A.

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

- 2.1. The application seeks approval for amendments to application 16/0043/F which was granted on 13th June 2016 for the erection of 11 self-contained single storey units for adults with physical disabilities, learning disabilities and autistic spectrum conditions. 5 units are to be constructed on Site A and 6 units on Site B. Site A is to have a communal garden and the units within Site B are to have individual gardens as well as a communal garden. Both sites are to have car parking allocated to the units and Site B is to have a gated entrance to the units from the car park area.



2.2 The application seeks to swap the positions of a door and window in the east elevation of the staff accommodation at Site A to provide an acceptable fire escape. This change is as a result of the Building Regulations. The application also seeks to amend the elevations to the shared courtyard at Site B with the introduction of doors to serve boiler cupboards which are to be made external to the individual units in the interests of safety of the residents.

### **3. APPRAISAL**

3.1 Section 96A of the Town and Country Planning Act 1990 (as amended) states that: "A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material". It is also stated that: "In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted."

3.2 The national Planning Practice Guidance states that: "There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application." The judgement on "materiality" in any particular case is one of fact and degree, also taking into account the likely impacts of the amendment. Materiality is considered against the development as a whole, not just a part of it. The benchmark for forming the judgement on materiality is always the original planning permission.

3.3. The amendments proposed to the elevations of the buildings are not considered to result in a significant change to the appearance of the development. The alteration to the position of the window and door in the east elevation of Site A would not result in any additional overlooking of surrounding dwellings and would not increase the number of openings on this elevation. The addition of the cupboard doors at Site B would not give rise to additional overlooking as they are to serve external boiler cupboards and due to their location on the elevations facing the shared courtyard they would not be readily visible outside the site. Therefore it is considered that these amendments would not raise any new issues or constitute a material change to the permission.

### **4. RECOMMENDATION**

4.1 The alterations to the elevations of the buildings on Site A and Site B do not materially alter the appearance of the approved scheme, or raise any new issues that have not previously been considered, and so can be accepted as non-material amendments under Section 96A of the Town and Country Planning Act 1990 (as amended).

CASE OFFICER: Shona King

TEL: 01295 221643

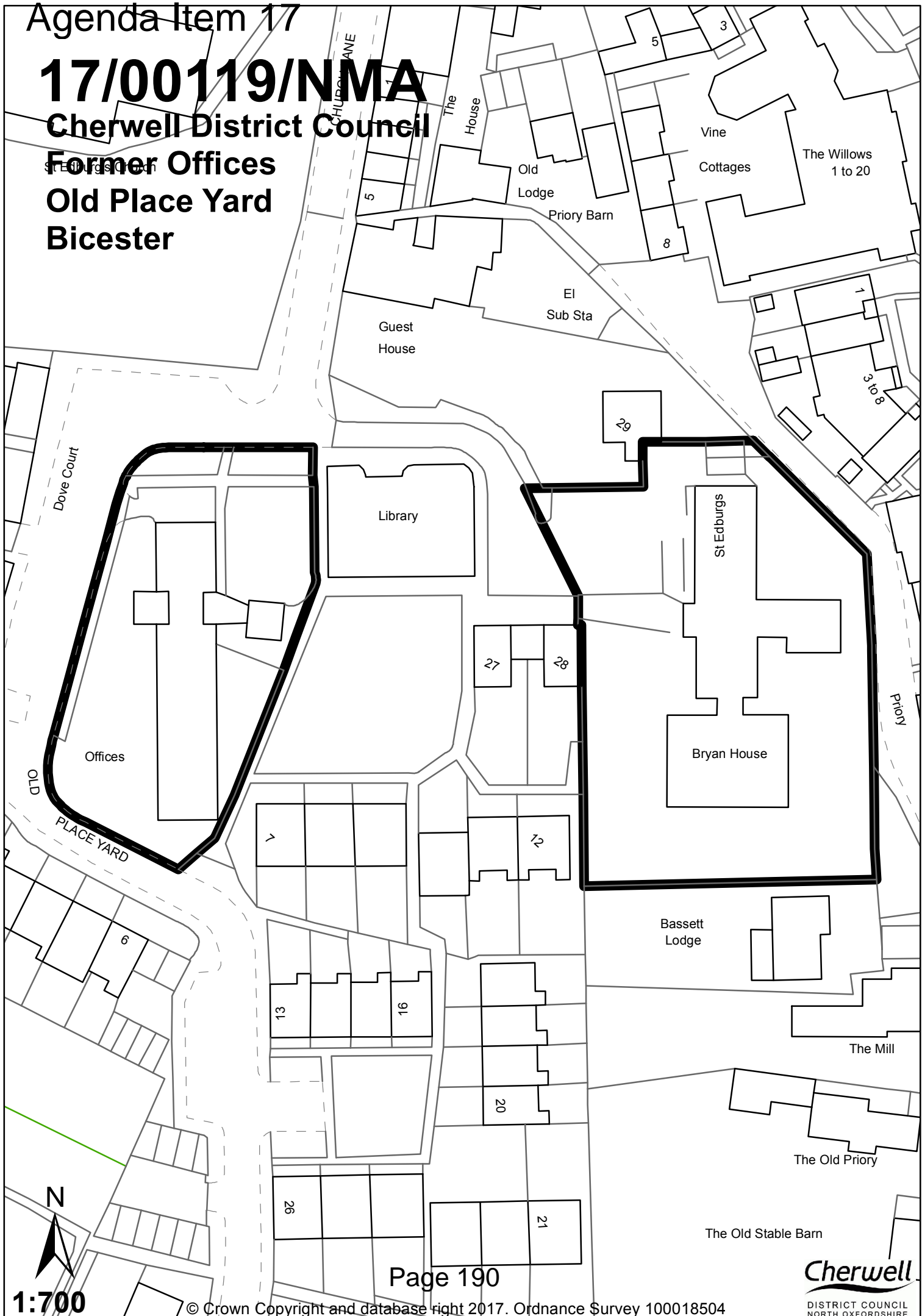
# 17/00119/NMA

## Cherwell District Council

### Former Offices

### Old Place Yard

### Bicester



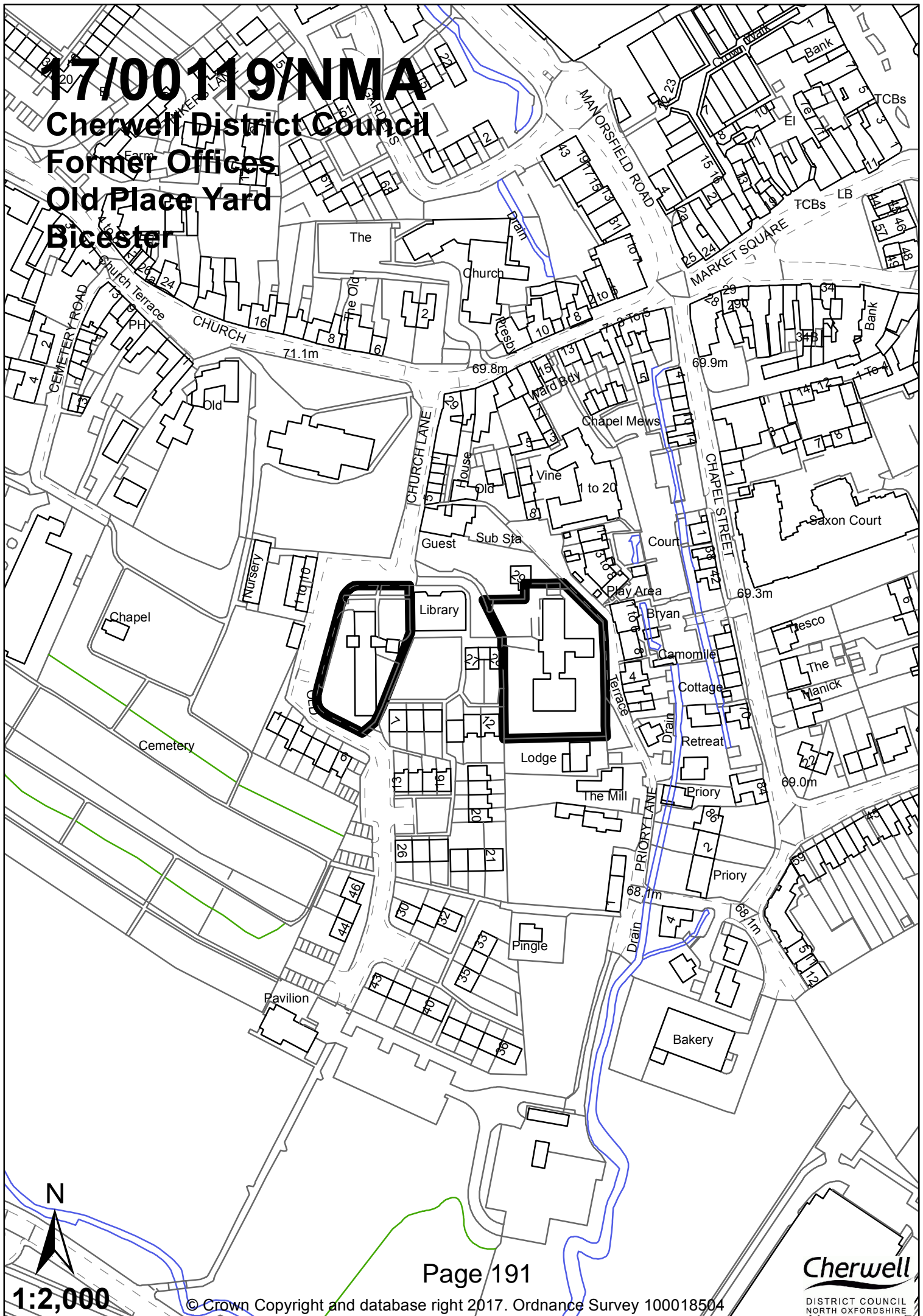
# 17/00119/NMA

Cherwell District Council

Former Offices

Old Place Yard

Bicester



**Applicant:** Glancy Nicholls Architects

**Proposal:** Non-material amendment to 16/00043/F - To change the approved roof tile and window sill tile on Building B (St Edburges) from Marley plain clay 'Smooth red' to Marley plain clay 'Smooth Blue' to match Building A (Old Place Yard).

**Ward:** Bicester South And Ambrosden

**Councillors:** Cllr David Anderson  
Cllr Nick Cotter  
Cllr Dan Sames

**Reason for Referral:** The Council is the applicant

**Expiry Date:** 1 December 2017      **Committee Date:** 23 November 2017

**Recommendation:** Approve

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

- 1.1 The application site is located immediately to the south of Bicester town centre and comprises one of two sites to the west (Site A) and east (Site B) of the library. The application relates to Site B.
- 1.2 Immediately adjacent to the western-most site (Site A) is a Grade II listed dovecote. The sites are also within the setting of the Grade I listed St Edberg's Church and the Grade II\* listed building known as The Old Priory. The boundary wall to the east of the site, forming part of the boundary with Priory Lane, is listed. The sites lie outside but adjacent to the Bicester Conservation Area. The site lies within an area of significant archaeological interest, being the site of Bicester Priory, and is currently being considered for scheduling by Historic England.

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

- 2.1 The application seeks approval for amendments to application 16/0043/F which was granted on 13th June 2016 for the erection of 11 self-contained single storey units for adults with physical disabilities, learning disabilities and autistic spectrum conditions. Members agreed to delegate authority for the approval of two different tiles for the roofs of the buildings on both sites (A and B) on 18 May 2017 and it was subsequently approved on 6 June 2017.
- 2.2 The current application seeks to amend the approved tile on Site B only. The proposal is to use the same tile as that approved for Site A, MarleyEternit clay plain tile in Blue Smooth in lieu of a MarleyEternit clay plain tile in Red Smooth.

### **3. APPRAISAL**

- 3.1 Section 96A of the Town and Country Planning Act 1990 (as amended) states that: “A local planning authority in England may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material”. It is also stated that: “In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.”
- 3.2 The national Planning Practice Guidance states that: “There is no statutory definition of ‘non-material’. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application.” The judgement on “materiality” in any particular case is one of fact and degree, also taking into account the likely impacts of the amendment. Materiality is considered against the development as a whole, not just a part of it. The benchmark for forming the judgement on materiality is always the original planning permission.
- 3.3. The change to the approved roofing tile is not considered to result in a significant change to the appearance of the development, or to raise any new issues. Therefore it is considered that this proposed amendment would not constitute a material change to the permission. It is considered that the proposed tile is appropriate for the development and is compatible with the surrounding development.

### **4. RECOMMENDATION**

- 4.1 The change to the approved roofing tile on Site B does not materially alter the appearance of the approved scheme, or raise any new issues that have not previously been considered, and so can be accepted as a non-material amendment under Section 96A of the Town and Country Planning Act 1990 (as amended).

CASE OFFICER: Shona King

TEL: 01295 221643

# 17/01829/F

27 Goodrington Close  
Banbury  
OX16 0DB



27

32



# 17/01829/F

## 27 Goodrington Close

### Banbury OX16 0DB



Chalkwell  
(Hostel)

EI Sub Sta

98.1m

ED & Ward Bdy

GOODRINGTON CLOSE

REID CLOSE

TOWNSEND



**Applicant:** Mr Masud Raja

**Proposal:** Rear extension to provide bedroom and level access shower room

**Ward:** Banbury Ruscote

**Councillors:** Cllr Barry Richards  
Cllr Sean Woodcock  
Cllr Mark Cherry

**Reason for Referral:** The Local Authority is the applicant

**Expiry Date:** 2 November 2017      **Committee Date:** 23<sup>rd</sup> November

**Recommendation:** Approve

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

- 1.1. This application relates to a two storey, semi-detached dwelling within a residential cul-de-sac of similar properties. The existing property is finished in buff brick and concrete roof tiles. The property is south west facing and fronts on to a communal area of open space. The site, within Banbury, is bounded on the remaining three boundaries by residential properties. The existing dwelling is situated within a plot measuring approximately 190 square metres which is linear in nature. The proposed dwelling has a footprint of approximately 55 square metres. The boundaries to the rear of the boundary are protected by timber close board fencing measuring between 1.5 metres - 2.2 metres in height and sporadic planting.
- 1.2. There is currently a single storey, flat roofed extension to the rear of the property which measures approximately 3.1 metres in height. The extension measures approximately 4.3 metres (length) by 4.75 metres (breadth). There is an ancillary wc measuring 2 metres x 1.8 metres situated on the northern elevation accessed off the main body of the extension which is of a similar height. The existing extension is finished in render/roughcast and upvc and appears in a poor state of repair. This extension will be removed prior to the proposals commencing.
- 1.3. The application building is not listed and the site is not located within a designated conservation area. The property's permitted development rights remain intact and there are no other planning constraints relating to the dwelling or the site which need to be considered in the assessment of this application.

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

- 2.1. The application seeks planning permission for the erection of a rear extension at 27 Goodrington Close, Banbury.
- 2.2. The proposed extension would protrude from the existing rear building line by approximately 6 metres and would measure approximately 4.7 metres in width. The extension would be single storey in height and would have a shallow pitched roof measuring approximately 3.7 metres in height.



- 2.3. The proposed extension would be finished in concrete roof tiles and buff brick to match those of the main dwelling to which it relates. The proposals would have significantly less glazing than the existing extension and would not create any issues such as overlooking or invasion of privacy. The proposed window on the gable end would not create any issues in terms of overlooking due to the properties orientation and existing boundary treatment.
- 2.4. The proposals are of a size and scale that would not detract from the amenity currently afforded to the neighbouring properties in terms of loss of sunlight, daylight or overshadowing.
- 2.5. The application is to provide bedroom and level access shower room. An occupational therapist has assessed the need for the proposals and has confirmed that the development falls under a medium priority.

### **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>
15/01600/HPA	Single storey rear extension - length 5.95m, overall height 2.8m height to eaves 2.6m	Prior Approval Not Required

### **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, 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 06.10.2017, although comments received after this date and before finalising this report have also been taken into account.
- 5.2. No comments have been raised by third parties regarding this application.

### **6. RESPONSE TO CONSULTATION**

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

#### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 6.2. **Banbury Town Centre:** No objections received relating to this application

#### STATUTORY CONSULTEES

- 6.3. **OCC Highways:** No objections received relating to this application

#### NON-STATUTORY CONSULTEES

- 6.4. N/A

## 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) - National Planning Policy Framework sets out the Government’s planning policies for England and how these are expected to be applied.
- Planning Practice Guidance (PPG) - This sets out regularly updated guidance from central Government to provide assistance in interpreting national planning policy and relevant legislation

## 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
- Residential amenity
- Highway safety and parking;

8.2. Paragraph 56 of the NPPF makes clear that: *the Government attaches great importance to the design of the built environment.* This is reflected in Policy ESD15 of the CLP 2031 Part 1, which states that new development proposals should: *be designed to improve the quality and appearance of an area and the way it functions...contribute positively to an area’s character and identity by creating or reinforcing local distinctiveness...(and) respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings.*

8.3. Saved Policies C28 and C30 of the CLP 1996 reinforce this, with Policy C30(ii) stating: *that any proposal 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 proposed extension would represent a sizable addition to the existing dwelling but its design is considered appropriate and compatible with the scale of the existing

dwelling. Design guidance suggests that extensions are required to be subservient to the existing dwelling, usually by means of a reduction in ridge height. In this instance subservience has been achieved due to the shallowness of the ridge, which does not compete with the existing eaves or ridge. The materials proposed are considered acceptable and are consistent with those used to construct the existing dwelling (buff brick and dark concrete roof tiles). The extension does not break the existing side elevation building lines and will not be visible from the road.

- 8.5. Overall, the proposed extension is considered not to cause harm to visual amenity of the locality or character and appearance of the existing dwelling. The proposal is therefore considered to comply with Policy C28 of the adopted Cherwell Local Plan 1996 and Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 (Part 1) and Government guidance contained within the National Planning Policy Framework requiring good design.
- 8.6. Paragraph 17 of the NPPF includes, as a core planning principle, a requirement that planning should: *always seek to secure...a good standard of amenity for all existing and future occupants of land and buildings*. This is reflected in Policy ESD15 of the CLP 2031 Part 1, which states that new development proposals should: *consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space*.
- 8.7. The Council's Home Extensions and Alterations Design Guide (2007) provides informal guidance on how the Council will assess proposed extensions to houses, including guidance on assessing the impact on neighbours. This includes assessing whether a proposed extension would extend beyond a line drawn at a 45° angle, as measured horizontally from the mid-point of the nearest habitable room window.
- 8.8. The single storey side extension would not have a detrimental impact on the amenity of the neighbouring dwellings in terms of loss of sunlight, daylight or overshadowing and would have a neutral impact in terms of overlooking or invasion of privacy. Given the size and height of the extension, the existing building lines of the property, existing boundary treatments and positions of windows, the proposed extension is not considered to detract from the amenity of the adjoin or neighbouring properties.
- 8.9. The proposal is therefore considered to comply with saved Policy C30 of the Cherwell Local Plan 1996 and Policy ESD15 of the Cherwell Local Plan 2031 in amenity terms.
- 8.10. The properties in the immediate locale do not have on-plot parking. On street parking is provided and the proposals are not deemed to add unduly to the level of parking and do not raise any issues in terms of parking provision or highway safety.

## **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 proposed development is considered not to cause harm in terms of visual amenity, residential amenity or highway safety and is considered to comply with the policies outlined in Paragraph 7 of this report. The proposal is therefore recommended for approval subject to the conditions below.

## **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 approved plans: SLP.01; and P.01.

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.

CASE OFFICER: Gavin Forrest

TEL: 01295 221599

## Cherwell District Council

### Planning Committee

23 November 2017

#### Appeals Progress Report

#### Report of Head of Development Management

This report is public

#### Purpose of report

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

#### 1.0 Recommendations

The meeting is recommended:

- 1.1 To accept the position statement.

#### 2.0 Report Details

##### New Appeals

- 2.1 **17/00133/F – Rockery Barn, 66 Lower End, Piddington, OX25 1QD.** Appeal by Dr and Mrs Brener against the refusal of planning permission for the erection of building to provide an indoor manege.

**17/00195/F - Former Agricultural Building Adj To OS Parcel 4108, Blackbull Lane, Fencott.** Appeal by Welland Design and Build Ltd against the refusal of planning permission for the conversion of agricultural buildings to single storey dwelling.

**17/00713/F + 17/00714/LB – Bristow House, Broad Gap, Bodicote, OX15 4DD.** Appeal by Mr Alexander against the non-determination of planning and listed building consent for Replacement of existing garden room with the erection of an oak framed garden room to rear elevation and reconfiguration of existing rear extension adjacent to replacement garden room.

**17/00778/OUT – Land Adj to Manor Farm Barns, Spring Lane, Cropredy.** Appeal by Catesby Estates Ltd against the refusal of outline planning permission for

the demolition of existing building and outline planning application for residential development for up to 37 dwellings (use class C3) including means of access into the site (not internal roads) and associated works, will all other matters (relating to appearance, landscaping, scale and layout) reserved (resubmission of 16/01468/OUT).

**17/00902/F – 5 Timms Road, Banbury, OX16 9DJ.** Appeal by Mrs Copeland against the refusal of planning permission for first floor extension above existing extension to create two further bedrooms.

**17/01469/F – 17 Somerville Drive, Bicester, OX26 4TU.** Appeal by Mr Tagliaferro against the refusal of planning permission for an extension to form a new dwelling.

2.2 Forthcoming Public Inquiries and Hearings between 23 November 2017 and 14 December 2017

**Planning Hearing commencing Wednesday 29 November 2017 at 10am, River Cherwell Meeting Room, Cherwell District Council, Bodicote House, White Post Road, Bodicote, OX15 4AA.** Appeal by Midcounties Cooperative Society And Cantay Estates Ltd against the refusal of planning permission for the erection of new buildings off Sterling Road approach to contain 46 x 2 bedroom flats, conversion of offices above existing retail store to form 8 x 2 bedroom flats, and alterations to existing retail store. Construction of new accesses, car parking, service and turning areas and landscaping. Co-Op, 26 High Street, Kidlington, OX5 2DH. 15/01872/F.

**Planning Hearing, following postponement, commencing Tuesday 5 December 2017 at 10am Sor Brook Meeting Room, Cherwell District Council, Bodicote House, White Post Road, Bodicote, OX15 4AA.** Appeal by Daejan Enterprises Limited against the refusal of prior approval for the change of use from B1 (office) to C3 (dwelling) to provide 9 residential units. 30 Crouch Street, Banbury, OX16 9PR.

## 2.3 Results

Inspectors appointed by the Secretary of State have:

**1) Allowed the appeal by Mr & Mrs Besterman against the refusal of planning permission for the demolition of an existing dwelling and a range of large scale equestrian buildings and the erection of a replacement dwelling including associated works and landscaping ((revised scheme of 15/01693/F). Muddle Barn Farm, Colony Road, Sibford Gower, OX15 5RY. 16/01563/F (Committee).**

This application was refused by Planning Committee contrary to officer recommendation. The application related to the demolition of an existing dwelling and a range of equestrian buildings and the erection of a replacement dwelling plus associated works.

The main issue was the proposal's effect on the character and appearance of the area.

The Inspector noted that the new dwelling would be 'considerably larger' than the one to be demolished, even when comparing with the existing dwelling with permitted development (PD) rights applied and the proposed dwelling with PD rights taken away. Although not drawn on whether the proposal was a replacement dwelling or a new dwelling in the countryside, the Inspector noted that the proposed dwelling would be located in a different part of the site to the existing dwelling.

The Inspector found some conflict with saved Policies H17 and H18 of the CLP 1996, but also held that the proposal would yield 'notable improvement' in architectural design over the existing dwelling, and that its orientation to follow the existing field pattern and its proposed materials palette would ensure it would be sensitive to the characteristics of the local area. The Inspector concluded that these factors outweighed the 'limited policy conflict'.

In terms of landscape impact, the Inspector agreed with the findings of the appellant's Landscape and Visual Impact Assessment and concluded that, while the proposed dwelling would have some impact on the landscape principally because it would be large and more noticeable than the existing dwelling, it would cause 'minimal harm' in this regard.

In allowing the appeal, with the exception of a requirement for alternative dormer design, the Inspector imposed all the conditions recommended by the Council, including a condition to remove PD rights, which the Inspector held to be reasonable and necessary because of the size of the dwelling, and a condition to require demolition of the existing dwelling.

**2) Allowed the appeal and quashed the enforcement notice against the notice served on Ms Robinson-Smith for the erection of an external coursed stone hearth with a stone chimney, grey brick flaunching and clay chimney pot to match existing building. The Lion, Main Street, Wendlebury, OX25 2PW. 16/00132/EUNDEV (Delegated).**

The appeal related to the refusal of a retrospective planning application for the erection of a hearth and external chimney at the Grade II Listed The Lion Public House, and issuing of an enforcement notice for the breach of planning control that had taken place.

The Inspector identified the main issue as whether the external hearth and chimney harms the significance of the listed building.

The Council had argued that the chimney is large and somewhat obtrusive and is a feature not typical of an 18th century coaching inn, distinctly modern and bulky, disrupting the original form and dominating the original elevation. The Council accepts that the building has already been considerably altered. The Inspector considered therefore that the appeal needs to be assessed in the context of these alterations to the building. The Inspector notes the hearth and chimney have been attached to part of the building that has been re-roofed and extended, and the structure has not obscured historic features and could be removed without harm to the building. Also noted are the use of materials, with the stone considered to match the adjacent wall and brick detailing visibly similar to the chimneys on the front range. Having particular regard to the considerable

alterations to the rear, the Inspector finds that the external hearth changes, but does not harm the character of the listed building, and the effect is neutral. In comparison however to the bulky flues in the adjacent roof of the kitchen, the structure is innocuous; and as such there was no conflict with Policy C18 of the CLP1996 and was therefore acceptable in this regard.

The planning appeal was therefore allowed and the enforcement notice was quashed.

**3) Dismissed the appeal by Mr and Mrs Sadler against the refusal of planning permission for the demolition of existing garage and erection of two storey side extension (resubmission of 16/01225/F). 11 Graham Road, Bicester, OX26 2DU. 16/02635/F (Delegated).**

The appeal sought approval for the demolition of an existing garage and the erection of a two storey side extension, at an end of terrace residential property within Bicester.

The main issue identified was the effect of the proposal on the character and appearance of the streetscene.

The Inspector considered that a two storey development sited as proposed would be unduly intrusive in the streetscene, particularly in views from the south-east along Barry Avenue looking north-west. The Inspector states that this road junction contributes to the established pattern and rhythm of development in the immediate area. It was emphasised that the upper storey and roof was to intrude in to the openness of the road junction and into the important open area and sightline. However, the Inspector states that a ground floor single storey extension is likely to be substantially screened by the existing boundary fence to the between the appeal site and 45 Barry Avenue.

The Inspector added that although the Local Planning Authority had concerns with the design and lack of fenestration giving the extension a stark and utilitarian appearance, the extension was considered to include sufficient fenestration, articulation and detail to avoid this.

On the basis of the above, it was concluded that given the identified harm to the character and appearance of the streetscene, the appeal should be dismissed as it would run contrary to Policy ESD15 of the CLP 2031 and saved Policies C28 and C30 of the CLP 1996.

**4) Dismissed the appeal by Mr Freeman against the refusal of prior approval for the conversion of agricultural building into a dwellinghouse (class C3). Hovel Meadow Barn, Clump Lane, Horley. 16/02491/Q56 (Delegated).**

The application sought prior approval for the change of use of a modern agricultural barn into one dwellinghouse (Class C3).

An important factor in this case was the previous prior notification application which was refused (reference 16/01114/Q56) on the grounds that, the curtilage exceeded that of the existing barn, insufficient information had been provided,



and that substantial construction of structural elements were proposed that were not 'reasonably necessary'.

Following the issue of this decision, the appellant undertook a number of works to the building (which were identified in the structural report for 16/01114/Q56), although the appellant maintained that these works fell under the original permission for the building (00/01007/AGD) and would nevertheless be *de minimus* (not development). However, the Council considered these to form part of structural works that were required to facilitate the change of use and therefore the proposal would not be classed as permitted development (given that they had been carried out since 2013).

The Inspector considered that, *"given the works to the building were those approved under Class A (a) or Class B (b) of Part 6 of Schedule 2 of the GPDO, and that they were undertaken after 20 March 2013, the conversion of the barn into a dwellinghouse is not permitted development under Class Q"*. Furthermore, the Inspector did *"not consider that foundations are de minimus as suggested by the appellant... They are a fundamental part of a building's construction and comprise building operations as set out in Section 55 of the Town and Country Planning Act 1990 (as amended)"*.

The Council further considered that the modern agricultural barn was not suitable for conversion, given the substantial alterations that would be required to reasonably convert the building. The Inspector agreed adding, *"whilst in good condition, the purpose of the barn was principally to enclose space for storage of hay bales and farm machinery, rather than to support the more considerable loading that would be likely to arise from the residential use proposed. Whilst noting the appellant's assertions that the inner roof is a type of suspended ceiling and that the building is capable of accommodating the additional loads associated with conversion, I am not convinced given the span of the building that new structural works would not be required to accommodate the additional loading that would result from the inner roof when taken with the other features proposed to facilitate the residential conversion. As such, and mindful of paragraph W (3) (b) of Schedule 2, Part 3 of the GPDO, I am not satisfied on the basis of the evidence before me, that the proposed conversion would comply with paragraph Q.1 (i) of the GPDO"*.

The Council's third reason for refusal related to the curtilage of the existing barn. The Council considered the proposed curtilage exceeded the land area occupied by the agricultural building, that the line shown on the plan was an arbitrary line drawn to satisfy the condition and that it did not relate to the existing site or any of its existing boundary features. However, the Inspector disagreed and advised that this issue could have been dealt with by way of a condition.

In conclusion, the Inspector agreed with the first two reasons for refusal (eligibility for prior approval and structural works) and dismissed the appeal.

- 5) Allowed the appeal by Mr Nowakowski against the refusal of planning permission for the development of 2 No. dwellings and change of use of 97 Green Road to 2 No. flats – re-submission of 16/00543/F. Greenheys, 97 Green Road, Kidlington, OX5 2HA. 17/00090/F (Delegated).**

The appeal related to the refusal of two dwellings and the change of use of 97 Green Road to two flats.

The Inspector identified the main issues to be the effect of the proposal on the character and appearance of the area including the Kidlington High Street Conservation Area (KHSCA), and on the setting of the locally listed building (No.97).

The Inspector noted that the proposed two dwellings would be positioned deep into the site and that there are no other examples of 'backland' housing in the area, and therefore that the layout of the development would depart from the character of the area. However, the Inspector went on to note that views of the buildings from the road would be limited and that the divergences from the layout of the surrounding area would not be conspicuous and the effect would not be harmful.

The Inspector stated that whilst the two proposed dwellings would be bigger than some of the neighbouring houses, there are a number of large houses in the area to which they would compare, and because of their position deep into the site they would stand alone as a distinct development.

The Inspector considered that the garden to the rear of No.97, part of which is proposed to serve an access to the two new dwellings, does not strongly define the edge of the KHSCA and that any urbanising effect would be minimal given the use of natural stone in the driveway and the low level of traffic it would carry. Furthermore, the Inspector stated that the insertion of a domestic driveway would not obscure the significance of this point being the boundary of the original settlement.

The Inspector therefore concluded that the proposed houses would not harm the character and appearance of the area and would preserve the character and appearance of the KHSCA.

In relation to the locally listed building, the Inspector stated that much of the rear garden of No. 97 would be lost as a result of the proposal, but that this garden adds little to the character of the area and it does not contribute greatly to the significance of the locally listed building. The Inspector went on to note that, although No. 97 would be somewhat sandwiched between two driveways as a result of the proposal, this is balanced by the increased presence of the rear of this building in the street scene. Thus, the Inspector concluded that the setting of the locally listed building would be preserved.

Thus, the Inspector therefore concluded that the appeal should be allowed subject to conditions.

- 6) Dismissed the appeal by Mr Ng against the refusal of planning and listed building permission for extensions to Shipton Manor House and associated outbuildings, conversion of outbuildings to wine store and pedestrian link, creation of new driveway from existing access and alteration to existing access, removal of existing internal tarmac roads. Shipton Manor, Shipton On Cherwell, OX5 1JL. 17/00356/F + 17/00357/LB (Delegated).**

This appeal related to refusal of planning permission and listed building consent for a garage extension, conversion of the outbuildings, a creation of a new driveway and the removal of existing internal tarmac roads at Shipton Manor. The building is Grade II listed.

The Inspector considered that the main issues were:

- Whether the proposal amounts to inappropriate development in the Green Belt
- The effects of the proposal on the listed building and its setting
- Whether there are any other matters which are capable of outweighing the harm to the Green Belt and other harm.

In the officer's report, the Council considered that the authorised use of the land on which the garage extension would be located was agricultural land, not residential. The Inspector concluded the land benefitted from residential use as it was included in the red line for the application to change the use of the site to residential use in 1996 (95/01993/F relates). The Inspector found that the proposal would not constitute a change of use of agricultural land.

The proposal would have represented a 48% increase in floor area when compared to the original building as it stood in 1948. The appellants were of the opinion that additions of 50% or greater were disproportionate. The garage extension was partially subterranean, however the Inspector was of the opinion that the proposal would have appeared large in itself and due to its separation from the main body of the house it would have appeared as an isolated entity rather than a well-integrated addition. The Inspector considered that the proposal would constitute inappropriate development in the Green Belt, which is harmful by definition.

The appellant made reference to a previous planning permission for an extension to the property which was approved in 1990 under CHS.LB.591/90, though this permission was not implemented and has since lapsed. This extension had a greater floor area than the appeal development. The Inspector considered that due to the time scale involved, the changes to policies both national and local and the fact that that planning permission had long since lapsed mean that this consent could only be afforded limited weight.

Turning to the garage extension's impact on the listed building, the Inspector considered that the large openings of the garage and the flat-roof design would appear as a cumbersome addition which would cause harm to the setting of the listed building. The garage extension would have been located on an open green space and the Inspector considered that this area contributed positively to the setting of the listed building. The erosion of this space with a building of such large proportions and an incongruous appearance would cause harm to the setting of the listed building.

The extensions also included a link between the existing outbuildings and main dwelling. The Inspector considered that although the buildings would be linked, the strong visual differences between the buildings would remain and there would be no confusion in relation to the status of the two buildings and for this

reason found that this element would not cause harm to the significance of the listed building.

A driveway was proposed to link an existing access to the main road through Shipton-on-Cherwell. At the hearing, the appellant's stated that this element could be undertaken as permitted development. However, as no certificate of lawfulness application had been made to the Council and as it formed part of the proposals for the appeal scheme, the Inspector decided to determine it. The Inspector concluded that the driveway would erode the open and semi-rural character of the site due to its length and form and that this would cause harm to the significance of the listed building.

The Inspector considered that as there were no considerations or very special circumstances sufficient to outweigh the identified harm and that the appeal should be dismissed.

**7) Dismissed the appeal by Mr White against the refusal of planning permission for a two storey side extension. 32 Orchard Way, Bicester, OX26 2EJ. 17/00397/F (Delegated).**

The appeal sought approval for the demolition of an existing detached garage and the erection of a two storey side extension, on a semi-detached residential property within Bicester. The building had already been extended to the side.

The main issues identified were; the effect of the proposal on the character and appearance of the area, and also the effect on the living conditions in terms of outlook for the neighbouring residents.

Importantly the Inspector noted that although the current dwelling sits on a generous plot, which could physically accommodate the development, the proposal would still cause harm to the character of the area. The Inspector found that the proposal would have a negative impact on the streetscene, which they regarded was characterised by a pattern of semi-detached properties of a similar style, that it would *'not appear subservient to the host dwelling'* and that *'the proposal would create a terracing effect, unbalancing the host building'*.

The Inspector considered the effect on the living conditions of the neighbouring property to be centred around the outlook from the *'overall scale and mass of the proposal'* which would *'result in the development appearing overbearing for the occupants'*.

On the basis of the above it was concluded that the appeal should be dismissed as it would run contrary to Policy ESD15 of the CLP 2031 and saved Policies C28 and C30 of the CLP 1996.

**8) Allowed the appeal by Mrs Chennels against the refusal of retrospective planning permission for the erection of replacement conservatory. 1 The Cottage, Blackthorn Hill, Blackthorn, OX25 1TJ. 17/00449/F (Delegated).**

The appeal sought approval for a retrospective erection of a replacement conservatory in front of the principal elevation of a dwellinghouse.

The main issues identified by the Inspector were; the effect of the development on the character and appearance of the surrounding area, and whether or not the conservatory preserves the significance of the host building which was identified as a non-designated heritage asset (NDHA).

Whilst the Inspector conceded the dwelling was a '*fairly attractive building*' he observed that the semi-attached neighbouring dwelling had been altered in form and, unlike the stone appeal property, had also been rendered. The Inspector therefore gave limited weight to the host building's significance as an NDHA.

The Inspector also found that the impact of the conservatory was not too damaging to the principal elevation of the dwelling, citing '*its glazed nature*' and how white uPVC was already present on the existing windows. He went on to conclude that a boundary fence and set back from the road screened the dwelling and the extension from the wider area.

On the basis of this assessment the appeal was allowed.

**9) Part dismissed and part allowed the appeal by Mrs Sheharyar against the refusal of planning permission for a two storey side extension (dismissed) and extension of outbuilding (allowed). 42 Devon Way, Banbury, OX16 1UJ. 17/00579/F (Delegated).**

The appeal proposal was for a two storey side extension and a modest addition to an outbuilding at the front of the property.

The main issues raised by the Inspector are the character and appearance of the area and the living conditions of neighbours with regards to outlook.

The Inspector observed that the dwelling is in a prominent location and the current arrangement with its neighbours creates a sense of openness within the street scene. The proposed two storey side extension was considered to create an extension of substantial scale and mass which would be out of proportion with the existing dwelling and would appear incongruous and out of character in its setting.

Turning to the impact on the neighbouring residents, the Inspector noted that the siting of the two storey side extension would result in a diminutive gap between the host dwelling and 40 Devon Way and that the scale and height of the proposed extension combined with its siting would have an imposing and overbearing impact on these neighbours.

Based on the assessment above, the Inspector dismissed the appeal insofar as it related to the two storey side extension but allowed the appeal in respect of the extension of the appellant's outbuilding.

### **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, Interim Legal Services Manager – 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, Interim Legal Services Manager – 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

Councillor Colin Clark

## Document Information

Appendix No	Title
None	
Background Papers	
None	
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# Agenda Item 21

By virtue of paragraph(s) 5 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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