

Committee: Planning Committee
Date: Thursday 15 February 2018
Time: 4.00 pm
Venue: Bodicote House, Bodicote, Banbury, OX15 4AA

Membership

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

Substitutes

Councillor Ken Atack	Councillor Hannah Banfield
Councillor Maurice Billington	Councillor Hugo Brown
Councillor Nick Cotter	Councillor John Donaldson
Councillor Timothy Hallchurch MBE	Councillor Jolanta Lis
Councillor Nicholas Turner	Councillor Bryn Williams
Councillor Barry Wood	Councillor Sean Woodcock

AGENDA

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

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

3. **Requests to Address the Meeting**

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

4. **Urgent Business**

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

5. **Minutes** (Pages 1 - 5)

To confirm as a correct record the Minutes of the meeting of the Committee held on 18 January 2018.

6. **Chairman's Announcements**

To receive communications from the Chairman.

Planning Applications

- | | | |
|-----|---|---------------------|
| 7. | New Banbury Museum, Spiceball Park Road, Banbury, OX16 2PQ
(Pages 8 - 22) | 17/01824/OUT |
| 8. | OS Parcel 9635 North East Of HM Bullingdon Prison, Widnell Lane, Piddington
(Pages 23 - 54) | 17/01962/F |
| 9. | The Old Malthouse, St Johns Road, Banbury (Pages 55 - 73) | 17/02167/F |
| 10. | The Old Malthouse, St Johns Road, Banbury (Pages 74 - 86) | 17/02168/LB |
| 11. | Chesterton Community Centre, 2 Geminus Road, Chesterton, Bicester, OX26 1BJ (Pages 87 - 98) | 17/02333/F |

Review and Monitoring Reports

12. **Appeals Progress Report** (Pages 99 - 104)

Report of Interim Director of Planning and Regeneration

Summary

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

Recommendations

The meeting is recommended:

- 1.1 To accept the position statement.

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

Information about this Agenda

Apologies for Absence

Apologies for absence should be notified to democracy@cherwellandsouthnorthants.gov.uk or 01295 227956 prior to the start of the meeting.

Declarations of Interest

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

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

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

Evacuation Procedure

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

Access to Meetings

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

Mobile Phones

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

Queries Regarding this Agenda

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

Yvonne Rees
Chief Executive

Published on Wednesday 7 February 2018

Cherwell District Council

Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 18 January 2018 at 4.00 pm

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

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

Apologies for absence: Councillor Simon Holland

Officers: Paul Seckington, Senior Manager Development Management
Bob Duxbury, Joint Majors Manager
Matt Chadwick, Planning Officer
Caroline Ford, Principal Planning Officer
Nigel Bell, Interim Legal Services Manager / Deputy Monitoring Officer
Aaron Hetherington, Democratic and Elections Officer

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Declarations of Interest

7. Dcs Group, Rear Pt Lxb Rp No 26, Oceans House, Noral Way, Banbury, OX16 2AA.

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

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

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

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

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

8. New Banbury Museum, Spiceball Park Road, Banbury, OX16 2PQ.

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

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

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

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

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

9. Eco Business Centre, Charlotte Avenue, Bicester, OX27 8BL.

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

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

10. Appeals Progress Report.

Councillor James Macnamara, Declaration, as a member of the Glebe Committee, Bishops Council and would stay in the chamber but would not take part in the debate.

150 **Requests to Address the Meeting**

There were no requests to address the Committee.

151 **Urgent Business**

There were no items of urgent business.

152 **Minutes**

The Minutes of the meeting held on 14 December 2017 were agreed as a correct record and signed by the Chairman.

153 **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.

154 **Dcs Group, Rear Pt Lxb Rp No 26, Oceans House, Noral Way, Banbury, OX16 2AA**

The Committee considered application 17/02269/F for the erection of an ancillary warehouse to rear of existing warehouse at Dcs Group, Rear Pt Lxb Rp No 26, Oceans House, Noral Way, Banbury, OX16 2AA for DCS Group UK Ltd.

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

Resolved

That application 17/02269/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: 1988/501, 1988/503, 1988/504A, 1988/505 and 1988/506.

3. Prior to the first occupation of the development hereby approved, the sewage disposal/drainage works to serve it (as shown on drawing no. 1988/504A) shall be completed and operational and the development connected thereto.
4. All buildings hereby approved shall be constructed to achieve at least a BREEAM 'Very Good' rating based on the relevant BREEAM standard for that building type applicable at the time of the decision.

155 **New Banbury Museum, Spiceball Park Road, Banbury, OX16 2PQ**

The Committee considered application 17/01824/OUT for an extension to the existing museum at New Banbury Museum, Spiceball Park Road, Banbury, OX16 2PQ for Banbury Museum Trust.

Councillor Clarke proposed that consideration of application 17/01824/OUT be deferred to allow comments to be received from Oxfordshire County Council. Councillor Beere seconded the proposal.

Resolved

That consideration of application 17/01824/OUT be deferred to allow comments to be received from Oxfordshire County Council.

156 **Eco Business Centre, Charlotte Avenue, Bicester, OX27 8BL**

The Committee considered application 17/00575/DISC for the discharge of condition 10 (details of parking) of 17/00573/CDC at Eco Business Centre, Charlotte Avenue, Bicester, OX27 8BL for Cherwell District Council.

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

Resolved

That the details submitted pursuant to Planning Condition 10 be cleared in accordance with the following:

Condition 10:

Approval is given for the details of the parking and manoeuvring areas as shown on drawing number 456/100 Rev C (Landscape Plan) and the following plans previously approved: 456/301 Rev C (Paving Details – except for the description of the buff colour finish, which shall be replaced with 'grey colour finish'), 456/110 Rev C (Kerbs and Edges – GF) and 25408-600 Version 3 (Below Ground Drainage Ground Floor). The pre-commencement requirements of the condition are therefore satisfied.

Appeals Progress Report

The Interim Director for Planning and Regeneration submitted a report which informed Members on applications which had been determined by the Council, where new appeals have been lodged, public Inquiries/hearings scheduled or appeal results achieved.

Resolved

- (1) That the position statement be accepted.

The meeting ended at 4.48 pm

Chairman:

Date:

Agenda Annex

CHERWELL DISTRICT COUNCIL

PLANNING COMMITTEE

15 February 2018

PLANNING APPLICATIONS INDEX

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

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

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

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

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

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

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

Human Rights Implications

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

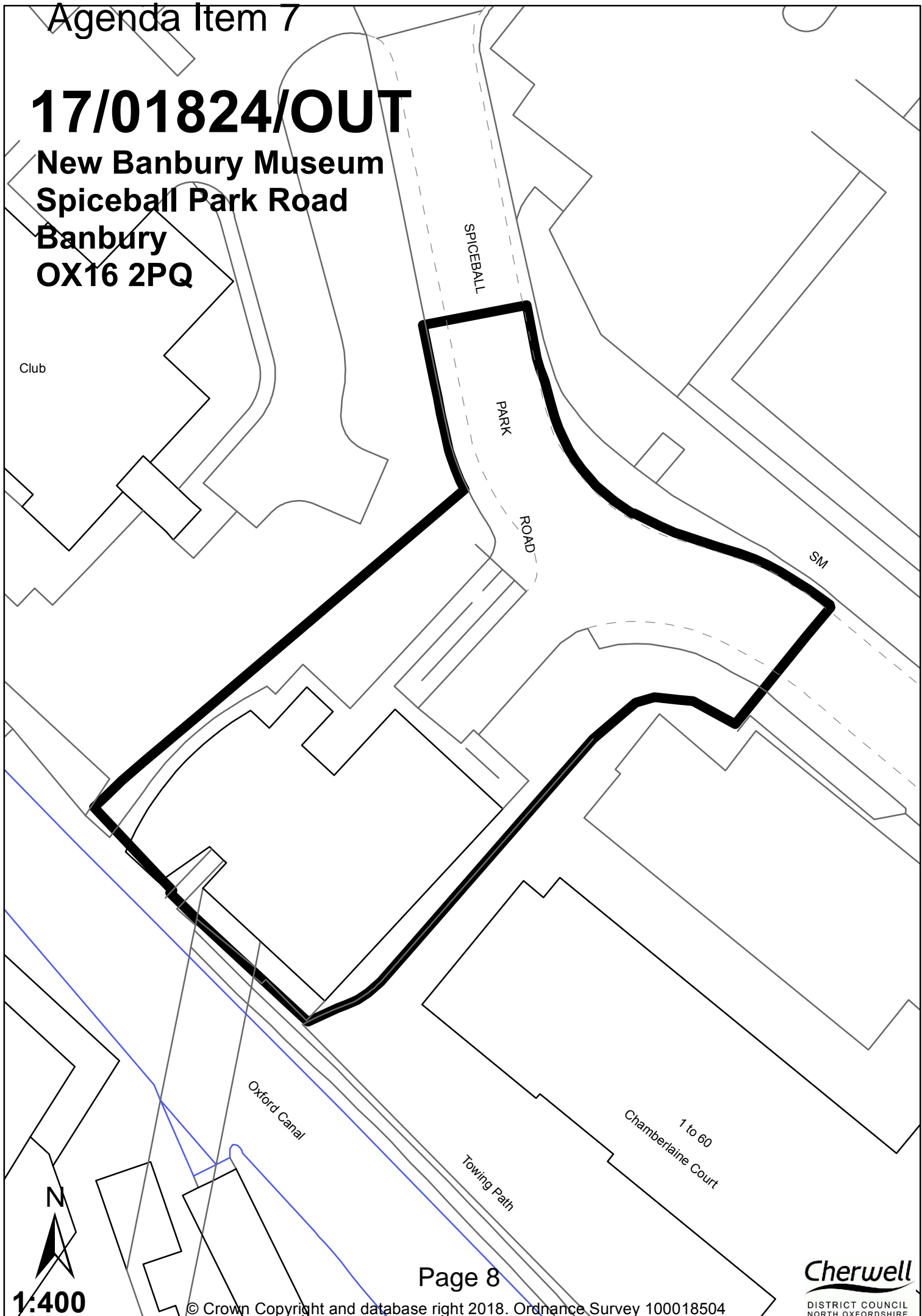
Background Papers

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

	Site	Application No.	Ward	Recommendation	Contact Officer
7	New Banbury Museum Spiceball Park Road Banbury OX16 2PQ	17/01824/OUT	Banbury Cross And Neithrop	Approval	Bob Duxbury
8	OS Parcel 9635 North East Of HM Bullingdon Prison Widnell Lane Piddington	17/01962/F	Launton And Otmoor	Approval	Stuart Howden
9	The Old Malthouse St Johns Road Banbury	17/02167/F	Banbury Cross And Neithrop	Refusal	James Kirkham
10	The Old Malthouse St Johns Road Banbury	17/02168/LB	Banbury Cross And Neithrop	Refusal	James Kirkham
11	Chesterton Community Centre 2 Geminus Road Chesterton Bicester OX26 1BJ	17/02333/F	Fringford And Heyfords	Approval	James Kirkham

17/01824/OUT

New Banbury Museum
Spiceball Park Road
Banbury
OX16 2PQ



Club

SPICEBALL

PARK

ROAD

SM

Oxford Canal

Towing Path

Chamberlaine Court
1 to 60

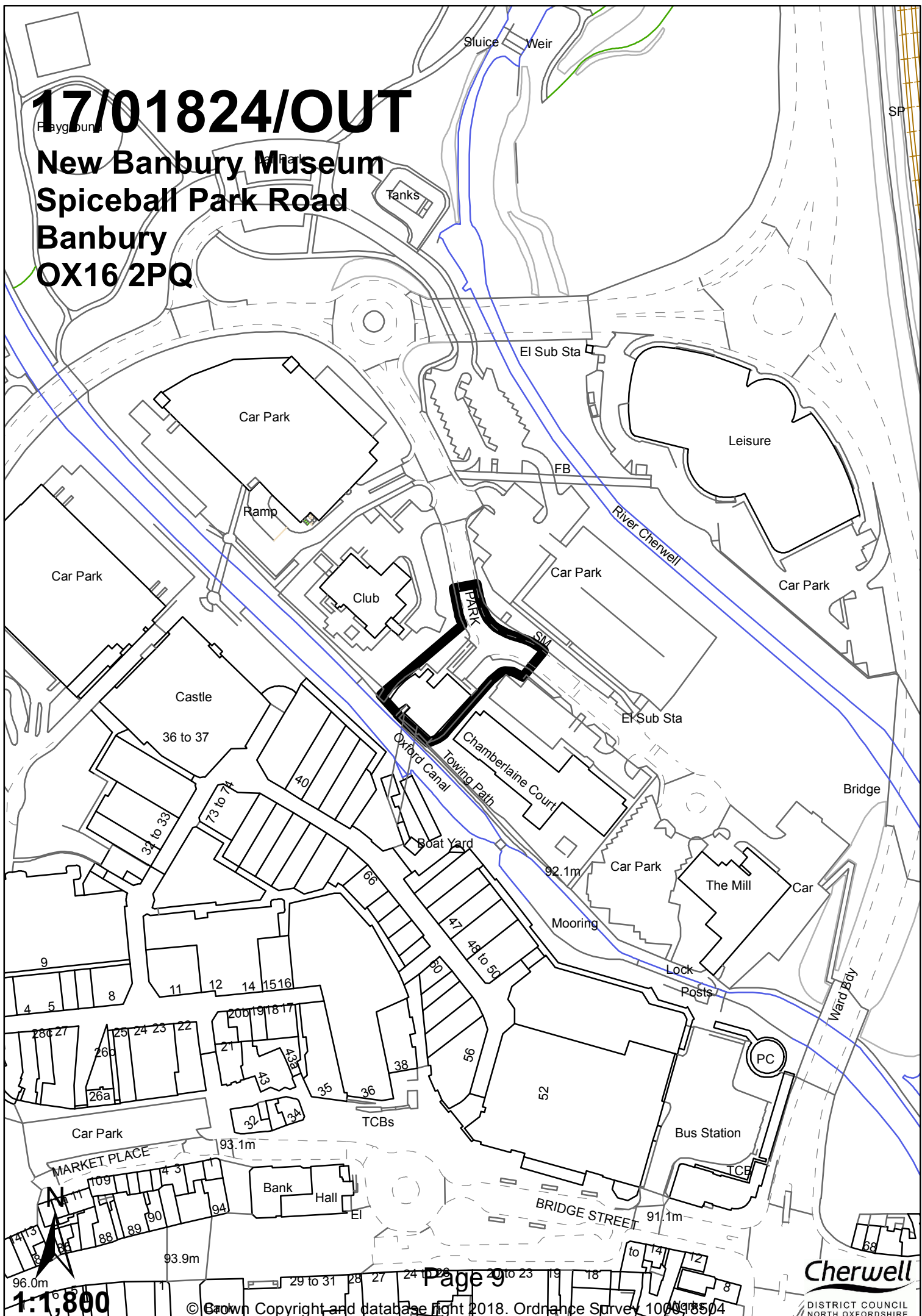


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17/01824/OUT

Playground

New Banbury Museum Spiceball Park Road Banbury OX16 2PQ



**New Banbury Museum
Spiceball Park Road
Banbury
OX16 2PQ**

17/01824/OUT

Applicant: Banbury Museum Trust

Proposal: Extension to the existing museum

Ward: Banbury Cross And Neithrop

Councillors: Cllr Hannah Banfield
Cllr Surinder Dhesi
Cllr Alastair Milne-Home

Reason for Referral: Major application

Expiry Date: 29 December 2017 **Committee Date:** 15 February 2018

Recommendation: Approval

1. APPLICATION SITE AND LOCALITY

- 1.1. This application relates to the existing Banbury Museum building which sits between Spiceball Park Road and the Oxford Canal. The building was completed in 2002 and is constructed of red terracotta tiles, light and dark grey coloured renders and glazing. It is a starkly geometric flat roofed building. It consists of a semi-basement fronting onto the canal, a ground floor connected to the existing Castle Quay shopping centre by an enclosed bridge over the canal, a first floor housing the main permanent gallery and education room and a second floor of staff offices.
- 1.2. To the north-west of the museum lies the General Foods Club which sits on slightly lower land and consists of a mainly 2 storey brick building. On the south-east side of the museum building is located the Chamberlaine Court sheltered housing scheme which is a 3 storey brick building with a tiled roof and containing 60 flats.
- 1.3. The site is within the Spiceball development area but is unaffected by the proposals with the exception of the proposed alterations to Spiceball Park Road which is to have a re-alignment near the existing service entrance from that road.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. The proposal is in outline and proposes creating an additional 2,815 sq. Metres of additional museum space (the existing building has 1,322 sq. Metres of internal floor space). This will allow creation of additional gallery, café, and lecture space and associated office, storage and WC facilities.
- 2.2. The proposed new floor space will be accommodated by extending the existing building into the loading ramp area to the rear (northeast) of the existing building and adding an additional storey on top of the permanent exhibition gallery. The design and access statement explains that the current café, fronting onto the canal will be enlarged, and a basement store will be created by excavating to the

northeast of the café. It is proposed that the ground floor temporary exhibition space is enlarged. A new gallery will be created at first floor level on the northeast of the current permanent gallery space. A new second floor will accommodate a lecture room and multi-use space. Indicative plans and 3D images have been supplied to further explain the extensions proposed and their usage.

- 2.3. Pedestrian access arrangements would remain largely as they are at present, and a revised rear delivery point is proposed for vehicles.

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>
97/00716/F	Construction of Museum and enclosure of existing Tooleys Boat Yard, with connecting enclosed walkway over the Oxford Canal.(Amended Plans received 18.7.97)	Application Permitted
98/02115/F	Construction of museum and partial enclosure of the existing Tooley's Boat Yard with connecting enclosed walkway over the Oxford Canal	Application Permitted
15/01878/TEL	Notification under the Electronic Communications Code Regulations 2003 to utilise permitted development rights.	Information
17/01723/TEL	Installation of cabinets, with a volume not exceeding 2.5m ³ , within the existing telecommunications cabin on the rooftop. Also, the replacement of 4 panel antennas with similar panel antennas mounted on the same support poles as at present. The overall appearance of the site will remain largely unchanged.	Information

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 site notices displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 10.01.2018, 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

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 support this application and look forward to an appropriately designed landmark building along the canal, however the Town Council would like to see any building control concerns addressed

STATUTORY CONSULTEES

- 6.3 **Oxfordshire County Council**, as local highway authority, originally objected to the proposal on the grounds that
- It is not possible to assess the traffic impact because no transport assessment has been provided with the application.
 - Insufficient assessment of parking
 - Inadequate arrangement for deliveries, with potential severe impact on road safety and obstruction of access along Spiceball Park Road.
 - No cycle parking

OCC comment that the Design and Access Statement says '*no formal staff or visitor parking is currently provided and none is planned*'. This is not acceptable. Other developments have been required to demonstrate that there is sufficient parking in the area and this development should also. Insufficient parking could lead to queueing obstructing the road network, and additional circulation of traffic contributing to congestion.

They also comment that the DAS also says 'when the new extension occupies the delivery ramp area, deliveries will be via a vehicle pull in on the reconfigured Spiceball Park Road'. This would potentially be acceptable provided sufficient space is provided for the maximum likely sized delivery vehicle to pull into a bay whilst still allowing two way traffic to pass and for delivery vehicles to turn into the planned supermarket opposite. A contribution would be required to implement any appropriate traffic regulation orders.

OCC consider that without this loading bay, deliveries off Spiceball Park Road would cause an obstruction on a bend, creating a safety hazard. Unfortunately, the ability to provide this loading bay cannot be assumed, because there is not yet any agreement to realign Spiceball Park Road (this would be required as an obligation on the Castle Quay development). There would need to be a condition/obligation preventing the museum development from going ahead until this realignment had been carried out and the loading bay provided. The Transport Assessment for the Castle Quay development showed the widening of the road at this point, leaving a loading bay area outside the museum. However, it also shows that the path of delivery vehicles turning into and out of the supermarket car park requires the full road width and therefore it is imperative that the loading bay is sufficiently wide to accommodate the largest vehicles. We have not seen this demonstrated in connection with the Castle Quay development, and this application needs to demonstrate that a lorry could pull in to the bay and not overhang it.

- 6.4 The applicants have subsequently submitted a transport statement. Further comments have been received from OCC, maintaining their objection. The comments state:

The TS that has been submitted is not sufficient to remove the objection and raise the following comments:

Traffic Impact

The TS says that the proposals do not add to the existing facilities but enhance them. Whether it is 'adding to' or 'enhancing', the proposals are nevertheless for an additional 2815sqm of additional gallery space, enhanced café and lecture space – more than doubling the existing space - which does have the potential to generate additional trips. The Design and Access Statement says that the extension will allow the museum to become an even more significant cultural centre for the region, which does suggest that there is an aspiration to attract more visitors. However, the TS does not attempt to put a figure on the number of additional trips generated.

Some basic information is provided on existing footfall per day, with daily trips to the existing museum generally between 300 and 600 individuals per day, and more in school holidays and Saturdays. Although the TS says that a large proportion will be linked trips, which I accept, no attempt is made to translate the basic footfall information into an existing number of car trips, estimate the number of additional trips, and the proportion of these that are new trips. Without attempting to calculate this myself, I still cannot concur with the assumptions of the TS that the traffic impact will be minimal. It should be for the applicant to provide some estimate of the number of additional trips, and from that I will be able to form a view on the traffic impact.

In terms of conventional transport assessment, doubling the floor area would double the number of trips generated, and the TS needs to provide a convincing explanation of why this won't happen.

Additionally, the TA suggests that there is some evidence that visits are linked with other trips. This evidence should be provided in order to justify the claim for a high proportion of linked trips.

It is accepted that weekday trips are likely to be off-peak. However, the data shows higher footfall on Saturdays, which would coincide with the busiest time on the local network.

Parking

Because the trip generation has not been quantified, it is not possible to confirm that the impact on parking demand will be minimal. Although there are public car parks in the vicinity, the demands on these at peak times will be high and the Castle Quay 2 planning application provided detailed assessments of the adequacy of parking. Insufficient parking could lead to queueing obstructing the road network, and additional circulation of traffic contributing to congestion

Deliveries

The application proposes building on the loading bay. Although I accept that deliveries will be infrequent, when they do arrive, it is likely the lorry will need to be parked for some considerable time. The proposed delivery arrangements will only be possible once Spiceball Park Road is realigned, as part of the future Castle Quay 2 development. It will not be possible for the lorry to park on Spiceball Park Road in its current alignment for reasons of highway safety. In response to my concerns about the access for deliveries, the TA points out that the application is in Outline, with all matters reserved including access. However, this must be considered at

Outline stage because a condition would be required preventing the development from opening before the road is realigned.

Further the red line has not been amended and needs to include the area of works needed to realign Spiceball Park Road, as the realignment is necessary to the development.

Cycle Parking

The TS says that cycle parking can be dealt with as a reserved matter or condition. I would recommend that consideration is given to it at this stage. Although in Outline, there is a reasonable level of detail and given the constraints of the site, some cycle parking should be incorporated within the design, otherwise it will be difficult to fit it in at a later stage.

If notwithstanding this objection the Council is minded to approve the application they seek conditions concerning the servicing arrangements (detailed below), along with for cycle parking, a construction traffic management plan, and a travel plan. They also advise that A section 278 agreement will be necessary for carrying out alterations to Spiceball Park Road

Suggested servicing arrangements condition:

- *No part of the development hereby approved shall be occupied or brought into use before a scheme of highway improvements to realign Spiceball Park Road and to provide a loading bay on Spiceball Park Road (drawing ref: xxxx) has been completed to the satisfaction of the Local Highway Authority [or similar wording].)*

6.5 CDC Officer Comments to above OCC objection:

In response to the above comments from OCC your officers consider that as the museum is located in the town centre car borne visitors to the museum will be able to use existing and proposed town centre public car parks and will probably be making linked trips to other town centre facilities, and therefore the number of additional visitors will not be significant in terms of additional numbers of vehicles on the network or using the car parks.

Members will recall that as part of the consideration of the CQ2 proposal a detailed assessment of the town's car parking was requested and considered (discounting the entirety of the Bolton Road car park that was due for demolition at the time of that assessment). The conclusion at that time was that at that time, and following the completion of the CQ2 development, adequate town centre car parking was and will be available. With no change in circumstances other than the availability of the land at Bolton Road for surface level car parking we consider that those conclusions are still right.

Turning to the issue of deliveries our assessment based on conversations with the museum management is that the servicing of the museum by large vehicles is a rare event (maybe 4 times a year) so the incidence of difficulty for the manoeuvring servicing vehicles to the future adjacent food store will also be infrequent and can be managed by liaison between the two operators. The issue of the red-line can be corrected before any permission is issued.

With regards to conditions, it is considered that proposed condition 6 in the committee report can be amended to deliver the same as the OCC proposed condition in their comments set out above. A construction management plan

condition is agreed to be added. Cycle parking can be applied at reserved matters stage if considered necessary. A travel plan is considered unnecessary for an extension of this scale.

6.6 **Thames Water** comment

Waste Comments

Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

There are public sewers crossing or close to your development. In order to protect public sewers and to ensure that Thames Water can gain access to those sewers for future repair and maintenance, approval should be sought from Thames Water where the erection of a building or an extension to a building or underpinning work would be over the line of, or would come within 3 metres of, a public sewer. Thames Water will usually refuse such approval in respect of the construction of new buildings, but approval may be granted for extensions to existing buildings.

Thames Water would advise that with regard to sewerage infrastructure capacity, we would not have any objection to the above planning application.

Water Comments

On the basis of information provided, Thames Water would advise that with regard to water infrastructure capacity, we would not have any objection to the above planning application.

No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement. Reason: The proposed works will be in close proximity to underground water utility infrastructure. Piling has the potential to impact on local underground water utility infrastructure

NON-STATUTORY CONSULTEES

6.7 **OCC Archaeology** comments that the proposal would not appear to have an invasive impact upon any known archaeological sites or features.

6.8 The Council's **ecological advisers** comment that the proposals are considered to be unlikely to have any adverse impact on protected species or sites as the building appears to be in good condition and of a construction type which would appear to offer little opportunities for roosting bats or bird nesting. However as a precaution, I would recommend that works to the building and any removal of existing scrub vegetation within the site should be timed to avoid the nesting bird season (approx.

March to October) to avoid disturbance to nesting birds. I enclose a note below which I would recommend is attached to any permission granted as guidance to the applicant regarding the protected status of nesting birds.

The application site is located directly adjacent to the Oxford Canal and pollution prevention measures should be followed during construction to protect the water course and included within an appropriate plan such as a Construction Environmental Management Plan (CEMP) appropriate to the site. The existing trees to be retained on the northern boundary of the site should also be retained and protected during construction in line with BS 5837:2012 Trees in relation to design, demolition and construction.

There are no details at this stage regarding biodiversity enhancements within the proposed development however I note that enhancements including bird and bat boxes will be considered (stated in the design and access statement) and I would be happy to provide further advice on this. Suitable boxes for bats and nesting birds (such as swifts) could be integrated high up into the walls of the building and this should be fully considered at any detailed design stage in line with local plan policy ESD 10 and the NPPF. Other habitat enhancements could be included such as SuDs, creation of a green roof or native species planting of shrubs and trees to maximise opportunities for biodiversity enhancement within the development. Any external lighting scheme should also be designed to avoid impacting on foraging/commuting bats and other nocturnal species such as otter which are likely to use the canal.

6.9 CDC Design and Conservation comment that:-

Banbury Museum is located immediately adjacent to the Oxford Canal Conservation Area and the canal runs immediately to the frontage of the building.

The Oxford Canal Conservation Area was designated in October 2012. The conservation area covers the canal through the entire district of Cherwell. The Oxford Canal itself runs from Hawkesbury Junction with the Coventry Canal to the centre of Oxford. The canal was predominantly rural and only passed through two towns – Rugby and Banbury – before reaching Oxford.

The area around the canal through Banbury has altered significantly. The conservation area appraisal outlines the nature of the change *‘The canal used to sneak virtually unnoticed through the middle of Banbury, passing through an almost secretive canalscape with a rather fine collection of canalside, wharfage and warehouse buildings. Many of these were in a poor state by the mid 20th century and the main company warehouse was damaged by the bombing raid in September 1940, which also severely damaged the town’s lock. The warehouse, and the former ‘canal colony’ of houses on Factory Street, were finally demolished at the start of the 1960s to make way for a bus station, and two large warehouses were demolished shortly afterwards.*

The canalside approach to Banbury has been significantly altered over the years and the area has been redeveloped in the late 20th century and includes Castle Quay shopping centre, a car park, pedestrian bridges, museum and sheltered housing. The development in the area has not been particularly sympathetic to the canal.

The forthcoming Banbury Conservation Area Appraisal covers the Oxford Canal in ‘Areas in need of enhancement’. It states *‘The approach to Banbury along the Oxford Canal has the potential to be one of the most picturesque entrees in a town that there could be – apart from it is not. This observation has also been made in a recent television series ‘Great Canal Journeys’. Economic decline since World War*

It, a rapidly expanding residential population in need of housing and a lack of appreciation for the historic buildings of Banbury and the importance of the role played by the town in the history of the nation, have all contributed to the sweeping away of Banbury's built heritage. Thus instead of the canal being lined by fascinating industrial buildings and other buildings of character which provide a window onto Banbury's past - and that could well have been converted to various uses – we are treated to waste land and the back of a 20th century shopping mall which turns its back on the canal. Oxford Canalside is in need of reinvention with a scheme on a human scale which encourages leisure and enjoyment of the historic environment.'

The proposed extension is located to the rear of the existing museum and will not therefore impact on the setting of the canal. It is anticipated that an enhanced offer at the museum could help to enliven the canalside and active consideration should be given to this in any detailed application.

The one aspect of the proposed development which will impact on the setting of the canal is the proposal to add an additional storey to the existing building. The scale and design of this will need to be carefully considered within the context of the approved adjacent development (and if any future changes are required to this approval). The aim should be to provide a positive environment to the canalside and the design and treatment of the rooftop terrace in particular will require detailed consideration.

6.10 The **Canal and River Trust** note that this section of the canal is dominated by the Castle Quay shopping centre and there is little evidence of the area's industrial past. The canal however is a conservation area and the site is opposite Tooley's boatyard which is a Scheduled Ancient Monument. The submission does not appear to have any detailed assessment of the likely impacts on these. They comment that the indicative massing diagrams appear reasonable though detailed assessment will be necessary to enable a full appraisal of the likely impacts to be made. In their view the existing building is not particularly sensitive to the canalside location when viewed from the north, and the proposed development offers an opportunity to improve this. They say that there appears to be very little glass on the revised canal elevation and opportunities to animate this should be considered. Finally, they seek an informative placed upon any decision **noting** the need to work with the CRT on obtaining any necessary consents from them on working alongside a canal.

6.11 **Banbury Civic Society** comment that an extension to the Museum has been a long-awaited ambition for the Museum and town alike, and the Society welcomes it as a positive contribution towards the aspiration in the approved Local Plan for a 'cultural quarter' focused on The Mill.

The Society's initial reaction is that the appearance should not be too 'Brutal', with careful modelling and some fenestration in harmony with the neighbourhood but commensurate with the style of the existing building.

However, the plans included in the initial documentation are fairly indicative, as one would expect at this stage, but that should not discourage further development of the scheme

This proposal could be an opportunity to produce an addition to the town's public building stock which will be a credit to the town. We urge approval in principle and await more details.

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)

- PSD 1: Presumption in favour of sustainable development
- SLE 2: Securing dynamic town centres
- SLE3 : Supporting tourism growth
- SLE 4: Improving transport and connections
- ESD 6 Sustainable Flood Risk Management
- ESD15 - The Character of the Built and Historic Environment
- ESD 16 The Oxford Canal
- Banbury 9 Spiceball Development Area

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C25 – Setting of Scheduled Ancient Monuments etc.
- C28 – Layout, design and external appearance of new development
- C29 – Design of buildings adjacent Oxford Canal
- TR1 – Transportation funding

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Banbury Vision and Masterplan – no specific policies but within development area

8. APPRAISAL

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

- Principle of development
- Heritage impact
- Design and massing, and impact on the existing building
- Residential amenity
- Access and parking
- Flooding
- Ecology

Principle of development

- 8.2. The museum building lies within the Spiceball Park development area to which Policy BAN 9 of the Cherwell Local Plan 2011-2031 applies and is identified in the Banbury Vision and Masterplan. Both documents have assumed that the Museum

will continue in its present location and form. As noted in paragraph 1.3 above the museum building was unaffected by the recent development proposals for CQ 2 , and this proposal similarly does not affect the implementation of the approved schemes with the small exception of the servicing arrangements off Spiceball Park Road which are discussed below.

- 8.3. Policy SLE 3 of the adopted Local Plan seeks to support development in the tourism sector of the economy at the two main towns in the district as this will reinforce their role as places to visit and stay. This proposal is aimed at a quantum change in the size and importance of exhibitions that can be organised and hosted at the museum
- 8.4. Subject to complying with other policies of the Development Plan, such as heritage, access and residential amenity policies

Heritage Impact and impact upon the design of the existing building

- 8.5 The museum sits adjacent to the Oxford Canal Conservation Area and opposite the Tooley's boatyard scheduled ancient monument
- 8.6 Scheduled Ancient Monuments 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.*
- 8.7 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.
- 8.8 The proposed extensions to the building would take place on the rear and above the existing building, which is of very contemporary design. Whilst the mass of the building will be added to it is not considered that it will do so in a way that overdominates the canal or Tooley's boatyard. The extension to the side and rear of the building (ie towards Spiceball Park Road) will be visible across the roof of the GF Club as one approaches from the north on the canal or on either towpath but will not be unduly prominent . The proposed extension on the roof of the existing building will be more obvious when viewed from the opposite side of the canal by the rear access to the existing Castle Quay shopping centre, and will alter the building from it's existing very geometric shape. However this is not necessarily detrimental to the appearance of the building. Overall the proposed extensions, of the size and positioning indicated are not considered to be detrimental to the appearance of the building or to the setting of the canal conservation area or the setting of the scheduled ancient monument..
- 8.9 It should be recalled that this is an outline application, and that although we have illustrative details of the likely form of the extensions there is no commitment to the final form and that a further reserved matters application will be necessary when the final form and elevational detail will need to be assessed and considered.

Impact upon residential amenity

- 8.10 The museum sits alongside Chamberlaine Court, a sheltered housing scheme containing 60 flats. The flats face towards either the canal or Spiceball Park Road. The proposed extensions would retain the blank south-eastern elevation facing towards the block of flats with no additional windows likely. There be no other impact upon the residential amenity of that block. A further opportunity for assessment of this aspect of the design would be undertaken at reserved matters stage when the details of design will have been finalised.

Access and parking

- 8.11 The existing museum does not have it's own dedicated visitor parking as the building almost completely fills its site. The same position will exist after this proposed development if allowed. The County Council as local highway authority considers that this is not an acceptable position as other developments have been required to demonstrate that there is sufficient parking in the area and this development should do also. In their opinion insufficient parking could lead to queueing obstructing the road network, and additional circulation of traffic contributing to congestion. Your officers do not agree with this position (see paragraph 6.5 above). It is difficult to predict the increased customer numbers associated with such an enlargement. This expanded use is a town centre use that visitors to will also, it is to be hoped, make linked trips to other town centre facilities (shops restaurants etc.) and can make use of town centre parking. It would be unreasonable to resist this improved tourist facility on the grounds of lack of parking or expect the applicants to make some form of off-site contribution.
- 8.12 The existing building has a rear service access at right angles to Spiceball Park Road. The proposal is to reconfigure this facility so that it is parallel to the road and formed in a lay-by. It will be seen in paragraphs 6.3-6.4 above that the County Council has raised objections to these proposed service arrangements as they possibly conflict with the movements of HGVs servicing the new supermarket that will be built as part of the CQ2 development. It will be possible to obtain a revised red-line site and impose a condition along the lines of that proposed by OCC.
- 8.13 At the time of writing the Council was awaiting any further reaction of the County Council to the officers intention to recommend the proposal for approval contrary to their objection. An update will be given at Committee.

Drainage and flooding

- 8.14 The site lies within Flood Zones 1 and 2, within a wider area of Flood Zone 3. The proposal is classified as "less vulnerable" in the EA'S standing advice and therefore acceptable. Further comments are awaited from OCC as lead local flood authority.

Ecology

- 8.15 The application site is located directly adjacent to the Oxford Canal and pollution prevention measures should be followed during construction to protect the water course and included within an appropriate plan such as a Construction Environmental Management Plan (CEMP) appropriate to the site.
- 8.16 At detailed design stage there will be opportunities to introduce features which will enhance biodiversity

9. PLANNING BALANCE AND CONCLUSION

- 9.1. This proposal will result in a significantly enlarged museum with extra gallery space. It will allow for the housing of more extensive museum/art gallery exhibitions, including travelling exhibitions. This will be a clear cultural benefit for the town and remainder of the district. Although the plans accompanying the application are illustrative it does demonstrate that such an enlargement can be undertaken without undue harm to the adjacent heritage assets of the Oxford Canal Conservation Area and the Tooley's Boatyard SAM. It is also apparent that the development will not cause harm to the residential amenity of the adjacent sheltered housing flats.
- 9.2. Whilst OCC continue to maintain their objections on parking, cycle provision and servicing your officers believe that the proposals are satisfactory and make little overall impact upon the traffic and parking conditions in the town. It is considered that the servicing issue will occur so infrequently that it would be unreasonable to resist consent on this lone reason.

10. RECOMMENDATION

That permission is granted, subject (i) the amendment of the red-line to allow the imposition of the servicing condition and (ii) to the following conditions

1. Details of the layout, scale, appearance, access and landscaping (hereafter referred to as 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

Reason : To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

2. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason : To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

3. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out in general accordance with the following plans and documents: *(to be confirmed in the written update)*

Reason – For the avoidance of doubt, to ensure that the development is carried out generally as shown in the plans submitted to the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

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

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

5. No development shall take place until details of the servicing arrangements for the museum by goods vehicles from Spiceball Park Road have been submitted to and approved in writing by the Local Planning Authority. The approved servicing arrangements shall thereafter be implemented prior to the first use or occupation of the development hereby permitted.

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

6. No development shall take place until a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect biodiversity, AND do not adversely affect residential properties adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with approved CEMP.

Reason - To ensure the environment is protected during construction in accordance with Policy ENV1 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

7. No development shall take place, including any demolition or works of site clearance, until a method statement for enhancing the biodiversity value of the site has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

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

8. All extensions hereby approved shall be constructed to achieve at least a BREEAM 'Very Good' rating based on the relevant BREEAM standard for that building type applicable at the time of the decision.

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

CASE OFFICER: Bob Duxbury

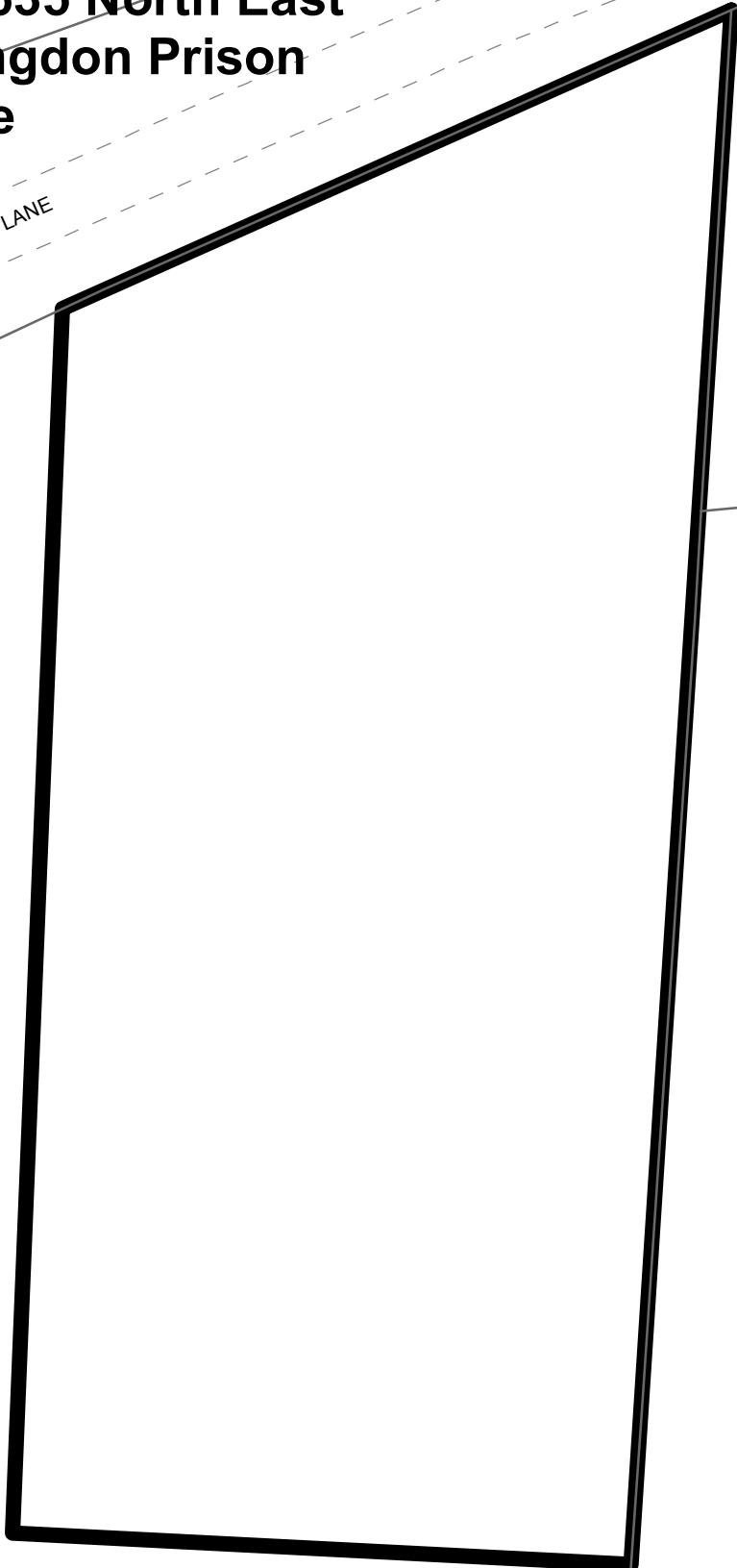
TEL: 01295 221821

Pipelines

17/01962/F

**OS Parcel 9635 North East
Of HM Bullingdon Prison
Widnell Lane
Piddington**

WIDNELL LANE

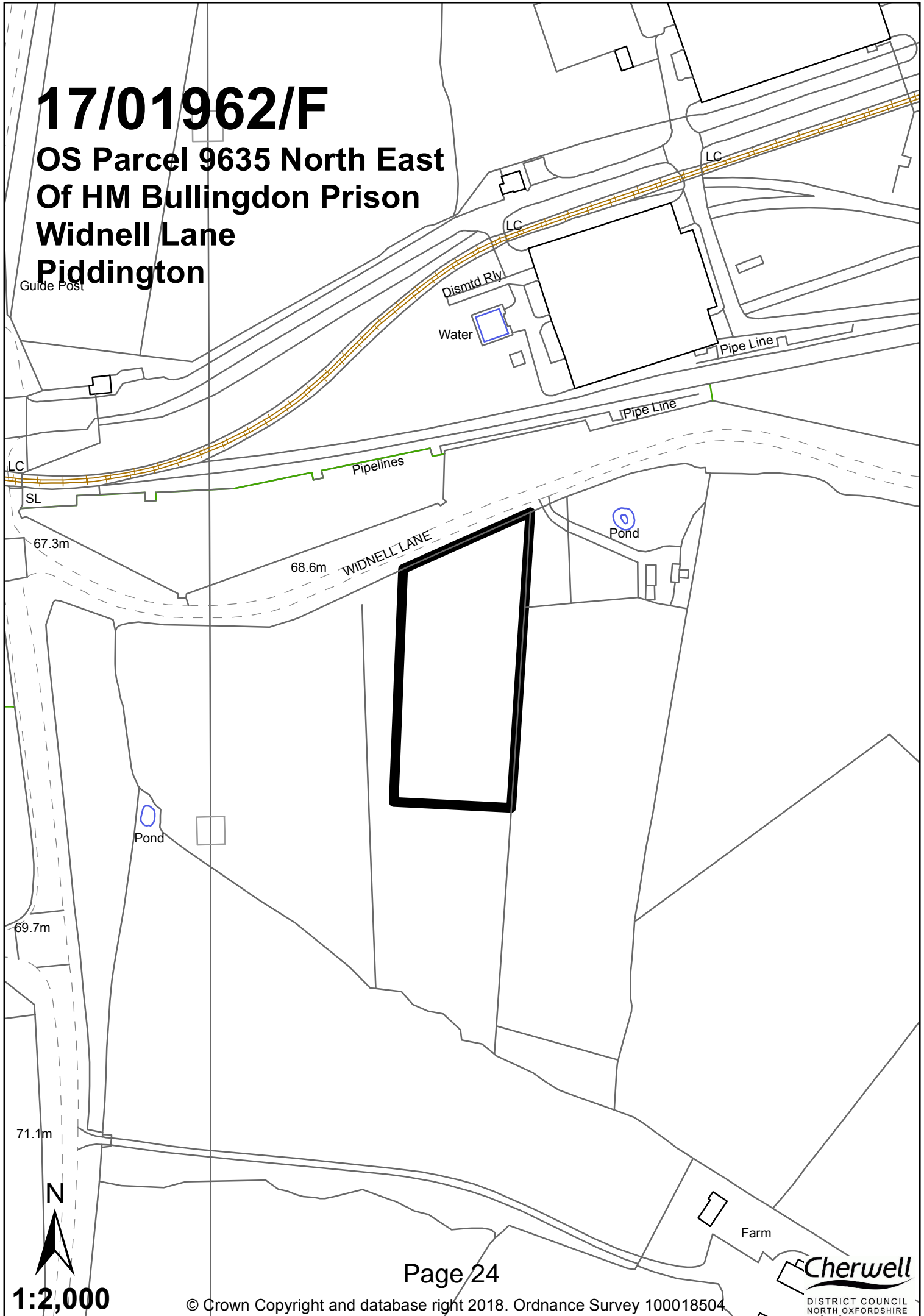


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17/01962/F

OS Parcel 9635 North East
Of HM Bullingdon Prison
Widnell Lane
Piddington

Guide Post



1:2,000

Applicant: Mr H.L Foster

Proposal: Material change of use of land to use as a residential caravan site for 6 gypsy families, each with two caravans, including improvement of access and laying of hardstanding

Ward: Launton And Otmoor

Councillors: Cllr Tim Hallchurch
Cllr Simon Holland
Cllr David Hughes

Reason for Referral: Locally contentious application

Expiry Date: 6 December 2017 **Committee Date:** 15 February 2018

Recommendation: Approval

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located approximately 1KM to the west of the village of Piddington, approximately 1.5km to the east of Upper Arncott and approximately 3km from the village of Ambrosden (as the crow flies). The B4011 lies approximately 150m to the west of the site and to the west of the B4011 lies HM Prison Bullington. The site of the proposed development is part of an agricultural field which is currently laid to grass. The site has an existing vehicular access entering from Widnell Lane on the northern boundary of the site. To either side of the existing access, the site is enclosed on the road side frontage by mature native hedgerow to the northern boundary.
- 1.2. The site is not in close proximity to any listed buildings and is not located within a designated conservation area. The site has some ecological potential due to recordings of protected species within the vicinity of the site, including Great Crested Newts, Brown Hairstreak and Black Hairstreak butterflies. Piddington Training Area District Wildlife Site lies approximately 200m to the south east of the site and there is a pond on land neighbouring site, located approximately 30m away from the eastern boundary, which has an average suitability for Great Crested Newts.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. This application seeks planning permission for the change of use of the land to be used as a gypsy and traveller caravan site comprising 6 pitches, each pitch containing one mobile home and one touring caravan. The proposals include the improvement of the existing site access, which includes the widening of the access to the site to approximately 9m to allow for two way traffic. The proposal also includes construction of a driveway through the site and each pitch can be accessed from the main site driveway. The site access is to be hard surfaced and the

driveways within the site are to be constructed from permeable materials. A play area is proposed in the south western corner of the site.

- 2.2. It is noted in the Design and Access Statement that foul sewerage would be provided for each pitch in the form of individual septic tanks. These systems would receive the waste water and process it discharging clean water into a soak away.

3. RELEVANT PLANNING HISTORY

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

- 17/00145/F - Change of use of land to use as a residential caravan site for 16 gypsy/traveller families, each with two caravans, including improvement of access and laying of hardstanding - REFUSED on 19th May 2017. The site for this previous application included the application site in this current proposal before Members. However, this previous application site was significantly larger than the site in this current application site as it extended to the hedge to the south of the site and the site comprised 1.67 hectare. The site area of the application before Members measures at 0.6 hectare. Furthermore, 6 pitches are proposed in this current application and not 16. This previous application at the site was refused for the following reasons:

- i. *“The proposed development, by reason of its size (comprising 16 pitches), siting in relation to existing services, relationship to existing noise generating uses and potential harm to the natural environment, is not considered to be a suitable or sustainable development when assessed against Policy BSC6 of the Cherwell Local Plan. The harm resulting from the proposed development is significant and is not considered to be outweighed by the identified unmet need for gypsy and traveller pitches within Cherwell. The proposed development is therefore considered to be contrary to Government guidance contained within the NPPF, Policy H of Government guidance in the Planning Policy for Travellers Sites (PPTS) and Policies PSD1, BSC6, ESD10 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.*
- ii. *The planning application has been supported by inadequate information to demonstrate the impact of the proposed development on protected species has been properly understood and the requirement for mitigation to secure a net gain in biodiversity can be met. The proposed development is therefore considered to be contrary to Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained with the NPPF.*
- iii. *The planning application has been supported by inadequate information to demonstrate the impact of existing noise generating uses operating in the immediate area on the future residents of the site has been properly understood and is, or can be made, acceptable. The proposed development is therefore considered to be contrary to paragraphs 17, 120 and 123 of the NPPF, Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy ENV1 of the Cherwell Local Plan 1996.”*

4. PRE-APPLICATION DISCUSSIONS

- 4.1. Prior the submission of the previous planning application at the site and in light of the closure of the Newlands Caravan Site at Bloxham, informal pre-application discussions were held with the applicant (in August and September 2016). The applicant contacted the Local Planning Authority seeking informal advice regarding

the site at Widnell Lane, Piddington. Verbal advice was given to Mr Foster following a meeting held at the site on the 25th August 2016 and following consultation with the Local Highways Authority. Mr Foster was advised verbally that the site was located within 3KM of the village of Arncott, a Category A village, and so would qualify for consideration under Local Plan Policy BSC6, and could be accessed with appropriate visibility splays onto the highway.

5. RESPONSE TO PUBLICITY

5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 12.01.2018, although comments received after this date and before finalising this report have also been taken into account.

5.2. 116 letters of objection have been received during the consultation process from third parties. The comments raised by third parties are summarised as follows:

- Piddington is a Category C village and is not highly sustainable given that there are limited amenities in the village and the bus service is limited;
- The Category A village of Arncott provides limited services and facilities;
- Would be better on a brownfield site;
- Isolated from basic services (e.g. GP surgery and schooling) and reliant on private transport;
- Ambrosden and Arncott have stretched primary schools;
- The site is not suitable for such a development and is contrary to Policy BSC6 of the Cherwell Local Plan Part 1 and Government guidance contained within the PPTS;
- Not much has changed since the previous refusal at the site apart from the scale of the scheme;
- Has consideration been given to other sites in the area?;
- A personal need has not been demonstrated;
- The GTAA has indicated that there is a minimal need for such pitches;
- Reference to ORS data in relation to family growth;
- The applicants would not meet the definition of gypsy and traveller in the PPTS;
- Would cause harm to the rural character and visual appearance of the countryside;
- The development would over-dominate Piddington;
- Light pollution;
- Noise pollution for residents from the MoD site, which can be heard in Piddington;
- Would cause a nuisance and disturbance to the residents of Piddington;
- Odour and nuisance from nearby farm;
- Operation of a generator will be noisy and cause air pollution;
- Impact upon archaeology in the area;
- Highways safety concerns:
 - Increase to traffic on the dangerous country lane with a national speed limit;
 - The local roads do not have pavements or street lighting and therefore this is a danger to proposed residents;
 - The country road the site is accessed from does not have the capability to accommodate these vehicles;
 - The junction on to the B4011 is dangerous;

- No consideration of vehicle parking, turning or storage and collection of waste;
- The extra traffic through Piddington would be dangerous to other road users;
- Would damage the local highway.
- Negative impacts on the enjoyment and tranquillity of Widnell Park and Jubilee Reserve;
- Negative impacts to biodiversity with the loss of field with hardstanding;
- Harm to Great Crested Newts;
- Flooding risk;
- No provision for managing excess surface water;
- Foul drainage concerns – unclear how the septic tanks are to be managed;
- Pollution of water sources;
- Grade 3 agricultural land should be preserved;
- Proximity to MoD site could cause danger;
- Difficult to enforce the number of mobile homes on the site.
- Unavailability of mains water and electricity;
- Overhead pylons and cables would present a risk to health and safety;
- Fire safety concerns;
- The development will not be carried out in accordance with the plans;
- Could cause issues for the nearby prison;
- Would set a precedent for further urbanisation of the rural area;
- It's a business opportunity and the site would not be used by the applicant;
- Anti-social behaviour.

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

6. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

6.2. PIDDINGTON PARISH COUNCIL: **Objects** to the application and make the following comments:

- The site is not suitable for such a development and is contrary to Policy BSC6 of the Cherwell Local Plan Part 1;
- The site is highly unsustainable and is unsuitable for this development;
- Piddington is a Category C village and is not highly sustainable given that there are limited amenities in the village and the bus service is limited;
- The site is isolated from basic services (e.g. GP surgery and schooling) and is reliant on private transport;
- Not much has changed since the previous refusal at the site apart from the scale of the scheme;
- Drawn comparisons with other applications within the locality for an Asylum Seekers Accommodation Centre and an agricultural workers' dwelling at Cowpastures Farm;
- The GTAA has indicated that there is a minimal need for such pitches;
- It is proposed on an unallocated greenfield site and would be better on a brownfield site;
- Has consideration been given to other sites in the area?;

- A personal need has not been demonstrated;
- More pitches in the locality would dominate the established communities when taking into account the Oaksvew Park site;
- Would cause harm to the rural character and visual appearance of the countryside;
- Noise pollution for residents from the MoD site, which can be heard in Piddington. The Parish Council has been advised by the MoD that training activity has been undertaken almost daily;
- Impact upon archaeology in the area;
- Highways safety concerns:
 - Increase to traffic on the dangerous country lane;
 - The local roads do not have pavements or street lighting and therefore this is a danger to proposed residents;
 - Inadequate visibility;
 - No consideration of vehicle parking, turning or storage and collection of waste;
 - The extra traffic through Piddington would be dangerous to other road users;
 - Would damage the local highway.
- Negative impacts on the enjoyment and amenity of Widnell Park and Jubilee Reserve;
- Negative impacts to biodiversity;
- Harm to protected species, including newts;
- Harm to the biodiversity of Upper Ray Meadows Nature Reserve and Jubilee Reserve;
- Should permission be granted, a number of monitoring conditions should be attached;
- There is a flooding risk;
- No provision for managing excess surface water;
- Foul drainage concerns – unclear how the septic tanks are to be managed;
- Pollution of water sources;
- Grade 3 agricultural land should be preserved;
- Unavailability of mains water and electricity;
- Fire safety concerns;
- Could cause issues for the nearby prison.

6.3. ARNCOTT PARISH COUNCIL: **Objects** to the application and make the following comments:

- Reference to the previous application at the site;
- The site is in an sustainable location;
- The services within the Category A village of Arncott are limited;
- The site is not close to educational services or a GP services;
- The bus services is very limited and the proposed occupants would need to rely on private transport;
- Reference to another traveller site and that cumulatively, this and the proposal, would overwhelm Arncott and have a significant effect on the sustainability of the Arncott and the residents;
- The visual impact should be afforded significant weight/there would be detrimental harm to the character and appearance of the area;
- The harm outweighs any benefits;
- There are more suitable sites for this development.

STATUTORY CONSULTEES

- 6.4. OCC DRAINAGE: **No comments received.**
- 6.5. ENVIRONMENT AGENCY: *“As indicated in our previous responses to planning applications on this site, we maintain that the preferred option is for this development to connect to the mains foul sewer. We advise that the applicant continues to explore whether a mains connection is feasible before alternative proposals for foul drainage is proposed. We maintain our advice that individual septic tanks are not recommended.”*
- 6.6. OCC HIGHWAYS: **No objections** subject to conditions.
- 6.7. THAMES WATER: **No comments received.**

NON-STATUTORY CONSULTEES

- 6.8. OCC ADULT SOCIAL CARE: **No comments received.**
- 6.9. CDC ARBORICULTURE: **No comments received.**
- 6.10. BBO WILDLIFE TRUST: **No comments received.**
- 6.11. CDC ECOLOGY: After the submission of additional information, **no objections** subject to conditions.
- 6.12. CDC ENVIRONMENTAL PROTECTION: **Objects** to the development. Given the close proximity of the site to the MoD site, there is potential for noise impact and therefore recommend a noise report is produced prior to the determination of the application.
- 6.13. GYPSY & TRAVELLER SERVICES: **No comments received.**
- 6.14. HMP BULLINGDON: **Object** to the application:
- The additional traffic using this area will pose a greater risk of accidents;
 - Such a use is not appropriate near a prison.
- 6.15. CDC HOUSING STANDARDS: **No comments received.**
- 6.16. CDC LICENSING: **No objections.**
- 6.17. MoD DEFENCE INFRASTRUCTURE ORGANISATION: **Major concerns** with the planning application:
- A MoD training facility is within close proximity of the site and the activities undertaken within this facility will have noise and vibration impacts on this type of soft skin dwelling. Activities take place almost daily including weekends for Regular, Reserve and Cadet Forces. The nature of the training is varied and could include training explosives and blank ammunition noise and vibration. The frequency and type of noise could be over a significant period if the training requirement dictated as the requirement to deploy troops increased;
 - A major concern for the MoD is the applicant states there is access to water and electrical supply. The water supply is sourced from MoD infrastructure which is maintained under contract by KELDAR water, any encroachment will be denied. Secondly the electrical supply has not been defined which may also encroach MoD assets, any unauthorised illegal access will be denied;

- There is a significantly large estate area to the North of the application site known as 'A' Site, it is currently in a deep/dark storage stage and assets are redundant. It is unknown at this time what the plan is for future development but the MoD point out the possibility of future military development and the unknown type of training activity that could be on the site;
- No safeguarding objections to the proposal.

6.18. CDC PLANNING POLICY: **No comments received.**

6.19. THAMES VALLEY POLICE DESIGN ADVISER: **No comments received.**

6.20. CDC WASTE AND RECYCLING: **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 Part 1)

- PSD1: Presumption in Favour of Sustainable Development
- SLE4: Improved Transport and Connections
- BSC6: Travelling Communities
- ESD1: Mitigating and Adapting to Climate Change
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems
- ESD8: Water Resources
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment
- VILLAGES 1: Village Categorisation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8: Sporadic Development in the Open Countryside
- C28: Layout, design and external appearance of new development
- ENV1: Development likely to cause detrimental levels of pollution
- ENV12: Contaminated land

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Planning Policy for Traveller Sites (August 2015) (PPTS). This document sets out the Government's planning policy specifically for traveller sites and should be read in conjunction with the NPPF

- Designing Gypsy & Traveller Sites (2008) (although this document was withdrawn by the Government on 1st September 2015, it remains a useful starting point for considering the design and layout of proposed travellers sites)
- Gypsies and Travellers: Planning Provisions – Briefing Paper January 2016. Provides useful background information and summarises changes to the updated PPTS. It should be noted however that as this is only a Briefing Paper; it carries very limited weight and should not be relied upon as a substitute for specific advice
- CDC Annual Monitoring Report 2017 (AMR) (December 2017)
- Cherwell, West Oxfordshire and South Northamptonshire Gypsy and Traveller Needs Assessment (2012/2013) (GTAA)
- Cherwell, Oxford City, South Oxfordshire and Vale of White Horse Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (2017) (GTAA 2017)
- The European Convention on Human Rights (ECHR) Articles 8 and Article 14 of Protocol 1
- Housing Act (2004)
- The Equality Act (2010)
- Cherwell District Council Statement of Community Involvement (July 2016)
- Noise Policy Statement for England (NPSE) (2010)

8. APPRAISAL

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

- Principle of the Development;
- Gypsy and Traveller Pitch Provision and 5 Year Supply Position;
- Visual Impact and Effect on Landscape Character;
- Residential Amenity and Noise;
- Access and Highways Safety;
- Flood Risk, Drainage and Pollution;
- Ecological Impact;
- Other Matters.

Principle of the Development

- 8.2. Paragraph 14 of the National Planning Policy Framework (NPPF) states that a presumption in favour 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. Planning law requires planning applications to be determined in accordance with the development plan unless material considerations indicated otherwise. The Council's development plan consists of the Policies in the Cherwell Local Plan Part 1 (July 2015) and the saved Policies of the Cherwell Local Plan (1996).
- 8.4. Policy PSD1 contained within the Cherwell Local Plan Part 1 echoes the NPPF's requirements for 'sustainable development' and that planning applications that accord with the policies in the Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.

- 8.5. The national planning policy context for the provision of sites for the travelling community is found in the guidance issued in August 2015 'Planning Policy for Traveller Sites' (PPTS) (revises the original 2012 guidance) which should be read in conjunction with the NPPF.
- 8.6. Policy H of the Government PPTS states that LPAs should consider the following matters when considering proposals for gypsies and travellers:
- a) the existing level of local provision and need for sites;
 - b) the availability (or lack) of alternative accommodation for the applicants;
 - c) other personal circumstances of the applicant;
 - d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites;
 - e) that they should determine applications for sites from any travellers and not just those with local connections.
- 8.7. Policy H goes on to advise that LPAs should strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas allocated in the development plan. When considering applications LPAs should attach weight to the following matters:
- a) effective use of previously developed (brownfield), untidy or derelict land;
 - b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;
 - c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children;
 - d) not enclosing sites with excessive hard landscaping, high walls or fences that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.
- 8.8. Policy BSC 6 of the Cherwell Local Plan Part 1 states that to meet the identified need for new travellers pitches in the District during the plan period, and in order to provide and maintain a five year supply of deliverable traveller sites, allocations will be made in Local Plan Part 2 and through planning permissions that will be granted for suitable traveller sites. Policy BSC6 also goes on to state that: *"In identifying suitable sites with reasonable accessibility to services and facilities the following sequential approach will be applied:*
- 1) *Within 3km road distance of the built-up limits of Banbury, Bicester or a Category A village.*
 - 2) *Within 3km road distance of a Category B village and within reasonable walking distance of a regular bus service to Banbury or Bicester or to a Category A village.*

Other locations will only be considered in exceptional circumstances.

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

- a) *Access to GP and other health services;*
- b) *Access to schools;*
- c) *Avoiding areas at risk of flooding;*
- d) *Access to the highway network;*
- e) *The potential for noise and other disturbance;*
- f) *The potential for harm to the historic and natural environment;*
- g) *The ability to provide a satisfactory living environment;*
- h) *The need to make efficient and effective use of land;*

- i) *Deliverability, including whether utilities can be provided;*
- j) *The existing level of local provision;*
- k) *The availability of alternatives to applicants.”*

- 8.9. The site of the proposal is located within 3km from Arccott by road, a village which is identified under Policy Villages 1 of the Cherwell Local Plan as a Category A village, which allows for minor residential development, infill and conversion. Category A villages are considered the most sustainable settlements in the District's rural areas and have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth. The site of the proposal is located approximately 2.5km by road from Arccott and therefore the site meets the first criteria as set out in Policy BSC6 relating to the sequential test for the siting of sites. However, this does not mean the proposal is *de facto* acceptable in principle as Policy BSC6 also requires the assessment of the suitability of sites with reasonable accessibility to services and facilities by considering the additional criteria as set out above.
- 8.10. Whilst Arccott has a shop, village hall, chapel, sports field and 2 pubs, Arccott is not considered to be the most sustainable of the Category A villages as it does not have as many services and facilities as a number of the other Category A settlements. Having said that, the village does have a regular bus service between Bicester and Oxford which also stops on the B4011 just 150m from the application site. The site is also located approximately 3.5km from Ambrosden, a Category A village, by Road. Ambrosden has a wider range of services than Arccott, offering a primary school, shop, public house and part time surgery. That said the nearest village is Piddington which is a Category C village and so one of the least sustainable villages in the District in terms of access to services, public transport and facilities.
- 8.11. Criterion (a) of Policy BSC 6 considers access to GP and other health services; the nearest GP surgery to the site would be the part time surgery at Ambrosden, located 3.5KM away. In order to access this service from the proposed site residents could use public transport. However, due to the restricted hours that this surgery operates (open on Mondays and Wednesday) and the limitations of the bus service it may be difficult for residents to rely on public transport and it is likely they will rely on the private car or travel further afield to access a full time service. Officers consider that the accessibility to GP and other health services would weigh against the proposal in assessing it against the sustainability and suitability criteria.
- 8.12. Criterion (b) considers access to schools; the nearest primary school is located at Ambrosden which is approximately 3.5KM away from this site, which is likely to be travelled by the private car as opposed to alternative modes of transport. Officers consider that whilst the site has access to education which would weigh in favour of the proposal, the weight to be attributed to this when assessed against the sustainability and suitability criteria is reduced given the distances involved.
- 8.13. Overall, it is considered by officers that the location of the site is not the most sustainable location for a new gypsy and traveller site and, whilst it does meet the sequential test for siting in relation to a Category A village, accessibility to services and facilities is limited with a reliance on the private car.
- 8.14. In the previous application which included this site, 16 pitches were proposed and it was considered that a traveller site of this scale should be located in a more sustainable location to ensure it meets the requirements of Government guidance in the NPPF and the PPTS. In this previous case, due to the size of the site and its open countryside location with access to only limited services, it was considered that the site was not in a sustainable location and this was considered to weigh against

the proposal when considered in light of the sustainability criteria set out in the NPPF and Policy H of the PPTS.

- 8.15. However, in this current application before Members, the scale of the site has been reduced and the site proposed would comprise 6 pitches, which is not considered to be an unusual scale for gypsy and traveller sites within the Cherwell District. Whilst the location of the site is not the most sustainable location for a new gypsy and traveller site as alluded to above, the scale of the traveller and gypsy site would be relatively modest in this instance and officers consider that the weight against the proposal in light of the sustainability criteria set out in the NPPF and Policy H of the PPTS would be significantly less than in the previously refused application at the site.
- 8.16. The additional criteria set out in Local Plan Policy BSC 6 to be considered in assessing the suitability of sites will be set out in the topics and chapters below. In assessing the overall principal of the proposed development, the unmet need for gypsy and traveller pitches within Cherwell and the lack of a 5 year supply of gypsies and travellers must also be weighed against the sustainability and suitability of the site; this is considered further below.

Gypsy and Traveller Pitch Provision and 5 Year Supply Position

- 8.17. The Local Planning Authority is required to make an assessment of the needs for gypsy and traveller sites within the district and identify and update annually a 5 year supply of specific deliverable sites. Paragraph 27 of the PPTS states that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission.
- 8.18. Policy BSC6 of the Local Plan states that the council will provide 19 (net) additional pitches to meet the needs of Gypsy and Travellers from 2012 to 2031. The most recent Annual Monitoring Report (AMR) 2017 (December 2017) displays two different assessments of the Council's five year supply position for gypsies and travellers.
- 8.19. The first assessment is based on figures within the development plan. This outlines that at 31st March 2017 the total number of authorised pitches in Cherwell for Gypsies and Travellers was 57 and the requirement for pitches within the period 2017-2031 is a need for 31 pitches (as a number of pitches had been lost). It states that the District currently has a 1.1 year land supply for gypsies and travellers for the period 2017-2022 (18 pitch shortfall) and a 0.9 year land supply for the period of 2018-2023 (19 pitch shortfall).
- 8.20. This 5 year land supply figures take into account the loss of the pitches at Smiths, Bloxham in 2016/17 and the 11 new pitches that have been approved at Corner Cottage and The Stable Block in Mollington (ref: 16/01740/F and 16/01760/F). Thus, based on this first assessment within the AMR 2017 and requirement of the Local Plan Part 1, the Council can still not demonstrate a 5 year supply of sites.
- 8.21. However, since the 2015 Local Plan was adopted the Planning Policy for Traveller Sites (August 2015) has been published. This included a change to the definition of "gypsies and travellers" for planning related purposes so that it now excludes those who have permanently ceased from travelling. The definition of Gypsies and Travellers reads as follows: "*Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependant's education or health needs or old age have ceased to travel temporarily,*

but excluding members of an organised group of travelling show people or circus people travelling together as such". It goes on to state: "In determining whether persons are "gypsies and travellers" for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:

- a) whether they previously led a nomadic habit of life*
- b) the reasons for ceasing their nomadic habit of life*
- c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances."*

- 8.22. In light of this and in order to provide an evidence base for the preparation of Local Plan Part 2, the Council has recently commissioned a new Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA 2017) with a number of neighbouring authorities which was published in June 2017. This takes into account the new definition of gypsies and travellers. The second assessment into the Council's five year supply position within the AMR 2017 utilises the evidence within GTAA 2017 to assess the five year supply position.
- 8.23. The new GTAA 2017 identified a need for 7 additional pitches that meet the new planning definition over the next 15 years (2017-2031/2). It also identified a need for up to 20 additional pitches for 'unknown' households in the district over the same period. 'Unknown' households are households that may meet the new definition of gypsy and traveller but interviews during the research were either refused or not possible.
- 8.24. As noted above, the second assessment into the Council's five year supply position within the AMR 2017 uses this data within the GTAA 2017 to calculate five year supply. However, the second assessment within the AMR 2017 states that the requirement for pitches within the period 2017-2022 and 2018-2033 is a need for 15 pitches, rather than 7 identified. This is because the second assessment within the AMR includes the potential need for 8 pitches arising from the Newlands Caravan Site. However, even when including the pitches at the Newlands Caravan Site, the second assessment states that the District currently has a 5.0 year land supply for gypsies and travellers for the period 2017-2022 and a 4.0 year land supply for the period of 2018-2023 (1 pitch shortfall). If the potential need for 8 pitches arising from Newlands Caravan Site were not included in the overall assessment, the Council would be able to demonstrate an even healthier supply for gypsies and travellers within 2017-2022.
- 8.25. This therefore casts some doubt over the figures in the development plan as these figures were based on the previous definition of gypsies and travellers which included residents which had permanently ceased travelling. However, whilst the figures in the GTAA 2017 are a material consideration, they need to be treated with caution as they have not been subject to the rigour of public examination. The examination would provide the appropriate forum for the various stakeholder interests associated with the issue and methodology involved in the collection of evidence to be fully considered. It is also the case that there are a high number of unknown households (i.e. those who may meet the new definition). The GTAA 2017 advises that that for 'unknown' travellers *'it would not be appropriate when producing a robust assessment of need to make any firm assumptions about whether or not they meet the planning definition...'* based on interviews that have taken place.
- 8.26. Furthermore in considering this matter the primacy of the development plan needs to be taken into account, alongside the significant shortfall in pitches against the adopted figures and inability of the Council to demonstrate a 5 year supply for pitches.

- 8.27. Overall, officers consider that there are weaknesses in both the figures in the development plan and the figures in the GTAA 2017. Furthermore, the AMR 2017 does not specify which assessment should be given greater weight. However, officers consider that the most robust position on which to base the assessment of the planning application at the current time is the figures contained within the development plan, given they have been subject to the rigour of examination and the statutory requirement to take the development plan as the starting point.
- 8.28. In relation to a recent appeal for a new travellers site in the South Northamptonshire District (PINS ref: APP/Z2830/W/17/3172943), a Traveller Accommodation Needs Survey was published in 2017 ('TANS'), which takes into account the new definition of gypsies and travellers, and the need identified within the TANS conflicted with the provisions of the development plan. Unlike the GTAA 2017, the TANS had not been subject to independent scrutiny. Given this, the Inspector took a similar approach to that taken by officers in this current application, in that the Inspector considered that greater weight should be given to the provisions of the development plan in terms of the recent and present needs of gypsies and travellers.
- 8.29. Whilst the GTAA 2017 is a material consideration as it is part of the evidence base for the Local Plan Part 2, Officers consider that this does not outweigh the development plan. The Council does not have any allocation for additional sites and there is a lack of alternative provision. Thus, it is considered that there is a need for additional sites in the area to meet a general need and a lack of alternative site. These matters, alongside the Council's inability to demonstrate a 5 year land supply on the figures in BSC6, carry significant weight in determining the application.
- 8.30. In relation to this planning application, it is proposed to be used as a settled base for members of the travelling community. However, the supporting statement submitted with the application does not name any potential occupants and give reference to personal need, nor does it provide any further details to demonstrate the potential occupants meet the new definition of gypsies and travellers as outlined above (in PPTS 2015). Officers have also asked the applicant's agent whether there is any knowledge of potential residents of the site and whether there is a personal need, but the applicant's agent has noted that they cannot provide such details in this instance.
- 8.31. Thus, insufficient information is available on the named occupants of the site to assess personal need or circumstances. Therefore the application is currently considered on a general need, and a personal need argument cannot be given weight in this proposal.
- 8.32. In order to ensure that the site was only occupied by households meeting the revised definition of gypsy/traveller status a suitably worded condition could be imposed on any planning permission given, in line with Government guidance. Officers are therefore satisfied that the application is for a site that would be used by gypsies/travellers.
- 8.33. The European Convention of Human Rights is still in force to date, despite the referendum in 2016 where the United Kingdom opted to leave the European Union. Under Article 8 there is a positive obligation to facilitate the gypsy way of life (paragraph 96 of Chapman v UK (2001)) as gypsies and travellers are identified as a specialist group. The statement submitted with the application identifies that the proposal is for a residential caravan site for gypsies and travellers and the proposed development therefore provides new accommodation for the gypsy and traveller community with the Cherwell District. Therefore the contribution that the site makes to facilitating the gypsy and traveller way of life weighs in favour of the proposal.

Visual Impact and Effect on Landscape Character

- 8.34. One of the core planning principles in the NPPF is for planning decisions to take account of the different roles and characters of different areas and recognising the intrinsic character and beauty of the open countryside. ESD13 of the Cherwell Local Plan Part 1 notes that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to the local landscape character cannot be avoided. Policy ESD13 also states that: *“Proposals will not be permitted if they would:*
- *Cause undue visual intrusion into the open countryside;*
 - *Cause undue harm to important natural landscape features and topography;*
 - *Be inconsistent with local character;*
 - *Impact on areas judged to have a high level of tranquillity;*
 - *Harm the setting of settlements, buildings, structures or other landmark features; or*
 - *Harm the historic value of the landscape.”*
- 8.35. Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards.”*
- 8.36. Saved Policy C28 of the Cherwell Local Plan 1996 reflects Government guidance in relation to the design of new development by seeking to ensure that such development is in harmony with the general character of its surroundings and is sympathetic to the environmental context of the site and its surroundings. Saved Policy C8 of the Cherwell Local Plan 1996 seeks to protect the character of the open countryside from sporadic development.
- 8.37. Policy C of the Government PPTS advises that when assessing the suitability of sites in rural and semi-rural settings, local planning authorities (LPAs) should ensure that the scale of such sites does not dominate the nearest settled community. In this instance Piddington, with a population of approximately 370, is the nearest settled community being some 1km to the east of the site
- 8.38. The proposed development includes the provision of 6 pitches and associated infrastructure. Each pitch would have space for mobile home and a touring caravan with an area of hard standing.
- 8.39. The application site itself occupies a relatively flat site and given the topography and vegetation in the wider area the visual impacts of the development would be localised. The site currently contributes positively to the rural character and appearance of the locality and the intrinsic character and beauty of the open countryside through being an undeveloped agricultural field.
- 8.40. There is a relatively mature hedgerow to the north of the site at a height of approximately 2.5 metres, and officers are of the opinion that only partial views of the proposed development would be gained from Widnell Lane to the north, but the proposed development would be more noticeable in the winter months. The clearest views of the proposed development from Widnell Lane would be achieved through the access into the site. There are limited views of the site from the wider surroundings. The site cannot be clearly seen from the B4011 due to a high mature hedgerow which bounds the field boundary adjacent to this road.

- 8.41. Undoubtedly the proposal, with the addition of mobile homes, hardstanding and domestic paraphernalia, would be alien within this landscape. These elements and the widening of the access into the site would have an urbanising effect on this agricultural field within the open countryside.
- 8.42. PPTS Policy H notes that Local Planning Authorities (LPAs) should attach weight to sites being well planned or soft landscaped in such a way to positively enhance the environment and increase its openness. Landscaping is proposed around the pitches so as to provide a softer setting for the pitches and this is welcomed by officers, but the pitches would still be visible from Widnell Lane and such urban development is alien within this context, and would therefore cause some harm to the rural character and appearance of the landscape.
- 8.43. Regarding whether the proposal would dominate the nearest settled community, the site is located approximately 1km from Piddington and is therefore not visible from the village and furthermore, would not be a prominent feature within the surrounding landscape due to existing hedgerows and proposed planting which would offer screening to the site. Officers therefore consider that, due to the siting of the proposal and because only 6 pitches are proposed, the proposed development is of a scale that would not dominate the nearest settled community.
- 8.44. Overall the development will result in some harm to the landscape character of the area and the visual amenities of the locality. Whilst this harm would be relatively localised the proposed development would conflict with Policies ESD13 and ESD15 of the Cherwell Local Plan Part 1, saved Policies C8 and C28 of the Cherwell Local Plan 1996 and Government guidance contained within the NPPF.
- 8.45. Should permission be granted, it is considered necessary to request a landscaping plan and lighting plan as conditions.

Residential Amenity and Noise

- 8.46. Paragraph 17 of the NPPF notes that planning should always seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 8.47. Paragraph 120 of the NPPF states that: *“To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or Proposed Development to adverse effects from pollution, should be taken into account”.*
- 8.48. Saved Policy ENV1 of the Cherwell Local Plan 1996 states that development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke and others types of environmental pollution will not normally be permitted.
- 8.49. Policy ESD15 of the adopted Cherwell Local Plan Part 1 states that: *“Development should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.”*
- 8.50. The site is located approximately 170 metres from an agricultural dwelling to the south east of the site. The separation distance between the proposal and the dwelling is considered sufficient to ensure that the proposed use of the site as a residential caravan site would not adversely affect the occupiers of the nearby dwelling.

- 8.51. The site is also located approximately 180 metres from an agricultural building which houses cattle. This nearby agricultural use has the potential to create unwanted odour which could affect the proposed residential caravan site. However, the agricultural use is already established and, taking account of the prevailing wind direction (south-westerly), it is considered to be a suitable distance away not to cause odour that would adversely affect the residential amenity of any future occupants.
- 8.52. With regard to the layout of the proposal, the proposed pitches would measure a minimum of 21m by 18m, which is considered by officers to be of a sufficient size to allow for the siting of a mobile home and touring van and would allow for privacy and amenity space for each pitch. The proposed layout is not considered to be overcrowded.
- 8.53. The site is located approximately 200 metres from a Ministry of Defence (MoD) training area known as Piddington Training Area (to the South East of the site). This training area is used by the MoD for a variety of exercises using small arms ammunition (blank), training explosives and the use of pyrotechnics including illumination types and noise simulation.
- 8.54. The applicant's agent has noted that the applicant's Noise Consultant liaised with the MoD to arrange to monitor the noise of a military exercise given one of the reasons for refusal in the previous application at the site. The applicant's agent has noted that no such exercise has been carried out on the nearby training area this year, and this demonstrates that noise from this source is highly unlikely to affect residents of the proposed gypsy site. Due to this claimed inactivity on the site, the applicant's agent has stated that noise from the MoD training facility cannot be measured. The applicant's agent also argues that, in any event, any military activity is going to be sporadic at worst.
- 8.55. Furthermore, the applicant's agent has also referred to an appeal decision in 2016 in Northamptonshire relating to a proposed caravan site next to a clay pigeon shooting facility, which operated two days a week, where the Inspector concluded that the noise from the shooting club would not be unduly harmful to the amenities of the future occupiers. The applicant's agent concludes that the military training area in this case is not even used on a monthly basis and that the LPA cannot justify a reason for refusal based on noise.
- 8.56. However, the MoD has raised concerns with the application in relation to noise and has stated that there may be noise and vibration 'affect' on this type of soft skinned dwelling from a military training area in the immediate vicinity. In relation to the applicant's suggestion that training activity resulting in this effect has not taken place this year, the MoD states that this is incorrect and that the facility is used on an almost daily basis including weekends for Regular, Reserve and Cadet Force. The MoD has advised that it is reducing its Estate and thus there is a strong likelihood that training on the site will intensify with resultant increase in noise and vibration.
- 8.57. The MoD has gone on to note that the opportunity was given during the previous refused application to measure the effect of this type of activity on the proposed development, but the noise testing representative was not available when the MoD forecast exercise training and then the applicant disengaged with the MoD as the application was refused.
- 8.58. The MoD has stated that it will not be possible to put on a demonstration of noise training, but the majority of noise could be equated to fireworks. However, the MoD

go on to state that the frequency and type could be over a significant period if the training requirement dictated as the requirement to deploy troops increased.

- 8.59. The Council's Environmental Protection Officer has recommended that a noise survey is carried out to provide further evidence to demonstrate the potential impact on the proposed residential use. The Environmental Protection Officer is of the opinion that without this information the application has not adequately demonstrated that the proposal would not be adversely affected by the activities taking place at the nearby MOD training facility.
- 8.60. Whilst I understand the concerns of the Council's Environmental Protection Officer, if the level of activity on the training centre is highly sporadic as stated by the applicant's agent and the MoD do not provide demonstrations it is very difficult to assess noise levels on the site. However, even if what the applicant's agent has noted about the current low level of activity at the training facility is correct, there is nothing to prevent the intensification of the use of this site. As noted by the MoD above, the frequency and type could be over a significant period if the training requirement dictated as the requirement to deploy troops increased. Thus, officers do not consider it highly relevant to draw comparisons with a restricted clay pigeon use. Furthermore, as noted above, the MoD has stated that the applicant's agent is incorrect in relation to the level of activity on the training site, and that the facility is used on an almost daily basis. In addition, the MoD has stated that this level of activity is likely to increase in the future given that they are reducing their Estate, therefore the noise from the training facility will be more likely.
- 8.61. Given the MoD has stated that the majority of noise could be equated to fireworks, officers are concerned that such an activity would be clearly audible from 200 metres away on the application site.
- 8.62. Thus, it appears very difficult to accurately measure noise levels on the site. For example, even if a noise assessment is conducted on the site over the course of 2 weeks, this would not be an accurate reflection of the noise levels because of the varying nature and frequencies of the activities conducted on the training facility, and the fact that such noise from the site could increase if the use of the training facility is intensified.
- 8.63. Given the above, officers consider that the level of noise experienced by the proposed occupiers cannot be accurately measured. Thus, it is very difficult to assess the level of harm that this causes the proposed occupiers of the site. However, given that the site is approximately 200 metres away from the MoD site, the noted activities on the training site and that the MoD has stated that the majority of noise could be equated to fireworks, Officers consider that the activities would be audible from the site and would cause harm to the proposed occupants, particularly due to the nature of the residential caravans which offer little noise attenuation due to their light weight construction. This has the potential to negatively impact upon the health and wellbeing of residents of the proposed development.
- 8.64. As it has not been adequately demonstrated that the proposal would not be adversely affected by the activities taking place at the nearby MOD training facility, mainly because the level of harm upon the future occupiers due to noise is very difficult to quantify in this case, officers consider that this weighs against the proposal. The proposal would also conflict with criteria (e) of Policy BSC6 of the Cherwell Local Plan Part 1.
- 8.65. The site is located 350m to the west of the community park which is used by the residents of Piddington Village. The distance between the proposed site and the existing community park is considered adequate to ensure that no adverse impact is

caused to the users of the community park from noise and disturbance generated by the proposed use. Furthermore, given the distance of the site from Piddington, it is considered that such a use would not cause undue harm to any residential properties within this village in terms of noise and disturbance.

Access and Highways Safety

- 8.66. Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions.”*
- 8.67. Oxfordshire County Council Highways Authority (LHA) has raised no objections to the proposal. The LHA has stated that the development will not result in a significant impact on the surrounding road network.
- 8.68. The LHA is satisfied with the suggested visibility splays of 2.4m x 100m in an easterly direction and 2.4 x 59m in a westerly direction given the results of the 85th percentile wet weather speed surveys. The LHA is also of the opinion that the bell-mouth of the access, with a radii of 8m, is acceptable.
- 8.69. The LHA also notes that Waste Collection Authorities tend to collect refuse from sites of this nature and they have therefore recommended that a planning condition be attached that states that the applicant must submit a vehicle tracking drawing showing that a refuse vehicle of not less than 11.6m in length can enter, turn in, and exit the development safely in forward gear prior to the commencement of development. However, such a condition may not be enforceable or its objectives achievable and therefore officers consider that it is not reasonable to attach such a condition. Even if a refuse vehicle cannot access the site, Officers do not consider that it would be justifiable to recommend the refusal of the application on such a ground.
- 8.70. Whilst concerns have been raised from third parties in relation to the turning and manoeuvring of vehicles on site, Officers are satisfied that the amount of space on each pitch would allow for safe manoeuvring and turning of vehicles.
- 8.71. Given the above assessment, Officers consider that the proposal would not cause adverse harm to the safe and efficient operation of the highway network.

Flood Risk, Drainage and Pollution

- 8.72. The site is identified as being within Flood Zone 1, which is land which has a less than 1 in 1,000 annual probability of river flooding. Policy ESD6 of the Cherwell Local Plan Part 1 and the NPPF state that a Flood Risk Assessment (FRA) is required for proposals of 1 hectare or more in in Flood Zone 1. The site does not exceed 1 hectare therefore an FRA is not required.
- 8.73. Policy ESD7 of the Cherwell Local Plan Part 1 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is all with the aim to manage and reduce flood risk in the Cherwell District.
- 8.74. The application proposes the use of septic tanks draining to a soakaway, to deal with the foul water at the site. A separate septic tank is proposed for use on each of the 6 plots. The applicant’s agent has noted that the septic tanks would be 3800 litre tanks, each capable of accommodating waste generated by a population of 12 persons.

- 8.75. The Environment Agency (EA) has said that their preferred option would be for this development to connect to the mains foul sewer given the potential risk of pollution into the watercourse with the use of septic tanks. Septic tanks require regular maintenance and emptying by road tanker to ensure they do not discharge poor quality foul effluent into the environment.
- 8.76. However, the main drainage system is currently located approximately 250 meters to the north-west of the site at the junction of the B4011 and Palmer Avenue. The ability to connect into the main drainage system would be a complicated and costly exercise.
- 8.77. The above noted by the EA, it has not objected to the application. The EA has stated that the proposed septic tanks associated with this development will require an Environmental Permit under the Environmental Permitting Regulations 2010, from the EA, unless an exemption applies. Whilst this is not ideal, Paragraph 122 of the NPPF states that LPAs should not control processes themselves where they are subject to approval under pollution control regimes. Paragraph 122 notes that LPAs should assume that these regimes will operate effectively.
- 8.78. That said, officers requested further details of septic tanks proposed to be used and the how often the waste would be treated. The applicant's agent noted that the regularity of emptying will depend on how much waste is in them, but usually it will be no more than about once per year. The applicant's agent has also stated that the submitted porosity test demonstrates that soakaways will be sufficient for disposal of water from septic tanks.
- 8.79. The northern part of the application site is identified on Oxfordshire County Council's flood risk tool kit as having a high to medium risk of flooding from surface water. The application has not been supported by a flood risk assessment or drainage strategy for the site. Porosity tests were carried out at the site and the results demonstrated a mean percolation value of 99 which, according to guidelines, is just inside the acceptable value for soakaway construction. The outer acceptable limit is 100. Due to the border line results it is advised by the drainage company who carried out the percolation tests, against installing a soakaway and using an alternative drainage solution.
- 8.80. It is acknowledged that the applicant worked with the Oxfordshire County Council (OCC) Drainage Department to draft an appropriate drainage solution. However, within this application, there are no proposals for the management of surface water at the site. The LHA, through advice from the OCC Drainage Department, has noted that some soakage testing results were provided which appear to indicate marginal rates of soakage and suggest that a SuDs drainage system based on part (or full) infiltrations to ground may be viable. Thus, the use of permeable paving could form part of the surface water drainage for the site. However, the LHA has noted that the soakage test results do not appear to be in accordance with the BRE 365 standard; in particular there is no indication of the half-drain time.
- 8.81. The LHA has therefore requested a detailed drainage scheme prior to the commencement of the development proposed. The LHA has stated that any discharge of surface water off-site must be at the greenfield run off rate and as there are some areas of surface water flood risk shown at the northern boundary of the site, the plot development must not impinge on these areas.
- 8.82. Thus, whilst officers have concerns about how the drainage of surface water will be adequately managed at the site given the issues with surface water flooding in the area, OCC Highways, through the advice of OCC Drainage, has not objected to the

application subject to the submission of a drainage strategy therefore OCC are of the opinion that this matter can be sufficiently managed.

Ecological Impact

- 8.83. 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, contributing to the Government's aim to halt the overall decline in biodiversity.
- 8.84. Paragraph 118 of the NPPF seeks to "...conserve and enhance biodiversity by applying, amongst others, the following principles:
- *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*
 - *Development proposals where the primary objective is to conserve or enhance biodiversity should be permitted*
 - *Opportunities to incorporate biodiversity in and around developments should be encouraged"*
- 8.85. Policy ESD10 seeks to protect and enhance biodiversity and the natural environment, by achieving a net gain in biodiversity, through supporting developments which incorporate features to encourage biodiversity.
- 8.86. The site is an open agricultural field currently comprising rough grass land which has the potential for some ecological value. Great Crested Newts (GCN) have been recorded in the vicinity of the site and Brown and Black Hairstreak butterflies have also been recorded. As the proposed development will replace the existing grass land with permeable hard standing, the proposed works are likely to result in a loss to biodiversity.
- 8.87. A Biodiversity Impact Assessment (BIA) has been undertaken which considers the grassland field (~1.20ha in size) and not just the site itself. The Council's Ecologist has stated that this has been undertaken appropriately.
- 8.88. The BIA report notes that the majority of the botanical interest lies within the southern part of the field, which is proposed to be retained or enhanced. Based on the proposals which involve appropriate long-term management of the wider semi-improved grassland field, the proposals are expected to result in a biodiversity net gain of 0.25 units as a result of the development. This is dependent on the proposed light mowing of the grassland and removal of arisings twice a year at an appropriate time of year, rather than being horse-grazed which would be counter-productive to achieving species-rich semi-improved grassland in good condition. However, the BIA does not state the exact location of the 0.86ha of semi improved grassland to be retained.
- 8.89. The Council's Ecologist has stated that a long term-term Landscape and Ecological Management Plan (LEMP) will therefore be required to secure this and to achieve a net gain in biodiversity. This should include monitoring of the grassland and those responsible for management of the grassland, as well as details of creation and the sensitive management of boundary hedgerows and scrub. Should permission be granted, a LEMP could be conditioned with the aim to secure a biodiversity net gain. The Ecologist has stated that the landscaping details of this should comprise of native species of shrubs and trees only, in light of the location of the site in a rural area.

- 8.90. That said, the Council's Ecologist has noted that, if a net gain is not possible, a biodiversity offsetting scheme is recommended to ensure the proposals do not lead to a net loss. However, as the Council's Ecologist has stated that the submitted BIA has been undertaken appropriately therefore officers see no reason why net gains cannot be achieved.
- 8.91. A Great Crested Newt Survey Report was submitted with the application, and this was revised given questions from the Council's Ecologist regarding the methodology of the survey and because the impact assessment was based on the site area for the previous application (17/00145/F). This revised report provided clarification that the torchlight method to survey the ponds was also used along with bottle trapping and egg searching. As a result of this the Council's Ecologist has stated that the surveys were undertaken in line with standard guidelines. The results indicate that a small population of great crested newts are present. The Council's Ecologist has noted that due to the potential impacts on great crested newts, including habitat loss and potential harm during clearance of the site and during construction works, a great crested newt mitigation strategy is required. Should permission be granted, this could be conditioned. The Ecologist has also noted that the strategy should include ecological supervision of ground clearance works by an ecologist.
- 8.92. Given the above, it is considered that the proposal can be developed without causing adverse harm to protected species.

Other Matters

- 8.93. A number of comments have been raised regarding whether the site is serviced by facilities including fresh water, mains drainage, and electricity. The planning statement submitted with the application confirms that there are mains water and electricity services already connected to the site. That said, the MoD has raised concerns that the water supply is sourced from MoD infrastructure which is maintained under contract by KELDAR water and has stated that any encroachment will be denied. Furthermore, the MoD has noted that the electrical supply has not been defined and that this may also encroach on MoD assets. Officers raised these points with the applicant's agent and have requested further information and clarification. The applicant's agent has continued to state that the application site is connected to mains water and that the applicants do not need to connect to the supplies of the MoD. The applicant's agent has also noted that the applicants will apply to the relevant electricity board to connect to mains electricity. Whilst it appears that the situation is still unclear on these matters and this is far from ideal, these matters are not material planning considerations in this case.
- 8.94. A number of the third party comments have highlighted that the land to which the application relates is grade 3 and 4 agricultural land. Grade 3 is good to moderate agricultural land and grade 4 is poor quality agricultural land. Concerns have been raised that the proposed development would lead to the loss of good quality agricultural land. However, the area of land is not an excessively large area of agricultural land and is not of the highest quality. Therefore, the change of use of this piece of land would not result in the loss of a significant amount of high quality agricultural land and Officers consider that this is acceptable.
- 8.95. The site is on land that is potentially contaminated and this is a sensitive development being residential. The Council's Environmental Protection Officer has requested phased contaminated land conditions should permission be granted. However, the amount of ground work is relatively limited for development involving mobile homes, therefore a condition stating that if contamination is found during development, works should be stopped until a remediation strategy for dealing with

contamination is approved by the LPA, is considered be more reasonable by Officers.

- 8.96. Third parties have noted that the schools in the local area are at full capacity. However, for the previous application at the site proposing 16 pitches, OCC advised that they would not be seeking contributions in relation to education due to the small scale of the proposal which would not be considered to have a material impact upon numbers of pupils attending schools in the local area. Given the above and that the number of pitches has been reduced to 6 pitches in this current application, it is considered that the proposal would not have an adverse impact on the schooling within the area.
- 8.97. Given the relatively close proximity of the site to the MoD training facility, third parties have noted that this could potentially cause a danger to the proposed residents. However, such concerns have not been raised by the MoD themselves.
- 8.98. Whilst third parties have commented on the archaeological potential of the site, the site is not recorded as being within a site of archaeological interest. Thus, the proposal is unlikely to have an invasive impact upon any known archaeological sites or features.
- 8.99. Third parties have raised concerns about the siting of such a use close to a prison and that this could have an impact on security and order in the vicinity of the prison. However, officers consider that such residents are unlikely to have significant impact upon the security and order in the area of the prison.
- 8.100. Third parties have raised concerns that the proposal would have negative impacts on the enjoyment of Widnell Park. The third parties have stated that additional traffic will deter people to go to this park. However, it is unclear to Officers how such a use of the site, which is over 300 metres away from Widnell Park, would adversely impact upon the enjoyment and amenity of the Widnell Park. Furthermore, Officers consider that the additional traffic on the roads as a result of this proposed development would be relatively minimal.
- 8.101. Officers consider that suitable waste and recycling provision can be secured through a suitably worded condition should planning permission be granted.
- 8.102. Third parties have raises concerns that the proposal would set a precedent for further development of the land surrounding the site, and could result in housing in the open countryside. However, each case is assessed on its own planning merits. Furthermore, it is worth noting that the policy considerations in relation to housing and traveller sites are significantly different.
- 8.103. Piddington Parish Council has drawn comparisons with other applications within the locality for an Asylum Seekers Accommodation Centre and an agricultural workers' dwelling at Cowpastures Farm. Officers believe it is important to stress that the policy considerations for a traveller site and these other applications are significantly different.
- 8.104. There is currently a gypsy and traveller site to the south of Arcott, known as Oaksvew Park. This site has been referred to in some third party comments as a site which is currently providing pitches nearby. This site has a complex planning history and benefited from a temporary permission for the site for 19 residential gypsy and traveller pitches, which expired in 2012. A further application to retain the use of this site for 19 gypsy and traveller pitches was refused on the 18th August 2016 and there has been no appeal lodged. Therefore, this site is currently unauthorised and cannot contribute to the number of gypsy and traveller pitches

currently available. Furthermore, this site is located outside of the Cherwell District and is not considered within the calculation for current gypsy and traveller provision within Cherwell. Some third parties also noted that the combination of Oaksview Park and the proposed site could over-dominate nearby villages. Given the scale of the proposed development, the distance of the site from any villages and the population of the nearest villages, officers consider that nearby villages would not be over-dominated.

8.105. A number of concerns have been raised by third parties which are not material planning considerations in this case. These include:

- Overhead pylons and cables would present a risk to health and safety;
- Fire safety concerns;
- The development will not be followed out in accordance with the plans;
- It's a business opportunity;
- Anti-social behaviour.

9. PLANNING BALANCE AND CONCLUSION

9.1. The proposal seeks permission for the change of use of existing agricultural land to a residential travellers caravan site comprising 6.No pitches. The site is located within 3KM of the category A village of Arncott and approximately 3.5KM from the village of Ambrsoden and benefits from suitable access to the local and wider highway network, and so can be considered under Policy BSC6 of the Local Plan.

9.2. In assessing the sustainability and suitability of the site the criteria set out within Local Plan Policy BSC6 is relevant in determining the most suitable locations for gypsy and traveller sites.

9.3. Criterion (a) considers access to GP and other health services, the nearest GP surgery to the site would be the part time surgery at Ambrosden, located 3.5KM away. In order to access this service from the proposed site residents could use public transport, however, due to the restricted hours that this surgery operates and the infrequent nature of the bus service it may be difficult for residents to rely on public transport and it is likely they would rely on the private car or travel further afield to access a full time service. It is considered by officers that the limited accessibility to regular GP and other health services would weigh against the proposal in assessing it against the sustainability and suitability criteria.

9.4. Criterion (b) considers access to schools; the nearest primary school is located at Ambrosden which is approximately 3.5KM away, a distance which is likely to be travelled by the private car as opposed to alternative modes of transport. It is considered by officers that the site in terms of sustainability has poor access to education which would weigh against the proposal when assessed against the sustainability and suitability criteria.

9.5. Criterion (c) seeks to avoid areas at risk of flooding, in assessing the application it has come to light that part of the site has a medium to high risk of surface water flooding, which could be further exacerbated by relatively slow percolation rates demonstrated by porosity tests carried out at the site. Thus, the proposal does not seek to avoid areas at risk of flooding. That said, whilst officers have concerns about how the drainage of surface water will be adequately managed at the site given the issues with surface water flooding in the area, OCC Highways, through the advice of OCC Drainage, has not objected to the application subject to the submission of a drainage strategy prior to the commencement of the development. Thus, OCC considers this matter can be sufficiently managed and officers see no reason to

disagree with this assessment. As it is considered that the flood risk can be mitigated, the fact that the site is in an area at risk of flooding is not judged to weigh against the proposal.

- 9.6. Criterion (d) considers the suitability of the site in relation to access to the existing highway network; in this respect the proposal is considered to be appropriately located without undue harm caused to highway safety.
- 9.7. Criterion (e) considers the potential for noise and disturbance on the future residents of the site. The proposal is located approximately 200 metres from an MoD training facility which is used for a variety of exercises using small arms ammunition (blank), training explosives and pyrotechnics including illumination types and noise simulation. Given that the MoD has stated that the majority of noise could be equated to fireworks, Officers are concerned that such an activity would be clearly audible from 200 metres away on the application site. Whilst officers consider that it is very difficult to accurately measure the noise that will be experienced by the proposed occupiers, as the application has not been supported by sufficient information to demonstrate that the amenity of future occupants of the site would not be adversely affected by the activities taking place at the nearby MoD site, the potential impact from noise weighs against the proposal. This has the potential to negatively impact upon the health and wellbeing of residents of the proposed development.
- 9.8. Criterion (f) seeks to ensure harm to the historic and natural environment is limited. In this, the Council's Ecologist is of the opinion that the application has been supported by adequate information to demonstrate that harm will not be caused to the natural environment and protected species.
- 9.9. Criterion (g) seeks to ensure that proposals provide for a satisfactory living environment and the application has not demonstrated whether this criterion can be met as there is uncertainty as to the impact the nearby MoD training facility will have on future occupants. This weighs against the proposal.
- 9.10. Criterion (h) seeks to ensure that efficient and effective use of land is made. In this case the current agricultural land is rated moderate to good, which will be lost by the proposed development. However, it is considered that the amount of agricultural land lost and the quality of the land would not be a significant loss.
- 9.11. Criterion (i) considers the likely deliverability of the proposal, including whether utilities can be provided on the site. The applicant's agent maintains that mains water is available on the site. The applicant's agent has noted that the applicant will need apply to the relevant electricity board to connect to mains electricity. The site is not connected to mains drainage and currently the proposal seeks the use of 6 septic tanks. The EA has advised that a connection to mains drainage should be provided if possible. However, in this case mains drainage is 250 metres away across a railway line, so connection could be problematic and costly.
- 9.12. However, the EA has not objected to the application. Furthermore, the proposed septic tanks associated with this development will require an Environmental Permit under the Environmental Permitting Regulations 2010, from the Environment Agency, unless an exemption applies. Whilst this is not ideal, Paragraph 122 of the NPPF states that LPAs should not control processes themselves where they are subject to approval under pollution control regimes. Paragraph 122 goes on to note that LPAs should assume that these regimes will operate effectively.
- 9.13. Criterion (j) looks at the existing level of local provision for gypsy and travellers across the Cherwell District. Despite the second assessment of the AMR 2017,

which uses data from the GTAA 2017, stating that the Council can just demonstrate a five year supply of gypsy and traveller sites in the District, the GTAA 2017 has not been subject to the rigour of public examination and it is noted that there are a high number of unknown households (i.e. those who may meet the new definition).

- 9.14. Whilst the GTAA 2017 is a material consideration as it forms part of the evidence base for the Local Plan Part 2, Officers consider that the most robust position to base the assessment of the planning application on at the current time is the figures contained within the development plan, given they have been subject to the rigour of examination and because of the statutory requirement to take the development plan as the starting point. The first assessment within the AMR 2017 is based on figures within the development plan and this identifies that there is a significant unmet need for gypsy and traveller pitches across the Cherwell District. This first assessment advises that there is currently a 1.1 year supply of pitches for the period 2017-2022. Thus, Officers hold the view that the current level of need across Cherwell District weighs heavily in favour of the proposed development which would provide additional pitches to meet the unmet need. Officers consider that significant weight should be given to current unmet need of gypsy and traveller sites within the District.
- 9.15. If Members are to give greater weight to this figure within the second assessment in the AMR, which is based on data within the GTAA, it is important to note that the second assessment displays that the Local Planning Authority can only just demonstrate a five year supply of pitches for the period 2017-2022 and this will fall to a 4.0 year land supply for the period of 2018-2023 (1 pitch shortfall). The Local Planning Authority has a duty to maintain its five year supply of gypsy and traveller pitches in the district and the approval of the application would ensure that the Local Planning Authority can maintain its five year supply.
- 9.16. Criterion (k) considers the availability of alternative sites for the applicant. In this case no alternative sites have been considered and the application is not supported by any information about individuals that are interested in occupying the site if it is approved. However, there is an identified need for pitches which this application goes some way towards addressing and weight must be attached to this.
- 9.17. In conclusion, the site is located within 3KM of a Category A village, however, Arncott is not one of the most sustainable Category A villages within the district and offers limited services for the future residents of the site. Other services are provided in the village of Ambrosden but are located 3.5KM away from the site. The nearest settlement, Piddington, is a category C village which is one of the least sustainable settlements in the District.
- 9.18. The site comprises 6 pitches, which is significantly less than the 16 proposed in the refused application at the site in 2017. Such a scale is not considered to be unusual for gypsy and traveller sites in the Cherwell District. In the previous proposal at the site, 16 pitches was considered to be a large number, and given the poor sustainability of the site it was concluded that the site would not be a sustainable form of development. In this current application, Officers accept that the site is not located in a highly sustainable location, having regard to guidance contained in the PPTS which states that new sites in the countryside should be strictly limited. However, in comparison to the previous refused scheme at the site, the scale of the traveller and gypsy site would be relatively modest and Officers consider that the weight against the proposal in light of the sustainability criteria set out in the NPPF and Policy H of the PPTS would be significantly less. Furthermore, inadequate information in relation to noise impacts from an existing use has been supplied.

9.19. However, Officers consider that there is clearly an unmet need for gypsy and traveller pitches in Cherwell which must be weighed against the suitability of the site in sustainability terms for a gypsy and traveller site.

9.20. Whilst it is very clear to Officers that the site is not an ideal one for such a proposal, especially given its siting within close proximity to the MoD testing facility, Officers consider that in this case this harm is outweighed by the immediate need for new gypsy and traveller pitches in the District. Thus, it is concluded that, given the circumstances, planning permission should be granted and the application is therefore recommended for approval.

10. **RECOMMENDATION**

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

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

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

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents:

- Application form submitted with the application;
- Cover Letter from Philip Brown submitted with the application;
- Site Layout Plan at a scale of 1:500 on A4 paper submitted with the application;
- Site Plan at a scale of 1:2500 on A4 paper received from the applicant's agent by e-mail on 11th October 2017;
- Alpha Septic Tank Plan specification details submitted with the application; and
- E-mail form the applicant's agent on 16th November 2017 specifying the size of the Septic Tanks.

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

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

Reason: This consent is only granted in view of the very special circumstances, which are sufficient to justify overriding normal planning policy considerations which would normally lead to a refusal of planning consent and in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy ENV1 and C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. No more than 12 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 6 shall be static caravans or mobiles homes), shall be stationed on the site at any one time and these shall be sited within the pitches as displayed on the drawing titled 'Site Layout Plan' at 1:500 Scale on A4 paper submitted with the application.

Reason: This consent is only granted in view of the very special circumstances, which are sufficient to justify overriding normal planning policy considerations which would normally lead to a refusal of planning consent and to limit the visual impact of development in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. Prior to the commencement of the development hereby approved and notwithstanding the details shown on the approved plans, full details of the 6 septic tanks to serve the development, including siting, operation and appearance, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details and shall be retained as such thereafter.

Reason: To safeguard against pollution and in the interests of the visual amenities of the area, to comply with Policies ESD8, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. 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 and shall be retained as such thereafter. The scheme shall also include:

- Discharge Rates
- Discharge Volumes
- Maintenance and management of SUDS features
- Sizing of features – attenuation volume
- Infiltration in accordance with BRE365
- Detailed drainage layout
- SUDS
- Network drainage calculations
- Phasing
- No private drainage into the public highway
- No private drainage into the adoptable highway drainage system

Reason: To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property, in the interests of road safety and to comply with Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

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

Reason: In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

8. 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 location of waste bin storage

Thereafter, the development shall be carried out in strict accordance with the approved landscaping scheme and shall be retained as such thereafter.

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 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. Prior to the commencement of the development hereby approved, a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved schedule and shall be retained as such thereafter.

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 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. Prior to the commencement of the development hereby approved, 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 and shall be retained as such thereafter.

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 Part 1 and Government guidance contained within the National Planning Policy Framework.

12. Prior to the commencement of the development hereby approved, including any works of site clearance, a mitigation strategy for great crested newts, which shall include timing of works, the location and design of alternative ponds/habitats together with the timing of their provision, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the mitigation works shall be carried out in accordance with the approved details and shall be retained as such thereafter.

Reason: To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

14. No commercial activities shall take place on the land, including the external storage of materials, and no vehicle over 3.5 tonnes shall be stationed, parked or stored on this site without the grant of further specific planning permission from the Local Planning Authority.

Reason: In order to safeguard the amenities of the area and in the interest of highway safety in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and the NPPF.

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

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

PLANNING NOTES

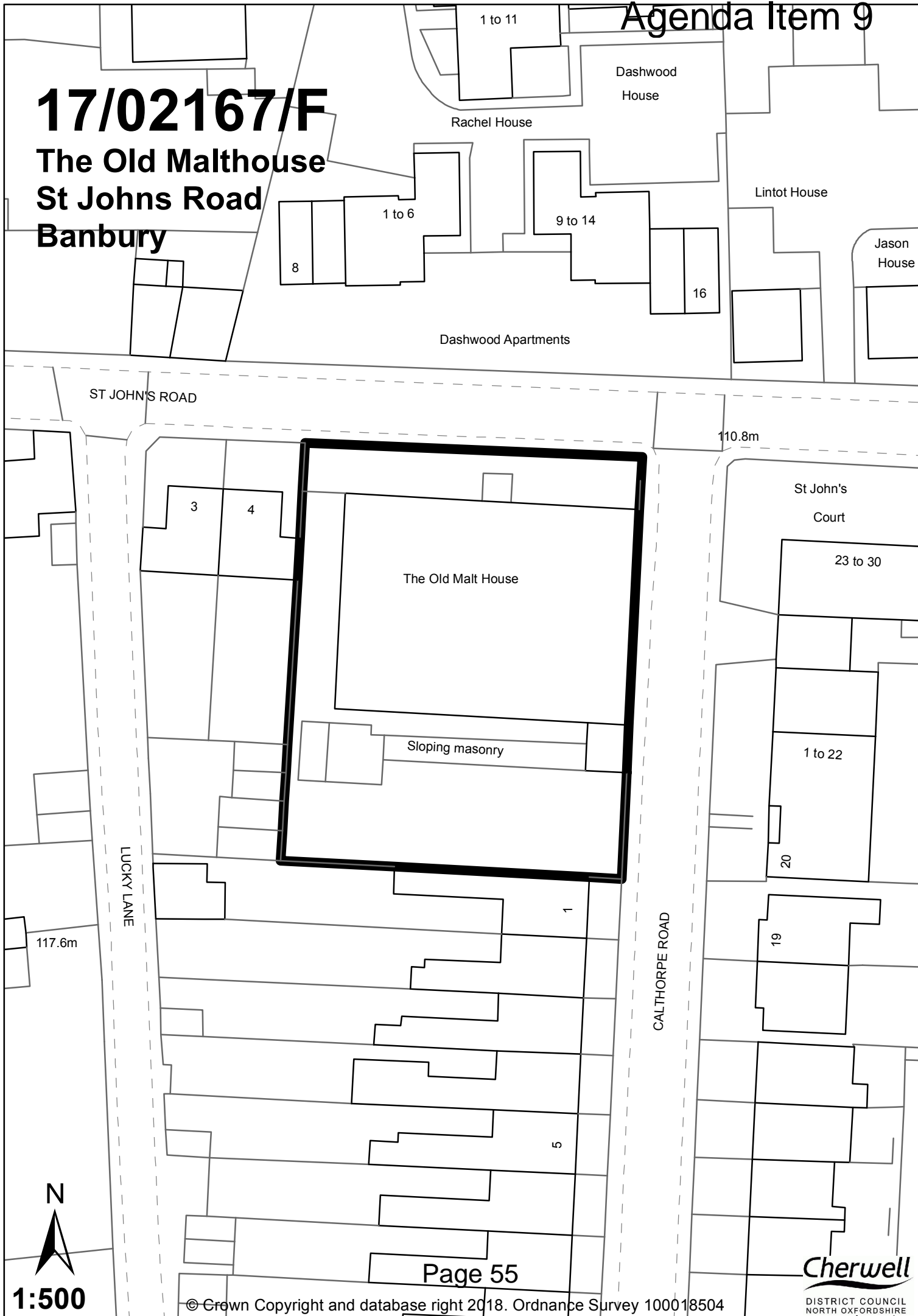
1. The proposed septic tanks associated with this development will require an Environmental Permit under the Environmental Permitting Regulations 2010, from the Environment Agency, unless an exemption applies. The applicant is advised to contact the Environment Agency on 08708 506 506 for further advice and to discuss the issues likely to be raised. You should be aware that the permit may not be granted. Additional advice can be found on the gov.uk website at: <https://www.gov.uk/permits-you-need-for-septic-tanks>
2. In relation to condition 11, all species used in the planting proposals associated with the development shall be native species of UK provenance.
3. All site clearance (including vegetation removal) shall be timed so as to avoid the bird nesting/breeding season from 1st March to 31st August inclusive, unless, in the case of a tree that is required to be removed for health and safety reasons, the Local Planning Authority has confirmed in writing that such works can proceed.
4. If archaeological finds do occur during development, the applicant is requested to notify the County Archaeologist in order that he may make a site visit or otherwise advise as necessary. Please contact: County Archaeologist, Historic and Natural Environment Team, Infrastructure Planning, Speedwell House, Speedwell Street, Oxford, OX1 1NE (Telephone 01865 328944).
5. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.

CASE OFFICER: Stuart Howden

TEL: 01295 221815

17/02167/F

**The Old Malthouse
St Johns Road
Banbury**



The Old Malt House

Sloping masonry

ST JOHN'S ROAD

LUCKY LANE

CALTHORPE ROAD

110.8m

117.6m

N

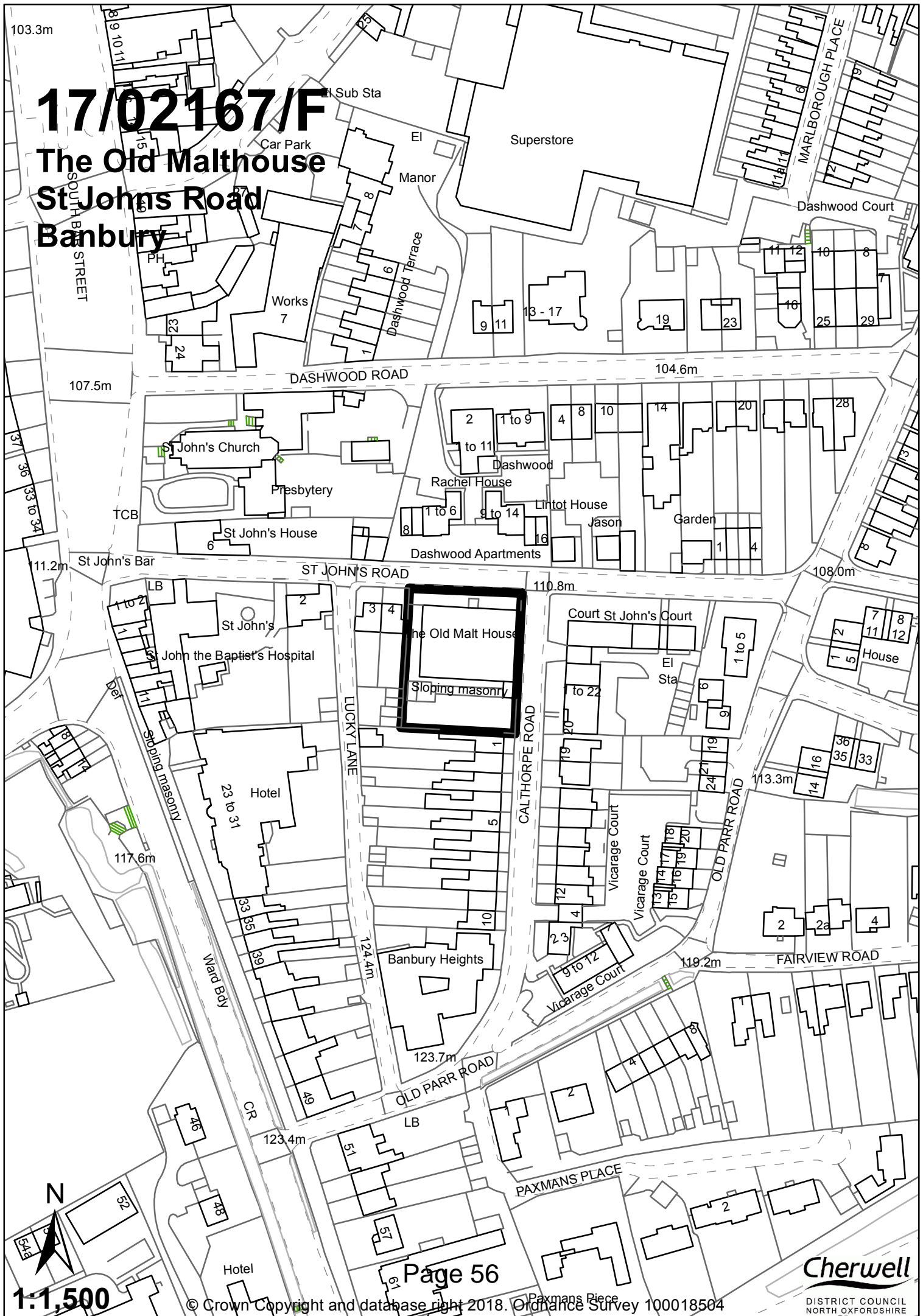
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17/02167/F

The Old Malthouse

St Johns Road

Banbury



The Old Malt House
Sloping masonry

Applicant:	Morrison Property Consultants Limited		
Proposal:	Conversion of building from B1(a) Offices to 25 residential flats, with ancillary parking, bin storage and amenity area.		
Ward:	Banbury Cross And Neithrop		
Councillors:	Cllr Hannah Banfield Cllr Surinder Dhesi Cllr Alastair Milne-Home		
Reason for Referral:	The application is a major development		
Expiry Date:	22 February 2017 - EOT	Committee Date:	15 th February 2018
Recommendation:	Refusal		

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is a Grade II listed former malthouse located on the corner of St Johns Road and Calthorpe Road to the south of Banbury town centre. It is also located within the designated Banbury Conservation Area and within the setting of numerous listed buildings including the terrace properties to the south of the site on Calthorpe Road.
- 1.2. The property is an attractive brick building with a symmetrical frontage consisting of sash windows and stone and stucco detailing giving a grand appearance. It has the appearance of a two storey building from St Johns Road. The building was originally used as a maltings but has had a series of uses since then with its authorised use currently as a B1 Office use. The ground floor of the building has partially been converted to car parking with access provided to the western side of the building. Car parking also exists to the front of the site which sits perpendicular to the St Johns Road.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. The current application seeks permission to convert the office to 25 flats (23no 1 beds and 2no 2 beds). This would consist of a number of internal works, which are subject to a separate listed building consent on this agenda (17/02167/F refers). The external works would consist of the provision 3 new windows in the east elevation, a new second floor window to the west elevation, alterations to some of the fenestration on the rear elevation of the building and numerous rooflights and lanterns to the roof of the building.
- 2.2. At ground floor 24 parking spaces would be provided in total consisting of the frontage parking and the ground floor parking. However, one of these spaces

adjacent to the access would not be usable being only approximately 3.5 metre long. Cycle parking and bin store would also be provided to the rear of the site.

- 2.3. Whilst the internal works do not technically require planning consent and are controlled through the listed building consent process the works do stem as a product of the change of use. Internally a new ground floor flat would be provided in the south east corner of the building on an existing area of parking. The building currently has office accommodation across the first floor and also part of the second floor office at the eastern end of the building. The remainder of the second floor and space above consists of the roof void.
- 2.4. The proposals seek to open up the central part of the building from the first floor level to the roof to create a central atrium which would serve as a communal area. . The first floor would be then be subdivided into flats and the second floor would be extended across the width of the building (with the exceptions of a 3 voids in the centre of the building) to accommodate further flats and a communal shared space for residents. A new third floor would also be placed in the remaining roof void at either end of the building to accommodate 2 new flats.
- 2.5. An area of open space exists to the rear of the site which is on higher land than the ground floor of the building. It is intended to retain this space for a private amenity space to serve the future residents of the flats.

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>
17/02168/LB	Conversion of building from B1(a) Offices to 25 residential flats, with ancillary parking, bin storage and amenity area.	Pending Consideration
15/01389/F	3 bedroom dwelling	Application Permitted
05/00103/F 10/00221/F	and Erection of 1 No. detached dwelling (as amended by plans received 23.03.05 and plan Nos. P381/10B & P381/12B received on 19.04.05).	Application Permitted
89/00498/N	Demolition of lean to store. Formation of first floor level offices with additional ground floor offices and car parking	Application Permitted restricted to Class B1(a)
77/00461/N	Change of use from storage of furniture to storage and distribution to the trade only of domestic electrical spare parts	Application Permitted

4. PRE-APPLICATION DISCUSSIONS

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

Application Ref. Proposal
17/00211/PREAPP Residential conversion of 25 flats

It was advised that based on the information provided that the proposal would conflict with Policy SLE1. Limited information was provided in regard to the internal alterations and concerns were raised regarding the number of roof lights and terraces in the roof of the building and the impact this would have on the building. Concerns were also raised over the amenity of the neighbouring property and the future amity of some of the residents given the arrangement of the flats. It was also stated that the Council would be seeking an affordable housing contribution commuted sum. Concerns were also raised over the level of parking. Overall it was concluded that based on the information provided by the applicant officers would be unlikely to support the application.

5. RESPONSE TO PUBLICITY

5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 12.02.2018, although comments received after this date and before finalising this report have also been taken into account.

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

- Object to the density of the development due to parking, noise and not being in keeping with the historic quality of the area. The footprint is smaller than Dashwood Apartments and they were only allowed to development 16 apartments due to car parking and noise.
- The velux roof lights in the western elevation will overlook 2 St Johns Road

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: **No objections.** The Town Council are eager that any development carried out is done so in a sympathetic manner, and that conservation officers are satisfied with any proposed works.

STATUTORY CONSULTEES

6.3. HISTORIC ENGLAND: **No comment.**

NON-STATUTORY CONSULTEES

6.4. CDC CONSERVATION: **Comment.** The key issue is whether there is a public benefit to finding a sustainable new use for the building if the current use is no

longer considered to be viable. This is beyond my expertise and should be dealt within in relation to the viability issues being discussed from a planning perspective.

- 6.5. This also relates to the provision of the additional units at third floor – if it can be satisfactorily demonstrated that the conversion of the building can only be achieved by the inclusion of these additional units the harm caused is considered acceptable, but if an alternative use can be found without the need for the additional units then it is not. I will defer to the Planning Officer's judgement on this matter.
- 6.6. If conversion to residential use is considered to be the optimum viable use a limited amount of harm can be weighed against the public benefit of finding a use for the building, but it is important that the harm is minimised.

Amended plans - rooflights

- 6.7. In relation to the rooflights it is accepted that in order to convert the building to residential use rooflights are required and it is noted that roof lights have previously been inserted into the roof. The key issue is to minimise the harm to both the physical fabric and the visual appearance of the property. The Design and Access Statement claims:
 - 6.8. *'Within the apartments at second floor level, the rooflights are required to ensure natural light and ventilation within each unit. Within the living spaces, it is important that there is both high and low level light to ensure a comfortable living environment, therefore we propose rooflights in groups of four, which can also be opened up to provide an element of private amenity to the units.'*
 - 6.9. Whilst not wanting to compromise the amenity of the individual occupiers of the units it is my role as heritage professional to ensure that the level of harm to the historic fabric of the building is minimised. I would therefore recommend that the number, size and dimensions of the rooflights do not exceed minimum standards where there is harm to the physical historic fabric of the building.
 - 6.10. It is accepted that there has been historic precedent for elements protruding from the ridge of the roof. Rooflights which sit proud of the roof will be acceptable if they can be used to minimise the number, size and dimensions of rooflights on the plane of the roof and if it can be demonstrated that the additional number of residential units are required. The precise design of these lights would need to be provided, but could be dealt with by condition if required.

Amended plans – other issues

- 6.11. It is positive that the proposed roof terraces have been removed from the design.
- 6.12. It is positive that the bottom hung windows have been removed.
- 6.13. The precise design of the proposed external doorways is a detail and can be dealt with by condition if necessary.
- 6.14. **GEORGIAN GROUP: Comment.** The Georgian Group has some concerns with the application. The removal of existing rooflights and the insertion of new rooflights is, in principle, not something we object to. We are concerned with the large number of rooflights proposed. Whilst we acknowledge that the applicants assessment of the viability of the scheme is predicated on the number of rooflights shown in the application it is not suitable for a designated heritage asset and we feel that there must be compromise on their part to reach a mutually acceptable conclusion. This principle also applies to the insertion of a number of new openings in the external

walls. The heritage statement highlights the fact that the building is 'a much-altered building whose main significance lies in its external shell, its unusual roof structure, its position within the streetscape.....'. Inserting windows will remove historic fabric, exacerbating the fact that it is 'much-altered', and greatly affect the 'main significance'.

- 6.15. We are not opposed to the change of use. Historically the building has gone through many phases of re-use, from hosiery works, engineering works and office facilities. We are also conscious of the lack of internal historic fabric due to the various changes of use through time. As a result we are concerned with the removal of a central structural wall – presumably original fabric. Considering the inherent lack of anything historic remaining internally, it is imperative that what remains must be conserved. We ask the Local Authority to give great weight to the National Planning Policy Framework (NPPF) when coming to a decision.
- 6.16. ASSOCIATION OF INDUSTRIAL ARCHAEOLOGY: **Comment.** Residential conversion is not always the most appropriate reuse of an industrial building, but it is usually the most secure. Externally, this building no longer displays typical malthouse features as the fenestration has already been altered to suit subsequent uses. In consequence the new windows which have been designed to match existing ones are not a particular problem, but there are substantially more roof lights than at present. However, the most important changes are internal. Despite subsequent reuses, the floors are still largely open plan as they would have been when the building was in use as a maltings. This dense residential conversion means that the floors are divided up with the partial exception of the ground floor where it is used for car parking which is certainly a suitable reuse. The most interesting feature of this broad building is its roof structure, currently partly hidden by ceiling panels and insulation. As not all full details are shown in the sections it is not entirely clear the extent to which this interesting roof structure will remain visible in the residences. It is to be hoped they will be as visible as possible. Given the unusual nature of the roof structure it is essential the opportunity is taken to fully record it when it is exposed during the conversion. The Association for Industrial Archaeology has no objection to this application but if approved there should be an appropriate recording condition in respect of the roof structure (NPPF para 141 is applicable).
- 6.17. BANBURY CIVIC SOCIETY: **Comment.** In some ways the proposal seems to be a good one in terms of design and the conservation of the historic fabric of this very interesting Grade II-Listed Malthouse. That said, taking a Grade II Listed building of a type whose heritage significance largely derives from its large open floor spaces and irreversibly dividing it up into multiple domestic residential small units undoubtedly causes harm, although in this case that harm would probably be regarded as 'less than substantial harm'. It is nevertheless a step that needs thorough justification.
- 6.18. As noted in the NPPF, para 134 *"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use."*
- 6.19. Guidance on "optimum viable use" is provided in the Government's 'Planning Practice Guide' and states: *If there is only one viable use, that use is the optimum viable use. If there is a range of alternative viable uses, the optimum use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes.*
- 6.20. *The optimum viable use may not necessarily be the most profitable one...*

- 6.21. *Harmful development may sometimes be justified in the interests of realising the optimum viable use of an asset, notwithstanding the loss of significance caused provided the harm is minimised.*"
- 6.22. The building has functioned perfectly well, for many years, as up-to-date, open-plan, serviced offices. It would need little, or minimal change to continue in such a use if such a use remains viable. To consent to a residential subdivision that will result in "*less than substantial harm*" the Council needs to assure itself that residential use is now the *optimum* viable future use for this building, rather than simply the one that is most profitable for the owner or developer. Thus the Council needs to be satisfied that the existing office use is now economically redundant and that there are no less damaging uses for the building that are less damaging. The only way to demonstrate redundancy is through appropriate marketing at an appropriate value.
- 6.23. Should the Council be content that multi-occupancy residential use *is* the only, or optimum viable use and that the proposal is the least harmful viable use, the council should aim to ensure that the development proposal minimises harm and that it "*enhances or better reveals (the heritage) significance*" of the asset (NPPF para 137) in order to compensate for any harm.
- 6.24. Of the many surviving malhouses of the late Georgian period, this Grade II malhous is prodigious for its unusually wide floor-plan and its exceptionally 'polite' exterior treatment. The timber roof trusses that were provided to span this exceptionally wide-span building in 1834 (illustrated below) are indeed truly prodigious for their period and potentially of national significance in themselves. The roof structure certainly contributes outstandingly to the heritage significance of this Grade II listed malhous and it certainly merits making more apparent in any development proposal for the building.
- 6.25. BCS are pleased with the developer's proposed atrium, although are concerned that this atrium will show only the central part of the roof trusses, rather than revealing their full structure across the whole width of the building. Also concerned at the absence of any detail design regarding of the flats themselves, so it remains uncertain if the roof trusses will remain visible within the flats, or whether the timberwork will need to be concealed within some, or all of them, on account of fire risk.
- 6.26. Whilst open to the idea of residential conversion of this very advanced and interesting building *is* the optimum viable use of this very unusual and historic building, we would nevertheless seek the following:
- Evidence of appropriate marketing to demonstrate the redundancy of the building as offices
 - Further detail of how the roof trusses will be made visible within the flats
 - Further exploration of the potential to enlarge the atrium so as to expose the full width and height of at least three trusses, and
 - The securing through an appropriate condition of a detailed archaeological record of the building to Historic England Level 3, with a Level 4 record of the roof structure.
- 6.27. THAMES WATER: **No objections.**

- 6.28. CDC ECOLOGY: **No objections** subject to the works to the roof being attended by an ecologist and the provision of bird and bat boxes to the building through conditions.
- 6.29. CDC BUILDING CONTROL: **No objections.**
- 6.30. CDC ENVIRONMENTAL PROTECTION: **No objection** subject to noise transmission between the apartments being controlled.
- 6.31. CDC LANDSCAPE: **No objection.** We can only ask for a financial contribution for play on or off site. I assumed that there was insufficient space on site for a 400 m2 LAP, hence the off-site requirement. However if the developer is proposing to manage an on-site play facility through a management company then a financial contribution is unnecessary.
- 6.32. CDC STRATEGIC HOUSING: **No objections** subject to the provision of a commuted sum in relation to off-site affordable housing contribution. The applicants have now come back with a revised commuted sum figure which takes into account our previous comments, including removing the additional uplift to the EUV. Given they have evidenced their figures and used our methodology in calculating the commuted sum I think we need to accept the resulting figure. The figure does not equate to a full affordable housing contribution (due to the viability position) but can provide a useful contribution to additional affordable housing in Banbury.

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

PSD1 – Presumption in Favour of Sustainable Development
 SLE2 – Securing Dynamic Town Centres
 SLE4 – Improving Transport and Connections
 BSC2 – The Effective and Efficient Use of Land – Brownfield Land and Housing Density
 BSC3 – Affordable Housing
 ESD1 – Mitigating and Adapting to Climate Change
 ESD10 – Protection and Enhancement of Biodiversity and Natural Environment
 ESD15 - The Character of the Built and Historic Environment
 Banbury 7 – Strengthening Banbury Town Centre

Cherwell Local Plan 1996 (Saved Policies)

H21 – Conversion of buildings in settlements
 C18 – Listed buildings

C23 - Features in conservation areas
C28 - Layout, design and external appearance of new development
C30 - Design of new residential development
ENV1 - Development likely to cause detrimental levels of pollution
INF1 – Infrastructure

7.3. Other Material Policy and Guidance

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
- Loss of employment
- Impact on heritage assets and design
- Residential amenity
- Affordable housing
- Open space
- Highway safety
- Ecology
- Other S106 matters
- Other matters

Principle

8.2. The site is located within the built up limits of Banbury and is close to the town centre which offers a wide range of services and facilities. The Cherwell Local Plan Part 1 2015 has a strong urban focus and directs new housing growth to existing towns including Banbury. It is therefore considered that the principle of utilising the building for flats may be considered acceptable in general sustainability terms subject to the matters discussed below.

Loss of employment land

8.3. The current site is an authorised B1(a) office and is therefore regarded as an employment site for the purposes of the Local Plan. Policy SLE1 of the Cherwell Local Plan Part 1 (2015) states that:

In cases where planning permission is required existing employment sites should be retained for employment use unless the following criteria are met:

- *the applicant can demonstrate that an employment use should not be retained, including showing the site has been marketed and has been vacant in the long term.*
- *the applicant can demonstrate that there are valid reasons why the use of the site for the existing or another employment use is not economically viable,*
- *the applicant can demonstrate that the proposal would not have the effect of limiting the amount of land available for employment.*

Regard will be had to whether the location and nature of the present employment activity has an unacceptable adverse impact upon adjacent residential uses.

Regard will be had to whether the applicant can demonstrate that there are other planning objectives that would outweigh the value of retaining the site in an employment use.

- 8.4. It goes onto state that new dwellings will not be permitted within employment sites except where this is in accordance with specific site proposals set out in this Local Plan.
- 8.5. The existing employment use does not appear to have a significant adverse impact on the adjacent residential uses and officers are not aware of any such complaints. It is also not considered, that given the Council's ability to demonstrate a 5 year land supply of housing site, the proposal provides sufficient other planning objectives to outweigh the value of retaining the site in an employment use and the long term maintenance of the listed building could equally be achieved by finding a new employment use for the building.
- 8.6. Officers do not consider there are any obvious shortcomings why the building could not be continued to be used as an office and the attractive appearance of the building, availability of on plot parking, proximity to the town centre and flexibility of the office space are likely to be attractive features to some future occupiers.
- 8.7. Therefore the main issue in this case is whether the applicant can demonstrate the building is no longer viable as an employment use. The applicant has submitted a marketing report which states the building has been vacant since March 2016. Marketing began with White Commercial in July 2016 when it was offered to let. The marketing appears to have ended in February 2017 after approximately 7 months on the market when the site began to be marketing for sale. The marketing material relating to the sale of the building made reference to potential for redevelopment for residential purposes. The applicant states that the marketing continued right up to the sale of the building to the applicant in September 2017 however the property was presented to the market as 'under offer' from the start of August 2017 which may have deterred interest in the building from other potential purchasers. Officers had advised at pre-application stage that they would expect to see an 18 month marketing exercise at a competitive price in order to demonstrate a new office cannot be found for the building. The marketing exercise falls short of this period which whilst alone is not decisive is a weakness in the marketing.
- 8.8. During the marketing period according to the agent no other offers were made for the building. A number of enquiries were made when the office was offered to let however none of these progressed and concerns were raised in relation to the quality and layout of the building. During the period for sale the predominant interest in the building was for residential conversion and the only party who viewed the property for office use discounted it due to the level of works required to the building to get it to a modern standard, the layout of the building prohibiting open plan working, concerns regarding the listed status and the lack of a precedence of the building within a residential area.
- 8.9. In regard to whether the building was marketed at an appropriate value the lease was offered on the basis of £10.91sqm. The applicant has provided other examples of leased properties in the area and this price appears to be relatively competitive although it is unclear whether this was based on the current condition of the building or on the basis of it being refurbished. Other evidence submitted by the applicant suggests that the building would need to be refurbished to achieve a new occupier. This is therefore a weakness of the rental marketing.

- 8.10. In regard to the marketing period for the sale of the building, the site was marketed for offers in excess of £1 million and as noted above was also marketed as a residential conversion opportunity. The applicant has submitted a formal valuation of the building by a surveyor who has valued the market value of the site below £800,000. Given the site was marketed for well in excess of this value it appears to have been marketed on the basis of the hope value associated with the residential conversion rather than the existing use of the building as an office. Officers consider that the marketing of the property well in excess of the valuation and with the potential for residential conversion would be likely to deter interest from genuine parties which would be looking to use the building for its authorised employment use. This is considered to be a very significant weakness of the testing of the market for the existing office use particularly given the condition of the building meaning that any new owner would be required to make further investment to refurbish the building.
- 8.11. The applicant argues that the valuation of the building they have submitted was done on behalf of a bank and therefore takes a cautious approach to the value of the building. They also state that a commercial agent would have no benefit in marketing the building in excess of its value as they would be unlikely to get a fee and furthermore the marketed value does not prevent people offering under the asking price. However it may be that the agent valued the building based on the residential conversion hope value and the reference to residential conversion in the marketing particulars supports this view. Furthermore the high asking price is likely to detract certain potential purchaser viewing or considering the site. It is noted that the valuation report is based on other transactions in the area so would appear to be realistic price and also takes account of the opinion that the building would need to be refurbished to attract a new user. To market the building significantly in excess of its bank valuation could also mean a future owner could struggle to borrow money to purchase the site.
- 8.12. Whilst it is acknowledged that the building would need some investment to enable a new occupier it is considered the marketing price should reflect this. Officers do not consider there are any obvious shortcomings why the building could not be continued to be used as an office and the attractive appearance of the building, availability of on plot parking, proximity to the town centre and flexibility of the office space are likely to be attractive to some future occupiers.
- 8.13. Overall it is considered that there are a number of weaknesses in the marketing exercise of the building particularly in relation to the marketing price and it is not considered that the applicant has adequately demonstrated that the building is not capable of finding a new occupier for an employment use. The proposal is therefore considered to conflict with Policy SLE1 of the Cherwell Local Plan and the economic benefits of retaining the building in an employment use in a sustainable location.
- 8.14. The applicant argues that the site is not in a designated employment area and if the building were not listed it could be converted to residential under permitted development. In response to these matters Policy SLE1 makes it clear that this policy applies to site which have planning permission for employment uses (para B.48) so is applicable to this site. Furthermore that building does not benefit from permitted development rights as it is a listed building so this matter is not given significant weight as it is not a valid fall-back position. Planning law requires development proposals to be assessed in accordance with the development plan unless material considerations indicate otherwise.
- 8.15. In addition the applicant has referred to examples in the locality where planning permission has been granted for the change of use of building from offices to

residential. They have referred to a scheme a Mercia House in the town centre which was approved under 16/00120/F. In the case of Mercia House the listed building had historically been used as a residential dwelling and it was considered there were benefits associated with re-using the building for this purpose alongside other benefits outweighed the loss of employment land. Clearly the applications site is different, having historically been used for commercial purposes and the officers' conclusions regard the harm to the heritage asset (see below). Each case has to be assessed on its own merits taking into account the particularly circumstances of the case.

Impact on heritage assets and design

- 8.16. The site lies within the Banbury Conservation Area and is also a Grade II listed building as such both are defined as a designated heritage asset. The NPPF requires Local Planning Authorities take account of the desirability of sustaining and enhancing the significance of heritage assets and seeks to ensure that new development should make a positive contribution to local character and distinctiveness. The NPPF states when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation and any harm should require clear and convincing justification. It goes on to state that where development proposals will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. Policy ESD 15 of the Cherwell Local Plan echoes this advice. Furthermore Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
- 8.17. Saved Policy H21 states that within settlements the conversion of buildings to dwellings will be treated favourably unless it would detrimentally impact on its historic significance. This is subject to other policies in the plan.
- 8.18. Saved Policy C23 of the Cherwell Local Plan 1996 states that there will be a presumption in favour of retaining buildings and other features which make a positive contribution to the character and appearance of the Conservation Area.
- 8.19. Policy ESD15 of the Cherwell Local Plan states that new development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. This includes a requirement for new development to respect the traditional pattern of plots and the form, scale and massing of buildings. It also states development should contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and integrating development into existing streets and spaces and configuring buildings to create clearly defined active frontages. Saved Policy C28 and C30 of the 1996 Local Plan seeks to ensure the layout, scale and design of development is of a high standard.
- 8.20. Saved Policy C18 states that the Council will have special regard to the desirability of preserving a listed building and its setting and will normally only approve works which are minor and sympathetic to the building.
- 8.21. The application is accompanied by a Heritage Statement which states, *'As a result of the several phases of quite radical internal changes to the building, its key elements in heritage terms of the building are the external shell – particularly the façade to St John's Road – and the broad roof structure with its very unusual and ambitious trusses. The rest of the interior is not considered to be of any great heritage value'*.

- 8.22. The Conservation Officer considers this assessment to be broadly correct. The Conservation Officer has noted that the core significance of the building lies in its roof structure with its trusses spanning the width of the building and the 'surprisingly grand design' of the façade of the building. The design is unusual for a maltings in having just 2 floors, a large number of windows and an elaborate façade. Given the changes to the buildings over the years there is minimal surviving visible evidence of the functional operation of the building. Banbury Civic Society and the Association for Industrial Archaeology have also highlighted that the still largely open plan nature of the building also contributes to its significance as it would have like this when the building was in use as a maltings and this preserves some for the character of its commercial use.
- 8.23. The proposal includes a number of new windows to the rear and side elevations of the buildings. There is no objection in principle to these alterations and they generally respect the character and form of the existing building. There are some concerns regarding the style of the new new/altered door openings on the rear elevation of the building which upset the balance of the building. However, revised details of these could be secured by condition to ensure there design is more in keeping with the 12 pane sash windows which characterise the building if the development was considered to be acceptable in all other regards.
- 8.24. Significant concerns exist in relation to the number and size of the roof lights proposed on the building and the Conservation Officer and Georgian Society have both raised this as a concern. Whilst the plans have been amended during the course of the application to remove the a number of external balconies, the number of roof lights proposed in the roof slopes is still considered significant and results in a cluttered appearance to the roof slopes. This would detract from the external appearance and character of the building which is one of the elements of significance. Whilst it is acknowledged that historically the building appeared to have a number of roof lights the arrangement and appearance of these appeared to be simpler, fewer in number, more industrial in character and resulted in a less cluttered roof space.
- 8.25. The existing building appears to have 12 modern roof lights which are not of historic value and therefore there loss is not considered harm the significance of the building. However, the proposal to replace these with approximately 60 conservation roof lights is not considered to preserve or enhance the significance of the building and would detrimentally impact on the character and appearance of the external shell of the building. Whilst the visual harm caused to the roof lights to the front of the building would be somewhat moderated by the fact that they are unlikely to be visible from many views points the roof lights on the rear elevation would be more widely available from Calthorpe Road. The applicant argues that this is the minimum number of roof lights to serve the residential conversion. However, a number of the apartments appear to have a large amount of roof lights and based on the information provided it is considered that these could be rationalised. Furthermore it must be remembered that the roof lights are as a result of the residential conversion of the building which officers current do not consider to be justified.
- 8.26. Whilst technically the internal alterations do not require planning permission in their own right, the alterations proposed are a product of the residential conversion and the quantum of development and therefore need to be given due consideration. Given the extensive historic alterations which have happened to the building through the years most of the historic fabric inside the building has been lost. The key element of significance relating to the internal part of the building is the roof structure with its trusses which extend the depth of the building and are noted to be usual and ambitious for the age of the building.

8.27. The plans have been developed in order to minimise the alteration to the roof structure as far as possible and seek to retain visibility of the roof structure where possible within the constraints of the desired quantum of development. This has been done by placing the new internal walls either side of the roof structure so the majority of the roof structure would remain visible within apartment and not be concealed in new walls. However a number of alterations are proposed to the roof structure to accommodate the use including:

- Cutting the purlins in the location of the cluster of roof lights on the second floor to allow for the roof lights to be inserted.
- At second floor level a number of the existing timber struts are situated at 1.7m above floor level and these need to be raised to allow access through them. Where this is occurring the end sections will be retained to allow the original roof structure can be read.
- Removal of a central purlin in the roof running through the apartments at head height at second floor level. This will be retained in the central atrium.
- Removal of 1 almost vertical strut in flat 17 to enable access through the flat. A similar alteration has already occurred at the west end of the building where office accommodation is already provided.

8.28. All these elements result in some harm to the fabric and form of the roof structure. Further harm is caused to the structure through the insertion of new channels being fixed to the existing trusses and insertion of joists to provide the additional floor space on the second and third floor. This would impact on the fabric of the roof and conceal some elements of the existing roof structure in more permanent way.

8.29. Banbury Civic Society and the Association of Industrial Archaeology have both indicating that the wide open spaces of the building also contribute to the significance of the building as a former malt house. However it is noted that the existing internal division of spaces is currently entirely modern and the existing proportions of the spaces are of no historic significance. That said the residential conversion will lead to further intensive subdivision of the internal spaces which would result in some harm to the commercial character of the heritage asset.

8.30. Overall, it is considered that the proposal would lead to '*less than substantial*' harm to the significance of the listed building by detrimentally impacting on two key elements of significance. This harm stems partly from the internal alterations to the roof to provide the residential accommodation, subdivision of the space and also the number and extent of roof lights proposed on the building. All these are as a result of the residential conversion of the building and the number of dwellings the applicant is seeking to deliver. In accordance with paragraph 134 of the NPPF this harm needs to be weighed against the public benefits of the scheme including securing the optimal viable use of the building.

Residential amenity

8.31. Both the NPPF and Policy ESD15 of the Local Plan Part 1 seek to ensure development proposals provide a good standard of amenity for both existing and proposed occupants of land and buildings.

8.32. The change of use of the building is not considered to significantly impact on the amenity of the neighbouring properties by virtue of level of activity or disturbance given the authorised use as an office would already generate relatively high levels of movement. Concerns were raised with the applicant regarding the existing and proposed windows/roof lights on the western elevation of the building which directly overlook the rear garden of the adjacent properties. It is acknowledged that many of

these windows already exist however the nature of the proposed use is likely to result in further levels of overlooking at certain times of the day and at weekends which would be more intrusive to the neighbouring properties. In order to mitigate this impact to some extent the applicant has shown the lower part of the sash windows to be obscurely glazed which would provide more limited views into the neighbouring garden but also allow for outlook through the upper panes to future residents. Given that the large number of existing openings which already directly overlook this neighbouring and the proposed mitigation, this is considered to be acceptable. The other new openings on the building are not considered to impact significantly on the amenity of the neighbouring properties.

- 8.33. The proposed dwellings are all considered to be of an adequate size to provide a good standard of amenity. The windows to the ground floor flats (unit 1 and 2) would face directly onto the parking areas to the front of the building which is far from ideal from a residential amenity perspective in terms of privacy, outlook and noise and disturbance, but given that this is an existing parking arrangement on balance this is considered to be acceptable.
- 8.34. A number of the proposed flats have windows facing into the central atrium and officers have concerns that residents and visitors would be able to view directly into these flats whilst using the communal areas which are provided in the building. Whilst these windows are advantageous to the amount of light received in the flats it is considered they would need to be fitted with opaque glazing to ensure the future residents had a good standard of amenity in terms of privacy. On balance the amenity of the future residents is considered to be acceptable.

Affordable Housing

- 8.35. Policy BSC3 of the Cherwell Local Plan Part 1 states that all developments that include 11 or more dwellings (gross) will be expected to provide at least 30% of new housing as affordable homes on the site. This provision expects 70% of the affordable housing as affordable/social rented dwellings and 30% as other forms such as shared ownership. This would equate to 7.5 units in the scheme. It states that financial contributions in lieu of on-site provision will only be acceptable in exceptional circumstances.
- 8.36. In this case as the site is being treated as a single block of flats with a relatively high provision of communal facilities (leading to additional service charges) the Housing Officer has requested a commuted sum for affordable housing be sought rather than on site provision.
- 8.37. When the application was originally submitted the applicant made no provision for affordable housing and submitted a number of viability appraisals in order to justify this. Officers did not agree with the way the applicant had assessed the existing site value which was a key component in making the scheme viable or not.
- 8.38. However, the applicant has now agreed to pay a commuted sum to the provision of affordable housing based on the difference between the residual land value of the site without affordable housing less the residual land value of the site with affordable housing. This is the method outlined in the Affordable Housing Viability Study Update Report 2013 which formed part of evidence based for the Local Plan. Given the particular circumstance of this case the housing officer has agreed to this. This would need to be secured through a Section 106 agreement. The proposal is therefore considered to comply with Policy BSC3 of the Local Plan.

Highway safety

- 8.39. The application site is situated approximately 160m walking distance to the southern edge of the designated town centre in the Local Plan. The town centre provides a wide range of services and facilities for residents and opportunities to use public transport. The proposal provides 24 parking spaces although one of these spaces adjacent to the access would not be usable being only approximately 3.5 metre long. The proposal also provides 39 cycle parking spaces.
- 8.40. Whilst comments from the highways authority (LHA) have not been received on the amended plans they did comment on the originally submitted proposal. The proposed access to the parking areas already exists and is considered to be acceptable subject to further details on the operation of the gated access.
- 8.41. In relation to the parking requirement the LHA has indicated that when assessed against OCC's parking standards the proposal would require between 30 and 37 parking spaces depending on whether spaces were allocated or unallocated. It has objected to the application on the lack of adequate parking provision and note that the surrounding streets are heavily parked and additional on-site parking could lead to residents parking in unsafe spaces and hinder the safe and efficient operation of the highway network.
- 8.42. It is noted that the Parking Standards used to calculate the parking requirement cover the whole of the area they define as 'urban' which does not take account of the proximity of the site to the town centre and would be applicable for the whole of Banbury. In order to justify a lower parking requirement that applicant has provided census data which covers the application site and the surrounding town centre area. This shows that existing car ownership in the locality at the time of the census (2011) was 0.44 cars per flat and that 454 of 727 flats were car free. Officers acknowledge that this covers a large part of the town centre and therefore requested the applicant provided the data for the area to the south of the site further from the town centre to increase the robustness of this data. In this area further from the town centre the car ownership for flatted development was 0.73 cars per flat and 125 of the 339 flats were car free. Taken this higher figure and applying it to the current development it would require 19 parking spaces for residents theoretically leaving 4/5 spaces for visitors.
- 8.43. The LHA has raised concerns that this data stems from the 2011 census so is therefore dated. However, this is the latest census data available and it is not considered there are any significant social or economic events which would have led to a higher level of car ownership in flatted development since this data was collected. The data the applicant has provided is much more specific to the site than the generic Parking Standards and therefore officers consider it provides a more robust picture of the likely parking demand and acknowledges the proximity to the town centre. Therefore officers consider the development would be acceptable in this regard. Full details of the proposed parking allocation to ensure a certain level of visitor parking is provided could be secured by way of a condition.
- 8.44. In relation to the provision of cycle parking the LHA has indicated that 39 cycle parking spaces should be provided. The plans have been amended to show this and comments are on the amended details are awaited from the highway engineer.
- 8.45. Concerns were also raised regarding disabled access to the building as this is not possible from the front elevation. Level access have been provided to the rear of the building and given the listed status of the building and this being an existing access this is considered to be acceptable.

8.46. The LHA raised concerns that the bins would need to be pulled approximately 35m to allow collection. The applicant has indicated this would be undertaken by a caretaker and given the constraints of the site this is considered to be acceptable.

Other matters

8.47. Policy BSC10 requires new residential development to contribute to open space, sport and recreation provision commensurate to the need generated by the proposals. It goes on to state that the level of open space, and its management and maintenance, will normally be required to be provided on site in accordance with BSC11 of the Cherwell Local Plan 2015. Given the scale of the proposal in this case the development would require a general green space and amenity area.

8.48. In the current case there is a green space to the north of the building which would be provided as an amenity space for the use of residents. This would appear to meet the needs of the residents and would be required to meet the requirements of Policy BSC11 for open space. The management of this space would need to be provided for and could be controlled through a condition. It is noted that there is an extant planning permission for a new dwelling on this part of the site and if the current proposal were to be granted a planning condition/legal agreement would need to ensure this permission was not implemented as without this space the proposal would conflict with the requirements of the Policy BSC11.

8.49. Policy ESD10 seeks to protect biodiversity and the natural environment. A bat survey has been undertaken and found no evidence of bat roosting within the building. Subject to conditions requiring ecological supervision of certain activities and biodiversity features including bird and bat boxes the Council's ecologist is satisfied with the proposal.

8.50. Details of drainage could be provided by condition and given the type of accommodation being proposed OCC have not requested an education contribution.

9. PLANNING BALANCE AND CONCLUSION

9.1. The planning system requires social, economic and environmental benefits to be sought jointly in making planning decisions and reinforces the plan-led basis of the planning system to ensure sustainable outcomes.

9.2. In this case the proposal would provide a new use for a listed building and would provide new housing in a geographically sustainable location. However, this benefit has to be viewed in the context of the ability of the Council to demonstrate a 5 year land supply. The proposal would also provide a commuted sum to aid with the delivery of affordable housing in the locality. It would also provide economic benefits associated with the construction period and through the new homes bonus.

9.3. Weighing against the proposal it would lead to the loss of existing employment provision in a geographically sustainable location without robust justification leading to economic harm. This would conflict with the provisions of the Development Plan which carries significant harm. The proposal would also result in environmental harm through causing '*less than substantial*' harm to significance of the listed building and Conservation Area for which the Council must have special regard.

9.4. Given that this harm stems from the residential conversion of the building which has not been adequately justified through a robust marketing campaign and the existing use of the building may still be viable it is not considered that there is clear and convincing justification for this harm as required by the NPPF and it is not considered to represent the optimum viable use of the building. Whilst officers have

concluded that the residential amenity, highway matters, biodiversity and open space requirements comply with the Development Plan these weigh neutrally in the planning balance.

- 9.5. Overall, it is considered that the harm resulting from the development would not be outweighed by any of the benefits and it is recommended that planning permission be refused.

10. RECOMMENDATION

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

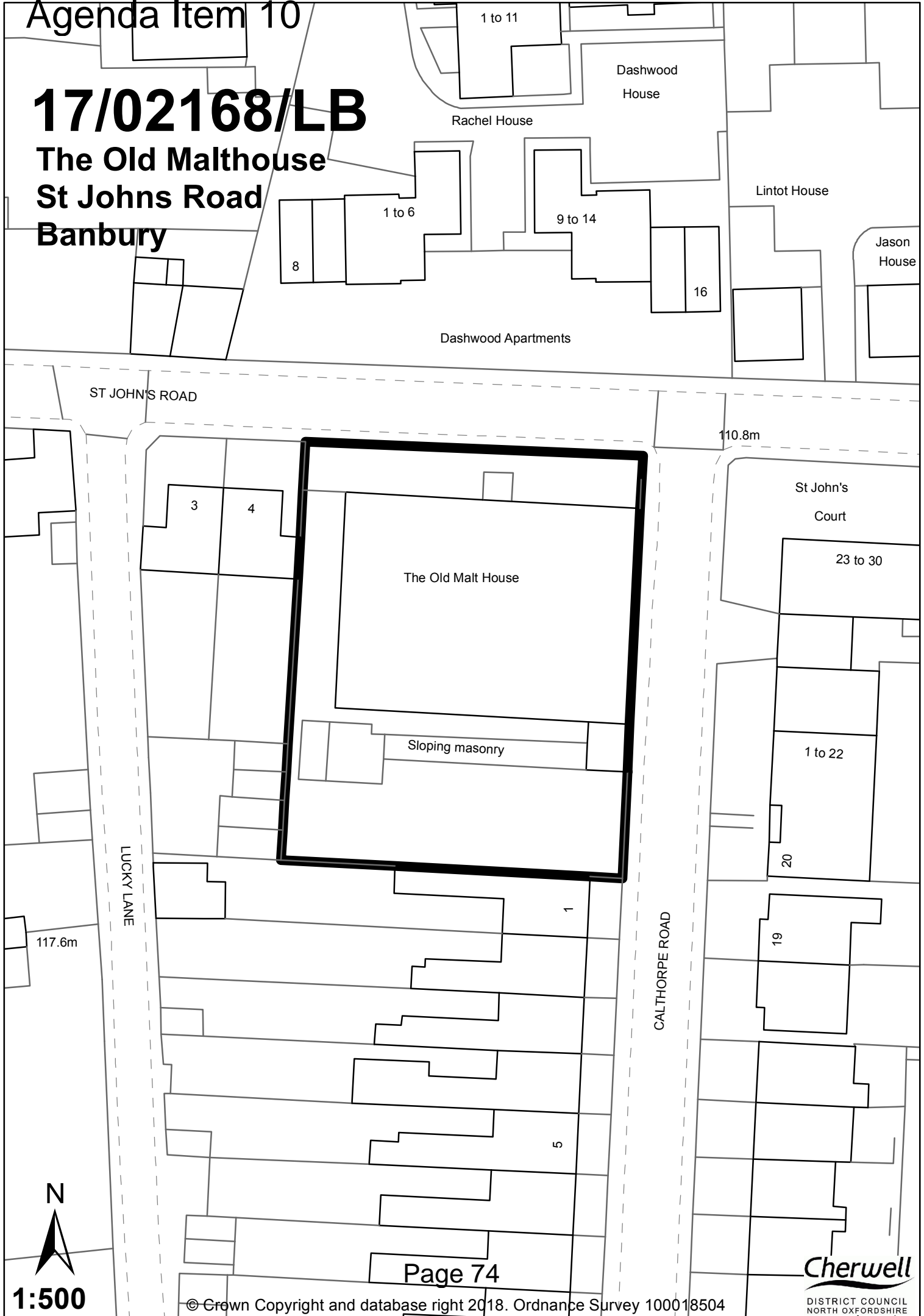
1. The applicant has failed to demonstrate through a robust marketing exercise that the site is no longer viable to be retained for its existing employment use. The proposed development would therefore lead to the unjustified loss of employment land in a sustainable location and result in economic harm contrary to Policy SLE1 of the Cherwell Local Plan Part 1 (2015) and advice in the NPPF.
2. The proposed development would result in *less than substantial* harm to the significance of the listed building and conservation area through alterations to the roof to provide the residential accommodation, subdivision of the internal space and also through the number and extent of roof lights proposed on the building. This harm is not supported by clear and convincing justification and it is not considered, based on the evidence provided, that residential use of the building is the optimum viable use of the building. The social and economic benefits arising from the scheme would not outweigh this harm. The proposal is therefore contrary to Government guidance contained within the National Planning Policy Framework, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and saved Policy C18 of the Cherwell Local Plan 1996.

CASE OFFICER: James Kirkham

TEL: 01295 221896

17/02168/LB

**The Old Malthouse
St Johns Road
Banbury**



The Old Malt House

Sloping masonry

ST JOHN'S ROAD

LUCKY LANE

CALTHORPE ROAD

110.8m

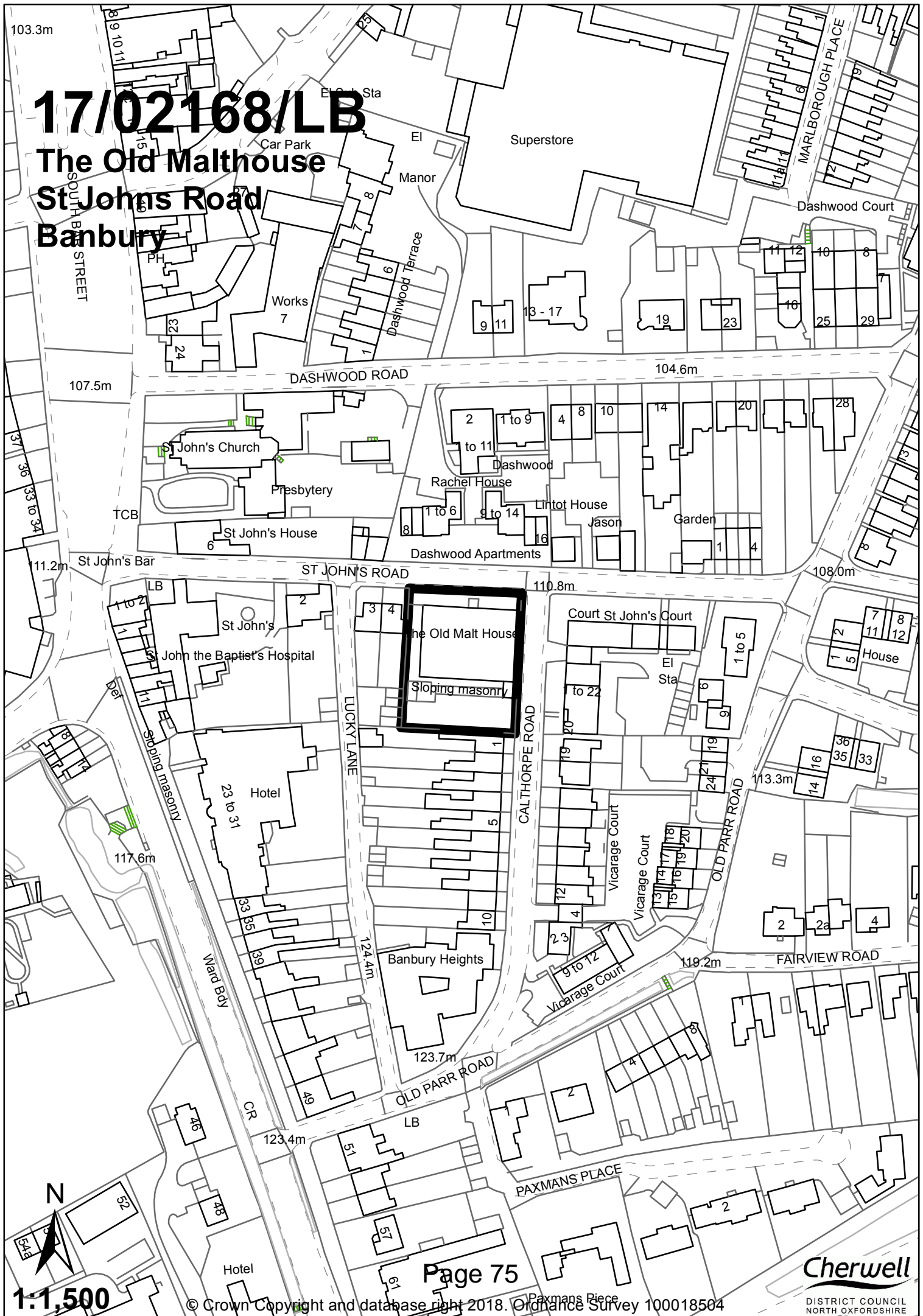
117.6m

N

1:500

17/02168/LB

The Old Malthouse
St Johns Road
Banbury



Applicant:	Morrison Property Consultants Limited		
Proposal:	Conversion of building from B1(a) Offices to 25 residential flats, with ancillary parking, bin storage and amenity area.		
Ward:	Banbury Cross And Neithrop		
Councillors:	Cllr Hannah Banfield Cllr Surinder Dhesi Cllr Alastair Milne-Home		
Reason for Referral:	It is associated with a major application on the agenda		
Expiry Date:	22 February 2017 - EOT	Committee Date:	15 th February 2018
Recommendation:	Refusal		

1. APPLICATION SITE AND LOCALITY

- 1.1. The application relates to a Grade II listed former malthouse located on the corner of St Johns Road and Calthorpe Road to the south of Banbury town centre. It is also located within the designated Banbury Conservation Area and within the setting of numerous listed buildings including the terrace properties to the south of the site on Calthorpe Road.
- 1.2. The property is an attractive brick building with a symmetrical frontage consisting of sash windows and stone and stucco detailing giving a grand appearance. It has the appearance of a two storey building from St Johns Road. The building was originally used as a maltings however has had a series of uses since then with its authorised use currently as a B1 Office use. The ground floor of the building has partially been converted to car parking with access provided to the western side of the building. Car parking also exists to the front of the site which sits perpendicular to the St Johns Road.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. The current application seeks listed building consent for various external and internal alterations to facilitate the conversion of the building into 25 flats (23no 1 beds and 2no 2 beds). There is an associated application for full planning permission on this agenda (17/02167/F refers).
- 2.2. The external works would consist of the provision 3 new windows in the east elevation, a new second floor window to the west elevation and alterations to some of the fenestration on the rear elevation of the building. It would also include the insertion of numerous rooflights and roof lanterns to the top of the roof of the building.

2.3. The internal works would include the following:

- Creation of a new ground floor flat in the south east corner of the building on an existing area of parking.
- The building currently has office accommodation which extends across the first floor and the eastern end of the building at second floor level. The remainder of the second floor and space above currently consists of a roof void. The proposals seek to open up the central part of the building from the first floor level to the roof to create a central atrium which would serve as a communal area. The existing first floor would be subdivided into flats and the second floor would be extended across the width of the building (with the exceptions of a 3 voids in the centre of the building) to accommodate flats and a communal shared space for residents. A new third floor would also be placed in the remaining roof void at either end of the building to accommodate 2 new flats. New steel columns would be placed in the building at various locations to support the new floors. Within the central atrium these would be visible however within the other parts of the building they would generally be enclosed in the walls.
- A number of works are proposed to the existing roof structure. These are detailed further in the appraisal section of this report.

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>
17/02167/F	Conversion of building from B1(a) Offices to 25 residential flats, with ancillary parking, bin storage and amenity area.	Pending Consideration
15/01389/F	3 bedroom dwelling	Application Permitted
05/00103/F 10/00221/F	and Erection of 1 No. detached dwelling (as amended by plans received 23.03.05 and plan Nos. P381/10B & P381/12B received on 19.04.05).	Application Permitted
89/00498/N	Demolition of lean to store. Formation of first floor level offices with additional ground floor offices and car parking	Application Permitted restricted to Class B1(a)
77/00461/N	Change of use from storage of furniture to storage and distribution to the trade only of domestic electrical spare parts	Application Permitted

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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It was advised that based on the information provided that the proposal would conflict with Policy SLE1. Limited information was provided in regard to the internal alterations and concerns were raised regarding the number of roof lights and terraces in the roof of the building and the impact this would have on the building. Concerns were also raised over the amenity of the neighbouring property and the future amity of some of the residents given the arrangement of the flats. It was also stated that the Council would be seeking an affordable housing contribution commuted sum. Concerns were also raised over the level of parking. Overall it was concluded that based on the information provided by the applicant officers would be unlikely to support the application.

5. RESPONSE TO PUBLICITY

5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 12.02.2018, although comments received after this date and before finalising this report have also been taken into account.

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

- Object to the density of the development due to parking, noise and not being in keeping with the historic quality of the area. The footprint is smaller than Dashwood Apartments and they were only allowed to develop 16 apartments due to car parking and noise.
- The roof lights in the western elevation will overlook 2 St Johns Road

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: **No objections.** The Town Council is eager that any development carried out is done so in a sympathetic manner and that conservation officers are satisfied with any proposed works.

STATUTORY CONSULTEES

6.3. HISTORIC ENGLAND: **No comment.**

NON-STATUTORY CONSULTEES

6.4. CDC CONSERVATION: **Comment.** The key issue is whether there is a public benefit to finding a sustainable new use for the building if the current use is no

longer considered to be viable. This is beyond my expertise and should be dealt within in relation to the viability issues being discussed from a planning perspective.

- 6.5. This also relates to the provision of the additional units at third floor – if it can be satisfactorily demonstrated that the conversion of the building can only be achieved by the inclusion of these additional units the harm caused is considered acceptable, but if an alternative use can be found without the need for the additional units then it is not. I will defer to the Planning Officer's judgement on this matter.
- 6.6. If conversion to residential use is considered to be the optimum viable use a limited amount of harm can be weighed against the public benefit of finding a use for the building, but it is important that the harm is minimised.

Amended plans - rooflights

- 6.7. In relation to the rooflights it is accepted that in order to convert the building to residential use rooflights are required and it is noted that roof lights have previously been inserted into the roof. The key issue is to minimise the harm to both the physical fabric and the visual appearance of the property. The Design and Access Statement claims:
 - 6.8. *'Within the apartments at second floor level, the rooflights are required to ensure natural light and ventilation within each unit. Within the living spaces, it is important that there is both high and low level light to ensure a comfortable living environment, therefore we propose rooflights in groups of four, which can also be opened up to provide an element of private amenity to the units.'*
- 6.9. Whilst not wanting to compromise the amenity of the individual occupiers of the units it is my role as heritage professional to ensure that the level of harm to the historic fabric of the building is minimised. I would therefore recommend that the number, size and dimensions of the rooflights do not exceed minimum standards where there is harm to the physical historic fabric of the building.
- 6.10. It is accepted that there has been historic precedent for elements protruding from the ridge of the roof. Rooflights which sit proud of the roof will be acceptable if they can be used to minimise the number, size and dimensions of rooflights on the plane of the roof and if it can be demonstrated that the additional number of residential units are required. The precise design of these lights would need to be provided, but could be dealt with by condition if required.

Amended plans – other issues

- 6.11. It is positive that the proposed roof terraces have been removed from the design.
- 6.12. It is positive that the bottom hung windows have been removed.
- 6.13. The precise design of the proposed external doorways is a detail and can be dealt with by condition if necessary.
- 6.14. **GEORGIAN GROUP: Comment.** The Georgian Group has some concerns with the application. The removal of existing rooflights and the insertion of new rooflights is, in principle, not something we object to. We are concerned with the large number of rooflights proposed. Whilst we acknowledge that the applicants assessment of the viability of the scheme is predicated on the number of rooflights shown in the application it is not suitable for a designated heritage asset and we feel that there must be compromise on their part to reach a mutually acceptable conclusion. This principle also applies to the insertion of a number of new openings in the external

walls. The heritage statement highlights the fact that the building is 'a much-altered building whose main significance lies in its external shell, its unusual roof structure, its position within the streetscape.....'. Inserting windows will remove historic fabric, exacerbating the fact that it is 'much-altered', and greatly affect the 'main significance'.

- 6.15. We are not opposed to the change of use. Historically the building has gone through many phases of re-use, from hosiery works, engineering works and office facilities. We are also conscious of the lack of internal historic fabric due to the various changes of use through time. As a result we are concerned with the removal of a central structural wall – presumably original fabric. Considering the inherent lack of anything historic remaining internally, it is imperative that what remains must be conserved. We ask the Local Authority to give great weight to the National Planning Policy Framework (NPPF) when coming to a decision.
- 6.16. ASSOCIATION OF INDUSTRIAL ARCHAEOLOGY: **Comment.** Residential conversion is not always the most appropriate reuse of an industrial building, but it is usually the most secure. Externally, this building no longer displays typical malthouse features as the fenestration has already been altered to suit subsequent uses. In consequence the new windows which have been designed to match existing ones are not a particular problem, but there are substantially more roof lights than at present. However, the most important changes are internal. Despite subsequent reuses, the floors are still largely open plan as they would have been when the building was in use as a maltings. This dense residential conversion means that the floors are divided up with the partial exception of the ground floor where it is used for car parking which is certainly a suitable reuse. The most interesting feature of this broad building is its roof structure, currently partly hidden by ceiling panels and insulation. As not all full details are shown in the sections it is not entirely clear the extent to which this interesting roof structure will remain visible in the residences. It is to be hoped they will be as visible as possible. Given the unusual nature of the roof structure it is essential the opportunity is taken to fully record it when it is exposed during the conversion. The Association for Industrial Archaeology has no objection to this application but if approved there should be an appropriate recording condition in respect of the roof structure (NPPF para 141 is applicable).
- 6.17. BANBURY CIVIC SOCIETY: **Comment.** In some ways the proposal seems to be a good one in terms of design and the conservation of the historic fabric of this very interesting Grade II-Listed Malthouse. That said, taking a Grade II Listed building of a type whose heritage significance largely derives from its large open floor spaces and irreversibly dividing it up into multiple domestic residential small units undoubtedly causes harm, although in this case that harm would probably be regarded as 'less than substantial harm'. It is nevertheless a step that needs thorough justification.
- 6.18. As noted in the NPPF, para 134 *"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use."*
- 6.19. Guidance on "optimum viable use" is provided in the Government's 'Planning Practice Guide' and states: *If there is only one viable use, that use is the optimum viable use. If there is a range of alternative viable uses, the optimum use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes.*
- 6.20. *The optimum viable use may not necessarily be the most profitable one...*

- 6.21. *Harmful development may sometimes be justified in the interests of realising the optimum viable use of an asset, notwithstanding the loss of significance caused provided the harm is minimised.*"
- 6.22. The building has functioned perfectly well, for many years, as up-to-date, open-plan, serviced offices. It would need little, or minimal change to continue in such a use if such a use remains viable. To consent to a residential subdivision that will result in "*less than substantial harm*" the Council needs to assure itself that residential use is now the *optimum* viable future use for this building, rather than simply the one that is most profitable for the owner or developer. Thus the Council needs to be satisfied that the existing office use is now economically redundant and that there are no less damaging uses for the building that are less damaging. The only way to demonstrate redundancy is through appropriate marketing at an appropriate value.
- 6.23. Should the Council be content that multi-occupancy residential use *is* the only, or optimum viable use and that the proposal is the least harmful viable use, the council should aim to ensure that the development proposal minimises harm and that it "*enhances or better reveals (the heritage) significance*" of the asset (NPPF para 137) in order to compensate for any harm.
- 6.24. Of the many surviving malhouses of the late Georgian period, this Grade II malhous is prodigious for its unusually wide floor-plan and its exceptionally 'polite' exterior treatment. The timber roof trusses that were provided to span this exceptionally wide-span building in 1834 (illustrated below) are indeed truly prodigious for their period and potentially of national significance in themselves. The roof structure certainly contributes outstandingly to the heritage significance of this Grade II listed malhous and it certainly merits making more apparent in any development proposal for the building.
- 6.25. BCS are pleased with the developer's proposed atrium, although are concerned that this atrium will show only the central part of the roof trusses, rather than revealing their full structure across the whole width of the building. Also concerned at the absence of any detail design regarding of the flats themselves, so it remains uncertain if the roof trusses will remain visible within the flats, or whether the timberwork will need to be concealed within some, or all of them, on account of fire risk.
- 6.26. Whilst open to the idea of residential conversion of this very advanced and interesting building *is* the optimum viable use of this very unusual and historic building, we would nevertheless seek the following:
- Evidence of appropriate marketing to demonstrate the redundancy of the building as offices
 - Further detail of how the roof trusses will be made visible within the flats
 - Further exploration of the potential to enlarge the atrium so as to expose the full width and height of at least three trusses, and
 - The securing through an appropriate condition of a detailed archaeological record of the building to Historic England Level 3, with a Level 4 record of the roof structure.
- 6.27. THAMES WATER: **No objections.**

6.28. CDC ECOLOGY: **No objections** subject to the works to the roof being attended by an ecologist and the provision of bird and bat boxes to the building through conditions.

6.29. CDC BUILDING CONTROL: **No objections.**

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: Development affecting a listed building

7.3. Other Material Planning Considerations

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

8. APPRAISAL

8.1. The key issue for consideration in this case is the proposal’s impact on the significance of the listed building.

8.2. The key issue to consider is the impact upon the historic character, interest and fabric of the listed building, and the impact upon the significance of this designated heritage asset. 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 Framework is a presumption in favour of sustainable development and in the context of this application would include conserving and enhancing the historic environment.

8.3. The NPPF requires Local Planning Authorities take account of the desirability of sustaining and enhancing the significance of heritage assets and seeks to ensure that new development should make a positive contribution to local character and distinctiveness. It goes on to state when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation and any harm should require clear and convincing justification. It goes onto state that where development proposals will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Policy ESD 15 of the Cherwell Local Plan echoes this advice. Furthermore Section 66 of the Planning (Listed Buildings and

Conservation Areas) Act 1990 requires that special regard shall be given to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 8.4. Saved Policy C18 of the CLP 1996 further advises of the Council's desirability of preserving the listed building or its setting or any features of special architectural or historic interest.
- 8.5. The application is accompanied by a Heritage Statement which states, *'As a result of the several phases of quite radical internal changes to the building, its key elements in heritage terms of the building are the external shell – particularly the façade to St John's Road – and the broad roof structure with its very unusual and ambitious trusses. The rest of the interior is not considered to be of any great heritage value'*.
- 8.6. The Conservation Officer considers this assessment to be broadly correct. The Conservation Officer has noted that the core significance of the building lies in its roof structure with its trusses spanning the width of the building and the 'surprisingly grand design' of the façade of the building. The design is unusual for a maltings in having just 2 floors, a large number of windows and an elaborate façade. Given the changes to the buildings over the years there is minimal surviving visible evidence of the functional operation of the building. Banbury Civic Society and the Association for Industrial Archaeology have also highlighted that the still largely open plan nature of the building also contributes to its significance as it would have like this when the building was in use as a maltings and this preserves some its industrial character.
- 8.7. The proposal includes a number of new windows to the rear and side elevations of the buildings. There is no objection in principle to these alterations and they generally respect the character and form of the existing building. There are some concerns regarding the style of the new new/altered door openings on the rear elevation of the building which upset the balance of the building. However, revised details of these could be secured by condition to ensure there design is more in keeping with the 12 pane sash windows which characterise the building if the development was considered to be acceptable in all other regards.
- 8.8. Significant concerns exist in relation to the number and size of the roof lights proposed on the building and the Conservation Officer and Georgian Society have both raised this as a concern. Whilst the plans have been amended during the course of the application to remove the a number of external balconies, the number of roof lights proposed in the roof slopes is still considered to be excessive and results in a cluttered appearance to the roof slopes. This would detract from the external appearance and character of the building which is one of the areas of core significance of the building. Whilst it is acknowledged that historically the building appeared to have a number of roof lights the arrangement and appearance of these appeared to be simpler, fewer in number, more industrial in character and less cluttered.
- 8.9. The existing building appears to have 12 modern roof lights which are not of historic value and therefore their loss is not considered harm the significance of the building. However, the proposal to replace these with approximately 60 conservation roof lights is not considered to preserve or enhance the significance of the building and would detrimentally impact on the character and appearance of the external shell of the building. Whilst the visual harm caused to the roof lights to the front of the building would be somewhat moderated by the fact that they are unlikely to be visible from many views points the roof lights on the rear elevation would be more widely available from Calthorpe Road. The applicant argues that this is the minimum number of roof lights to serve the residential conversion however a number of the

apartments appear to have a large amount of roof lights and based on the information provided it is considered that these could be rationalised.

- 8.10. In relation to the internal alterations given the extensive historic alterations which have happened to the building through the years most of the historic fabric inside the building has been lost. The Georgian Society have raised concerns regarding the loss of an internal structural wall however having sited the site this is a modern intervention and not of historic merit.
- 8.11. The in terms of fabric the key element of significance relating to the internal part of the building is the roof structure with its trusses which extend the depth of the building and are noted to be usual and ambitious for the age of the building.
- 8.12. The plans have been developed in order to minimise the alteration to the roof structure as far as possible and seek to retain visibility of the roof structure were possible within the constraints of the desired quantum of development. This has been done by placing the new internal walls either side of the roof structure so the majority of the roof structure would remain visible and hence not be concealing in new walls. However a number of alterations are proposed to the roof structure to accommodate the use including:
- Cutting the purlins in the location of the cluster of roof lights on the second floor to allow for the roof lights to be inserted.
 - At second floor level a number of the existing timber struts are situated at 1.7m above floor level and these need to be raised to allow access through them. Where this is occurring the end sections will be retained to allow the original roof structure can be read.
 - Removal of a central purlin in the roof running through the apartments at head height at second floor level. This will be retained in the central atrium.
 - Removal of 1 almost vertical strut in flat 17 to enable access through the flat. A similar alteration has already occurred at the west end of the building where office accommodation is already provided.
- 8.13. All these elements result in some harm to the fabric and form of the roof structure. Further harm is caused to the structure through the insertion of new channels being fixed to the existing trusses and insertion of joists to provide the additional floor space on the second and third floor. This would impact on the fabric of the roof and conceal some elements of the existing roof structure in more permanent way.
- 8.14. A number of comments have been received indicating that the wide open spaces of the building also contribute to the significance of the building as a former malt house. However, it is noted that the existing internal division of spaces is currently entirely modern and the existing proportions of the spaces are of no historic significance. That said, the residential conversion would lead to further intensive subdivision of the internal spaces which would result in some harm to the commercial character of the heritage asset.
- 8.15. The applicant plans to create a central atrium to the building which they argue will allow for a better appreciation of the roof structure and volume of the building. Whilst this is a benefit the amount of roof structure that would be revealed is relatively limited and this is not considered to outweigh the identified harm outlined above.
- 8.16. Overall it is considered that the proposal would lead to '*less than substantial*' harm to the significance of the listed building by detrimentally impacting on two key elements of significance. It is therefore necessary to consider whether there is clear and convincing justification for the harm, whether the proposal would represent the

optimal viable use of the building and whether there are any benefits stemming from the scheme to outweigh the harm to the listed building.

- 8.17. Clearly retaining the building in the existing use or having a new use that did not require the additional level of intervention would mean the building could be brought back into active use without the additional harm arising. The applicant has stated that the existing use of the building as an office is no longer viable and has been marketed for a sustained period as an office without any offers being made and that potential purchasers could have come forward with alternative commercial uses in this period.
- 8.18. A detailed assessment of marketing exercise has been undertaken in the associated full application on this agenda (17/02167/F refers). This concludes that there are a number of weaknesses in the marketing campaign which mean officers do not consider that it has been adequately demonstrated that the use of the building as an office is no longer viable. Amongst these weaknesses is the view that the building has been marketed for sale significantly in excess of its market value is based on evidence submitted by the applicant.
- 8.19. It is therefore currently not considered that the existing use has been demonstrated to be unviable and based on the information provided this is considered to be the optimal viable use of the building at the current time as it could continue an active use for the building without the works to the roof structure, subdivision of space and insertion of significant number of roof lights.
- 8.20. It is also not considered that the number of roof lights is the minimal number to make the scheme viable and although it is acknowledged that applicant wants to provide light filled apartments this needs to be balanced against the need to protect the heritage asset.
- 8.21. In relation to the benefits of the scheme there would clearly be some social and economic benefits associated with the provision 25 flats, including an affordable housing contribution, in a geographically sustainable location. However, the benefits associated with the provision of new dwellings are moderated by the fact that the Council can demonstrate a 5 year supply of housing sites. There would also be some benefit in opening up part of the central atrium to allow a greater appreciation of the extent of the roof structure. However, given the limited extent of this space and the fact that other elements of the scheme elements would obscure the roof structure this is not considered to outweigh the harm.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. Overall in balancing these matters it is considered that the proposal would lead to 'less than substantial harm' to the significance of the listed building by detrimentally impacting on two key elements of significance. This harm stems from the internal alterations to the roof to provide the residential accommodation, subdivision of the space and also the number and extent of roof lights proposed on the building. It is not considered that the applicant has adequately demonstrated that the existing use of the building as an office is no longer viable or that the proposal would be the least harmful scheme to deliver a long term viable use of the building. Whilst there are social and economic benefits to the scheme these are not considered to outweigh the harm to the heritage asset. It is therefore recommended that listed building consent be refused.

10. RECOMMENDATION

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

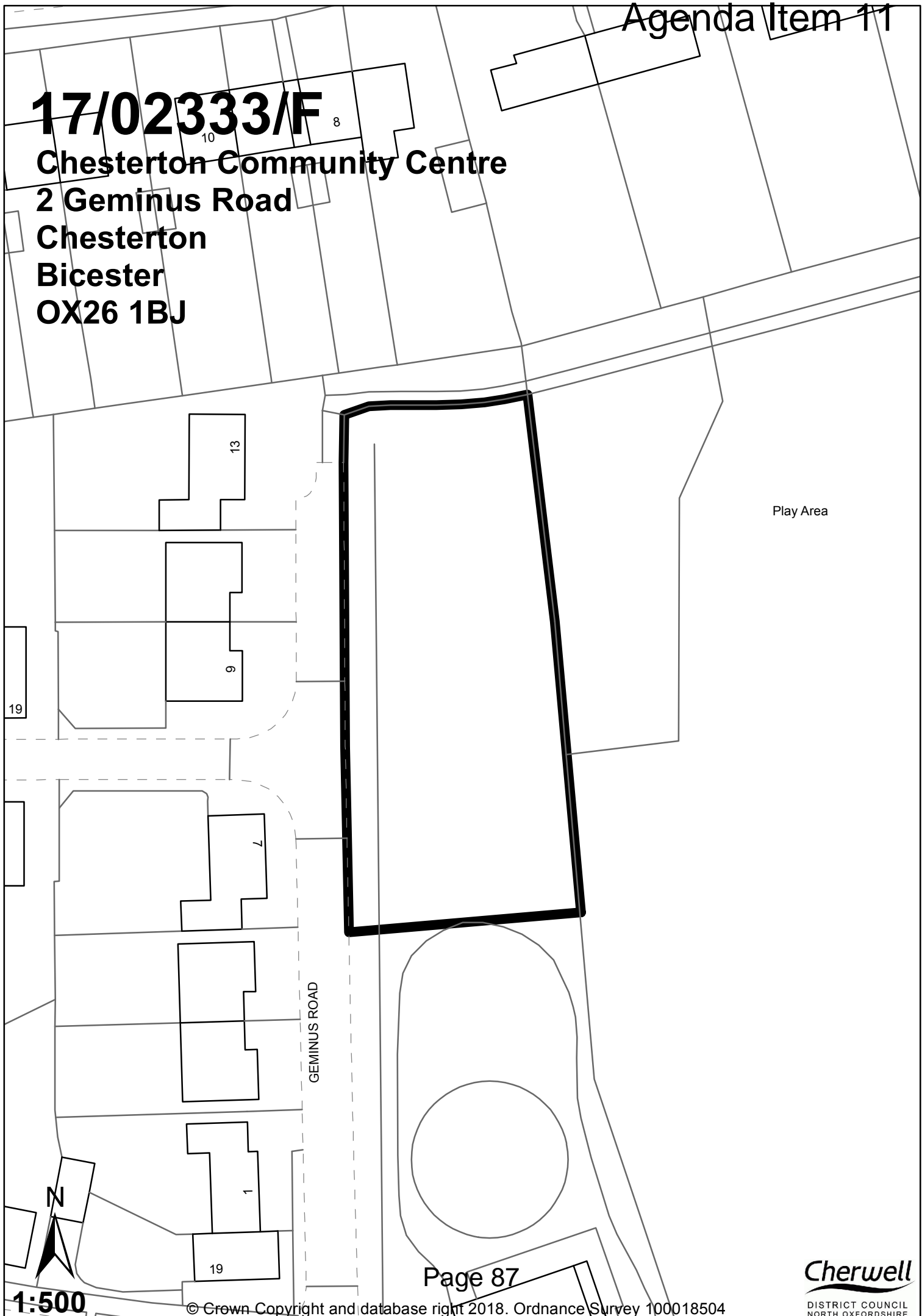
1. The proposed development would result in *less than substantial* harm to the significance of the listed building through alterations to the roof to provide the residential accommodation, subdivision of the internal space and also through the number and extent of roof lights proposed on the building. This harm is not supported by clear and convincing justification and it is not considered, based on the evidence provided, that residential use of the building is the optimum viable use of the building. The social and economic benefits arising from the scheme would not outweigh this harm. The proposal is therefore contrary to Government guidance contained within the National Planning Policy Framework, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and saved Policy C18 of the Cherwell Local Plan 1996.

CASE OFFICER: James Kirkham

TEL: 01295 221896

17/02333/F

**Chesterton Community Centre
2 Geminus Road
Chesterton
Bicester
OX26 1BJ**



Play Area

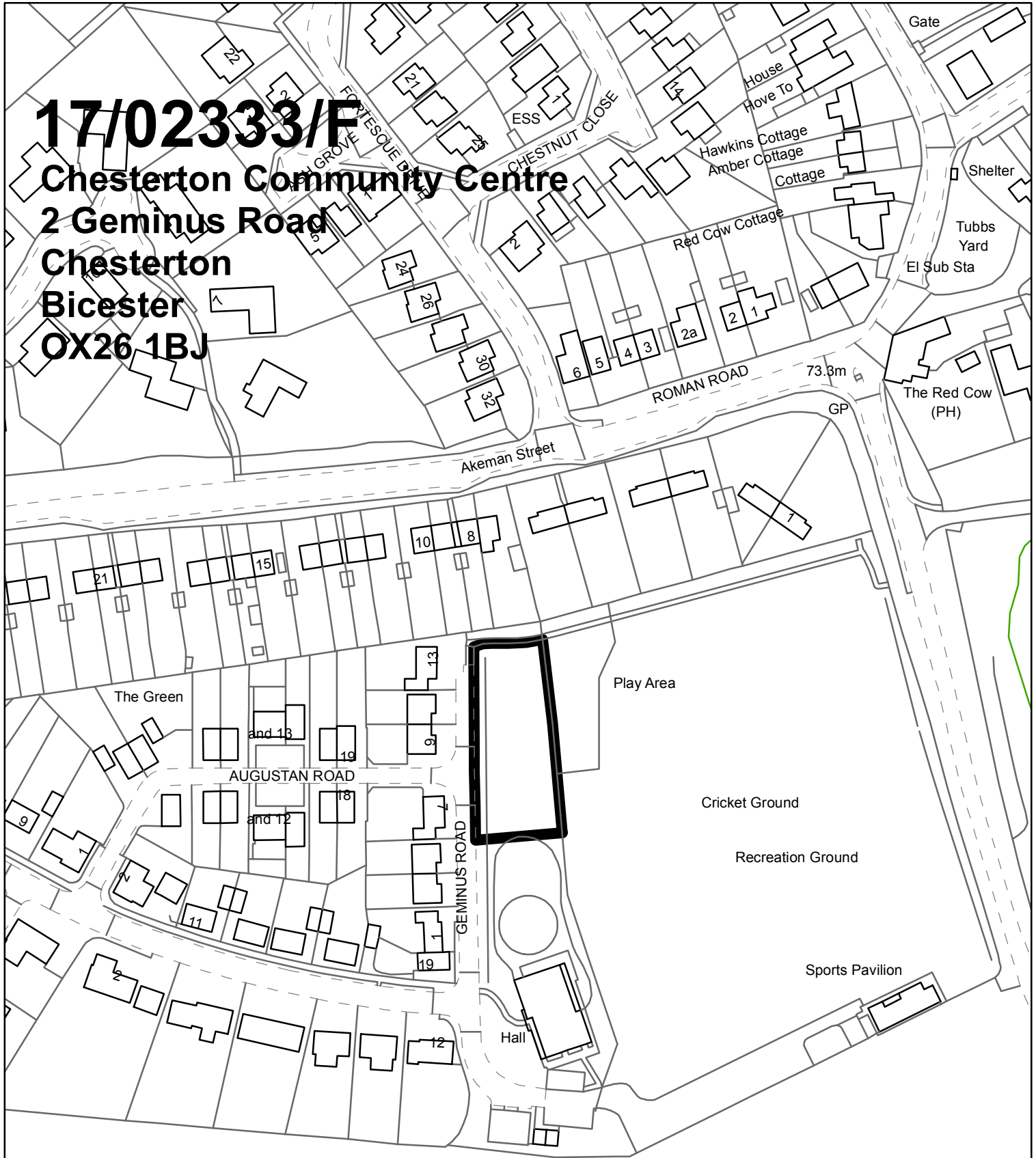
GEMINUS ROAD

N

1:500

17/02333/F

**Chesterton Community Centre
2 Geminus Road
Chesterton
Bicester
OX26 1BJ**



1:1,500

Chesterton Community Centre
2 Geminus Road
Chesterton
Bicester
OX26 1BJ

17/02333/F

Applicant: Chesterton Parish Council

Proposal: Change of Use from informal to formal play including the installation of play equipment (part retrospective)

Ward: Fringford And Heyfords

Councillors: Cllr Ian Corkin
Cllr James Macnamara
Cllr Barry Wood

Reason for Referral: Due to level of local interest in the application

Expiry Date: 24 January 2018 **Committee Date:** 15th February 2018

Recommendation: Approval

1. APPLICATION SITE AND LOCALITY

1.1. The application site is an area of open space to the west of the existing playing field located in the southern part of the village of Chesterton. Residential properties exist to the north of the site which back onto the playing field and a new housing development exists immediately to the west of the site where a number of residential properties face onto the western boundary of the site. A children's play area exists immediately to the south of the site beyond which lies a new community hall. These elements were secured as part of the planning application for the residential development to the west of the site.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

2.1. The current application seeks permission to use the application site as an equipped area of play. This area was previously designated to be used for informal open space as part of the original application for the housing to the west of the site.

2.2. The proposal is partially retrospective and includes the retention and construction of a number of pieces of play/exercise equipment. In the southern part of the site, in the area closest to the existing play equipment, a number of pieces of play equipment for older children have been erected including a zip wire, windmill rotor and birds nest swing. In the norther part of the site 6 pieces of outdoor gym equipment have been erected.

2.3. The applicant is also proposing to erect further equipment in these areas including a Supernova (W 3.4mtrs. H 77cms), a Rota Bounce (W 2.8mtrs H 2.0mtrs), and a Net Climb (L 2.2mtrs H 2.5mtrs) or Balanced Walk (L 3.3 m W 1.8mtrs)

3. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
12/00305/OUT	Erection of 44 dwellings, village hall/sports pavilion and associated car parking, enlarged playing pitches, new children's play area, access and landscaping	Application Refused and Appeal Allowed
13/01525/REM	Reserved Matters to Outline application 12/00305/OUT - Erection of 44 dwellings, village hall/sports pavilion and associated car parking, enlarged playing pitches, new children's play area, access and landscaping	Application Permitted
14/00107/DISC	Discharge of conditions 4, 5, 6 and 9 of 13/01525/REM.	Application Permitted
17/00632/F	Erection of perimeter security fence around playing fields (retrospective) and application for the erection of an additional 20 metres of fencing	Application Permitted

4. PRE-APPLICATION DISCUSSIONS

4.1. Officers have advised that planning permission would be required for the development.

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 30.12.2017, although comments received after this date and before finalising this report have also been taken into account.

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

8 letters of objection have been received. These raise the following issues:

- Loss of open space for informal play.
- Equipment is unattractive and detracts from the character and appearance of area including its materials, appearance and colours.
- The equipment dominates outlook from nearby houses
- Equipment is not safe.
- Noise and disturbance from people using the equipment including those leaving the community centre late at night

- The equipment is in breach of existing Section 106 agreement and needs to be removed. It is a breach of contract and if approved would set a precedent. The Council would be endorsing breaches if they permit the scheme.
- Purchased property on basis of area being open green space.
- If the equipment is retained the neighbouring properties will expect damages and may seek judicial review.
- The parish council have written inflammatory articles in their newsletter regarding the retention of the equipment resulting in residents feeling vulnerable and isolated.
- The equipment should be moved further from the housing and constructed of a more appropriate material such as wood.
- The additional play equipment should have been subject to consultation and fails the basic principles regarding ongoing and active consultation.
- The proposal is a waste of public money.
- Meetings between residents and the parish did not find a compromise.
- A fence has already been granted retrospectively.

In excess of 200 letters of support have been received. These have raised the following issues:

- There is urgent need to ensure that older children in the village have necessary play provision who feel disadvantaged
- There has always been an understanding that play equipment would be provided for all children under the S106.
- The parish have acted in good faith throughout.
- The equipment is required to replace the equipment which was situated on the land prior to the residential development taking place.

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.

STATUTORY CONSULTEES

6.2. SPORT ENGLAND: **No objections.** Sport England's policy is to oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of, all/part of a playing field, unless one or more of the five exceptions stated in its policy apply.

6.3. Having assessed the application, Sport England is satisfied that the proposed development meets the following Sport England Policy exception:

- 6.4. *E3 - The proposed development affects only land incapable of forming, or forming part of, a playing pitch, and does not result in the loss of, or inability to make use of any playing pitch (including the maintenance of adequate safety margins), a reduction in the size of the playing area of any playing pitch or the loss of any other sporting/ancillary facility on the site.*

NON-STATUTORY CONSULTEES

- 6.5. LANDSCAPE OFFICER: **Objects.** This development was originally for 44 dwellings which would only require a LAP under our SPD.
- 6.6. It appears that the case officer at the time was aware that the Parish wished to relocate existing equipment. I advised against this in an email to her on the grounds that it wouldn't meet current standards. I asked for clarification about where this equipment was to go but received none. The LAP was approved by the case officer without checking with SS&LS that it was acceptable. However once approved there was nothing more we could do.
- 6.7. The PC has now located some additional equipment on land in front of dwellings who were expecting to look over a grass area.
- 6.8. Had this application for the gym and LEAP equipment been submitted before installation I would have advised refusal on the following grounds:
- The gym equipment is not suitable for children. It is adult equipment.
 - The equipment is poorly sited. The layout doesn't appear to have been designed.
 - Some items are too similar in terms of play value. eg The windmill rotator and the rota bounce. Others are more suited to a LAP. The net climb and balance walk
 - There doesn't appear to be any safety surfacing. Have critical fall heights been checked? The equipment doesn't have dry surfacing under any items. The equipment is not in a safe fenced area. The equipment should have had a RoSPA inspection on it before children were allowed to use it, otherwise it won't be known if it has been installed correctly and safely. This isn't CDC's responsibility as we didn't install the equipment.
- 6.9. As a compromise solution it might be possible to install some of the equipment in the existing fenced LAP? There is a generous piece of grass which could be used to put 3 or 4 items such as the rotor, birds nest swing and supernova, possibly a couple of pieces of gym equipment. The LAP and LEAP could be separated by some additional planting.
- 6.10. ENVIRONMENTAL PROTECTION: **Comments.** The best guidance document is "Fields In Trust Guidance for Outdoor Sport and Play: Beyond The Six Acres Standard" (<http://www.fieldsintrust.org/Upload/file/Guidance/Guidance-for-Outdoor-Sport-and-Play-England.pdf>) which gives guidance for the size of buffer zones for play areas and residential properties and having looked at it the recommended zone for an area such as this is at least 20m. Some of the equipment appears to be closer than 20m. Therefore the guidance has not been followed so there is higher chance that noise complaints will be made in the future.
- 6.11. No "teenager shelter" has been included in the plan which may well reduce the chance of noise and ASB associated with teenagers gathering rather than playing on the equipment.

- 6.12. It is the decision of the planners if the benefit will outweigh the possible noise issues though in my opinion it would be better sited further away from the residential properties.

7. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

- BSC8 – Securing Health and Well-Being
- BSC10 – Open space, outdoor sport and recreation provision
- BSC11 – Local Standards of Provision – Outdoor Provision
- 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
- ENV1 – Pollution Control

- 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:

- Background
- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Other matters

Background

- 8.2. The application is made by the Parish Council. The equipment which is already present on the site was erected under the belief that the development would be Permitted Development under The Town and Country Planning (General Permitted Development) (England) Order 2015. However further investigations were undertaken and the Councils legal team advised that planning permission is required for the development as the open space was secured by way of condition and legal agreement to the original housing development to be used as informal local space. The current proposal is therefore in breach of these existing agreements and the Parish Council have submitted a planning application in order to remedy this

breach. If the application were to be approved the original legal agreement would also need to be modified. The retrospective nature of the application and the previous understandings of the parish council are not considerations which attract weight in the determining the planning considerations of the application. They are therefore not matters to be considered further.

Principle

- 8.3. Policy BSC8 of the Cherwell Local Plan seeks to support development which contributes to health and well-being. Policy BSC10 states the Council will encourage partnership working to ensure that sufficient quantity and quality of, and convenient access to open space, sport and recreation provision is secured through:
- Protecting existing sites
 - Addressing existing deficiencies in provision through qualitative enhancement of existing provision, improving access to existing facilities or securing new provision, and
 - Ensuring new development contributes to open space, sport and recreation provision commensurate to the need generated by the proposals.
- 8.4. These are in line with the objectives of the NPPF which seek to support vibrant and healthy communities and provide high quality built environment and notes access to high quality space can make an important contribution to the health and well-being of communities.
- 8.5. The application site formed part of the wider planning application for the residential development to the west of the site and during the course of the applications for the outline permission and reserved matters it was provided as an area of informal open space laid to grass. The current application would change the use of this land to a more formalized play area. However, the overall use would remain for recreational purposes available to the general public.
- 8.6. The informal open space allowed for an area informal play and also provided some visual amenity to the area through the provision of the open space albeit this was limited as the area was only laid to grass with a small earth bund to the west of the site and did not include any structural landscaping. The development has led to the loss of this area to local residents. It is noted that there is some other informal open space in the locality including an area to the western edge of the wider housing site which is available to residents. Furthermore the proposal is located immediately adjacent to the playing field and when this area is not in formal use for organised sport it can be used for informal play being open to the public. Therefore whilst the loss of the informal space would be unfortunate there are some alternatives for informal use in the local area for residents.
- 8.1. The current proposal provides play area for older children (8 years and up) and adult exercise with the provision of the outdoor gym. The parish council and residents have noted that prior to the construction of the residential development to the west a childrens play area including equipment for older children was provided on the site. This was removed as part of the wider development which included an extension to the playing field. This has resulted in the village having no publicly accessible play equipment in the vicinity for older children. The current application seeks to go some way to address this existing shortfall and this weighs in favour of the proposal as it provides a facility for the village which is not currently available and it is noted that there is considerable support from the wider locality for the scheme as is evidenced by the number of letters of support. Clearly the play equipment offers an amenity to

the residents of the village which did not previously exist and this is a benefit which officers considered carries significant weight in determining the current planning application.

- 8.7. The parish council has also raised concerns that in approving the details for the new play area secured under the new residential development (i.e. the existing authorised play area immediately to the south of the site) their views were meant to be considered. It has implied that it would have sought equipment for older children if this had happened; unfortunately it appears that the case officer dealing with the site at the time approved the scheme without the consultation. However, this is not a matter which can be capable carrying weight in the planning decision.
- 8.8. Sport England has been consulted on the application and has raised no objections to the proposal as the proposal does not result in the loss of any playing pitch.
- 8.9. Overall, the principle of providing this type of facilities to serve the residents of the village is supported and for the reasons outlined above it is considered that the loss of the informal open space is outweighed by the benefits of providing a new play space for older children and the community when there is limited other provision in the village. Therefore subject to other material considerations the principle of development is considered to be acceptable.

Design and impact on locality

- 8.10. Policy ESD15 of the Cherwell Local Plan Part 1 (2015) states that new development should complement the character of its context through sensitive siting, layout and high quality design. It goes on to state that development should be designed to deliver high quality safe, attractive, durable and healthy places to live and that development should be designed to improve the quality and appearance of an area and the way it functions.
- 8.11. A number of concerns have been raised by occupiers of the properties adjacent to the site regarding the visual impact of the development and it having a detrimental impact on the locality. The play equipment is clearly visible from the adjacent new development to the west however it is seen in the context of a modern playing field, community centre and existing play equipment and is not considered to appear unduly prominent or stark in this context. The design and colour of the play equipment is clearly different to the surrounding properties however this is not unusual in such a setting and the maximum height of the equipment is approximately 4 metres and officers do not consider it appears incongruous in its surroundings. Therefore in this context the visual impact of the development on the amenity of the area is considered to be acceptable.
- 8.12. Concerns have been raised that the proposal would impact on the Conservation Area. However the site is not within the conservation areas and is separated by the existing playing field. Having regard to the distance and scale of the equipment it is not considered that the proposal would impact on the setting of the Conservation Area.
- 8.13. The concerns of the landscape officer are noted regarding the layout, type and detailing of the scheme however given that the play area is not to be adopted by the district Council it is not considered that the same level of rigour can be applied to these matters as if the area were to be formally adopted and the responsibility of the district council. The parish council needs to satisfy itself that the play equipment is fit for purpose and that it has the relevant insurances in place regarding the public use of this equipment. Officers therefore consider this is therefore not a matter which can be given significant weight in any planning decisions. Furthermore it

must be borne in mind that the play area is an additional facility that the Parish Council is seeking to provide and there is no formal planning requirement to provide such a facility. Therefore any form of play provision is likely to be beneficial to the wider community and it is not considered that the concerns of the landscape officer could justify refusal of the application.

- 8.14. Overall the development is considered to comply with the relevant planning policies in this respect.

Residential amenity

- 8.15. Saved Policy ENV1 states that development which is likely to cause materially detrimental levels of noise or other type of environmental pollution will not normally be permitted. Both the NPPF and Policy ESD15 of the Local Plan seek to ensure development proposals provide a good standard of amenity for both existing and proposed occupants of land and buildings relating to privacy, outlook and natural light and paragraph 123 of the NPPF advises that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life.
- 8.16. The play equipment is considered to be a sufficient distance from the neighbouring properties given its height and design to ensure it would not significantly impact on the outlook or light to the properties in Geminus Road or those properties to the north backing onto the site. It is a long established planning principle that there is no right to a private view over land and therefore the concerns residents have raised regarding the loss of a view over an open space are not matters that carry significant weight in the consideration of the application.
- 8.17. Officers consider that the main issue in this case is whether the siting of the equipment has or would lead to an unacceptable level of noise and disturbance to the residents of the neighbouring properties. In this respect it is considered that given the nature of the adult gym equipment to the north and its likely usage this is unlikely to result in significant levels of noise and disturbance to residents.
- 8.18. However, the other pieces of play equipment in the area to the south of the site are more likely to generate noise and disturbance from users given their nature. The Council does not have any formal adopted planning guidance relating to how far such equipment should be situated from the closest residential property and it is therefore assessed on a case by case basis. In this case the Environmental Protection Officer (EPO) has raised concerns that the equipment is closer to the neighbouring houses than the national best practice guidance provided by Fields in Trust: 'Guidance for Outdoor Sport and Play: Beyond the Six Acre Standard'. This recommends that there should be a minimum of 20 metre between the activity area of a local equipped area of play (LEAP) and the habitable room façade of dwellings.
- 8.19. In this case the proposal conflicts with this guidance as it would be closer to the front of the properties to the west of the site in Geminus Road and this is where the majority of the residents objecting to the scheme live. For example the closest piece of equipment, the zip wire, is situated within approximately 17 metres from the front façade of the closest dwellings in Geminus Road. The Environmental Protection Officer has advised that given this there is a higher chance that noise complaints will be made in the future and in their view it would be better placed further from residential properties. However, he notes that a "teenager shelter" has not been included in the plan which may well reduce the chance of noise and possible anti-social behaviour associated with teenagers gathering rather than playing on the equipment.

- 8.20. In this case the location and nature of the play equipment is likely to generate some additional noise and disturbance to residents which is far from ideal given the proximity to the neighbouring properties. However, this harm needs to be considered in the context that the area was previously used as an area of informal open space so some noise and disturbance from outdoor play is likely to have occurred. Furthermore the site is adjacent to an existing play area which has a similar relationship to residential properties to the south of the site. The play equipment also has a high level of surveillance for the neighbouring properties which is likely to detract anti-social behaviour to some extent and as noted by the EPO there is no shelter provided on the site. In addition to the above, the equipment is only situated slightly closer to the neighbouring properties than the best practice guidance outlined above. Concerns have also been raised that people leaving the community centre could use the equipment later into the evening however the instances of this are likely to be rare and could equally occur on the permitted play equipment to the south.
- 8.21. Overall it is acknowledged that the equipment will lead to some additional noise and disturbance to the neighbouring properties. However, the Council has to assess the planning application before them and, given the context and details of the proposal (outlined above), on very fine balance this is not considered to result in such a significant impact that would justify refusal of the application. Officers have considered whether measures could be put in place to moderate this harm; however, such methods would be likely to include erecting a fence around the equipment to restrict access to the equipment at night time and this is likely to result in further concerns for the closest residents.

Other matters

- 8.22. Concerns have been raised that the proposal would breach the existing legal agreement on the site as the area is only to be used as informal open space. This in itself is not a reason to refuse the scheme and if the Council are minded to approve the application this legal agreement would be required to be modified.
- 8.23. The issues relating to the Council's handling of previous process or the Parish Council action being in good faith are not material to the consideration of the application.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. The current proposal is extremely finely balanced. The development makes provision for play and exercise equipment in the village to address a lack of existing facilities and this brings with it social benefits by offering facilities to local residents to promote health and well-being and social inclusiveness. Whilst the proposal will lead to the loss of an existing informal open space and area will remain for general recreation proposes and the benefits of the scheme are considered to outweigh this harm. The design and appearance of the proposal is considered to be acceptable in terms of environmental impacts however there would be some environmental harm associated with noise and disturbance to neighbouring properties however this has to be viewed in the context of the site and existing play equipment. In this case the benefits of the scheme are considered to outweigh the harm and it is recommended that planning permission be granted.

10. RECOMMENDATION

That permission is granted subject to the following conditions and officers are delegated authority to vary the existing legal agreement:

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

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

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application form, location plan, site plan CPC 1 showing location of equipment, details of equipment and document entitled Dimensions of play equipment.

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

3. Prior to the installation of any of the proposed play equipment (i.e. supernova, rota bounce net climb or balance walk) scale plans showing the location of the equipment and dimension of the equipment shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be undertaken in accordance with the approved details and retained as such thereafter.

Reason: In order to protect the character and appearance of the locality and in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

4. Notwithstanding the provisions of Class A of Part 12, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, no further equipment, buildings or structures shall be erected on the land without the grant of further specific planning permission from the Local Planning Authority.

Reason: In order to retain control of the land, protect the amenity of residents and the amenity of the locality in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and advice in the NPPF.

CASE OFFICER: James Kirkham

TEL: 01295 221896

Cherwell District Council

Planning Committee

15 February 2018

Appeals Progress Report

Report of Interim Director of Planning and Regeneration

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 **17/01483/F – Half Acre Cottage, Heathfield, OX5 3DU.** Appeal by Mr Jarvis against the refusal of the removal of condition 11 of permission 12/00882/F – *‘The living accommodation hereby permitted shall be occupied solely in conjunction with and ancillary to the new cattery buildings also hereby approved and shall not be sold, leased or occupied as a separate unit of accommodation’.*

17/01428/F - Part Of OS Parcels 0625 And 0914 North Of Coopers Buckingham Road, Bicester. Appeal by LNT Care Developments Ltd/Greenlight Developments Ltd against the refusal of planning permission 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.

17/01617/F – Crouch Farm, Bloxham Road, Banbury, OX16 9UN. Appeal by Mr Horgan against the refusal of planning permission for the formation of new track and access (re-submission of 16/02598/F).

17/02185/F – 2 Garden Cottages, Bicester Road, Stratton Audley, OX27 9BT. Appeal by Mrs Gibbs against the refusal of planning permission for the removal of double garage and erection of dwelling with access and parking.

17/02277/F – Keepers Cover, Church Lane, Weston-On-The-Green, OX25 3QU. Appeal by Mr & Mrs Maxted against the refusal of retrospective change of use of site edged in red on enclosed OS extract as private amenity space – re-submission of 17/00458/F.

17/02315/ F – Keepers Cover, Church Lane, Weston-On-The-Green, OX25 3QU. Appeal by Mr & Mrs Maxted against the refusal of the erection of 1.5 storey extension, with internal remodelling.

2.2 Forthcoming Public Inquires and Hearings between 15 February and 15 March 2018.

None.

2.3 Results

Inspectors appointed by the Secretary of State have:

1) Dismissed the appeal by Mr Smithson against the refusal of planning permission for the change of use from business to residential and erection of new dwelling and detached garage. Demolition of existing building. Land West of Lock Barn, Canal Road, Thrupp. 17/00518/F (delegated).

The Inspector considered that the main issues were the principle of development in the Green Belt including impact on openness and whether any harm by reason of inappropriateness was clearly outweighed by any very special circumstances, plus the location of the development, its impact on the character and appearance of the area and impact on protected species.

The Inspector noted that apart from certain clearly defined exceptions set out in paragraph 89 of the Framework the erection of new buildings in the Green Belt is to be regarded as inappropriate development. The Inspector found that the proposal would result in a change of use which would not be an exception under para 89, but that the proposal could be treated as previously developed land, another exception. Nonetheless he concluded on this point that the development would have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development due to the greater footprint and height of the proposed dwelling and would lead to an encroachment into the countryside. He therefore considered that the development would not fall within the exception of the redevelopment of previously developed land.

The Inspector held that due to its location the proposal did not amount to infilling, thus conflicting with Policy Villages 1 of the CLP 2031, and that the location within the countryside – although not ‘isolated’ – was environmentally unsustainable as future occupiers of the dwelling would be likely to rely on the private motor car to access day-to-day services facilities and employment opportunities. The location was therefore unsuitable, conflicting with CLP Policy ESD1.

He also considered that the development would not comply with Policy H18 of the CLP 1996 in that the dwelling was not required to meet an essential need for agriculture or any other existing undertaking. However, as Policy H18 was more restrictive than paragraph 55 of the Framework, he gave limited weight to Policy H18.

The Inspector found that an ecology survey was required and that in the absence of one could not concluded that the proposal would not result in demonstrable harm to protected species or habitat, the proposal thus conflicting with CLP 2031 Policy ESD10.

The Inspector considered that the proposal would have a neutral impact on the character of the area, and would preserve the character and appearance of the Conservation Area and setting of the nearby listed building. He attached little weight to the personal circumstances of the appellant, and found that there were limited benefits of the scheme including its energy efficient design, recycling of waste, additional landscaping, economic benefits through the construction and occupation of the dwelling and the social benefits of making a small contribution to the housing supply.

He concluded that these benefits did not clearly outweigh the Green Belt harm and other harm in relation to the unsuitable location and protected species, that there was conflict with the development plan and NPP|F as a whole and that the very special circumstances necessary to justify the development did not exist.

2) Dismissed the appeal by Mr R and D Walker against the refusal of planning permission for the change of use of poolhouse to a self-contained dwelling and erection of new double garage. The Poolhouse, 57 West End, Launton, OX26 5DG. 17/01008/F (delegated).

The Inspector considered that the main issues for consideration was whether the pool house is an appropriate for a dwelling having particular regard for the character of the surrounding area.

The pool house and existing garage building are located towards the end of what was the rear garden of 57 West End, a detached dwelling in Launton, which has since been separated from the application site by fencing. Vehicular access to the site remains via the adjacent track/footpath.

The Inspector considered that the application site falls outside the built-up limits of Launton as the area immediately surrounding the pool house is largely undeveloped land free from built forms, be it the large residential gardens

belonging to 57 and 51 West End or countryside. On this basis Policy H19 was applied. The Inspector considered that the use of the pool house as a self-contained dwelling would attract far more human activity on a day-to-day basis than a pool house, whereas the access and parking immediately adjacent to the front of the 57 West End would be far more convenient for its occupiers to use than the garage to the rear, given its close proximity to the house. The Inspector had regard for the supporting text of Policy H19, which explains the importance of protecting against the character of the countryside and how residential use can bring with it characteristics which are difficult to reconcile in such areas. With this in mind the Inspector considered that the change of use of the pool house would bring with it a material increase in human activity, the effects of which would be increased vehicle movements along an adjacent track. The Inspector found this to be undesirable in what is a predominantly quiet, undeveloped rural area and as such harmful to the character.

It is important to note that the Inspector gives 'saved' Policy H19 significant weight in this case, in that the policy seeks to protect the character of the countryside, so is consistent with the Framework which similarly requires the planning system to contribute to conserving and enhancing the natural environment.

The Inspector therefore concluded that the proposed change of use would be harmful to the character of the surrounding area and that any benefits would not outweigh the identified harm. The appeal was dismissed.

3) Dismissed the appeal by Mr North against the refusal of planning permission for a single and two storey rear extensions. 79 Bloxham Road, Banbury, OX16 9JS. 17/01510/F (delegated).

The main issues raised by the Inspector was the potential impact on the living conditions of the neighbouring properties in terms of loss of light, outlook and whether the extension would have an overbearing effect.

The Inspector acknowledged that the extension had been designed in an attempt to minimise impact to the neighbouring properties either side of the site, with the two storey element stepped in from either boundary. However the extension's massing would nonetheless be considerable. The effect of this projection would be to reduce the outlook from 77 Bloxham Road as well as causing some overshadowing due to its orientation.

The Inspector also considered that the 'tunnelling effect' on the first floor windows on the neighbour at 81 Bloxham Road would result in loss of light and outlook.

It was noted that the extension would not conflict with the 45 degree rule, however the Inspector stated that this should only be used as a guide and it is not a conclusive tool and regard should be had to the design and site context. Based on this assessment, the Inspector dismissed the appeal.

3.0 Consultation

None

4.0 Alternative Options and Reasons for Rejection

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

Option 1: To accept the position statement.

Option 2: Not to accept the position statement. This is not recommended as the report is submitted for Members' information only.

5.0 Implications

Financial and Resource Implications

- 5.1 The cost of defending appeals can normally be met from within existing budgets. Where this is not possible a separate report is made to the Executive to consider the need for a supplementary estimate.

Comments checked by:

Denise Taylor, Group Accountant, 01295 221982,
Denise.Taylor@cherwellandsouthnorthants.gov.uk

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

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,
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6.0 Decision Information

Wards Affected

All

Links to Corporate Plan and Policy Framework

A district of opportunity

Lead Councillor

Councillor Colin Clarke

Document Information

Appendix No	Title
None	
Background Papers	
None	
Report Author	Tom Plant, Appeals Administrator, Development Management, Cherwell and South Northants Councils.
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