

**Committee:** Planning Committee  
**Date:** Thursday 12 April 2018  
**Time:** 4.00 pm  
**Venue:** Bodicote House, Bodicote, Banbury, OX15 4AA

### **Membership**

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

### **Substitutes**

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

## **AGENDA**

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

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

**3. Requests to Address the Meeting**

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

**4. Urgent Business**

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

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

To confirm as a correct record the Minutes of the meeting of the Committee held on 15 March 2018.

**6. Chairman's Announcements**

To receive communications from the Chairman.

**Planning Applications**

7. **Fringford Cottage, Main Street, Fringford, Bicester, OX27 8DP** (Pages 8 - 31)  
**18/00249/OUT**
8. **British Waterways Site, Langford Lane, Kidlington** (Pages 32 - 63) **17/01556/F**
9. **Yarnton Nurseries, Sandy Lane, Yarnton, Kidlington, OX5 1PA** (Pages 64 - 77)  
**17/02207/F**
10. **The Nursery Furtherafield, Evenley Road, Mixbury, Brackley, NN13 5YR**  
(Pages 78 - 86) **17/02429/F**
11. **The Cabin, Willowbrook Farm, Hampton Gay, Kidlington, OX5 2QQ**  
(Pages 87 - 97) **17/02430/F**
12. **Park Farm Agricultural Barn, New Street, Deddington** (Pages 98 - 110)  
**18/00098/F**
13. **Park Farm Agricultural Barn, New Street, Deddington** (Pages 111 - 119)  
**18/00099/LB**
14. **Unit 5, Chalker Way, Banbury, OX16 4XD** (Pages 120 - 132) **18/00108/F**
15. **Land to the rear of The Methodist Church, The Fairway, Banbury**  
(Pages 133 - 136) **18/00081/DISC**

## **Review and Monitoring Reports**

### **16. Appeals Progress Report (Pages 137 - 141)**

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](mailto:democracy@cherwellandsouthnorthants.gov.uk) or 01295 227956 prior to the start of the meeting.

### **Declarations of Interest**

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

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

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

### **Evacuation Procedure**

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

### **Access to Meetings**

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

### **Mobile Phones**

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

### **Queries Regarding this Agenda**

Please contact Aaron Hetherington, Democratic and Elections  
[aaron.hetherington@cherwellandsouthnorthants.gov.uk](mailto:aaron.hetherington@cherwellandsouthnorthants.gov.uk), 01295 227956

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

Published on Wednesday 4 April 2018

## Cherwell District Council

### Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 15 March 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 Simon Holland  
Councillor Mike Kerford-Byrnes  
Councillor Alan MacKenzie-Wintle  
Councillor D M Pickford  
Councillor Lynn Pratt  
Councillor G A Reynolds  
Councillor Barry Richards  
Councillor Nigel Simpson  
Councillor Les Sibley
- Substitute Members: Councillor Bryn Williams (In place of Councillor Alastair Milne-Home)  
Councillor Barry Wood (In place of Councillor Richard Mould)
- Apologies for absence: Councillor Alastair Milne-Home  
Councillor Richard Mould
- Officers: Paul Seckington, Senior Manager Development Management  
Nat Stock, Minors Team Leader  
Stuart Howden, Principal Planning Officer  
Aaron Hetherington, Democratic and Elections Officer  
Nigel Bell, Interim Legal Services Manager / Deputy Monitoring Officer

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### Declarations of Interest

#### **9. Land Adj To Cotswold Country Club And South Of Properties On Bunkers Hill, Shipton On Cherwell.**

Councillor Alan MacKenzie-Wintle, Declaration, as before he joined the council his pension fund was used to purchase the land and therefore would leave the chamber for the duration of the item.

**10. Land East Of Evenlode Crescent And South Of Langford Lane, Kidlington.**

Councillor Nigel Simpson, Non Statutory Interest, as a member of Kidlington Parish Council which had been consulted on the application.

170 **Requests to Address the Meeting**

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

171 **Urgent Business**

There were no items of urgent business.

172 **Minutes**

The Minutes of the meeting held on 15 February 2018 were agreed as a correct record and signed by the Chairman.

173 **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.

174 **Restore, 3135 Heyford Park, Camp Road, Upper Heyford, Bicester, OX25 5HF**

The Committee considered application 16/02348/F, a retrospective application for the use of Building 3135 for Storage Purposes (B8 Use) at Restore, 3135 Heyford Park, Camp Road, Upper Heyford, Bicester, OX25 5HF for Upper Heyford LP.

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

**Resolved**

That application 16/02348/F be approved, subject to:

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:
  - o Site location plan-D0342-45 Sheet 1 rev 1
  - o Building 3135 Site plan D0342-45 Sheet 2 rev 1
  - o Building 3135 Bin store plan D0342-45 Sheet 2 rev 1
  - o Upper Heyford tracking HEYF 5 SK321 B
  - o Planting Proposals D0291-164C
  - o Employee Travel Plan ref 28991/001 dated August 2013 (subject to updating-seecondition 4)
3. That all planting, seeding or turfing comprised in the approved details of the landscaping plan shall be carried out in the first planting and seeding seasons following the occupation of the building and that any trees and shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.
4. That the means of vehicular access to the buildings shall be via the former main gate onto Camp Road or Gate 7 only until such time as alternative access is available.
5. An updated Green Travel Plan and Access Strategy, prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the planning process to secure travel plans", shall be submitted to and approved in writing by the Local Planning Authority prior to the first use or occupation of the development hereby permitted. The approved Green Travel Plan and Access Strategy shall thereafter be implemented and operated in accordance with the approved details.
6. All plant, machinery, mechanical ventilation equipment and ducting, other than that existing, shall be installed internally. No other plant, machinery, mechanical ventilation equipment, flues or ducting shall be placed on the outside of the building without the prior written permission of the Local Planning Authority unless otherwise agreed with the Local Planning Authority.
7. Details of any proposed external lighting in and adjacent to the building, car parking areas and access way shall be submitted to and approved in writing by the Local Planning Authority and no lighting shall be installed without the consent of the Authority first being obtained.
8. No signs or advertisements shall be erected on the buildings unless a signage strategy has previously been submitted to and agreed in writing with the Local Planning Authority. Any proposed signage shall comply with the terms of the signage strategy

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

The Chairman advised that application 17/01600/F had been withdrawn by the applicant.

176 **Land Adj To Cotswold Country Club And South Of Properties On Bunkers Hill, Shipton On Cherwell**

The Committee considered application 17/02148/OUT, an outline application for the demolition of an existing club house, bowling club pavilion and ancillary store and the erection of 10 no. dwellings and access improvements and land adjacent to Cotswold Country Club and south of properties on Bunkers Hill, Shipton on Cherwell for Keble Homes Limited.

Chris Greenough and David Duthie, local residents to the application site, addressed the committee in objection to the application.

Councillor Pickford proposed that consideration of application 17/02148/OUT be deferred to allow further discussions with the applicant and consultation with the local community. Councillor Dhesi seconded the proposal.

**Resolved**

That consideration of application 17/02148/OUT be deferred to allow further discussions with the applicant and consultation with the local community.

177 **Land East Of Evenlode Crescent And South Of Langford Lane, Kidlington**

The Committee considered application 17/02233/F for a Hotel (Class C1) and ancillary restaurant (Class A3) including associated works, comprising the provision of parking spaces and landscaping at Land East of Evenlode Crescent and South Of, Langford Lane, Kidlington for Oxford Technology Park Limited.

Angus Bates, the applicant's agent, addressed the committee in support of the application.

In reaching their decision, the committee considered the officers' report, presentation, written update and the address of the public speaker.

**Resolved**

That application 17/02233/F be approved, subject to the following:

- a) Legal agreement linking the development to the obligations contained in the existing S106 Agreement entered into in respect of the wider Technology Park
- b) Conditions to secure the following with the exact wording delegated to officers following discussion with the applicant's agent:



1. Time Limit
2. Approved Plans
3. In accordance with Construction Traffic Management Plan
4. In accordance with Bird Management Plan

Prior to Commencement

5. Revised SuDS Management and Maintenance Plan
6. Method Statement for Enhancing Biodiversity
7. Phasing Plan (hotel and wider Technology Park)

Stage Conditions

8. Schedule of all external materials and finishes
9. Revised Landscaping Scheme
10. Landscape Management and Maintenance Plan
11. Landscaping implementation
12. External lighting scheme

Pre-occupation Conditions

13. Surface water drainage to be implemented
14. Mechanical plant to be installed in accordance with Noise Report
15. Scheme for treating cooking fumes and odours from restaurant
16. Travel Plan
17. Parking laid out and made available for use
18. Cycle parking installed and made available for use

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**Appeals Progress Report**

The Interim Director of 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 5.10 pm

Chairman:

Date:

# Agenda Annex

## CHERWELL DISTRICT COUNCIL

### PLANNING COMMITTEE

12 April 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.

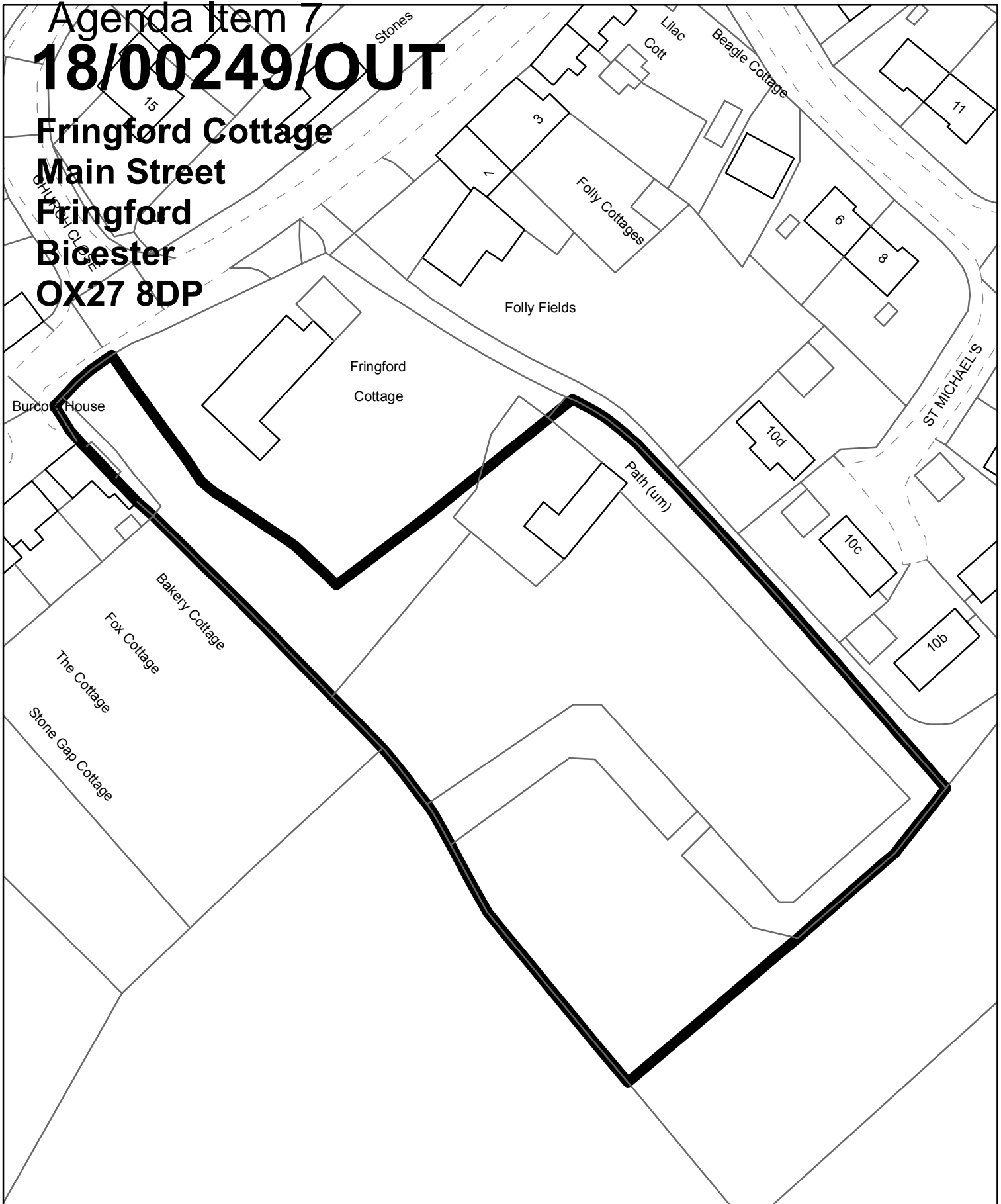
#### **Background Papers**

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

	<b>Site</b>	<b>Application No.</b>	<b>Ward</b>	<b>Recommendation</b>	<b>Contact Officer</b>
7	Fringford Cottage Main Street Fringford Bicester OX27 8DP	18/00249/OUT	Fringford And Heyfords	Refusal	James Kirkham
8	British Waterways Site Langford Lane Kidlington	17/01556/F	Kidlington West	Approval	Stuart Howden
9	Yarnton Nurseries Sandy Lane Yarnton Kidlington OX5 1PA	17/02207/F	Kidlington West	Refusal	James Kirkham
10	The Nursery Furtherafield Evenley Road Mixbury Brackley NN13 5YR	17/02429/F	Fringford And Heyfords	Approval	James Kirkham
11	The Cabin Willowbrook Farm Hampton Gay Kidlington OX5 2QQ	17/02430/F	Launton And Otmoor	Approval	Shona King
12	Park Farm Agricultural Barn New Street Deddington	18/00098/F	Deddington	Refusal	Bob Neville
13	Park Farm Agricultural Barn New Street Deddington	18/00099/LB	Deddington	Refusal	Bob Neville
14	Unit 5 Chalker Way Banbury OX16 4XD	18/00108/F	Banbury Grimsbury And Hightown	Approval	Bob Duxbury
15	Land to the rear of The Methodist Church The Fairway Banbury	18/00081/DISC	Banbury Ruscote	Approval	Bob Neville

Agenda Item 7  
**18/00249/OUT**

**Fringford Cottage**  
**Main Street**  
**Fringford**  
**Bicester**  
**OX27 8DP**



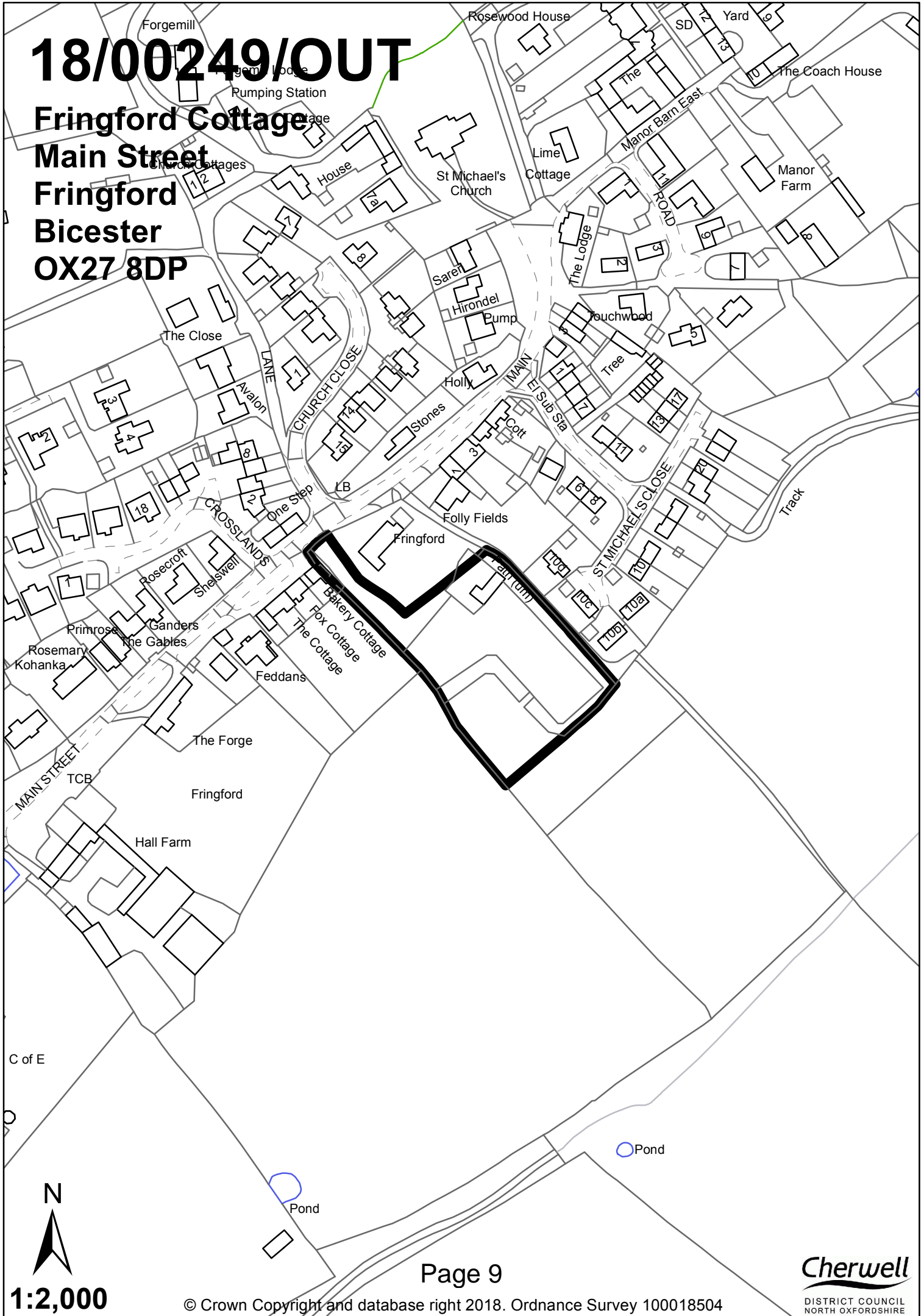
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# 18/00249/OUT

**Fringford Cottage**  
**Main Street**  
**Fringford**  
**Bicester**  
**OX27 8DP**



**Fringford Cottage  
Main Street  
Fringford  
Bicester  
OX27 8DP**

**18/00249/OUT**

**Applicant:** Mr Stuart Wright

**Proposal:** Residential development of up to 10 dwellings

**Ward:** Fringford And Heyfords

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

**Reason for Referral:** Major planning application

**Expiry Date:** 9 May 2018

**Committee Date:** 12 April 2018

**Recommendation:** Refusal

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

- 1.1. The application site ("the site") is located on Main Street in Fringford. The main part of the site is situated to the rear of Fringford Cottage which is a 1.5 storey residential property with dormer windows facing the Main Road. The site currently consists of part of the garden of the Fringford Cottage, a stable block and paddock land. Open countryside extends to the rear and south of the site.
- 1.2. Public footpath (218/1/10) is situated immediately to the north eastern boundary of the site and separates the site from the properties to the north in St Michaels Close which back onto the footpath.
- 1.3. Access to the site would be provided to the south west of the existing dwelling at Fringford Cottage adjacent to Bakery Cottage. There is a Tree Preservation Order on the lime tree to the front of the site adjacent to this access.

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

- 2.1. The current application seeks outline planning consent for up to 10 dwellings on the site with all matters reserved except access. The access would be situated in a similar location to an existing access serving Fringford Cottage onto Main Street. It would need to be widened and upgraded and would provide a 5.5m wide carriageway with 2 metre footpath which would extend along the south western boundary of the site and would extend into a cul-de-sac serving up to 10 dwellings. The access would also continue to serve Fringford Cottage which would have access and parking to the rear of the dwelling.
- 2.2. Whilst an indicative plan has been submitted, showing 10 detached dwellings provided on the, this is only indicative. Full details of appearance, landscaping, layout and scale would be determined through later reserved matters applications.

2.3. For the avoidance of doubt the existing dwelling at Fringford Cottage would be retained.

### 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>
00/00821/F	Conservatory to side elevation	Application Permitted
66/00556/NE	Erection of bungalow. Vehicular and pedestrian access.	Application Permitted
82/00234/CHS	Four detached dwellings (outline).	Application Refused

This was refused due to the poor relationship with the pattern of development and the impact of the access on the street scene and loss of wall and vegetation

86/00170/CHS	Two storey side extension utility room and double garage.
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87/00230/CHS	Construction of 5 executive houses with double garages. A portion of wall to be demolished to provide access from main street. Outline.	Refused
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This was refused due to being outside the built limits, its the poor relationship with the pattern of development, the impact of the access on the street scene and loss of wall and vegetation and highway safety.

87/00543/CHS	Erection of two detached dwellings each with a garage with new access - Outline.	Refused
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This was refused due to being outside the built limits, its the poor relationship with the pattern of development, unneighbourly development due to use of access and the impact of the access on the street scene and loss of wall and vegetation

88/00110/CHS	Detached dwelling house and accesses (as amended by plans received 15.6.88 and 4.7.88).	Application Permitted
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88/00401/CHS	Dwellinghouse	Refused
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95/00026/F	Erection of timber stable block to provide shelter for horses	Application Permitted
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This included a condition which requires the stables only to be used for private purposes ancillary to the occupier of the host dwelling.

95/01166/F	Erection of timber stable block to provide	Application
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shelter for horses.

Permitted

This included a condition which requires the stables only to be used for private purposes ancillary to the occupier of the host dwelling.

03/00724/F

Erection of garage with shed

Application  
Refused

Refused due its size and design being out of keeping with locality and insufficient information in relation to the impact on the protected lime tree.

16/00469/CLUP

Certificate of Lawfulness of Proposed Application  
Development for the demolition of the existing conservatory and erection of a single storey side extension, extension of the roof to form stairwell, and dormer roof window to the rear of existing roof

Application  
Permitted

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

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

Application Ref.

Proposal

15/00098/PREAPP

Pre-App enquiry - Erection of four detached dwellings with garages to include alterations to existing access from Main Street

16/00156/PREAPP

5 No dwellings with garages

This concluded that the site was situated outside the built limits of the village and would conflict with the Councils rural housing strategy which seeks to restrict new dwellings in villages to the extent of the built limits. It also stated that the proposal would relate poorly to the surrounding pattern and form of development and would result in a harmful intrusion of residential development into the open countryside.

#### **5. RESPONSE TO PUBLICITY**

- 5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 19.03.2018, 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:

- Development outside the built limits of the village
- Conflicts with the Councils housing strategy at Policy Villages 1 and 2 which seeks to deliver rural housing to the most sustainable locations.
- The village has very limited services and facilities.



- A development in a similar village (Finmere) has been dismissed at appeal given the limited services available and reliance on private car.
- No need for further development in the districts village and there is no local need for this housing.
- Detrimental impact on historic rural character and appearance of village which attracts visitors arising from its links to Lark Rise to Candleford. Detrimental impact on street scene.
- Removal of grass verge and wall to front of site for the access would be harmful to the locality.
- Harmful visual intrusion of development into the open countryside and detrimental impact on setting of the village.
- Out of keeping with the pattern of development in the village. Backland development.
- Detrimental impact on the setting of the Grade II listed buildings
- Detrimental impact on neighbouring properties through the noise, vibration and light pollution associated with the use of the access.
- Increased overlooking and loss of privacy.
- Detrimental impact on trees on the site.
- Loss of privacy to neighbouring properties.
- Loss of outlook and view over open countryside.
- The site is not brownfield land as concluded by the applicant. The stables were conditioned to be for private use only and no change of use was granted for the surrounding land.
- Previous applications for residential development in the 1980's have been refused on the site.
- Other applications have been refused on paddock land in the village (09/00704/OUT refers)
- Road infrastructure not suitable for further traffic resulting in congestion and road safety issues. This will happen during construction and once the housing is occupied. The creation of a cross roads will be dangerous.
- Inadequate access and turning into site.
- Insufficient parking provided particularly as many spaces are located in garages.
- Very limited bus service in village
- Highway safety issues with pedestrians and additional traffic. This is exacerbated by the fact the village has no street lighting or footpaths and children walk to school along the road.

- There is no need for further large housing in the village. New housing should be small affordable units.
- Impact on wildlife and ecology not adequately addressed.
- Detrimental impact on flood risk and there have been flooding events previously in the village. The site is within an area of surface water flooding.
- Insufficient water, electricity and sewer infrastructure capacity.
- School does not have capacity for the development,
- The proposals do not include affordable housing.
- Could lead to a precedent for further development.
- Proposal could detrimentally impact on the community of the village.
- Impact on property values.

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. FRINGFORD PARISH COUNCIL: **Strongly objects.** There is no need for the development in the context of the progress made on Policy Villages 2 allocation. The village has limited services and facilities. The village already has a large number of 4 and 5 bedroom houses and villagers wish to see more affordable 2 bedroom properties if any additional building takes place. The site does not constitute previously developed land and is a green field site. The site is beyond the built up limits and the proposal would have a significant detrimental impact on the character and appearance of the locality. The proposal conflicts with Policy ESD13. The proposal is also not supported by Policy H18. The proposal may also set a precedent for further development.
- 6.3. Fringford is one of the smallest Category A villages with limited services and facilities. The proposal would increase car journeys and would be at odds with planning policy which seeks to assign growth to most sustainable locations where dependence on car travel is minimised.
- 6.4. Proposal would be detrimentally impact on the setting of the adjacent listed building and could impact on neighbouring properties foundations. The proposal will also detrimentally impact on the impact on neighbours in terms of loss of privacy and rural outlook. The proposal will also increase noise and disturbance and lead to light pollution to properties opposite the access.
- 6.5. Fringford is recognised for its local connections with Flora Thompson and as such its historic significance is international, this draws in numerous tourists and groups who come to visit a historic village. The current proposals require the demolition of an ancient stone wall which is an important historic feature of the village, and will

adversely impact the listed row of cottages which are also a significant feature of the historic centre of the village, the setting of which the proposed development would negatively impact.

- 6.6. The proposed access road sited right next to this row of historic properties would have an urbanising visual impact and would not be in keeping with the street scene and the general rural ambiance of this part of the village. This is contrary to Policy ESD 15 which requires development to complement and enhance the character of its context – particularly where development is proposed to be in the vicinity of CDC's historic assets.
- 6.7. The proposal will lead to an increase in traffic and there is no pedestrian footway and no street lighting in the village. This will increase the danger of road accidents including children walking along to the nearby Primary School. It is not feasible for pedestrians to use the verges as a footway due to its undulating nature, particularly for those who have disabilities or are using a pushcar. The Parish Council is aware that the narrowness of the road has sometimes prevented emergency vehicles from gaining access to properties. The parking serving the development appears inadequate.
- 6.8. The water and electricity infrastructure is insufficient and the drainage of the site does not appear adequate. There is historic flooding adjacent to the site and the site is in a low to medium risk of surface water flooding. The existing site provide habitat for various species and the Ecological Appraisal was carried out at the wrong time of year.

#### STATUTORY CONSULTEES

- 6.9. OCC HIGHWAYS: **Objects.** The development is not a sustainable location given the limited services and bus service.
- 6.10. The traffic generation will be generally small and agree with finding of Transport Statement. Whilst there are no footpaths on the roads and the existing roads are narrow in places, given the scale of the proposal it will only have a very small negative impact on the operation of the roads. Even in the peak period, the development will typically generate 1 car movement every 10 minutes.
- 6.11. The access arrangements show adequate visibility and show how a 11.2 refuse wagon can enter and leave the site in a forward gear. Ordinarily the County expect a 11.6m long refuse wagon tracked however these is considered to be sufficient scope for the site access to be adjusted slightly at detailed design stage if this was required.
- 6.12. The pedestrian access into the site is sufficient. A local footpath runs outside the boundary of the site and request a £5K contribution to allow for surface improvements in light of increase usage of the path. They go on to recommend a number of conditions if the Council are minded to approve the development.
- 6.13. In regard to drainage the County object. Two possible options are proposed in the Drainage Strategy one based on infiltration and the other based on restricted discharge to the surface water sewer. The option based on infiltration to the ground is the prefer option but is unproven through undertaking infiltration testing at the site. Therefore they suggest that the sewage undertaker confirms that it will accept the proposed discharge from the site as a proven back up option should infiltration not be feasible.

- 6.14. ANGLIAN WATER: **Comment.** The wastewater treatment infrastructure does not have capacity however Anglian Water would be obligated to provide this if the development were permitted. The sewerage system has capacity to accommodate the development. The drainage strategy is not acceptable as not evidence has been presented that the surface water hierarchy has been followed. If infiltration or discharge to a watercourse is not feasible they require confirmation of the intended manhole connection point and discharge rate.

#### NON-STATUTORY CONSULTATION

- 6.15. CDC LANDSCAPE: Queries a number of the assumptions made in the LVIA and considers this underestimates the significance of the visual effect from a number of viewpoints. Also requests a further viewpoint from the public right of way 218/13/10 to the south of the site. The mitigation in the LVIA is going to be subject to householders decision to remove the sections of structural planting which will increase the visual harm. The development combined with the development in St Michaels Close will create an accumulation of visual and landscape harm. There is limited assessment in the LVIA on the residential receptors.
- 6.16. If granted a revised housing layout is required to ensure retention and management of hedges and trees and an off-site contribution for play provision will be required.
- 6.17. CDC ECOLOGY: **No objections.** The submitted ecology report is sufficient in scope and depth. It has assessed the potential for the site to support protected species and priority habitat and the recommendations within the report (Section 6) are adequate to protect existing ecological interest and should be conditioned – namely retention of the South West border vegetation and Northern wall, appropriate wildlife friendly planting, best practice with regard to bats and badgers (including lighting), avoidance measures for reptiles and amphibians, avoidance of nesting bird season for vegetation removal.
- 6.18. In addition in line with local policy and NPPF guidance a biodiversity enhancement scheme to ensure a net gain for biodiversity on site should be conditioned. The ecological report makes some recommendations in this regard which should be included (hedgehog passes, integrated bat and bird provisions) but further enhancements for invertebrates and native planting should be included.
- 6.19. CDC TREE OFFICER: **No objections** as long as the trees on site are protected as set out on the tree protection plan and in accordance with the method statement detailed in the Arboricultural Impact assessment. Although a new driveway is proposed within the RPA of a protected lime tree to the front of the site as long as it is constructed using the no dig method (with a permeable surface) as set out in the Arboricultural Impact Assessment this should not be detrimental to the tree.
- 6.20. OCC EDUCATION: **No objection.** There is sufficient capacity to meet the needs of this proposed development.

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

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

many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

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

- PSD1 – Presumption in Favour of Sustainable Development
- SLE4 – Improved Transport and Connections
- BSC1 – District Wide Housing Distribution
- BSC2 – The Effective and Efficient Use of Land – Brownfield land and Housing Density
- BSC4 – Housing Mix
- BSC10 – Open Space, Outdoor Sport and Recreation Provision
- BSC11 – Local Standards of Provision – Outdoor Recreation
- BSC12 – Indoor Sport, Recreation and Community Facilities
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems (SuDs)
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 – The Character of the Built and Historic Environment
- Villages 1 – Village Categorisation
- Villages 2 – Distribution Growth Across the Rural Areas
- INF1 – Infrastructure

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

- H18 – New dwellings in the countryside
- C8 – Sporadic development in the open countryside
- C28 – Layout, design and external appearance of new development
- C30 – Design of new residential development
- C33 – Important local gaps.
- ENV1 – Environmental pollution
- ENV12 – Potentially contaminated land

#### 7.1 Other Material Planning Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Written Ministerial Statement on Sustainable Drainage Systems (Dec 2014)
- Annual Monitoring Report (AMR) 2017

## **8. APPRAISAL**

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

- Principle of development
- Landscape and visual impacts and local character
- Design and layout
- Heritage
- Impact on trees
- Impact on residential amenity

- Highways
- Previously developed land
- Drainage
- Ecology
- Sustainable construction
- Infrastructure
- Other matters

#### Principle of development

- 8.2. Paragraph 14 of the National Planning Policy Framework (NPPF) states that a presumption of sustainable development should be seen as a golden thread running through decision taking. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.
- 8.3. Paragraph 12 of the NPPF notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The Council can demonstrate a five-year supply of deliverable housing sites therefore the presumption in favour of sustainable development, as set out at para 14 of the NPPF, will therefore *not* necessarily need to be applied in this context.
- 8.4. Policy ESD1 of the Cherwell Local Plan Part 1 states that to reduce the impact of development on climate change, growth should be distributed to the most sustainable locations as defined in the local plan and that new development should seek to reduce the need to travel and reduce the reliance on private cars.
- 8.5. The rural housing strategy is guided by Policy Villages 1 and 2 of the Cherwell Local Plan Part 1 alongside Saved Policy H18 of the 1996 Local Plan. Policy Villages 1 allows for some limited development within the built up limits of villages however as the current application site is clearly not within the built up limits of the village existing village, the proposal is not supported by Policy Villages 1 in this respect. Saved Policy H18 restricts development outside the built limits of settlement except in a number of circumstances none of which are applicable to the current proposals. The proposals therefore conflict with Saved Policy H18.
- 8.6. Policy Villages 1 does, however, include a rural settlement hierarchy which includes Fringford as a Category A settlement. These are amongst the most sustainable rural settlements in the district and have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth.
- 8.7. Policy Villages 2 states that: *“A total of 750 homes will be delivered at Category A villages’* in addition to the rural allowance for small sites and planning permissions for 10 or more dwellings which existed at 31 March 2014. It goes on to state *“sites will be identified through the preparation of the Local Plan Part 2, through the preparation of Neighbourhood Plans where applicable, and through the determination of applications for planning permission. In identifying and considering sites, particular regard will be given to the following criteria:*
- *Whether the land has been previously developed land or is of less environmental value;*
  - *Whether significant adverse impact on heritage and wildlife assets could be avoided;*

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

8.8. The acceptability of the proposal when tested against these criteria, and other material planning considerations, is discussed later in this report. However, it is first important to consider the Council’s housing land position in relation to Policy Villages 2 and whether Fringford is a sustainable settlement to accommodate this level of growth.

8.9. Of the 750 dwellings identified under Policy Villages 2 to be delivered at Category A Villages across the plan period until 2031, only 86 dwellings remain to be identified according to the Council’s Annual Monitoring Report 2017. Recent appeal decisions received by the Council, including one at Finmere (16/01209/OUT refers), confirm that an overprovision of the rural housing allocation at an early stage in the plan period could prejudice the sustainable growth strategy set out in the Development Plan and leave limited ability to respond to later changes in housing need in individual settlements without fundamentally compromising the overall sustainability strategy contained in the Local Plan. Furthermore whilst 750 dwellings is not to be regarded as an upper limit, significant deviation from this may result in unconstrained growth in less sustainable locations which against would conflict with the Development Plans housing strategy. Therefore, significant progress has already been made on the housing allocation under Policy Villages 2 and there is no pressing need for housing.

8.10. Whilst Fringford is one of 23 Category A villages, it is one of the Category A villages with the smallest populations (a population of 602 accord to 2011 Census). It is noted that there is a considerable variation in Category A villages in terms of their size, service provision and therefore their overall ability to accommodate additional growth. It is therefore considered that not all Category A villages will be suitable for additional growth under Policy Villages 2. It is noted that the village has a school, pub, village hall and recreation facilities. However, it does not have any shop, post office or medical facilities and there is little in the way of employment opportunities.

8.11. Furthermore since the 2015 Local Plan was adopted the regular bus service which used to run through the village connecting the village to Bicester, Brackley and Northampton has been withdrawn (July 2016) and now the village is only served by one return service on a Friday between Finmere and Bicester. Planning Inspectors for new residential development in Finmere (16/01209/OUT) and Weston on the Green (15/01953/OUT refers) have both given weight to the fact that the reduced bus service has impacted on the relative sustainability of some category A villages.

In addition the site is remote from any other villages which contain further services or bus links which residents might access by cycle or on foot. Thus residents have no realistic choice of transport to access these services other than private car.

- 8.12. Given the above in relation to the limited services available in the village and the lack of alternative means of transport any residents of the proposed housing are likely to be highly reliant on the private car to access day to day services. In light of the Council's ability to demonstrate a 5 year land supply, the advanced position regarding the progress of identifying sites under Policy Villages 2 and poor access the residents would have to services and facilities, and the limited opportunities for travel other than by private car, the proposed development is considered to be unsustainable in this regard and would not manage growth in a pattern which reduces the need to travel. The proposal would therefore conflict with the Council's rural housing strategy contained with Policy ESD1 and Policy Villages 1 and 2 of the Cherwell Local Plan Part 1 and Saved Policy H18 of the 1996 Local Plan in this respect.

#### Landscape and Visual Impact and Local Character

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



*d. Harm the setting of settlements, buildings, structures or other landmark features;*

*e. Harm the historic value of the landscape.”*

- 8.17. Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context and Saved Policy C8 seeks to limit sporadic development beyond the built limits of settlements.
- 8.18. Fringford is an attractive village which contains a wide mix of dwellings. The site is located on a part of Main Street where there is a looser knit pattern of development than the development to the east of the site. This results in a strong rural character and appearance with views out to the countryside between the buildings.
- 8.19. The linear form of development in this location following Main Street also reflects the historic pattern of development and positively contributes to the rural character and identity of the village and reflects the location of the site at the edge of the village.
- 8.20. Whilst development in depth exists to the east of the site in St Michaels Close, this is a modern form of development which is not reflective of the more positive characteristics of the village and is a development of its time. Furthermore it turns its back on the site and is separated by a public footpath and therefore the development does not have a strong relationship with this development. It therefore forms a very different character area to the current application site.
- 8.21. The site itself currently maintains a strong rural character and appearance being largely laid to open grass and paddock land. Whilst the northern part of the site does contain some built development in the form of stabling and outbuildings these retain a strong ancillary appearance to the main dwelling. Therefore the site is visually part of the open countryside surrounding the village and visually contributes to the rural setting of the village and the enjoyment of people using the public rights of way to the east and south of the site where clear views of the site exist.
- 8.22. The proposed development would be located to the rear of this linear grouping of dwellings and is considered to represent a poorly related form of backland development. The proposed development would be accessed via a long access drive between two existing dwellings with no street frontage and would have a detached relationship with the rest of the village and be poorly integrated into the existing pattern of development. Whilst the development would extend a similar depth to St Michael Close, there would be no integration between the developments which would effectively turn their backs on each other with the public right of way situated in between. Furthermore, as outlined above, the character and qualities of the site are different to those of St Michaels Close.
- 8.23. The development would also harm the setting of the village and result in a visual intrusion to the open countryside. Views of the site from Main Street would be harmed due to the introduction of development in depth in this location. This would impede views of the countryside that exist between the buildings and positively contribute to the rural setting of the village and loose knit pattern of development in this location. The creation of the new engineered road access between Fringford Cottage and the Old Bakery would also be harmful to the rural character and appearance of the street scene and result in the loss of part of the attractive stone wall and grass verge along the frontage of the site which positively contribute to the locality and street scene.

- 8.24. The proposal would result in a significant urbanisation of the application site and be very prominent in views from the public footpath to the west and south of the site. There would be high magnitude of visual effects to users of these rights of way as views of the site are relatively open particularly further to the south of the site. The submitted Landscape Visual Impact Assessment includes some indicative mitigation planting to the boundaries of the site however this would merely attempt to visually screen/hide the development which would be largely reliant on future properties not removing the planting rather than providing a development which positively integrates and contributes with the surrounding built and natural environment.
- 8.25. Overall for a combination of the above reasons the proposal is considered to result in a poorly related backland form of development which would not respect the traditional pattern of plots and would be poorly integrated into the built and natural environment. It would result in a significant urbanisation of the site and would harm to the character and appearance of the locality and the setting of the village. Overall the proposal would therefore be contrary to Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan in this respect, Saved Policies C8 and C30 of the Cherwell Local Plan 1996 and advice in the NPPF.

#### Design and layout

- 8.26. The application is made in outline with only matters of access for consideration. Therefore the final layout, scale, appearance and landscaping would be for subsequent applications to determine.
- 8.27. An indicative layout plan has been submitted and demonstrates one way the site could be developed for 10 dwellings arranged around two small cul-de-sacs. This layout results in a rather non-distinct suburban layout and is it unclear from the submission how this has been based on a contextual appraisal or how it would seek to reinforce local distinctiveness. Many of the house types also appear to be narrow fronted detached properties with deep plan form, which do not respond positively to the more traditional and locally distinctive properties in the village.
- 8.28. Given the constraints of the site it is considered difficult to see how the site layout could be significantly altered. Whilst the house types themselves could be altered to more positively respond to the local vernacular overall it is considered that indicative layout only goes further to reinforce officers concerns that the proposal would be poorly related and integrated into the village.

#### Heritage

- 8.29. The application site lies within the setting of a number of listed buildings, the closest of which are situated immediately to the west of the site. This includes the thatched element of Bakery Cottage, Fox Cottage and The Cottage all of which are Grade II listed. Given the proximity of the site to these properties the proposal has the potential to impact on their setting.
- 8.30. 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 states that when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation. It goes 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 66 of the

Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard is given to the desirability of preserving the setting of listed buildings.

- 8.31. There would be no direct impacts associated with the proposed development on the listed buildings and it is considered that the main significance of these dwellings stems from the vernacular appearance, layout and historic fabric. However the rural setting of these building does also contribute to the significance and setting of these traditional vernacular properties. The proposed development is considered to lead to some harm to the setting of the adjacent listed buildings predominantly through the creation of a more engineered access along Main Street and the subsequent loss of part of the stone boundary wall and the grass verge to the front of the site both of which currently positively contribute to the street scene and hence the rural setting of these buildings. Also the general urbanisation of the site and depth of the development would have an urbanising impact on the open countryside setting of these properties to the rear.
- 8.32. Overall it is considered that the level of harm to the setting of these buildings would be relatively modest; however, it would amount to less than substantial harm in the context of paragraph 134 of the NPPF. Therefore this harm needs to be weighed against the benefits of the scheme but would weigh against the development in undertaking the planning balance.
- 8.33. The site also lies within a medium priority area of archaeological potential. As such an Archaeological Desk Based Assessment has been submitted with the application. The highlights the site has moderate potential to contain archaeological deposits. The County Archaeologist has raised no objection to the application and is satisfied that this matter could be managed through planning conditions which requires a staged programme of investigation and mitigation for the site.

#### Impact on Trees

- 8.34. The site contains a number of trees which positively contribute to the character and appearance of the area. This includes a lime tree to the front of the site which is subject to a Tree Preservation Order and two category B trees adjacent to the western boundary of the site. All these trees are located within close proximity of the proposed access road and have the potential to be impacted upon by the proposed new access road.
- 8.35. The application is accompanied by a Tree Report which outlines the impact of the proposal on the trees on the site. However, this is based on an indicative site layout plan and not the access road which planning consent is being sought for in this application (as access is not a reserved matters). The alignment of the access varies between the indicative plans in the Tree Report and the detailed access plan which forms part of the application. Therefore the impact on the trees would also vary. Furthermore no assessment has been made in relation to the impact on the provision of services on the tree roots.
- 8.36. Currently it is not considered that robust evidence has been submitted by the applicant to demonstrate that the proposed development would not harm or lead to the loss of these trees. It is also noted that wherever the access road is situated in this location it is likely to be conflict with the root protection areas of the trees and would therefore be required to be constructed of no-dig raised construction. It is currently unclear whether this would be feasible or acceptable to the highway authority to serve this level of housing and whilst the Council's tree officer is satisfied with a no dig construction for the access it is unclear if this would be acceptable to the highway officer or whether services could be provided. Comments from the highways officer are awaited.

### Impact on neighbouring amenity

- 8.37. Policy ESD 15 of the CLP 2031 (Part 1) requires new development to consider the amenity of both existing and future occupants, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. Furthermore, Paragraph 17 of the Framework states that planning should “always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”.
- 8.38. The main impact stemming from the development relating to residential amenity is considered to be the increase in noise and disturbance to the closest neighbouring properties in association with the use of the access. Bakery Cottage is located immediately to the west of the proposed access. This is a two storey property, which has a blank stone side elevation forming the boundary with the application property. The property currently does not have any windows in the rear elevation of the rear wing of the property immediately adjacent to the access. However, it is noted that planning permission has been granted for an extension to this properties which would result in a first floor bedroom window and two ground floor windows in the rear elevation immediately adjacent to the boundary (16/01738/F refers). However, given this consent has been not been implemented the potential future arrangement only holds limited weight in determining the current application.
- 8.39. At the closest point the proposed access would be situated approximately 1.5 metres from the boundary with this property where it immediately adjoins the garden of Bakery Cottage. The garden of Bakery Cottage is relatively small and includes a small seating area immediately adjacent to the boundary. Given the access would serve 11 dwellings (10 new dwellings plus the existing dwelling) it is considered that the noise and disturbance through the use of the access, particularly in light of the limited distance to the boundary and limited space for screening, would detrimentally impact on the outdoor amenity space of this property particularly in light of the level of amenity they currently enjoy.
- 8.40. Given the position of windows on the rear of Bakery Cottage and the distance of the access road from these it is not considered that the proposal would significantly impact on the internal amenity of the property in terms of noise and disturbance.
- 8.41. Concerns have also been raised regarding the impact of the proposal on the privacy of this property particularly in relation to the proximity of the access to the front windows. However, whilst it is acknowledged there would be some impact on these windows from users of the access given the distance of the access point from the windows on the front of the property, the fact that the windows on the front of the property already face onto the main street through the village and the scope to provide a boundary treatment between the access and this property this matter is not considered to justify refusal.
- 8.42. The properties opposite the access known as One Step Cottage and Burcote House will also be impacted by the proposed access through noise and disturbance and potential light pollution. However, these windows already face onto the main street through the village so will already experience a degree of noise and disturbance from existing traffic. Furthermore it is not unusual for a property in a residential area to be situated opposite a road junction serving residential properties in a similar situation to that which is proposed in this application. For these reasons the impact on this property is not considered to be significant.
- 8.43. Whilst it is acknowledged that the proposal will impact on the neighbouring properties to some extent in relation to other issues relating to residential amenity it needs to be considered whether these impacts would be significant and justify

refusal. It is considered that given the size of the site, distance and the relationship with the neighbouring properties, a layout which conformed with the Council's informal guidance on separation distances and was acceptable in regard to outlook, light and privacy could be achieved in a reserved matters application to ensure these impacts were not significant.

#### Highway safety

- 8.44. Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions.”* Policy SLE4 states that: *“All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported.”* The NPPF advises that development should provide safe and suitable access for all and development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe.
- 8.45. The Local Highway Authority (LHA) has objected to the general geographical sustainability of the site on the basis that Fringford lacks sufficient facilities or an adequate bus service to reduce reliance on the private motor car and these matters are discussed in the “principle” section of this report above and officers agree with this assessment.
- 8.46. In terms of the technical highway matters the application proposes a new 5.5m access road into the site with a 2 metre footway on the eastern side. The LHA is generally satisfied with the layout of the junction and that adequate visibility would be provided in both directions. Whilst it has requested that a slightly larger refuse wagon be tracked into the site they are satisfied that there would be sufficient scope in the site entrance to be adjusted slightly if tracking of a larger vehicle demonstrated this would be required. If the development was acceptable in all other regards it is considered that this could be conditioned. The highway engineer has also not raised any objection to the location of the in respect with the junction opposite the site with Church Close. The vehicle movements are likely to be relatively modest given the scale of the existing and proposed developments so the opportunity for conflict to occur is limited. Therefore in the absence of an objection from the LHA in this respect the development is considered acceptable.
- 8.47. In relation to the traffic movements associated with the development the LHA agrees with the analysis of the submitted Transport Assessment which are based on the TRICS database and indicate the development is likely to result in 6 vehicles movements in the am and pm peak each and 36 movements across the typical week day. Residents have raised considerable concerns regarding the suitability and width of the existing roads within the village to accommodate this scale of new development and have provided photographs of verges being damaged through traffic movements due to the limited width of the road for 2 way traffic. However, given no objection has been received from the LHA on this basis and the level of traffic generated from the proposal is relatively modest the proposed development is not considered to result in a significant exacerbation of this issue which could be regarded as ‘severe’ which is the test within the NPPF the proposal must be assessed against.
- 8.48. The layout of the site is reserved for future application however it is considered that sufficient parking could be provided on the site to serve 10 dwellings.

- 8.49. Concerns have also been raised regarding the impact of construction traffic and the impact this would have on the highway network. No objections have been raised by the LHA on this basis. Furthermore whilst it is acknowledged that the construction period can lead to some detrimental impacts in the short term, these are a product of most construction activities, and given they are temporary nature of these impacts they are not considered to be capable of carrying significant weight in determining the application. A construction traffic management plan planning condition could seek to address some of these issues if the development were considered to be acceptable in all other regards.
- 8.50. Overall, therefore, the development is considered to be acceptable in regard to technical highway matters.

Whether the site constitutes previously developed land

- 8.51. Policy BSC2 states the Council will encourage the re-use of previously developed land ('PDL') in sustainable locations and one of the criteria to assess new development under Policy Villages 2 is if the site is PDL. Paragraph 111 of the NPPF also states planning decisions should encourage the effective use of land by reusing PDL.
- 8.52. In the current application the applicant argues that the site constitutes PDL as it forms part of the garden of Fringford Cottage and also has been used for equestrian purposes. The NPPF includes a definition of PDL which states:

*Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.*

- 8.53. The applicant has pointed to recent case law (the Dartford Case) which concludes that only garden land within built up areas is excluded from PDL. Therefore, unlike garden land *inside* built up areas, garden land *outside* built up areas is now considered to be PDL. Therefore, given that officers consider that the site lies outside the built limits it is considered reasonable to conclude that the land to the north of the application site which is currently occupied by garden (i.e. mainly the access way) is PDL.
- 8.54. The applicant also argues that the stables and paddock land should constitute PDL and refer to 2 written representation appeal decisions elsewhere in the County which have concluded that equestrian land with stabling and manège are PDL. In both these case the local planning authority considering the applications agreed with this assessment and in both cases the associated paddock included a manège within the paddock. However, it is considered each case has to be assessed on its own merits.
- 8.55. In the current case it is considered that the stable buildings and hard standing to the north of this which form the northern part of the application site can be considered PDL. However, the paddock land to the south of the stables is not considered to be PDL. The Council has not approved the change of use of the land to equestrian at any point in time and have not permitted any buildings or structures on it. Unlike the

referenced appeals there is no manège in the paddocks and they appear to have solely be used for grazing. The stable buildings turn away from the field and appear separate from the paddock land which is not considered to lie within the curtilage of this building.

- 8.56. Therefore, whilst it is considered a small element of the northern part of the application site containing the stables and hard standing can be regarded as PDL, the larger area to the south is not. Whilst the reuse of the PDL weighs in favour of the proposal it is not considered to outweigh the overall harm arising from the development.
- 8.57. Even if officers were to conclude that the whole site was to constitute PDL this is only one element of the assessment of the sustainability of the site and it is not considered that this benefit / lack of impact would outweigh the harm identified elsewhere.

#### Flooding Risk and Drainage

- 8.58. The current application is not required to provide a Flood Risk Assessment as it is below 1 hectare in size and is situated wholly within Flood Zone 1 which is land which has a less than 1 in 1,000 annual probability of river flooding.
- 8.59. Policy ESD7 of the Local Plan requires the use of Sustainable Urban Drainage Systems (SUDS) to manage surface water drainage. This is all with the aim to manage and reduce flood risk in the District. The Written Ministerial Statement on Sustainable Drainage Systems (Dec 2014) which is to be read along the NPPF states that to ensure that sustainable drainage systems for the management of run-off are put in place, unless demonstrated to be inappropriate.
- 8.60. The southern part of the site is situated in area that is identified on the Environment Agency's mapping system as having a low to medium risk of surface water flooding. The application is accompanied by a Drainage Strategy which looks at the feasibility of managing surface water on the site. The proposed development will significantly increase hard surfacing on the site and it is therefore important that this is managed appropriately. The drainage strategy seeks to achieve green field runoff rates for the site with an allowance for climate change.
- 8.61. The Lead Local Flood Authority (LLFA) has objected to the application on the basis of the Drainage Strategy being inadequate and not fully exploring the feasibility of the drainage options. They raise concerns that at the current time it does not demonstrate that the drainage hierarchy has been followed as it has not been demonstrated whether ground infiltration would be a feasible option on the site as no infiltration tests have been undertaken.
- 8.62. If ground infiltration is not feasible then the drainage would need to discharge to a public surface water sewer but be limited to a greenfield rate. This would require a pumped solution given that the site lies on lower ground than the public surface water sewer. Anglian Water has also stated that the surface water drainage is unacceptable for the same reasons as the LLFA and also no details have been provided detailing the intended connection point or discharge rate.
- 8.63. Overall at the current time it has not demonstrated that there is a feasible surface water drainage strategy for the site based on the drainage hierarchy. The proposal is there contrary to Policy ESD7 of the Cherwell Local Plan and advice in the Written Ministerial Statement on Sustainable Drainage Systems (Dec 2014).

- 8.64. In relation to foul drainage, Anglian Water has stated the proposal would need to provide additional capacity in the wastewater treatment centre if planning permission were to be granted and that the sewerage system at present has capacity to accommodate the flows from the development.

#### Ecology

- 8.65. Section 40 of the Natural Environment and Rural Communities Act 2006 (as amended) places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making. Paragraph 99 of Circular 06/2005: Biodiversity and Geological Conservation states that: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision".
- 8.66. Paragraph 109 of the NPPF states that: "The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity where possible."
- 8.67. Policy ESD10 of the Cherwell Local Plan Part 1 reflects the requirements of the Framework to ensure protection and enhancement of biodiversity. The Authority also has a legal duty set out at the Natural Environment and Rural Communities Act 2006 (NERC 2006) which states that "every public authority must in exercising its functions, must have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity."
- 8.68. The application has been accompanied by an Ecological Appraisal. This concludes that the site supports no habitats or vegetation of significant biodiversity interest and the buildings to be demolished are highly unlikely to support backs. This advises that the hedgerow and trees along the south west boundary should be ideally be retained and new hedgerow planting and trees would be carried out within the development to result in a net gain in biodiversity. The Council's ecology adviser is generally satisfied with this subject to conditions that secure a number of enhancements and benefits which would need to be provided in a reserved matters application.

#### Sustainability and Energy Efficiency

- 8.69. Policy ESD1 of the Cherwell Local Plan Part 1 states that measures should be taken to mitigate the impact of development within the District on climate change, and Policy ESD2 of the Cherwell Local Plan Part 1 seeks to achieve carbon emission reductions. Policy ESD3 of the Cherwell Local Plan Part 1 encourages sustainable construction and states that all non-residential development will be expected to meet at least BREEAM 'Very Good' with immediate effect.
- 8.70. The application has not been accompanied by a Sustainability and Energy Statement and sustainability should be built into the proposal and it should be demonstrated how the proposal complies with Policies ESD1-3 of the Cherwell Local Plan Part 1. However, this is a matter that would be addressed by condition if the application were to be recommended for approval.

#### Effect on Infrastructure/Public Open Space



- 8.71. Policy INF1 of the Local Plan states that: *development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.*
- 8.72. Policy BSC11 of the Cherwell Local Plan Part 1 states that: *“Development proposals will be required to contribute to the provision of open space, sport and recreation, together with secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in ‘Local Standards of Provision – Outdoor Recreation’. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement.”*
- 8.73. In the current application the proposal would required by the policy to provide a Local Area of Play, which would have a 100 sq m activity zone with a total areas of 400 sq m. It would also require a 0.027 ha of general green space. It is unclear where on the site the LAP would be provided and given the limited size of the development the Landscape Officer has requested a financial contribution to improve existing facilities. At the current time discussions with the applicant have not been advanced in this matter due to the principal objections that relate to the site. Therefore at the current time in the absence of a legal agreement that secure these matters the proposal conflicts with Policy BSC10 and BSC11 of the Cherwell Local as they do not make adequate provision for the open space and recreational demands imposed by the development.
- 8.74. Oxfordshire County Council has stated that there is adequate capacity in the schools to accommodate the development so no contribution is sought in this regard.

#### Other matters

- 8.75. A number of other matters have been raised in relation to the current application. The concerns regarding the loss of a private view of open field or the impact on house prices is not material planning considerations.
- 8.76. The concerns relating to the size of the proposed properties is noted however as the application is made in outline, a reserved matters application which better reflected the housing mix outlined in Policy BSC3 could potentially be negotiated with the applicant.
- 8.77. Concerns have also been raised regarding the potential damage to the neighbouring properties however these are private matters.

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

- 9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 9.2. The proposed development would be located in a Category A settlement however the village does not benefit from a wide range of services to meet the day to day needs of the residents and residents would have very limited opportunities to reach these apart from through the use of the private car given the distance to other settlements with facilities and a lack of any regular public transport. The proposal

would therefore conflict with Policy ESD1, Policy Villages 1 and 2 and advice in the NPPF which seeks to guide rural housing development to locations which reduce the need to travel and reduce the impact on climate change.

- 9.3. The proposal would also result in further environmental harm through the poorly related backland form of development it would create and the harmful visual intrusion into the open countryside which would be caused by the development. In addition there would also be harm to the rural character and appearance of the locality, the setting of the adjacent listed buildings and the applicant has not adequately demonstrated that the protected and other high value trees could be successfully retained on the site. In these respects the proposal is contrary to Policies ESD10, ESD13 and ESD15 and Saved Policies C8 and C28.
- 9.4. The proposal would also be harmful to the amenity of the neighbouring residential property at Bakery Cottage and insufficient information has been provided to demonstrate that the surface water drainage strategy which is proposed for the site follows the surface water hierarchy.
- 9.5. Whilst the proposal would lead to some economic and social benefits which stem from the construction and provision of 10 dwellings and would also use a small element of previously developed land, these are not considered to outweigh the significant environmental harm which would be caused by the proposal particularly in light of the Council's ability to demonstrate a 5 year land supply and the significant progress that has already been made regarding the rural housing allocation under Policy Villages 2.
- 9.6. It is therefore recommended that planning permission be refused for the reasons outlined below.

## **10. RECOMMENDATION**

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

1. The development proposed, by reason of its scale and relative sustainability of Fingford, and taking into account Cherwell District Council's ability to demonstrate an up-to-date five year housing land supply, is considered to be unnecessary, undesirable and unsustainable development that which would undermine the housing strategy in the Cherwell Local Plan Part 1 which seeks to distribute new housing to the most sustainable locations having regard to such matters as public services and facilities, transport and employment. Consequently the proposal is unacceptable in principle and contrary to Policies ESD1 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.
2. The development proposed, by virtue of its poorly integrated relationship with existing built development, its extension beyond the built limits of the village and its visual impact on the rural character and appearance of the locality, would cause unacceptable harm to the character and appearance of the area and the rural setting of the village and would fail to reinforce local distinctiveness. It would also result in 'less than substantial' harm to the setting of the adjacent listed buildings and the harm stemming from the proposals are not considered to be outweighed by any public benefits. Insufficient information has also been provided in relation to the existing protected and high value trees on the site and whether they could be successfully retained as part of the development. The proposal is therefore contrary to Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, saved Policies C8 and C28 of the Cherwell Local Plan 1996 and Government guidance contained within the

National Planning Policy Framework.

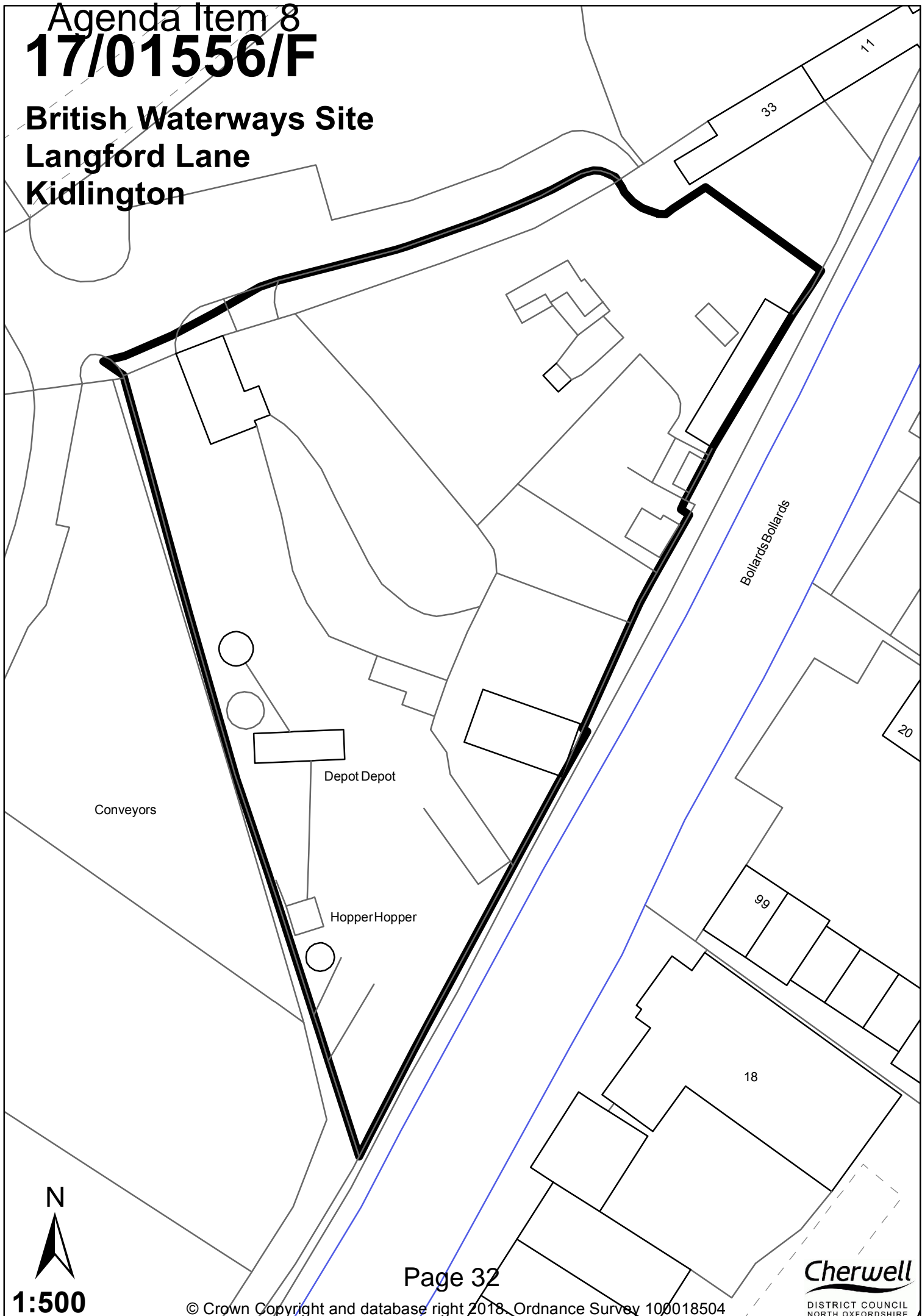
3. The submitted Drainage Strategy is inadequate and does not provide sufficient information to demonstrate that a drainage strategy based on Sustainable Urban Drainage Systems has been explored for the site. The proposal is therefore contrary to Policy ESD7 of the Cherwell Local Plan and advice in the Written Ministerial Statement on Sustainable Drainage Systems (Dec 2014).
4. In the absence of the completion of a satisfactory Planning Obligation, the Local Planning Authority is not convinced that the necessary infrastructure directly required as a result of this development, in the interests of supporting the sustainability of the village and the development, and in the interests of safeguarding public infrastructure and securing on site future maintenance arrangements, will be provided. This would be contrary to Policies INF1, PSD1, BSC10 and BSC11 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: James Kirkham

TEL: 01295 221896

Agenda Item 8  
**17/01556/F**

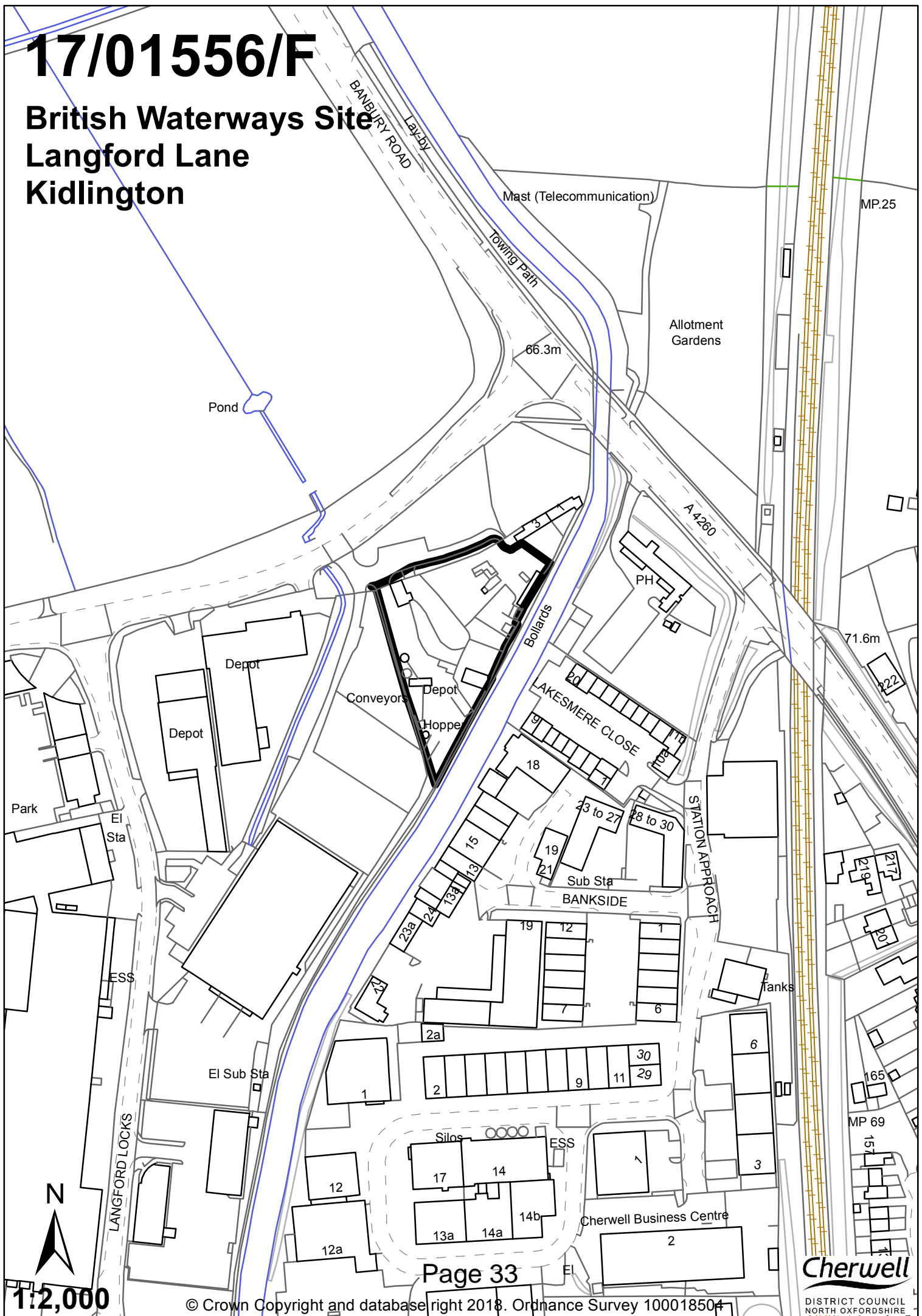
**British Waterways Site  
Langford Lane  
Kidlington**



**1:500**

# 17/01556/F

## British Waterways Site Langford Lane Kidlington



**Applicant:** H2O Urban & Canal & River Trust

**Proposal:** Redevelopment of site comprising the erection of 10 residential dwellings (Use Class C3); formation of new boaters car park; conversion of existing outbuildings to form ancillary accommodation to residential properties, new ELSAN facilities for boaters and storage for boaters and the demolition of outbuildings and structures associated with the CEMEX operations as identified on the plans; together with two new vehicular accesses and associated landscaping and parking.

**Ward:** Kidlington West

**Councillors:** Cllr Alan Mackenzie-Wintle  
Cllr Sandra Rhodes  
Cllr Nigel Simpson

**Reason for Referral:** Major Development (10 dwellings or more)

**Expiry Date:** 26 October 2017      **Committee Date:** 14 December 2017

**Recommendation:** Approve      **Extension of time:** 15 December 2017

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

- 1.1. The application site (“the site”) is located on the north edge of the village of Kidlington; its south eastern boundary runs adjacent to the Oxford Canal (the towpath, Public Right of Way 265/33/10, runs alongside the site boundary). The site is separated from the canal corridor by a brick & stone wall with a height of approximately 2 metres which runs from the southern corner of the site for around half of the site frontage. This then gives way to overgrown vegetation before the hard boundary is established again in the form of the outbuilding which runs along the back of the towpath.
- 1.2. The site is accessed from Langford Lane, which is located to the north of the site, giving access onto an unnamed road which forms part of the highway and serves the site.
- 1.3. The site and the surrounding area are relatively flat. The site is set within an urban context containing a mixture of uses, with modern commercial uses to the west including a number of car showrooms and modern offices buildings with more industrial units on the southern side of the canal. Immediately opposite the site, on the other side of the canal, is a former office complex which has been recently converted to residential use under prior approval (13/00948/CPA). To the east of the site is the Highwayman public house. Immediately to the north east lies a pair of semi-detached stone cottages which are set at an angle, facing towards the canal with gardens to the front.

- 1.4. The site is rectangular in shape, covering an area of approximately 0.38 hectares. Within the southern end of the site is the CEMEX concrete batching plant which contains is largely an open yard, although there are two buildings within it in addition to a relatively larger hopper structure. Adjoining this area is the boater's car park, which also contains an ELSAN facility and refuse bins for the boaters. To the north east of the car park is an open area which is used as amenity space and contains four outbuildings (some with connections to the canal).
- 1.5. Part of the site lies within the Langford Lane Wharf Conservation Area and the site abuts the Oxford Canal Conservation Area. Whilst there are no listed buildings within close proximity to the site, a locally listed building is situated to the north east of the site (1 and 3 Langford Lane Wharf). The site is on potentially contaminated land. The site has some ecological potential as the Rushy Meadows Special Site of Scientific Interest (SSSI) and Shipton-on-Cherwell and Whitehill Farm Quarries SSSI are within 2 Kilometres of the site and the site is located within the Lower Cherwell Valley Conservation Target Area. Furthermore, a number of Legally Protected Species have been recorded within the vicinity of the site including the Osprey, European Water Vole, European Otter, West European Hedgehog and Common Lizard. In addition, the site is located within 20 metres of a 'Main River'.

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

- 2.1 Planning permission is sought for 10 residential dwellings in a relatively linear form following the line of the canal. These dwellings consist of four pairs of semi-detached dwellings (6x two storey, three bed, and 2x three storey, four bed), and two detached dwellings to the south western part of the site which would be three storeys in height and would accommodate 4 bedrooms. The dwellings are proposed to be constructed from a mixture of red and buff brick under artificial slates.
- 2.2 The dwellings are proposed to have a joint covered bin and cycle store each and these would sit to the front of the dwellings. These would be constructed from timber under plain tile roof. The dwellings would each have their own private amenity area which would be sited to the rear of the dwellings and run to the canal towpath.
- 2.3 Two new vehicular accesses are proposed from the highway. One would be formed through a boundary wall to give a single road to the proposed 10 dwellings. The dwellings are proposed to be provided with at least one parking space directly at the front and 13 spaces proposed elsewhere (9 of these are proposed for visitors). The other access, which is closer to Langford Lane, would serve as a road to 14 parking spaces to be used by boaters.
- 2.4 A pathway is proposed to run from the boater's car park to the canal towpath and would meet the canal towpath between the proposed dwellings and the existing cottages to the north east of the site and this would result in the loss of a small section of wall running adjacent to the towpath. The area proposed to accommodate the boaters parking would also include a new structure for housing bins used by the boaters, replacing the bins within the site.
- 2.5 A layby is proposed just outside the site, which would be for a vehicle servicing the waste from boaters. The applicant's agent has verbally advised that this service would only need to take place monthly,
- 2.6 The applicant seeks to retain four of the outbuildings to the north east of the site. The coal house, which abuts the towpath, is proposed to serve as a storage area for both plot 1 and boaters and it would also include the boater's ELSAN facilities area. A former air raid shelter just behind the stable building is proposed to be used as a boater's store. The Wash House further to the rear of the stable building is proposed

to be used as a store for plot 1 and would be enclosed within the curtilage of plot 1 by hedging. The stone shed to the rear of plots 1 and 2, would serve as storage areas for these properties. It is proposed to demolish two outbuildings near to the CEMEX site and structures associated with the CEMEX operations including the hopper building.

- 2.7 In relation to landscaping, it is proposed to retain the stone and brick wall on the south eastern boundary of the site. Where there is no such hard enclosure on the south eastern boundary, it is proposed to erect a post and rail timber fence to a height of 1.1 metre height. An automated barrier of a height of 1 metre is proposed at the entrance to the driveway serving the proposed dwellings. A stone wall is proposed along the northern boundary of the site. A bin store for collection date is proposed close to the access to serve the dwellings.
- 2.8 A screening opinion (ref: 16/00065/SO) issued by Cherwell District Council on September 2017 stated that an Environment Statement was not required for this application.

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

- 3.1. There is no planning history directly relevant to the proposal:
- 98/01902/F - Change of use of existing non-residential to (permanent) residential moorings along a section of the Oxford Canal, plus provision of car park (11 spaces), refuse compound and associated landscaping (Part Retrospective) - APPROVED on 12th January 1999.

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

- 4.1. The following pre-application discussions have taken place with regard to this proposal:
- 16/00052/PREAPP - Proposed redevelopment to provide 10 no. family homes, re-use of non-statutory heritage buildings, provision of boaters facilities - CLOSED 29<sup>th</sup> March 2016. A relatively similar scheme was put forward at the pre-application stage, however less detail was provided (for example in relation to the appearance and scale of the proposed dwellings). The pre-application response stated that if an application is to be submitted, it will need to be demonstrated that the proposal complies with the criteria set out in Policy SLE1 of the Cherwell Local Plan Part 1 with respect to the loss of the existing employment use on the site. Subject to this, the principle of residential development on the site could be considered acceptable. It was also noted that the demolition of the two buildings on the site, within the Langford Wharf Lane Conservation Area, will require sufficient justification. Furthermore, the report stated that care will need to be taken to ensure that the proposed dwellings and associated landscaping and means of enclosure preserve the historic character and appearance of the area, and it will need to be demonstrated that the proposal would make a positive contribution to the Conservation Area's character and appearance. It was stated that a noise survey will need to be submitted with an application to demonstrate that the proposal will provide a good standard of amenity for any future occupants given the location of the site within close proximity to commercial uses.

### **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 07.12.2017, 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:

- The loss of employment land would be contrary to Policy SLE1 and Kidlington Masterplan;
- Does not contribute to the need for affordable housing;
- Overdevelopment of the site;
- The dwellings are very large;
- The site should be used as a green space instead;
- Impacts negatively on the sense of openness highlighted in the Kidlington Conservation Area Appraisal;
- A former resident of one of the nearby cottages was responsible for the survival of the Oxford Canal and this resident was also located to the last boatman owner;
- Should not place a 6 foot wooden fence (now a hedge) immediately in front of the wash house. The wash house is of historical significance and linked to the row of cottages to the north east and the proposal would erode this historic link. The wash house should remain linked with the cottage;
- The wash house is a key feature of the collection of buildings that contribute to retaining the sense of enclosure, which, helps define the setting of the cottages;
- The path should go by the side of plot 10;
- Has a negative impact upon the setting of the cottages;
- Overlooking the canal boats;
- Loss of privacy to the cottages due to the position of the path and height of the hedging;
- The hedging to the side of Plot 1 would not provide adequate privacy for the future occupier of this property;
- Noise experienced by neighbouring properties;
- Noise experienced by the future occupiers of the proposed dwellings due to the proximity of the dwellings to the Essentra Components staff car park...The land to the north of the existing staff car park is owned by Essentra and is reserved for future expansions of operations and the presence of residential development adjoining this site would jeopardise Essentra's ability to expand its operation;
- An inadequate noise assessment has been provided by the applicant – e.g. it only assesses the noise environment from one location on the site which is some distance away from Essentra and other nearby businesses and does not make reference to the 24 hour operation of the adjoining operator;
- Concerned about the brick wall along the tow path;
- The doors to the rear of the ELSAN facilities and boaters store should not be to the rear as this would cause disturbance/loss of privacy for the cottages;
- Would cause ecological harm;
- Land Ownership concerns.

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. KIDLINGTON PARISH COUNCIL: **No objections.**

STATUTORY CONSULTEES

- 6.3. CANAL & RIVERS TRUST: **No objections.**
- 6.4. ENVIRONMENT AGENCY: **No objections**, subject to staged land contamination conditions and that no piling or any foundation designs using penetrative methods shall be used unless formally agreed with the Local Planning Authority.
- 6.5. OCC LOCAL HIGHWAY AUTHORITY: **No objections** subject to conditions.
- 6.6. THAMES WATER: **No objections** in relation to surface water infrastructure capacity or sewerage infrastructure capacity.

NON-STATUTORY CONSULTEES

- 6.7. CDC BUILDING CONTROL: **No objections.**
- 6.8. CDC BUSINESS SUPPORT UNIT: **No comments received.**
- 6.9. CDC CONSERVATION: Generally supportive of the application, but considers that some aspects of the application need to be improved – i.e. division of the wash house from the cottage and that the dwellings sit behind a large wall.
- 6.10. CDC ECOLOGY: **No objections** subject to conditions.
- 6.11. CDC ENVIRONMENTAL PROTECTION: It is still not clear exactly what impact the other commercial uses would have on the proposed development.
- 6.12. CDC LANDSCAPE SERVICES: **No objections** subject to conditions and off-site contributions towards the refurbishment of a nearby LAP.
- 6.13. CDC PLANNING POLICY: **No comments received.**
- 6.14. CDC RECREATION AND LEISURE: Have requested contributions towards sports facilities and community halls
- 6.15. RAMBLERS ASSOCIATION: **No comments received.**
- 6.16. CDC SCHOOL ORGANISATION OFFICER: **No objections.**
- 6.17. CDC STRATEGIC HOUSING: **No objections.** The proposal for 10 dwellings is below the threshold for requesting affordable housing.
- 6.18. THAMES VALLEY POLICE DESIGN ADVISOR: **No comments received.**
- 6.19. KIDLINGTON & DISTRICT HISTORICAL SOCIETY: **Objects** to the application. It destroys the historical relationship of many years between the wash house and the existing cottages and therefore its significance. The Wash house will become a rather pointless garden shed in the garden of Plot 1. As the garden of plot 1 is quite large, it would be possible to change this arrangement.

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

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

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

- PSD1 - Presumption in Favour of Sustainable Development
- SLE1 - Employment Development
- SLE4 - Improved Transport Connections
- BSC1 - District Wide Housing Distribution
- BSC2 - The Effective and Efficient Use of Land - Brownfield Land and Housing Density
- BSC11 - Local Standards of Provision – Outdoor Recreation
- ESD1 - Mitigating and Adapting to Climate Change
- ESD2 - Energy Hierarchy and Allowable Solutions
- ESD3 - Sustainable Construction
- ESD6 - Sustainable Flood Risk Management
- ESD7 - Sustainable Drainage Systems (SuDs)
- ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
- ESD11 - Conservation Target Areas
- ESD15 - The Character of the Built and Historic Environment
- ESD16 - The Oxford Canal
- Policy Villages1 - Village Categorisation
- INF1 - Infrastructure

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

- C5 - Protection of ecological value and rural character of specified features of value in the district
- C23 - Retention of features contributing to character or appearance of a conservation area
- C28 - Layout, design and external appearance of new development
- C29 - Appearance of development adjacent to the Oxford Canal
- C30 - Design of new residential development
- ENV1 - Environmental pollution
- ENV12 - Contaminated land

### 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Kidlington Masterplan Part 1 (December 2016)
- Cherwell District Council: Home Extensions and Alterations (2007)
- Kidlington Conservation Area Appraisal (2009)

- Oxford Canal Conservation Area Appraisal (2012)
- Cherwell District Employment Land Review (2012)
- Constructive Conservation in Practice: Historic England (2015)

## 8. APPRAISAL

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

- Principle of the Development
- Impact on the Appearance and Character of the Area;
- Impact upon the Setting and Significance of the Nearby Locally Listed Building;
- Residential Amenity;
- Highways Safety;
- Ecological Impact and Trees;
- Drainage and Flooding Risk;
- Potentially Contaminated Land;
- Planning Obligations;
- Local Finance Considerations;
- Other Matters.

### Principle of the Development

8.2. Paragraph 12 of the NPPF notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.

8.3. Paragraph 14 of the NPPF states that a presumption of sustainable development should be seen as a golden thread running through decision taking. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.

8.4. Cherwell District Council can demonstrate a five-year supply of deliverable housing sites and therefore the presumption in favour of sustainable development, as advised by the NPPF, will therefore not necessarily need to be applied in this context.

8.5. The Council, will as a general principle, continue to protect existing employment land and buildings for employment (B class) uses. Policy SLE1 of the Cherwell Local Plan Part 1 states that: *"In cases where planning permission is required existing employment sites should be retained for employment use unless the following criteria are met:*

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

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

*New dwellings will not be permitted within employment sites except whether this is in accordance with specific site proposals set out in this Local Plan”*

- 8.6 Paragraph 51 of the NPPF states that Local Planning Authorities should: “Normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in B use classes) where there is an identified need for additional housing in that area, provided there are not strong economic reasons why such development would be inappropriate.”
- 8.7 A section of the site is used as a concrete batching plant and the proposal would result in the loss of this employment site (a B2 use – general industry).
- 8.8 While the applicant’s agent has not demonstrated any of the above criteria, he has argued that there are other planning objectives that would outweigh the value of retaining the site in an employment use. As noted in the Planning Statement, the proposal would result in the loss of approximately 0.1 hectares of commercial land, and officers agree that the land in question has limited alternative commercial potential. The majority of the site is not in an employment use.
- 8.9 The concrete batching plant is also not likely to employ many people, and it is considered that its change of use would not significantly limit the amount of employment space available either in Kidlington or the district as a whole, nor would it have a material impact on levels of economic growth in the District. The loss of employment land is therefore considered acceptable in this instance.
- 8.10 The applicant’s agent also argues that the removal of CEMEX business would lead to an enhancement to the significance and setting of the Langford Wharf Conservation Area which the site is located within. The applicant’s agent states that the use of the site by CEMEX provides an industrial character to the conservation area which detracts from the historic quality of the site and the wider canal corridor. This will be assessed later in this report in order to make an assessment on whether there are any planning objectives that would outweigh the value of retaining the site in an employment use.
- 8.11 Moving on to the principle of housing on the site, paragraph 17 of the NPPF states that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant development in locations which are or can be made sustainable. Paragraph 111 of the NPPF states that Local Planning Authorities should encourage the effective use of land by re-using land that has been previously developed.
- 8.12 As the loss of this employment use is considered to be acceptable, the principle of residential development in Kidlington is assessed against Policy Villages 1 in the Cherwell Local Plan Part 1. Kidlington is recognised as a Category A village in the Cherwell Local Plan Part 1. 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. Within Category A villages, residential development will be restricted to the conversion of non-residential buildings, infilling and minor development comprising small groups of dwellings on sites within the built up area of the settlement. This proposal is considered to be ‘minor development’ within the built up limits of the settlement.

- 8.13 Given the above, it is considered that the principle of residential dwellings on this site could be acceptable. However, the proposal's overall acceptability is also clearly dependent on other material considerations which I will now go on to discuss.

Impact on the Appearance and Character of the Area including Conservation Areas

- 8.14 Part of the site is within the Langford Lane Wharf Conservation Area, a designated heritage asset, including two buildings proposed for demolition. The site also lies adjacent to the Oxford Canal Conservation Area.

*Policy*

- 8.15 Paragraph 128 of the NPPF states that: *"In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance."*
- 8.16 Paragraph 132 of the NPPF states that: *"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification."*
- 8.17 Paragraph 134 of the NPPF states that: *"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use."*
- 8.18 Paragraph 137 of the NPPF states that Local Planning Authorities should look for opportunities for new development within Conservation Areas to enhance or better reveal their significance.
- 8.19 Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 8.20 Paragraph 60 states that: *"Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness."*
- 8.21 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."* Furthermore, Policy ESD15 of the Cherwell Local Plan states that new development proposals should: *"Conserve, sustain and enhance designated and non-designated 'heritage assets' (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG. Proposals for development that affect non-designated heritage assets will be considered taking account of the scale of any*

*harm or loss and the significance of the heritage asset as set out in the NPPF and NPPG.”*

- 8.22 Saved Policy C23 of the Cherwell Local Plan 1996 states that: *“There will be a presumption in favour of retaining buildings, walls, trees or other features which make a positive contribution to the character or appearance of a Conservation Area.”*
- 8.23 Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context as well as compatible with existing buildings.
- 8.24 Saved Policy C5 of the Cherwell Local Plan 1996 notes that the council will seek to protect the rural character of the Oxford Canal through the control of development.
- 8.25 Historic England guidance (set out within ‘Constructive Conservation in Practice’) encourages a positive and collaborative approach to conservation that focusses on the active management of change in ways that recognise and enhance the historic significance of places, while accommodating the changes necessary to ensure their continued use and enjoyment.

#### *The proposals*

- 8.26 It is noted in the Kidlington Conservation Area Appraisal that this conservation area was designated, *“in order to protect this historic corner of Kidlington, a reminder of the establishment and development of transport-driven commerce which revolutionised the village from the 18th century onwards.”* Officers therefore consider that it is important that any development does not prevent understanding of the importance of the area as an important transport interchange.
- 8.27 The Conservation Area Appraisal notes that little now remains of the wharf. Langford Lane Wharf remains in use as a mooring for canal boats. The Conservation Area Appraisal goes on to state that although its buildings, notably the cottages, are hemmed in by the concrete batching site to one side and the main arterial road to the other, they remain an interesting and attractive group of buildings which act as a reminder of the commercial character of Langford Lane between the late 18th century and 20th century. Thus, the Conservation Area Appraisal again appears to note that the site is of illustrative historical value as it serves as a reminder of the past industrial function the site use to play and that Langford Wharf Conservation Area is largely of historical significance.
- 8.28 It is noted within the Kidlington Conservation Area Appraisal that when originally constructed the wharf and the canal-side building (now 1 and 3 Langford Lane Wharf to the north of the site) were intended for commercial use. The Conservation Area Appraisal goes on to note that the site would have been busy with coal and other goods being unloaded and transported on. These buildings are of late 18th Century origin, contemporary with the canal building of 1790, built in the local vernacular. The date of conversion of the canal side building to cottages is unknown. Langford Lane Cottages used to comprise of 6 cottages, but the building was decreased in scale in the late 19<sup>th</sup> Century and now comprises a pair of two-storey dwellings. These cottages would have been used by workers on the canal, responsible for simple maintenance, lock keepers, to ensure the smooth running of locks, and possibly, toll collectors, therefore this is considered to be key building during the evolution of this site. This building is therefore considered to be essential in the understanding of the industrial function the site use to play and the building is considered to be of significant historical value. Furthermore, No.3 was lived in by a

canal man named Jack Skinner who is attributed as playing a major part in keeping the Oxford Canal open, and this adds further to the historical value of this building. The building is also considered to be of some architectural value. It is worthwhile noted that the Kidlington Conservation Area Appraisal marks this as a positive landmark within the Langford Wharf Conservation Area. Thus, this building is considered to make a positive contribution to the Langford Wharf Conservation Area. This building is not within the site area, but is within close proximity to it. Thus, the proposal has the potential to impact upon the significance of this building.

#### *Coal sheds*

- 8.29 The Kidlington Conservation Area Appraisal states that to the south end of the cottages is a long, low mid-19th century brick range, with a plain tile roof (this is likely referring to the coal-shed). The Conservation Area Appraisal notes that this building is of unknown function, but that it apparently represents an enlargement and adaptation of an earlier stone building, presumably like the first phase of the cottages, and was a late 18th century commercial building. It appears that the earlier stone forms part of the wall of this building and historical mapping shows that this structure pre-dates 1875. This coal-shed building runs adjacent to the canal. Given the above, it is probable that this building once served the canal wharf and acts as a reminder of the commercial character of Langford Lane. It is therefore considered to make positive contribution to the significance of the Langford Wharf Conservation Area.
- 8.30 The current proposals include the retention the coal shed building, which is proposed to serve a storage area for both Plot 1 and boaters and to include the boater's ELSAN facilities area. Rain water goods are proposed on the western elevation of the building. Furthermore, cast iron are proposed to be fixed to the existing door at the north of the shed and 3 cast iron airbricks are proposed into the northern gable wall. The alterations to the building are considered to be relatively minor and retention of this building is welcomed by officers given the positive contribution it makes towards the significance of the Langford Wharf Conservation Area. The building would also be given a viable use which will secure the long term retention of this building. Thus, it is considered that this element would not cause harm to the significance of the Langford Wharf Conservation Area.

#### *Stone shed*

- 8.31 To the south of the cottages, but to the south west of the coal range, is a relatively small stone shed, which also runs adjacent to the canal. Given the building' siting, close to the coal shed and adjacent to the canal, and that it pre-dates 1875 when looking at historical mapping, it is likely that this served the canal wharf. This building is also considered to make positive contribution to the significance of the Langford Wharf Conservation Area.
- 8.32 The stone shed to the rear of plots 1 and 2, would serve as storage areas for these properties. The later blockwork infill to the western side of the stone shed is proposed to be removed and replaced with stone to match the gables. External alterations are also proposed to the internal configuration of this building and the openings. The building is also proposed to be re-roofed in plain clay tiles (currently slate) to match the adjacent coal shed range, and be fitted with cast iron rainwater goods.
- 8.33 Given its positive contribution to the significance of the Langford Wharf Conservation Area, the retention of this building is welcomed by officers. The removal of the blockwork with a traditional material is considered to be a positive alteration and the other changes to this building are considered to be acceptable as



it would not undermine the understanding that it once served the canal. The building would also be given a viable use which will secure the long term retention of this building. Thus, it is considered that this element would not cause harm to the significance of the Langford Wharf Conservation Area.

#### *Wash house building*

- 8.34 To the west end of the cottages is a single storey brick outhouse with plain-tiled roof and chimney (the wash-house building). The Kidlington Conservation Area Appraisal notes that this building would probably have been constructed in the mid-19th century. The Kidlington Conservation Area Appraisal goes on to note that this would have presumably been built as a wash house for the residents of the cottages. The date of construction of the wash-house is not so clear from using historical mapping. However, it appears that the wash-house was constructed to serve to the domestic function of the cottages rather than the canal itself. Whilst it is understood that the cottages themselves were canal workers' cottages, this wash-house building does not directly relate to the commercial activities which took place at the site. Thus, whilst of some historical interest because it serves as an example of traditional canal-side architecture and its link to the workers' cottages (which serves as a reminder to how this section of the canal evolved over time itself), officers do not consider the historical interest of this building to be as great as the cottage, shed and coal range referred to above which relate directly to the past commercial activities. That said, the building is also considered to have some charm and is of some architectural value.
- 8.35 The wash house building is proposed to be used as a store for plot 1 and would be enclosed within the curtilage of plot 1 by hedging. This building is to proposed mainly unaltered, apart from the removal of the ivy growing over it, and any necessary repairs to the roof, brickwork, window and door, subject to further detailed survey once the vegetation has been removed. Cast iron rainwater goods are also proposed to be added to the eaves to prevent deterioration of the brickwork.
- 8.36 Third parties have raised concerns with the loss of the visual connection between the cottages and the wash-house. The means of enclosure between the wash-house and the cottages has now been softened with the replacement of a fence with a hedge, but the wash-house would be separated from the cottages to some extent. The Conservation Officer has also raised concerns with this division and has cited that there is a cultural link between the structures.
- 8.37 Officers do understand the concerns of third parties and the Conservation Officer. However, as noted before, the Kidlington Conservation Area Appraisal states that the Langford Wharf element was designated to protect this historic corner of Kidlington, which serves as a reminder to the establishment and development of transport driven commerce which revolutionised the village from the 18th century onwards. Thus, the Kidlington Wharf Conservation Area is largely of historical significance due to the existence of buildings which served the canal. The wash-house was constructed to serve to the domestic function of the cottages rather than the canal itself therefore Officers consider that this wash-house is not of significant historical interest, although it is of some historical interest. Whilst the Conservation Officer has noted that one of the people responsible for the survival of the canal lived in one of the cottages, there is no justification of why this makes the significance of the wash-house itself greater.
- 8.38 The division of this building from the workers' cottages by hedging is considered to cause some harm as it erodes the historic understanding between these two buildings (i.e. the wash house served the workers' cottages). Whilst the hedging between the wash-house is not proposed to be relatively high (at 1.2 metres high

and 0.9 metres high) therefore still allowing for some understanding between these buildings, there is no guarantee the hedging would be maintained at this height as it could be increased to ensure privacy. Furthermore, there is nothing to prevent the occupiers of No.3 Langford Lane from erecting a fence between this property and the wash house for privacy reasons.

- 8.39 It is also worthwhile noting that the proposal would result in the retention of this building, which is welcomed given that it is of some historical and architectural value. Furthermore, the use of this building as storage for plot 1 would provide a viable use for this wash-house which will secure the long term retention of this building which is considered to be positive by Officers. Whilst it is acknowledged that the occupiers of the cottages have stated that they would like to take on the ownership of this building there is no guarantee of such an arrangement taking place in practice. The Conservation Officer has also not objected to this element of the proposal. Thus, it is considered that the division of the wash-house from main cottage is acceptable.

#### *Air raid shelter*

- 8.40 To the south of the cottages, but to the north of the coal shed, is a WWII air raid shelter. This is a relatively small brick building and is of relatively recent construction in comparison to a number of other buildings in the vicinity. Given the purpose and age of this building it is not considered to make a large contribution to the significance of the conservation area.
- 8.41 The retention of the air raid shelter is also proposed, which would be used as a boater's store. The roof of the air raid shelter is noted to be deteriorating, and it is proposed to put an additional layer of cement over the building to consolidate the surface and prevent the ingress of moisture and dirt, which could encourage plant growth. The alterations proposed are not considered to cause harm to the significance of the Langford Wharf Conservation Area.

#### *Boundary walls*

- 8.42 Along the south eastern boundary of the site and adjacent to the towpath is a boundary wall. Most of this wall comprises limestone and red brick. The Heritage Appraisal states that the brickwork in general appears to have been laid sometime between the construction of the canal in circa 1789 and the mid-19th century. The walling appears on the earliest historic maps and I have no reason to disagree with the age of these walls. There appears to be some later parts to the wall, however, which have infilled previous sections, and these are out of keeping with and unsympathetic to the original materials used. The Kidlington Conservation Area Appraisal recognises this wall as a strong means of enclosure. This wall is highly visible to towpath and canal users. Given the above and the use of traditional materials, the wall is considered to be of some historical and architectural interest and makes a positive contribution to the Langford Wharf Conservation Area.
- 8.43 Extending for a length of some 19m between the driveway of the cottages and the access to the boaters' car park, a continuous wall, built largely of limestone rubble delineates the north-western boundary of the application site. As noted in the Heritage Appraisal submitted on behalf of the applicant, there is little detail regarding the significance of this wall, although it looks likely to have been a form of enclosure on the 1877 Ordnance Survey map, and is recognised in the Heritage Appraisal as making 'some contribution to the character of the application site'. Officers note that this boundary wall is not identified as a 'positive landmark' or 'strong means of enclosure' in the Visual Analysis of the Langford Lane Wharf Conservation Area. However, this wall is considered to be of some architectural interest and makes a positive contribution to the Langford Wharf Conservation Area.

### *Other structures*

- 8.44 Further to the south west of the cottages are two relatively large brick outbuildings which sit in the conservation area. One of these outbuildings is situated adjacent to the canal and is in a relatively dilapidated state. This building appears to have been constructed around the 1950s. Given its relatively young age and its siting away from the other group of buildings, this building is not considered to form part of the historic wharf and is considered to be limited historic interest. The building is in a dilapidated state and overall officers consider that this building makes a negative contribution towards to Langford Wharf Conservation Area.
- 8.45 The current proposals include the demolition of this building which in light of the above is considered acceptable. That said, part of the building is formed by the historic wall which runs along the south eastern boundary of the site. It is proposed to retain the wall but the gable element built on top of the original wall will be removed, therefore returning the wall to its original height and appearance. The retention of this part of the wall is welcomed by officers given that this feature makes a positive contribution to the significance of the conservation area. Further details of the removal of this structure are requested as a condition should planning permission be granted in order to preserve the appearance of this wall.
- 8.46 The other building is sited at the entrance to the CEMEX site. The Heritage Impact Assessment submitted on behalf of the applicant states that this building is of 20th Century construction and of limited to no historical significance, and is not highlighted as being a positive landmark or contributing to the appearance or character of the conservation area in the Conservation Area Appraisal. However, when looking at historical mapping, a building on a relatively similar footprint to the existing building appears to be displayed on an 1875 map therefore there is some possibility that this building pre-dates 1875. That said, when viewing historic mapping, it appears that this building fronted the original Langford Lane and was separated from the Wharf. Given this and the distance of this building away from the other canal buildings referred to above, it is possible that there was no direct physical relationship between this building and the canal. Officers also do not consider the building to be of any special architectural interest. Thus, given the above and that the building is not a designated heritage asset or non-designated heritage asset, officers consider that this building has a neutral impact upon the significance of the conservation area.
- 8.47 This building is also proposed to be demolished, which in light of the above is considered acceptable.
- 8.48 There is a large hopper to the west of the site, which just sits outside the conservation area, and this modern industrial structure is considered to be an alien feature within the locality. This structure is highly visible from Banbury Road Canal Bridge to the north east of the site and the towpath and is considered to dominate the Conservation Area, to the detriment of its historical significance.
- 8.49 Its removal is proposed as part of this application and this is considered acceptable. However, whether the replacement of the hopper with this residential development would provide an enhancement to this southern section of the Langford Wharf Conservation Area will be discussed below.
- 8.50 There is also a pair of timber domestic sheds within a private garden space to the southwest of the stone shed. Given the temporary nature and small scale of these buildings, these are considered to have a neutral impact upon the Conservation Area.

- 8.51 The Kidlington Conservation Area Appraisal notes that views up the canal in a north east direction (towards the coal shed, stone shed and the cottages) contribute positively to the Area's character. However, the south western end of the Langford Wharf Conservation Area (which includes the two red brick buildings to the south east of the site and the hopper) is noted as being an area requiring enhancement. In addition, the Kidlington Conservation Area Appraisal notes that the canal and associated towpath and grass verge provides both a focus and creates a sense of openness within the area.
- 8.52 Other than the three structures to be demolished as discussed above, the only other structure due to be removed is the 1.8m high red brick wall lying to the north-west of the Stone Shed, which it is in close proximity too and runs parallel with. It appears from historic mapping that this formed part of a larger wall which connected with the south western gable of the coal shed and it provided a sense of enclosure. Given the relatively poor condition of the wall and that most of it has been removed, it is difficult to understand that this once provided such a sense of enclosure and the removal of this feature is considered acceptable.
- 8.53 The pair of timber domestic sheds within a private garden space are proposed to be removed, but officers consider that the impact of this would be neutral on the significance of the Langford Wharf Conservation Area as they are not currently visible from any public footpath or highway and are, by their very nature, temporary structures.

*New development proposed*

- 8.54 There is currently not a strong street pattern, especially as the existing buildings were constructed adjacent to the pre-existing highway of Langford Lane which has now moved further north.
- 8.55 The overall arrangement of the proposed dwellings presents a regular frontage to the canal with rear gardens to the properties running onto the canal boundary. The rear elevations of these buildings face towards the canal and have been given the appearance of principal elevations of canal warehouse type buildings, but they have been reinterpreted in a contemporary manner. As these proposed dwellings would run adjacent to canal and would not be set back too far from this waterway, this would be somewhat characteristic of such warehouse buildings which have a link with the canal. Officers consider that such a design approach is an acceptable solution given the context.
- 8.56 It is proposed to retain the walling along the south east boundary of the site. This existing walling would serve as the rear boundary treatment for the proposed dwellings. The only new means of enclosure to the rear of these properties would be a 1.1m metre post and rail timber fence set behind existing vegetation about 2m high therefore this would not create a hard and unattractive boundary along the towpath.
- 8.57 The Conservation Officer has raised concerns that the buildings do not directly address the canal, but sit behind the existing walling on the south east boundary. However, as noted, this wall is considered to make a positive contribution to the conservation area therefore its removal to create a scheme which directly addresses the harm would result in some harm to the significance of this conservation area. This is considered to be an acceptable solution, given that these buildings are still relatively close to the canal and face it, and because the wall would be maintained.
- 8.58 Notwithstanding, it is still considered to necessary to prevent the rear gardens from appearing overly domestic to give the impression that these are warehouse

buildings. As the gardens would be visible from the canal it is considered necessary to remove the permitted development rights for outbuildings within the gardens of these buildings and preserve the openness between these buildings and the canal. Closeboard fencing is proposed to divide the rear gardens of these properties, and whilst such a material is rather uninspiring the need to divide the gardens is understood and the fencing would be most set behind the means of enclosure on the south east boundary of the site. However, it is considered necessary to remove permitted development rights for new means of enclosure on the site so as to prevent these gardens appearing overly-domestic.

- 8.59 In terms of visibility from Langford Lane, these dwellings would be set back from this highway and set behind landscaping therefore these dwellings would not be highly prominent from Langford Lane. Sheds are proposed to the front of each dwelling and these would store bins and bicycles. These structures would also not be highly visible from Langford Lane given the scale and siting of these structures. Furthermore, this arrangement would screen such domestic features from the towpath. Thus, this arrangement is considered acceptable.
- 8.60 The entrance to the site is due to be reconfigured, and as such, this will impact upon the existing wall delineating the north western boundary of the site. The access to serve the proposed dwellings will result in the partial demolition of this structure, so will the inclusion of a pump station. As noted above, this structure is considered to make a positive contribution to the Langford Wharf Conservation Area as it is of architectural interest. Thus, the partial loss of this wall would result in some harm to the conservation area. However, this harm is considered to be limited given as the partial removal of this feature is not considered to undermine the understanding of this site as a former industrial hub that was connected to the canal. It is worthwhile noting that this wall is not listed, nor is it considered to be labelled as a positive landmark in the Kidlington Conservation Area Appraisal. The relatively small pump station that is proposed next to this wall is considered acceptable given its location screened from Langford Lane by vegetation and its relatively small scale.
- 8.61 A new 1.2 metre high stone wall is proposed on part of the north west boundary of the site near the entrance to the boaters car park. It is noted that this wall would be constructed in stone to match the existing north western stone wall, and that stone from the partial-demolition of the existing north west wall to form the access for the dwellings will be used in the construction in this new wall. As this feature would be set back from Langford Lane and would use similar materials to the existing wall it is proposed to run linear to Officers consider this element to be acceptable subject to an appropriate stone sample panel.
- 8.62 The new section of 0.7 metre high stone wall proposed at the north eastern corner of the site would have a negligible impact upon the significance of the conservation area given that similar materials to existing in the locality are to be used and due to the small scale of this wall.
- 8.63 A bin collection point is proposed close to the visitor entrance which would be screened from the road serving the access by an existing wall along the north western boundary and proposed hedging. Furthermore, bin collection area would be screened by the existing dwellings from the towpath. The siting of this bin collection point is therefore considered acceptable.
- 8.64 A timber walled boaters' bin area is proposed immediately to the east of the boaters' car park. This structure would be relatively small and screened from the towpath by existing dwellings. Furthermore, this structure would be screened from Langford Lane by the proposed stone wall and vegetation. This is considered to be acceptable

- 8.65 The level of hard surfacing proposed in the site is considered to be appropriate and would not result in the site becoming too urbanised in this semi-rural location. A layby is proposed outside of the site for a refuse vehicle to use (in connection with the pump station), but again, this feature is not considered to have an undesirable urbanising effect.
- 8.66 The Council's Landscape Officer has requested certain amendments to the trees and planting mixes proposed in the landscape plan, for example the removal of one species is recommended so as to prevent potential root disturbance to paths. Given this an amended landscaping scheme is will be recommended as a condition should planning permission be granted.
- 8.67 The Landscape Officer has also requested a cross-sectional detail of the swale to ensure the gradients are not too steep, just in case standing water proposes a threat to children and the gradients need to be shallow. Details of the swale can be requested in a condition requesting plans of the land levels.
- 8.68 Your officers consider that these dwellings would sit comfortably on the site and would provide a good standard of amenity for future occupiers in terms of the garden space and living space proposed.
- 8.69 In terms of scale, six of the dwellings would be of a two storey scale, whilst four of the dwellings at the south western end of the site would be at three storey scale. The scale of these buildings would not be uncharacteristic for canal warehouse buildings which tend to vary in scale. Furthermore, the two storey buildings would be sited closer to the two storey cottage building to the north east of the site, whilst the three storey building would be sited further away from this cottage and closer to warehouses and offices, some of which are three storeys in scale. Thus, Officers consider that the height of the buildings would not be out of keeping with the area.
- 8.70 In terms of the appearance of the dwellings, as noted before, there are 6 two storey dwellings to the north east and 4 three storey dwellings to the south west. These two different sets of buildings are proposed to be constructed from different materials so as to appear as two different stages of canal side development and give the scheme a more organic appearance. The use of a red brick is considered to be appropriate given that most traditional canal buildings on this stretch of the Oxford Canal tend to be constructed from red brick or stone.
- 8.71 Your officers agree with the Conservation Officer that the design could have been even more innovative, for example the loading gables typically found on canal buildings could have provided a great opportunity to add interest to the facades in a contemporary way. That said, officers still consider that the design of the dwellings is of a relatively high quality, especially because they would respect the historic context they would be situated within. The removal of permitted development rights for extensions to these buildings is recommended to maintain the appearance of warehouse buildings.
- 8.72 In terms of the impact upon the conservation area itself, the nearest dwelling would be sited over 25 metres away from the existing cottages and this would be two storey in height. The three storey dwellings would be sited further away from these cottages. No dwellings are proposed between the cottages and any of the existing outhouses. Given the scale and the siting of the proposed dwellings, it is considered that these dwellings would not over-dominate the historic structures to the north east.
- 8.73 Given that the proposed dwellings would be set back from the canal and not in between the group of historic buildings to be remained, your officers consider that

the positive views north-west view up the canal (identified in the Kidlington Wharf Conservation Area Appraisal) would not be unduly compromised. Furthermore this would retain the visual connection between this set of existing buildings so one can still understand the history and evolution of the site.

- 8.74 Whilst there would be some harm to the Langford Wharf Conservation Area with the loss of the historical connection between the wash-house and cottages, the proposal would provide the public benefit of the long term viable use for this building. The loss of a section of the north western wall is considered to cause some limited harm to the Kidlington Conservation Area. However, it is considered that the proposal would not cause any other harm to the significance of the conservation area. It is also considered that the overall scheme would not cause harm to the visual amenities of the locality.
- 8.75 Furthermore, the loss of the concrete batching plant use with its large hopper and the replacement of it with the proposed development would remove the modern industrial setting to the Langford Wharf Conservation Area which made a negative contribution to the significance of this conservation area and its setting. Officers consider that the proposed development that would replace this use would provide the Langford Conservation Area with a more tranquil setting and a form of built development which is much more sympathetic to the setting of this conservation area.
- 8.76 Regarding the area displayed in the Kidlington Conservation Area appraisal as requiring enhancement to the south west of the site, this would be re-organised as part of the development. Officers consider the removal of some of the untreated vegetation within this outlined area would lead to some environmental enhancements, as would the removal of former dilapidated British Water Ways building. It is considered that the proposed use would more likely lead to the ongoing maintenance of this part of the site and a condition has been attached requesting full details of how this site would be maintained and managed.
- 8.77 In addition, the Kidlington Masterplan displays that the application site is within the 'northern gateway' area, which and the Masterplan encourages public realm improvements at the entrance to the settlement including improved views and access onto the Canal and Langford Lane Wharf Conservation Area. Furthermore, the Kidlington Masterplan encourages the upgrading of the Oxford Canal tow path so as to present opportunities for improved walking and cycling for leisure activities and commuting into Oxford.
- 8.78 Development can therefore have the potential to provide enhancements to this gateway area. As noted above, the proposal is considered to result in an overall enhancement to the area displayed as requiring enhancement in the Kidlington Conservation Area Appraisal and it is also considered to enhance the south west setting of the Kidlington Wharf Conservation Area. The environmental improvements along this part of the canal route running through the settlement will assist in creating a more attractive route for people to use.
- 8.79 Thus, it is considered that whilst there would be some harm with the partial loss north western wall and the loss of the historic connection between the washhouse and the cottages. However, there would be public benefits due to environmental improvements as a result of the proposal, these being securing the viable use of outbuildings which make a positive contribution to the conservation area, the enhancement of the south western setting of the Langford Wharf Conservation Area as well as enhancement of the south western section of this conservation area. In addition the environmental improvements along this part of the Oxford Canal will assist in creating a more attractive route for people to use, in line with the aims of

the Kidlington Master Plan. These public benefits are considered to significantly outweigh the identified harm to significance of the Langford Wharf Conservation Area.

#### Impact upon the Setting and Significance of the Nearby Locally Listed Building

- 8.80 Paragraph 135 of the NPPF states that: *“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”*
- 8.81 To the north of the site is the locally listed building of 1 and 3 Langford Lane Wharf. As noted previously, this two storey building serves as a reminder of the commercial nature of the area. The building is considered to be of illustrative historical value and architectural value. The Kidlington Conservation Area Appraisal notes that the cottages are occasionally blighted by the dust from the concrete batching site next door.
- 8.82 In terms of the impact of the proposed development upon this non-designated heritage asset, as noted before, the nearest dwelling would be sited over 25 metres away from the existing cottages and this would be two storey in height. The three storey dwellings would be sited further away from these cottages. The dwellings would also be set back from the canal towpath so as to allow north easterly views of this cottage from the towpath. These proposed dwelling would also not be sited between the outbuildings to be retained which used to serve the canal and the cottages. Thus, given the scale and the siting of the proposed dwellings, it is considered that these dwellings would not over-dominate this locally listed building, nor materially alter the historical understanding of the former canal courtyard.
- 8.83 The hard landscaping proposed, including the path between the cottages and the proposed dwellings and the walling, is not considered to result in the site becoming too urbanised in this semi-rural location and therefore it is considered that this hard landscaping would not materially alter the semi-rural setting these cottages are appreciated within.
- 8.84 Thus, it is considered that the proposal would not cause harm to the significance of this locally listed building or its setting.

#### Residential Amenity

- 8.85 Policy ESD15 of the Cherwell Local Plan Part 1 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. Paragraph B.42 in the Cherwell Local Plan Part 1 states that: *“In all cases very careful consideration should be given to locating employment and housing in close proximity and unacceptable adverse effects on the amenity of residential property will not be permitted.”*
- 8.86 Paragraph 17 of the NPPF also notes that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 8.87 Saved Policy C30 of the Cherwell Local Plan 1996 seeks to ensure: *“That new housing development or any proposal for the extension (in cases where planning permission is required) or conversion of an existing dwelling provides standards of amenity and privacy acceptable to the LPA.”*



- 8.88 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 other types of environmental pollution will not normally be permitted.
- 8.89 Paragraph 123 of the NPPF states that: *“Planning policies and decisions should aim to:*
- *avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;*
  - *mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;*
  - *recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.”*
- 8.90 The PPG adds to this to state that in relation to observed effect levels:
- *”Significant observed adverse effect level: This is the level of noise exposure above which significant adverse effects on health and quality of life occur.*
  - *Lowest observed adverse effect level: this is the level of noise exposure above which adverse effects on health and quality of life can be detected.*
  - *No observed effect level: this is the level of noise exposure below which no effect at all on health or quality of life can be detected.”*
- 8.91 In relation to noise experienced by the potential occupiers of the development, the site is within relatively close proximity to a number of commercial uses. For example, Essentra Components, which has consent as a B8 use (storage and distribution) use is located directly to the south west of the site, whilst further to the south west and across the Oxford Canal to the south east, there are a mixture of uses in B1 (business), B2 (general storage) and B8 uses. Thus, there is potential for nearby commercial uses to impact upon the amenities of these neighbouring properties. The site is also within relatively close proximity to the well use railway line.
- 8.92 Given this, a noise appraisal (which has been subject to revisions) has been submitted alongside the planning application. Monitoring was carried out at a single position on the site, within the former British Waterways operation yard, and this was carried out over a week. Levels were recorded in 15 minute samples, with the purpose of determining the equivalent continuous sound level LAeq, and the percentile LA90 (background noise level).
- 8.93 BS8233:2014 sets out desirable indoor ambient noise levels for dwellings (based on guidelines issued by WHO), for example for bedrooms these are 35dB between 07:00 to 23:00 and 30dB between 23:00 to 07:00. With respect to external amenity space such as gardens and patios, BS8233:2014 sets out that it is desirable for external noise levels not to exceed 50dB, with an upper guideline of 55dB, which would be acceptable in noisier environments
- 8.94 Between 7AM and 11PM, the highest hourly average level was recorded on a Thursday at 59.6db, whilst the lowest hourly average level was recorded on Friday at 48.6db. Between 11PM and 7AM the highest hourly average level was recorded on Tuesday at 53.9db, whilst the lowest hourly average level was recorded on Friday 46.3db.

- 8.95 Based on this, the noise appraisal states that the noise levels on the site should be classed as Lowest Observable Effect Level at this moment in time. However, the noise appraisal goes on to note that the noise climate across the site is dominated by the Cemex works when this is in operation. The noise appraisal states that whilst there are light industrial units present on the opposite side of the canal, no noisy works appear to be taking place in these units. The noise appraisal implies that the removal of the Cemex plant as part of the development will materially reduce the noise on the application site. It is stated that once this Cemex plant is removed, guideline values for external noise levels should be achieved. The noise appraisal also notes that even if the weekday levels were up to 55dB, the internal noise criteria of BS8233:2014 would be adequately met with standard double glazed windows. The noise appraisal then concludes that with the removal of the Cemex site, it is highly likely that the noise levels on the site would be reclassified as No Observed Effect Level.
- 8.96 The Council's Environmental Protection Officer has raised concerns with a number of matters with the noise appraisal.
- 8.97 The Environmental Protection Officer has noted that it is unclear from the assessment what contribution the commercial/industrial units make during normal working hours towards the level of noise on the site. This is because the Cemex plant skews the result on the site. Furthermore the Environmental Protection Officer has stated that there is a lack of detail of the surrounding uses in the locality, for example their operations and their times of operation.
- 8.98 The applicant has responded on these matters stating that the uses across the canal are small business units (some in B2 uses) which are used for a variety of activities including car repairs. The applicant notes that these businesses face away from the site and have blank rear walls backing onto the canal, and as a consequence noise generated from their activities is not directed towards the site. It is noted that only a car park belonging to Essentra is on the south west boundary of the site and that the main HGV do enter or leave the Essentra site from the east, but off Langford Locks to the west.
- 8.99 However, unfortunately, the applicant has not provided specific details on the neighbouring uses. That said, having visited the site, officers are in agreement with the general description of activities taking place surrounding the site.
- 8.100 Regarding information about the noise during working hours on weekdays, the applicant has not provided a further assessment when the Cemex plant is not operating. Officers find this somewhat unfortunate, especially given that the Cemex site is within the control of the applicant. This would have provided for a more accurate understanding of the level of noise that could be experienced by the potential occupiers. The applicant has maintained that the Cemex plant is the dominant noise source in the vicinity and the removal of this element would likely make noise levels acceptable for potential occupiers.
- 8.101 Notwithstanding, even with the Cemex plant in operation the daily average external noise levels recorded on the site are very much close to the 55dB desirable noise level for external amenity space. Having visited the site on numerous occasions, Officers are of the opinion that the Cemex plant provides a great amount of noise on the site and it is considered that the removal of the Cemex plant would likely provide satisfactory noise levels for external amenity space.
- 8.102 With respect to internal spaces, the appraisal shows average daily levels ranging between 48.6dB to 59.6dB, whilst average night time ranged between 56.3dB to 53.9dB and this is with the Cemex plant on the site which, as implied, is clearly

audible on the site. The noise assessment states that even if the weekday levels were up to 55dB, the internal noise criteria of BS8233:2014 would be adequately met by use of standard glazing and ventilation (standard trickle vent) configurations, if used in conjunction with masonry cavity wall construction. The noise appraisal states that minimum sound reduction performances of at least 32dB could potentially be achieved. Given that the results are based on the Cemex still being on the site, and this is clearly audible from the site, Officers are content that the desirable internal levels set out in BS8233:2014 can likely be achieved.

8.103 Essentra has raised concerns about the location of the noise monitoring equipment and has recommended that monitoring equipment is placed closer to the Essentra site. In response to this, the applicant argued that this would not significantly alter results because the CEMEX operations would remain the dominant noise source in the vicinity. It was also argued by the applicant that the presence of a car park as observed along the site boundary does not present a use which generates high levels of noise and is perfectly compatible with a residential development. Again, as noted before, officers would have preferred to see a noise assessment without the Cemex plant in operation and find this element of the response unfortunate. However, whilst the next door site is likely to result in some noise, notably due to the modest sized car park abutting the boundary of the site (which is noted to be in operation for 24 hours), officers are in general agreement with the applicant that this next door use should not result in unacceptable levels of noise for the occupiers, especially because only a small part of the car park protrudes beyond the front wall line of the nearest proposed dwelling. It is also worth noting that the building on the next door site, which is used for storage and distribution purposes, is over 50 metres away from this site. Furthermore, HGVs do not appear to enter the site on east side of the Essentra building take place within the site (instead this is off Langford Locks to the west).

8.104 Essentra has noted that the proposal would impact on operations and considers that the presence of residential development close to their site would restrict their ability to expand their business to the north. As noted above, Officers do not consider that the Essentra use would result in unacceptable levels of noise for the future occupiers. Furthermore, without an approved application for such expansion of the neighbouring business, Officers do not consider that the possibility of expansion being mentioned should be given much weight and justifies the refusal of the application.

8.105 Thus, given the above, subject to appropriate mitigation it is considered that the proposal is likely to have no observed effect on the proposed occupiers of the site.

8.106 Concerns have been raised about potential noise for the residents of the canal boats and the cottages by third parties as a result of the proposed development. In terms of noise from the residential part of the development, it is worth noting that the site is located amongst other residential uses, these being the canal boats, the cottages and the development at Lakesmere Close directly across the canal. Thus, it is considered that the proposed residential use would not result in materially detrimental levels of noise for neighbouring residential properties.

8.107 Concerns have been raised about the positioning of the ELSAN facilities and boaters' store as these could cause disturbance for residential uses nearby. However, officers do not consider there would be much noise generated from the use of such facilities. It is worthwhile noting that there is activity along the canal already, especially because there is a towpath adjacent to the site.

- 8.108 There is potential for noise from the construction phase, but such noise would be short lived and the Council can take action against statutory nuisance under separate Environmental legislation, if required.
- 8.109 Given the distance of the proposed dwellings from the cottages (approximately 25 metres away at the closest point) and given that the proposed dwellings would be set to the side of these cottages it is considered that the proposed dwellings would not cause undue harm to these cottages in terms of loss of light or the creation of an overbearing effect. Whilst first floor windows are proposed in the north east side of the dwelling at plot 1, when taking into account the separation distance between the cottages and that there are no windows in the south west side elevation of the cottage building, it is also considered that the proposal would not cause undue harm to these cottages in terms of loss of privacy or overlooking. Other structures proposed as part of this development are considered to be sited so as to prevent undue harm to these cottages in terms of loss of light or the creation of an overbearing effect.
- 8.110 Across the Oxford Canal from the site are residential units on Lakesmere Close, but these would be at least over 26 metres away from the proposed dwellings. Thus it is considered that the proposal would not cause undue harm to these dwellings on Lakesmere Close in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing effect.
- 8.111 A resident of one of the canal boats has raised concerns in relation to overlooking, however given the nature of such accommodation next to a towpath, it is considered that this proposal would not cause undue harm in this respect.
- 8.112 The occupiers of one of the cottages have raised concerns about the location of the doors for the boater stores and ELSAN facilities and the route of the path to the boaters' car park in relation to privacy levels. Whilst Officers understand these concerns, the front gardens of these cottages serve as their only garden space and these are already open to public view along the towpath. Thus, Officers do not consider the new path and the location of the openings to these stores and facilities would cause undue additional harm to these cottages in terms of loss of privacy.
- 8.113 As alluded to further above, it is considered that the proposed dwellings would have an adequate standard of amenity given the size of the rooms within the dwellings as well as the area of garden allocated to each dwelling.

#### Highway Safety

- 8.114 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 in. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions.”*
- 8.115 The Local Highway Authority (LHA) has raised no objections to the application subject to conditions.
- 8.116 The LHA comments that the proposed site is well positioned on the edge of Kidlington and benefits from close proximity to a variety of employment sites. In addition to this, the site is within walking distance to bus stopes where local services can be accessed.
- 8.117 Due to the location of the site, enabling residents to walk a very short distance to bus stops along Langford Lane, the LHA states that it is necessary that the development bridges the gap between the development and Langford Lane. One of

the plans submitted with the application shows a 2m wide pedestrian footpath which links with Langford Lane. However, the LHA has concerns as to how the intended users on the development site would access this proposed footpath and this has not been made fully clear. The LHA recommends that such a path is created from the entrance to the boater's car parking area to run along the unnamed access road terminating onto Langford Lane. Further details of this can be conditioned and a Section 278 would need to be obtained in order to carry out any offsite works on existing highway.

8.118 In relation to the access to the residential dwellings, this has a wider junction radius to the left than the right to enable the type which is presumably intended to facilitate the swept paths of larger vehicles. The LHA states that this arrangement is likely to create visibility constraints to drivers egressing the site, as they would be partially obstructed by parked vehicles in the layby.

8.119 That said, the LHA has also commented that this layby is unlikely to be frequently used (as it is proposed for vehicles servicing the boaters' waster facility on a monthly basis). In addition, the LHA has stated that this access road is lightly trafficked, as it only serves the cottages to the east of the site, and would therefore command low speeds. The LHA has therefore noted that the deficient visibility, for when the layby is occupied, is unlikely to be a significant highway safety concern.

8.120 In addition, officers consider that this level of obstruction should be limited, especially given how far the parked vehicle would be from this junction. Furthermore, the line where vehicles would give way to those on the public highway would be set in a similar line to the entrance of the layby so officers consider that that parked vehicles in the layby would have a limited effect on the visibility from this junction.

8.121 The LHA considers the development in its current form is inappropriate to be offered for Section 38 adoption citing arrangements such as perpendicular parking on streets, width of the shared drive (which is 4.8m rather than 6m) and a lack of service strips. Whilst the Local Highways Authority encourages developers to create layouts that are to an adoptable standard and that will be offered for adoption, the Local Highways Authority do not object to the application on these grounds.

8.122 The LHA states that the proposed parking levels for both car and cycles are adequate for the development and do conform to OCC parking standards.

8.123 The LHA considers the development quantum is not large enough to trigger the need for a Transport Statement to be submitted in support of a planning application. However, the LHA has requested a condition which displays a site access layout drawing complete with visibility splays on the adjacent highway which meets standards set out in the Manual for Streets. This can be conditioned should planning permission be granted.

8.124 The LHA has requested that prior to the occupation of these dwellings, a Travel Information Pack would need to be so as to promote modes of sustainable transport. This can be conditioned should planning permission is granted.

8.125 The LHA states that the development would be unlikely to have any significant impact on the local highway. The Local Highways Authority goes on to note that once the construction phase of the proposal has been completed the vehicle movements associated with the proposal are considered minimal.

8.126 That said, the LHA has concerns relating to HGV movement during the construction period, and has therefore requested a detailed Construction Traffic Management

Plan as a condition in order to outline the various measures that the applicant shall make to ensure that the local highway and adjacent properties are not affected by the construction. This can be conditioned should permission be granted.

8.127 Officers see no reason to disagree with the LHA's assessment and it is therefore considered that the proposal would not cause adverse harm to the safe and efficient operation of the highway network.

#### Ecological Impact and Trees

8.128 Section 40 of the Natural Environment and Rural Communities Act 2006 (as amended) places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making. Paragraph 99 of Circular 06/2005: Biodiversity and Geological Conservation states that: *"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision"*.

8.129 Paragraph 109 of the NPPF states that: *"The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity where possible."*

8.130 Policy ESD10 of the Cherwell Local Plan Part 1 reflects the requirements of the Framework to ensure protection and enhancement of biodiversity. The Authority also has a legal duty set out in the Natural Environment and Rural Communities Act 2006 (NERC 2006) which states that: *"Every public authority must in exercising its functions, must have regard... to the purpose of conserving (including restoring / enhancing) biodiversity."*

8.131 Policy ESD11 of the Cherwell Local Plan Part 1 states that: *"Where development is proposed within or adjacent to A Conservation Target Area biodiversity surveys and a report will be required to identify constraints and opportunities for biodiversity enhancement."*

8.132 An Ecological Survey has been submitted alongside the application. Comments have been received from the Council's Ecologist. The Council's Ecologist has noted that the application site comprises largely of hardstanding, but that there are habitats of ecological value including a species rich hedgerow which will be lost as a result of the proposal as well as a number of existing trees. The Ecology Officer goes on to note that other habitats of low ecological value which will be lost include amenity grassland, tall ruderal and scrub. The Ecology Officer also stated that legally protected species, including otters and water voles, have been recorded from the canal adjacent to the site.

8.133 The Ecological Appraisal notes that the canal adjacent to the site was found to be unsuitable for construction of an otter holt or water vole burrows due to a concrete canal edge in this section. However, the Ecologist has stated that due to the presence of these protected species and the canal adjacent to the site, the Environment Agency pollution prevention guidelines should be followed to avoid pollution of the canal. This will be noted as an informative should planning permission be granted.

8.134 The Ecologist has noted that appropriate precautionary measures to safeguard protected species during site clearance have been outlined in the report and they

should be detailed within a Construction Environmental Management Plan (CEMP). This can be conditioned should planning permission be granted.

8.135 The bat survey results did not reveal the presence of roosts within any of the buildings. However, the report states that a low-moderate level of bat foraging and commuting activity was recorded during the surveys of common pipistrelle, soprano pipistrelle and noctule. None of the trees within the site were considered to have any bat roosting potential. The Ecologist has stated that an appropriate level of survey work has been undertaken, however given the roosting potential of the buildings, should these works be delayed beyond a year of the date of the surveys (i.e. by June 2018) then updated surveys may be required to determine if anything has changed. This can be conditioned should planning permission be granted.

8.136 The Ecologist has stated that the detailed external lighting scheme should be sensitively designed to avoid light spillage in particular along the proposed tree lines and existing trees on the western boundary, and adjacent to the canal to avoid impact on foraging/commuting bats given the activity in the site. A lighting scheme can be conditioned should planning permission be granted.

8.137 The Ecologist welcomes the proposed wildflower grassland and swale species within the submitted report. However, the Ecologist has stated that mitigation for loss of the species rich hedgerow should be included in the landscaping plans, through creation of species-rich hedgerow or tree planting. The Ecologist recommends that the proposed hedgerows in the northern part of the site are changed to a species-rich native hedgerow instead of using hornbeam. The Ecologist goes on to note that the proposed landscaping for the western boundary of the site appears to be quite 'gappy' and further planting of native trees and/or a native species rich hedgerow would also be recommended in this location to provide a wildlife corridor. A Landscape and Ecology Management Plan has been recommended as a condition for the reasons above.

8.138 The Ecologist welcomes the provision of bat and bird nesting opportunities within the site. That said, as swifts tend to nest in loose colonies the Ecologist is of the opinion that more than one swift box should be included within the scheme. The Ecologist has noted that bat boxes should also be integrated into the buildings, rather than placed on trees, as they are likely to last far longer. This can be conditioned should planning permission be granted.

8.139 The Ecologist has noted that access for hedgehogs should be provided within the residential gardens to help maintain habitat connectivity. The Ecologist goes on to note that pre-formed gravel boards with a suitable sized hole are available and should be used for the garden boundaries.

8.140 On the matter of trees, Policy ESD10 of the Cherwell Local Plan part 1 requires the protection of trees amongst other ecological requirements. Policy ESD13 of the Cherwell Local Plan Part 1 also encourages the protection of trees and retention of landscape features.

8.141 In relation to other trees on the site the report notes that the development would not impact upon the trees on the site and the Council's Arboricultural Officer has raised no objections to the proposal. It is considered that the scheme for 10 dwellings on the site could be undertaken without causing harm to these other trees within the main body of the site

8.142 A number of trees are proposed to be removed as part of the proposal and after having conducted a site visit officers are of the opinion that the trees proposed to be

removed are not of high amenity value, especially due to their lack of maturity and/or species and have a neutral impact upon the significance of the conservation area.

8.143 In relation to the trees proposed to be retained, measures will put in place so that the development would not materially damage these and these are considered.

8.144 In relation to trees, a Tree Protection Plan (TPP) has been submitted which refers to an Arboricultural Survey, however this does not appear to have been submitted alongside the application. The Planning Statement supporting the application notes that where possible the existing mature trees have been incorporated into the proposal and that existing trees in proximity to construction activity will be protected in accordance with BS 5837: 2012 'Trees in relation to construction'. This goes on to note that where trees have been retained special 'no dig' construction methods are to be used where the construction zone extends into the root protection areas. The Tree Protection Plan sets out which trees are to be retained and protected, and it shows the root protection area of these trees. The Tree Protection Plan also shows which trees are to be removed.

8.145 Having visited the site, officers consider that the trees proposed for removal are not of high amenity value and do not make a valuable contribution to the Langford Wharf Conservation Area, therefore officers hold the view that their removal is acceptable. In relation to the trees proposed to be retained, it is considered that subject to suitable construction methods these trees should not be damaged by the proposal. An Arboricultural Method Statement will therefore be attached as a condition should permission be granted.

#### Drainage and Flooding Risk

8.146 Policy ESD6 of the Cherwell Local Plan Part 1 states that site specific flood risk assessments (FRA) will be required to accompany development proposals of 1 hectare or more located in Flood Zone 1. The site is in Flood Zone 1 and is less than 1 hectare in area therefore an FRA is not required in this instance. It is worth noting that land within Flood Zone 1 is land which has a less than 1 in 1,000 annual probability of river flooding. The Environment Agency has not objected to the application on the grounds of increased flood.

8.147 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 with the aim to manage and reduce flood risk in the District.

8.148 The Local Highways Authority, with the advice of the Oxfordshire County Drainage Department, has stated that a surface water drainage scheme for the site will need to be submitted with a planning application. This matter can be conditioned should planning permission be granted to ensure the satisfactory drainage of the site in the interests of public health and to avoid flooding of adjacent land and property. This will need to be based on sustainable drainage principles and make an assessment of the hydrological and hydro-geological context of the development.

8.149 In relation to sewerage infrastructure capacity, Thames Water has raised no objections.

8.150 Thus, it is considered that the development and its future users will be safe from flood risk and that the proposal would not increase the flooding risk elsewhere, subject to a drainage strategy.

#### Potentially Contaminated Land



8.151 Saved Policy ENV12 of the Cherwell Local Plan 1996 states that development on land which is known or suspected to be contaminated will only be permitted if adequate measures can be taken to remove any threat of contamination to future occupiers of the site and the development is not likely to result in contamination of surface or underground water resources.

8.152 The Council's Environmental Protection Officer has stated that the Ground Investigation Report submitted on behalf of the applicant meets to requirements of a desk study and site walkover. However, the report identifies that further gas monitoring is required and further soil sampling is required to ensure the assessment is compliant with current standards. Thus, further staged contaminated land conditions should be attached should planning permission be granted. The Environment Agency has requested similar conditions.

#### Planning Obligations

8.153 Policy INF1 of the Local Plan states that: *"Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities."*

8.154 The Authority is also required to ensure that any planning obligation sought meets the following tests, set out at Regulation 122 of the Community Infrastructure Regulations 2010 (as amended):

- Necessary to make the development acceptable in planning terms;
- Directly relate to the development; and
- Fairly and reasonably related in scale and kind to the development.

8.155 Policy BSC11 of the Cherwell Local Plan Part 1 states that: *"Development proposals will be required to contribute to the provision of open space, sport and recreation, together with secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in 'Local Standards of Provision – Outdoor Recreation'. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement."*

8.156 With regard to Policy BSC11, this highlights that schemes for 10 or more residential units trigger the requirement for a Local Area for Play (LAP) of a minimum size of 100 square metres of play activity with 300 metres of landscape buffer.

8.157 As 10 dwellings are proposed, this triggers the requirement for a LAP. The Council's Landscape Officer has stated that because the design layout does not allow for the use of a LAP on site, an offsite contribution is required. The Landscape Officer has noted that Brian Close Play Area is the closest play area to the site at approximately 300 metres away to the east (as the crow flies) therefore the refurbishment of this play area is the most sensible choice. The Landscape Officer also notes that this play area is in need of refurbishment and that a commuted sum of £23,068.60, based on the Council's current evidenced based figures, would be welcomed. The Landscape Officer states that the play area is owned and maintained by Kidlington Parish Council, where the sum of money should be directed. At the time of writing, the applicant's agent has raised no objections to this in principle.

8.158 The Council's Recreation and Health Team initially requested contributions for off-site sports and community provision. However, the Planning Practice Guidance

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

- 8.159 Whilst acknowledging that local school places are limited, Oxfordshire County Council's School Organisation Officer has not requested contributions given the relatively small scale of the scheme.

#### Local Finance Considerations

- 8.160 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a Local Planning Authority must have regard to a local finance consideration as far as it is material. This can include payments under the New Homes Bonus. The scheme has the potential to generate £88,248.66 for the Council under current arrangements once the homes are occupied. However, officers recommend that such funding is given only limited weight in decision making in this case given that the payments would have no direct relationship to making this scheme acceptable in planning terms and Government guidance in the PPG states that it is not appropriate to make a decision based on the potential for the development to raise money for a local authority or other Government body.

#### Other Matters

- 8.161 A third party has raised concerns in relation to land ownership. However, this is not a material planning consideration in this case.

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

- 9.1. The overall purpose of the planning system is to seek to achieve sustainable development as set out within the Framework. The three dimensions of sustainable development must be considered, in order to balance the benefits against the harm in order to come to a decision on the acceptability of a scheme.
- 9.2. The proposal seeks permission for a residential development within the Category A Village of Kidlington. The principle of the proposal therefore falls to be considered against Policy Villages 1 of the Cherwell Local Plan and a full range of other policies relating to detailed matters.
- 9.3. Regarding the economic dimension, the application would not strictly accord with Policy SLE 1 of the Cherwell Local Plan, given that part of the site is in an employment use, and the proposed residential development would result in the loss of such a use. However, the majority of the site is not in an employment use, and the loss of employment land would be relatively limited (~0.1 hectares), and it could be argued that this land would have limited alternative economic use. It is considered that its change of use would not significantly limit the amount of employment space available either in Kidlington or the district as a whole, nor would it have a material impact on levels of economic growth in the District. Thus, whilst limited, the proposal would result in some economic harm and this weighs against the proposal. That said, new development also commonly brings economic benefits including some construction opportunities.
- 9.4. In terms of the environmental dimension, the proposed development would cause some harm to the significance and of the Langford Wharf Conservation Area with

the partial loss north western wall and the loss of the historic connection between the washhouse and the cottages. This environmental harm weighs against the proposal.

- 9.5. However, there would be public benefits due to environmental improvements as a result of the proposal, these being securing the viable use of outbuildings which make a positive contribution to the conservation area, the enhancement of the south western setting of the Langford Wharf Conservation Area as well as enhancement of the south western section of this conservation area. In addition the environmental improvements along this part of the Oxford Canal will assist in creating a more attractive route for people to use, in line with the aims of the Kidlington Master Plan. The proposal would also make more efficient use of an underused site. These environmental benefits are considered to be significant and weight in favour of the proposal
- 9.6. In terms of the social dimension, the proposal would bring some social benefits including a contribution to the District's ongoing five year supply, and in general spatial terms the site is well located to the village and its services and facilities which would be accessible by walking and cycling.
- 9.7. Thus, it is considered that the environmental, economic and social benefits of the scheme, which is in compliance with the housing strategy of the Cherwell Local Plan Part 1, would outweigh the economic and environmental impacts. It is therefore concluded that the proposal constitutes sustainable development and is in accordance with Policy Villages 1 of the Cherwell Local Plan Part 1, and the application is therefore recommended for approval.

## **10. RECOMMENDATION**

That permission is granted, subject to:

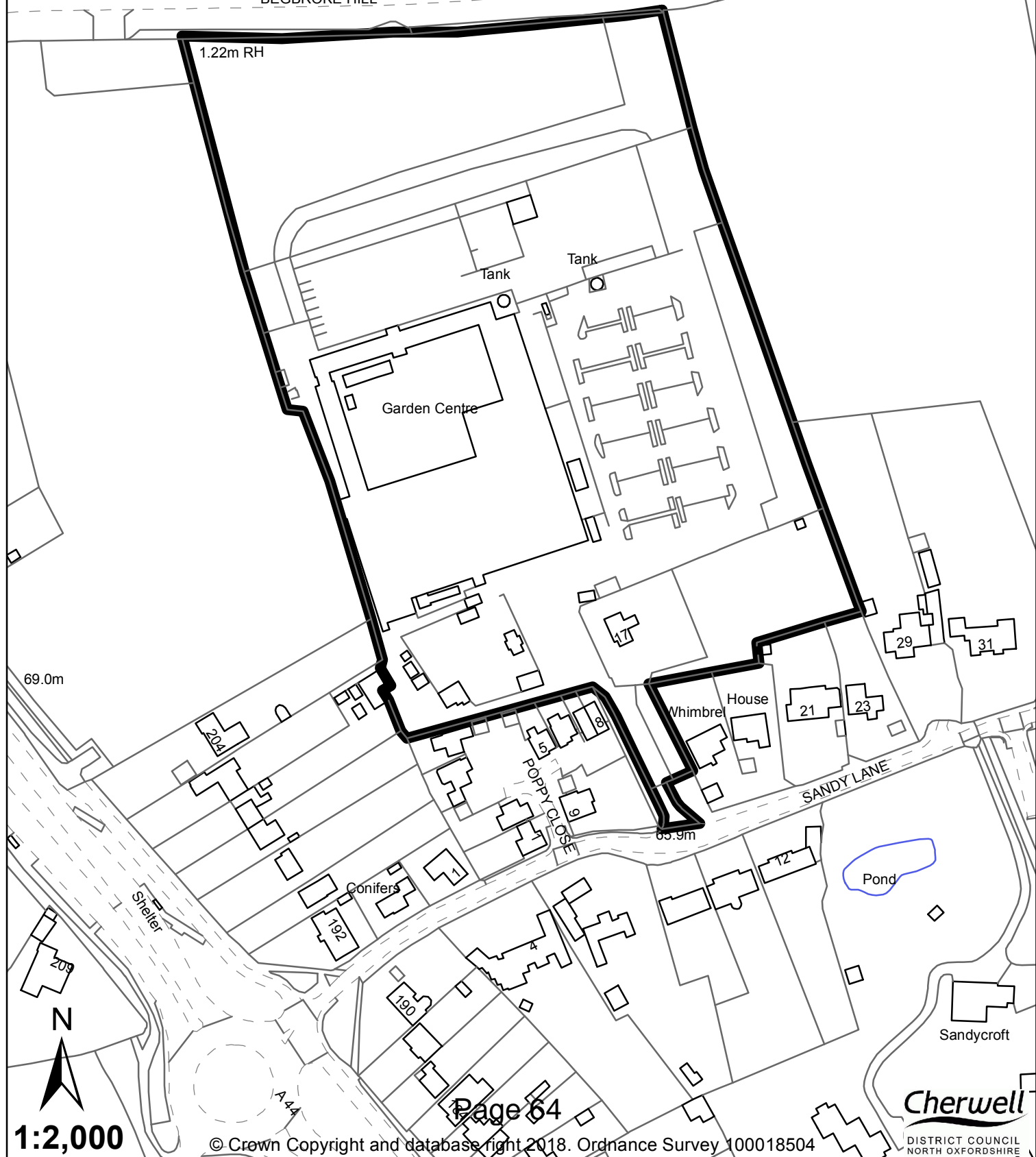
- a) The applicants entering into a Section 106 agreement to the satisfaction of the District Council to secure financial contributions as outlined in paragraph 8.159 of the report;
- b) Conditions – to follow in the written update to Members.

CASE OFFICER: Stuart Howden

TEL: 01295 221815

# Agenda Item 9 17/02207/F

**Yarnton Nurseries  
Sandy Lane  
Yarnton  
Kidlington  
OX5 1PA**



1.22m RH

BEBROKE HILL

Tank

Tank

Garden Centre

69.0m

68.9m

SANDY LANE

Pond

Whimbrel House

21

23

29

31

POPPY CLOSE

Conifers

Shelter

Sandycroft

**17/02207/F**

**Yarnton Nurseries  
Sandy Lane**

**Yarnton  
Kidlington**

**OX5 1PA**

Begbroke

Begbroke Hill

N

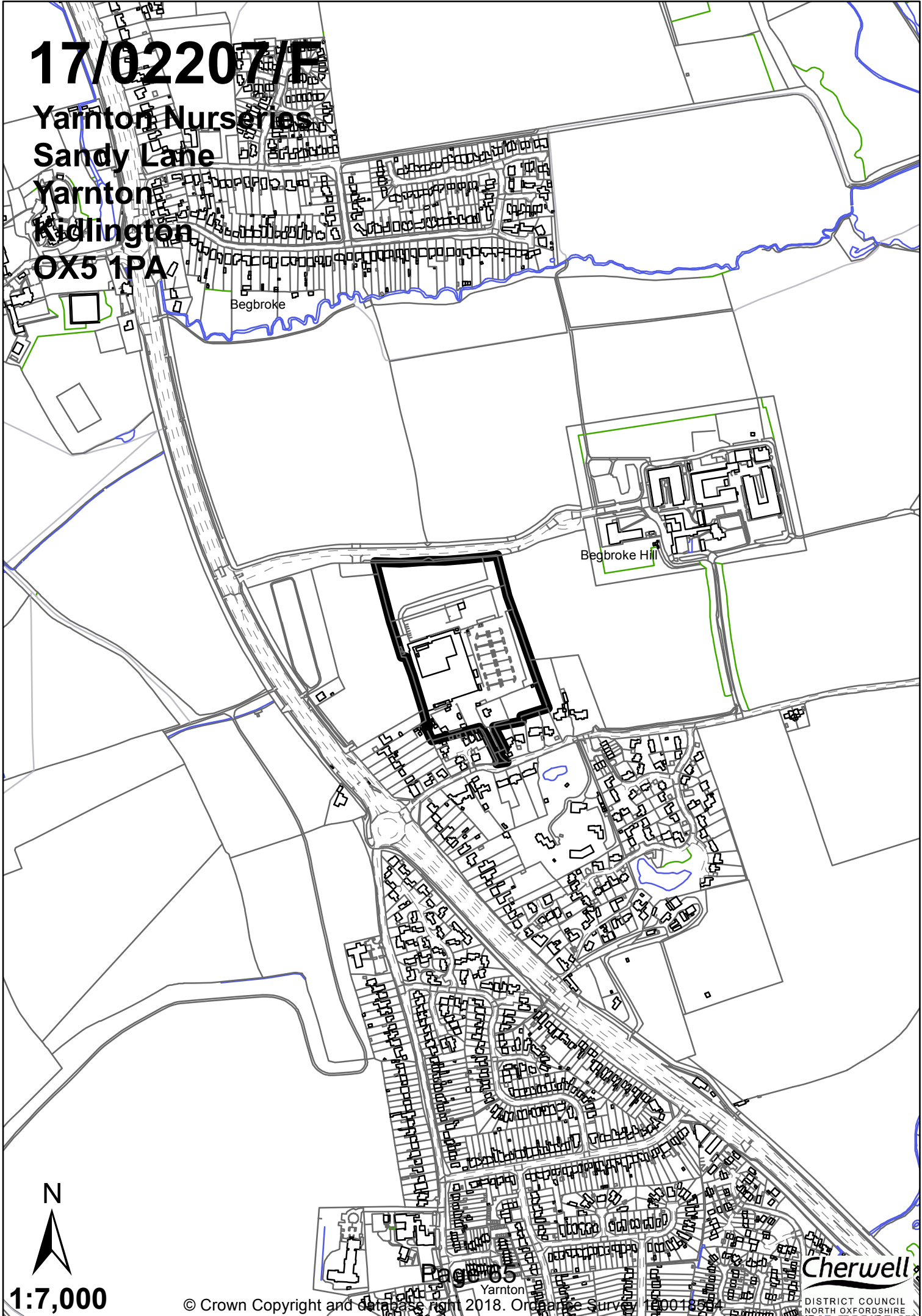


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**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE



**Yarnton Nurseries**  
**Sandy Lane**  
**Yarnton**  
**Kidlington**  
**OX5 1PA**

**17/02207/F**

**Case Officer:** James Kirkham

**Recommendation:** Refuse

**Applicant:** Yarnton Nurseries LLP

**Proposal:** Replacement of existing staff buildings and polytunnel on south western corner of main garden centre building by a new single storey building to provide staff facilities (toilets/canteen/meeting rooms), new concession space/cafe/customer toilets/outdoor space; replacement of existing polytunnel at north of main garden centre building by a new single storey building; replacement of existing toilet block on south eastern corner of main garden centre building by a new single storey building to provide additional retail space; single storey extension of existing customer toilet block in the external central area of the main garden centre building

**Ward:** Kidlington West

**Councillors:** Cllr Mackenzie-Wintle, Cllr Sandra Rhodes, Cllr Nigel Simpson

**Reason for Referral:** Major Development

**Expiry Date:** 20 April 2018

**Committee Date:** 12 April 2018

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

- 1.1. Yarnton Nurseries is situated to the north of Yarnton on the east side of the A44 with access from Sandy Lane. The site is bounded by housing fronting onto Sandy Lane to its southern boundary, some limited housing to its western boundary fronting onto the Woodstock Road and the rest of the western, northern and eastern boundaries face onto open countryside.
- 1.2. The main building on the application site ("the site") is centrally sited but off set to the west of the site. It contains plant sales and also contains a number of concessions within it, including a bookshop, a shoe shop and clothes store. An internal open courtyard is centrally sited within the building and this is used for the display of plants for sale.
- 1.3. To the north of the main building is the Adrian White Building Supplies company and to the north of this is open space, which contains some items of unauthorised storage. To the south of the main building are a number of buildings and structures which form the show room for 'Yarnton Leisure Buildings Ltd'. One residential dwelling (17 Sandy Lane) falls within the application site adjacent to the access. The eastern part of the site is laid to car parking.

## 2. DESCRIPTION OF PROPOSED DEVELOPMENT

2.1. The current application seeks permission for a number of works to allow the re-organisation of the building and uses on the site. These can be summarised as follows:

- Construction of a new building to the south west corner of the main building. This would replace a poly tunnel used for retail sales and a grouping of sheds and buildings previously used for storage and staff facilities. This would accommodate a new café, soft play area, party rooms, staff rooms, and new concession. It would be similar in appearance to the remainder of the building however it would be taller and cover a larger floor area than the buildings it replaces.
- Construction of new enlarged toilet block in the existing courtyard to the centre of the building. This would be constructed with a mono-pitched roof approximately the same height as the adjacent building. It would be constructed of corrugated metal similar to the existing building. The would have an overall height of approximately 5 metres compared to the 2.6 metres of the previously existing building. It would also have a larger floor area than the building it replaces.
- Construction of new retail building in the south east corner of the existing building. This would replace the existing pre-fabricated toilet block. It would be constructed in corrugated metal to match the adjacent building and would infill the corner of the site. It would be approximately 1 metre taller than the building it replaces and would have a larger floor print squaring off the corner of the building.
- Replacement of polytunnel to the northern part of the garden centre with new building. This building would be constructed with metal cladding sides to match the other buildings on site. It would have a ridge height approximately 1.8 metres taller than the building it replaces and would have also have a tradition single storey eaves height compared the traditional form of the poly tunnel it replaces. It would also be slightly larger in floor area.
- Widening of the access adjacent to 17 Sandy Lane and creation of coach drop off point to the south of the main building.

2.2. A number of the works outlined above have been commenced on site during the course of the application.

2.3. The applicant has also stated that as part of the application a number of other buildings will be demolished. This includes a number of small ancillary buildings to the south west corner of the site and 3 small office buildings adjacent to the entrance to the site. However it is noted that whilst these buildings appear to have been on the site for a number of years many do not appear to have benefited from formal planning permission. Furthermore some of the buildings have already been demolished and therefore it is questionable whether they should be considered as part of the current application.

### 3. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
83/00551/S	Retention of garden centre and existing access	Application Permitted subject to a legal agreement
92/00198/S	Continued use of land as garden centre including use by security firm, swimming pool and conservatory franchise and hard landscaping	Application Permitted subject to a legal agreement
99/02246/F	Site for seasonal storage of compost/soils; overspill car park. (RETROSPECTIVE)	Application Permitted
99/02247/F	Relocation of hard landscape supplies office. Retention of portakabin toilet	Application Permitted
02/00669/F	Proposed Polytunnel to provide covered area to existing sales space	Application Permitted
05/01732/F	Extension to form entrance and covered walkway	Application Permitted
05/01732/F	Extension to form entrance and covered walkway	Application Permitted
08/00131/CLUE	Certificate of Lawfulness Use Existing - Use of part of the covered garden centre area for the sale of antiques, collectables and bric-a-brac	Application Permitted
08/00202/F	Retention of service access road and proposed vehicular turning area	Application Permitted
08/00203/F	Retention of Adrian White's Business Supplies area and new office building; proposed use of south east corner of site for an extension to existing car parking area; retention of staff room and extension to pets department building; retention of external display area in connection with Shirley Aquatics; retention of polytunnel cover in connection with internal display area to Shirley Aquatics; retention of customer toilets; retention of antiques centre (the part additional to the linked	Application Permitted



application for certificate of lawfulness for existing use for the antiques centre); retention of 2 no. oil tanks and 1 no. water tank

The above 3 application were submitted in relation to enforcement issues at the site. In 2008 alongside approval of these applications a new legal agreement was entered into regarding the site. This replaced the earlier agreements and restricted the sale of goods on the site to those which has a direct relationship with a garden centre (as recognised nationally and outlined in the legal agreement). This also included the sale of hard landscaping and garden building materials (with no restriction on area of display, storage or sale) and also included the provision of a restaurant, coffee shop and childrens play area. This is the current legal agreement which controls the site and the earlier legal agreements (1986 and 1993) were revoked.

14/00191/OUT	Outline: Alterations to existing garden centre and development 14 new dwellings including access.	Application Refused
14/01403/F	Removal of 4 No. precast concrete garage show buildings and replacement with a new timber framed display/storage building at the south end of Yarnton Leisure Buildings showsite	Application Permitted
15/00645/F	Extend existing Poly Tunnels to cover open sales space and storage area, together with the replacement of an existing substandard Poly Tunnel and additional parking.	Application Permitted

This application was recommended for refusal by officers however in considering the application the Planning Committee approved the application.

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

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

#### **5. RESPONSE TO PUBLICITY**

5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 04.01.2018, 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:

- The site is within the Green Belt

- The range of goods and size is significantly beyond a garden nursery. The proposal for additional retail space would consolidate this.
- Traffic and access issues.

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. YARNTON PARISH COUNCIL: **No objections.**

### STATUTORY CONSULTEES

6.3. OCC HIGHWAYS: **Objects** on the bases of the lack of a Transport Assessment and states that application includes conflicting information regarding the amount existing and proposed floor space. This could impact on visitor numbers and whilst the site benefits from a large car park a TA needs to demonstrate that this is adequate. Overflow could impact on the operation of Sandy Lane. Also raises concern regarding the poor pedestrian access to the site. The TA also needs to look at the public transport links and cycle parking. If the Council is minded to approve the application planning condition should require a construction traffic management plan, a travel plan, cycle parking and a safe pedestrian access from Sandy Lane.

6.4. OCC MINERALS AND WASTE: **No objections.** This proposed development would not adversely affect significant mineral resources; and it does not have any strategic waste planning implications.

### NON-STATUTORY CONSULTEES

6.5. OCC ECOLOGY: **No objection subject to condition.** The existing buildings were found to be very unlikely to support a bat roost. However, as a precaution, care should be taken during removal of roofing materials and in the unlikely case any bats are found, all works must stop whilst Natural England are contacted for advice. The report finds sound conclusion and recommends that the recommendations contained within the report are followed should planning permission be approved. This includes timing of works for removal of buildings outside of the nesting bird season to avoid disturbance to nesting birds. Opportunities to enhance the site for biodiversity have been recommended in the report, which are agreeable in line with local and national planning policies (page 18). Recommends that the locations and specifications of the habitat boxes are shown on a biodiversity enhancement plan and secured by condition.

## 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
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD14: Oxford Green Belt
- ESD15: The Character of the Built and Historic Environment

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

- S27: Garden Centres
- C28: Layout, design and external appearance of new development
- C31: Compatibility of proposals in residential areas
- ENV1: Development likely to cause detrimental levels of pollution

### 7.3. Other Material Planning Considerations

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

## **8. APPRAISAL**

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

- Planning History
- Principle of the Development in the Green Belt;
- Visual Amenities;
- Residential Amenities;
- Highways Safety;
- Other matters

#### Planning history and uses on the site

8.2. The application site has an extensive and complicated planning history as outlined in section 3 of this report. Essentially the type of goods that can be sold on the site, the areas where they can be sold from and the overall amount of floor space allowed for sale of each type of good are controlled through a legal agreement signed in 2008.

8.3. The type of goods that can be sold at the site are wide ranging in the legal agreement. The Council’s Planning Enforcement Team is currently investigating whether there are any breaches in this legal agreement as representations have been made and a visual inspection of the site shows that large areas of the site being used for retail uses going beyond what might normally be expected to be found at a garden centre. It is not proposed that the current application would alter the legal agreement in relation to these matters and these issues would need to be investigated separately as ultimately they would come down to the wording of the legal agreement.

8.4. The current application also makes provision for a children's soft play area in the south west corner of the site. The applicant has stated that this would be ancillary to the main functioning of the site and it is noted that the earlier layout of the site included a children's play area, albeit a smaller one, and that a children play area was also specifically reference as an authorised use in the 2008 legal agreement. If the scale of this were to increase and not be ancillary to the existing use of the site then planning permission would be required.

#### Principle of the development in the Green Belt

8.5. The site is located within the Oxford Green Belt. The site is identified within the Cherwell Local Plan 2011-2031 (Part 1) Partial Review Submission Plan (July 2017) as being released from the Green Belt and as part of a large strategic allocation to deliver 1,950 dwellings, schools and associated infrastructure. The site itself is allocated for a primary school use and residential development. However, this the Part 1 Partial Review Plan is currently still subject to examination and has significant levels of objections. Therefore officers consider it only holds limited weight in the decision making process at the current time.

8.6. The current application is for the alteration/extension to an existing site and use. It would not extend the boundaries of the site and is therefore not considered to prejudice the delivery of the proposed allocation any further than the existing operations on the site.

8.7. However, notwithstanding the above the site currently remains as part of the Green Belt and any proposals on the site needs to be considered in this planning policy context. Both national and Local Plan Policy ESD14 seeks to protect the essential characteristics of the Green Belt which are their openness and their permanence. Green Belt policies also seek to protect the visual amenity of the Green Belt and seek to assist in safeguarding the countryside from encroachment.

8.8. Paragraph 87 of the NPPF advises that 'inappropriate development' in the Green Belt is by definition harmful and should not be approved except in 'very special circumstances'. Paragraph 88 of the NPPF goes onto state that any harm to the Green Belt should be given substantial weight in determining applications. It goes onto state that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

8.9. Paragraph 89 of the NPPF states local planning authorities should regard the construction of new buildings in the Green Belt as 'inappropriate development' apart from in a number of exceptions. The most relevant exceptions to consider for the current application are discussed below.

8.10. The first exception the proposal could be considered under is:

- *The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.*

8.11. There is no adopted local or national planning guidance which outlines how disproportionate additions are to be assessed with differing interpretation being reached by individual councils and Planning Inspectors. However, the policy is clear that the cumulative impact of extensions need to be considered in making this assessment as it is in relation to the 'original building' (i.e. the building as it existed at 1 July 1948 or as originally built if constructed after that date). Many authorities, where a limit is set in either their local plan or in an SPG, suggest a cumulative

increase to the original floor area in the order of around 30-50%. Ultimately, however, it is a matter of planning judgement.

8.12. The floor space of the main garden centre building from viewing the 1983 plans appears to have been approximately 2500 sq m. Since this time, the main garden centre building has been significantly extended and following the approval of the most recent extensions in 2015 the overall floor area appears to be 7,415 sq m (excluding the surrounding outbuildings). The proposed extensions would result in approximately 1000 sq m (gross new floor area (200 sq m net according to the application forms) resulting in an overall floor area of 7,800 sq m. This would equate to an approximately 310% increase in the floor space of the garden centre building since 1983. The proposed development is therefore not considered to be capable of being considered as an exception under this criterion as it would be clearly be a disproportionate addition over and above the size of the original building.

8.13. The second exception the proposal can be considered under is:

- *Limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.*

8.14. The proposal lies within the curtilage of the existing site which is brownfield land. Therefore the proposal can be considered to constitute a partial redevelopment of a brownfield site. Therefore to meet this exception the proposal must not have a greater impact on the openness of the Green Belt or the purposes of including land within it.

8.15. 'Openness' is essentially 'freedom from operational development' and relates primarily to the quantum and extent of development and its physical effect on the site. The concept of openness is not narrowly limited to a volumetric approach and also relates to how built up the Green Belt appears now and how built up it would appear if redevelopment were to occur. Openness therefore has a visual aspect as well as a spatial aspect; however, this is a distinct from the assessment of the impact of a development on the visual amenity of the area.

8.16. In order to assess the impact on openness the applicants have undertaken an arithmetic comparison between the existing and proposed floor areas and volumes of buildings which would be affected by the proposal. This concludes by stating that there would be a 105 sq m increase in floor space on the site as a result of the proposal. This would equate to a 1.29% increase in floor space across the whole site. The applicants' figures also conclude that the overall volume of buildings on site would be increased by approximately 1,811 cubic metres.

8.17. It is not possible for officers to confirm the volumes and sizes of many of the buildings which previously existed on the site have been removed as works have commenced on the development. It is also not possible to give a full considered opinion on whether or not the building were temporary or permanent which is required as temporary buildings are not to be included in the assessment.

8.18. However, it is noted that the applicant appears to have included a number of buildings which do not benefit from formal planning consent in their existing calculations, albeit from the aerial photograph they do appear to have been there for a number of years. Furthermore given that the existing buildings have been removed it is questionable whether they should be considered as part of the

application. It is therefore considered that the calculations provided are likely to be favourable to the applicant.

- 8.19. In terms of the visual aspects relating to openness it is considered that, whilst the proposed extensions and alterations to the building would all be closely related to the existing built form on the site and in many cases replace existing buildings, the replacement buildings would be significantly more bulky than the buildings they replace. This would largely be due to a combination of their different form, increase in eaves and ridge height to the buildings compared to the buildings they replace and the overall increase in footprint and volume. In officers' view a combination of these factors would result in a further increase to the built up nature of the site, and the visual bulk and massing of the buildings on the site leading to the impression of further development of the site. In light of the above it is considered that the proposal would have a detrimental impact on the openness of the Green Belt due to the increased presence of built development on the site and therefore does not qualify under this exception.
- 8.20. Furthermore officers are concerned regarding the cumulative increase of small extensions and alterations to the site over the years and how this cumulatively has contributed to a detrimental impact on the openness of the site. The current application would further add to this.
- 8.21. Given the nature and scale of the proposals and their close relationship with existing buildings on the site they are not considered to conflict with any of the purposes of the Green Belt outlined at paragraph 80 of the NPPF.
- 8.22. Overall it is concluded that the development would constitute 'inappropriate development' in the Green Belt which is by definition harmful. The proposal is also considered to be harmful to the openness of the Green Belt which is one of its key characteristics as noted in paragraph 79 of the NPPF.
- 8.23. The NPPF states that when considering planning applications substantial weight should be given to any harm to the Green Belt and should not be approved except in very special circumstances. It goes on to note that very special circumstances will not exist unless the potential harm to the Green Belt is clearly outweighed by other considerations.
- 8.24. In the current case the applicants have not advanced a 'very special circumstances' case as they consider the development would not constitute inappropriate development under the above discussed exceptions. However, the Design and Access Statement does point to some of the perceived benefits of the scheme. These include:
- the proposals are minor in relation to the existing scale of buildings on the site
  - the proposal will result in an improvement to the visual amenity of the site by replacing deteriorated buildings
  - the proposal will significantly improve facilities for staff and visitors
  - the site is a local employer and offers a meeting place for the community.
- 8.25. Whilst it is acknowledged that the development to the south east and south west of the site will replace a number of deteriorated buildings many of these have already been removed by the applicant in commencing the works prior to the planning application being determined. Further the visual improvements to the site are

relatively limited given the limited scale of the former buildings not being prominent within the site and the rather functional style and appearance of the proposed buildings.

- 8.26. Whilst the proposal would allow for some increase activities on the site and may potentially lead to some further employment opportunities these benefits are limited. The above benefits of the scheme are not considered to amount to 'very special circumstances' which clearly outweigh the identified harm to the Green Belt.
- 8.27. Therefore the proposal is considered to conflict with Policy ESD14 and advice in the NPPF regarding the protection of the Green Belt.

#### Visual Amenities

- 8.28. Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 8.29. Saved Policy C28 of the adopted Cherwell Local Plan exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context.
- 8.30. The proposed extensions would be well screened from the public domain of the highway of Sandy lane to the south of the site and the site is surrounded by mature landscaping on all boundaries. The existing garden centre buildings are of limited architectural value having a functional form and appearance. The proposed extensions would be similar in terms of design, scale and materials and they are considered to be acceptable in this context.
- 8.31. Overall the proposal is considered to comply with the relevant planning policies in this respect.

#### Residential Amenities

- 8.32. Policy ESD 15 of the CLP 2031 (Part 1) requires new development to consider the amenity of both existing and future occupants, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. Furthermore, Paragraph 17 of the Framework states that planning should "always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings".
- 8.33. Whilst the Yarnton Nurseries complex adjoins residential properties, the proposed extension are considered to be a sufficient distance from neighbouring properties so as to prevent adverse harm to these properties in terms of loss of light and over domination.
- 8.34. In relation to disturbance or nuisance arising from the proposed development, the proposal would not increase the extent or nature of uses already allowed to take place at the site and it is not considered that it would result in a significant increase in the level of noise compared to what already exists. Officers therefore consider that the proposal would not unduly affect the amenities of any residential properties.

### Highway safety

- 8.35. The Local Highways Authority (LHA) has raised concerns that no Transport Assessment has been submitted and have also requested additional information regarding the proposal. A further consultation has been sent to the highway and their comments are awaited.
- 8.36. However, it is noted that the proposal will not increase the overall amount of trading space authorised at the site compared to that allowed under the 2008 legal agreement. It would only mean some of the external space which previously could have been used for sales would now be situated inside. Given the nature of the site with a number of concessions which can be alter significantly over time without planning consent so long as they comply with the legal agreement, the level of activity already generated at the site could vary depending on the layout and balance of uses at any one time. In officers' view given the above the current application is not considered to result in any significant increase in traffic movements over and above that which could already occur from the site within the parameters of the existing legal agreement. Whilst it is noted that the LHA has raised concerns regarding the use of the access and the poor pedestrian access to the site, in light of the above conclusions, this is not considered to be significantly exacerbated by the current proposals.

### Other matters

- 8.37. The Ecology Officer has no objections to this proposal and notes that the impacts upon protected species or habitats are unlikely as a result of the proposal. It is therefore considered that the proposal would not cause adverse ecological harm.
- 8.38. A number of other works also appear to be taking place at the site and these have been raised with the applicant and the Council's Enforcement Team who are investigating the matter. These fall outside of the scope of the current planning application and would have to be assessed on their own merits.

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

- 9.1. The current application seeks consent for a number of extensions to the existing building and the replacement of a number of structures. The nature and type of activity undertaken at the site is controlled through a legal agreement and this would remain unaltered as part of the current proposal so would still be enforceable. The site is located within the Oxford Green Belt where development is strictly controlled and it is considered that the proposal constitutes inappropriate development in the Green Belt and would be harmful to the openness of the Green Belt by virtue of the increased bulk, size and form of the proposed extensions. The NPPF advises that this harm should be given substantial weight in any planning decisions and should not be approved except in very special circumstances. Whilst the proposal would lead to some limited economic, environmental and potential social benefits these are not considered to clearly outweigh the harm to the Green Belt.
- 9.2. The proposal is largely considered to be acceptable in regard to its impact on the character and appearance of the locality, amenity of the neighbouring properties and ecological matters. Based on the information to date the proposal is also considered to be acceptable in respect of highways matters. However, these matters only weigh neutrally in the planning balance.
- 9.3. Overall, it is considered there are no very special circumstances which would outweigh the definitional harm caused by the development constituting inappropriate



development and the physical harm to the openness of the Green Belt. Therefore it is recommended that planning permission should be refused.

**10. RECOMMENDATION**

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

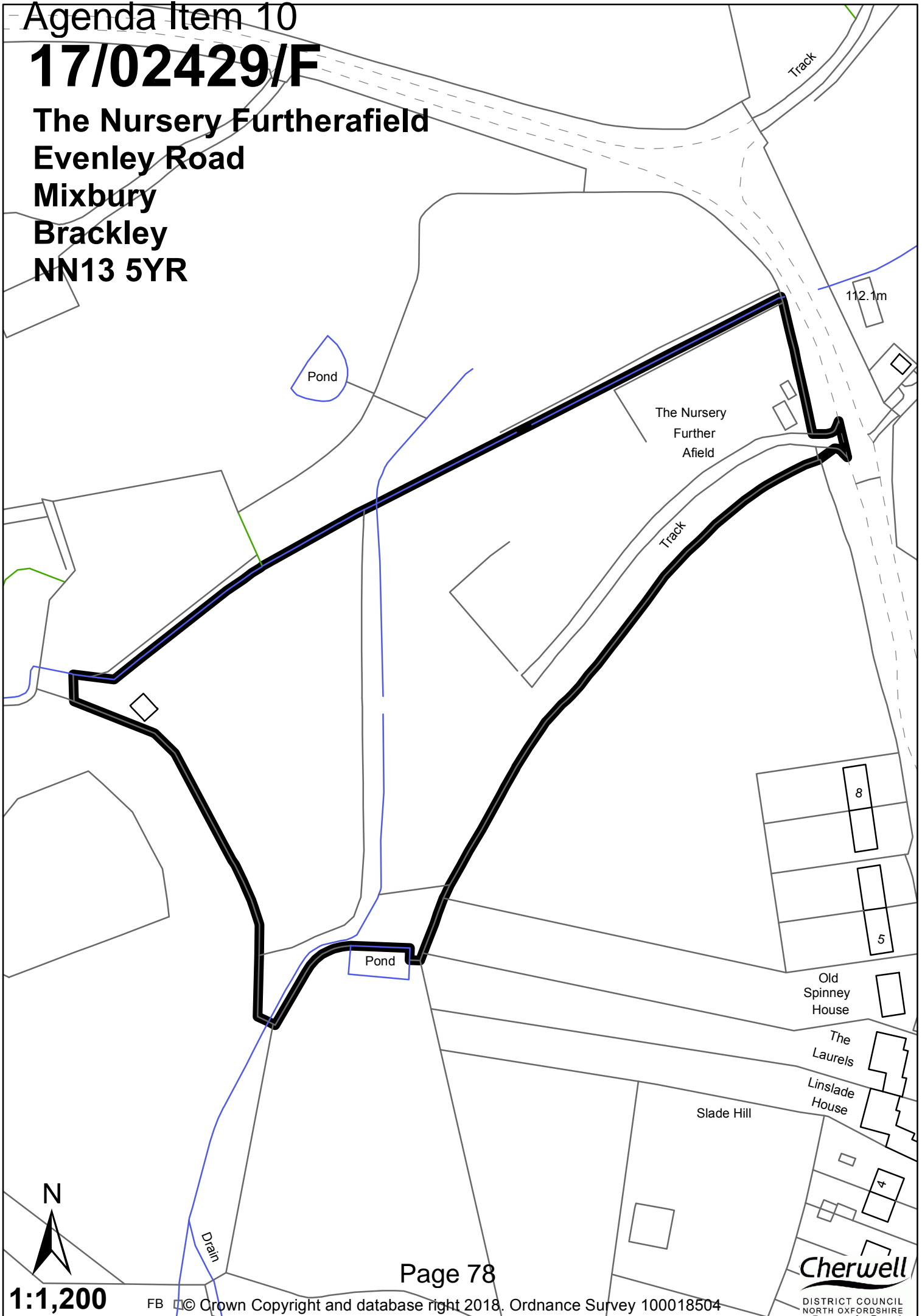
1. The proposed development would constitute inappropriate development in the Oxford Green Belt and would also be harmful to the openness of the Green Belt by virtue of the proposed increased size, floor area, height and bulk of extensions. There are not considered to be any very special circumstances which would clearly outweigh this harm. The proposal therefore conflicts with Policy ESD14 of the Cherwell Local Plan Part 1 and Government advice in the National Planning Policy Framework.

CASE OFFICER: James Kirkham

TEL: 01295 221896

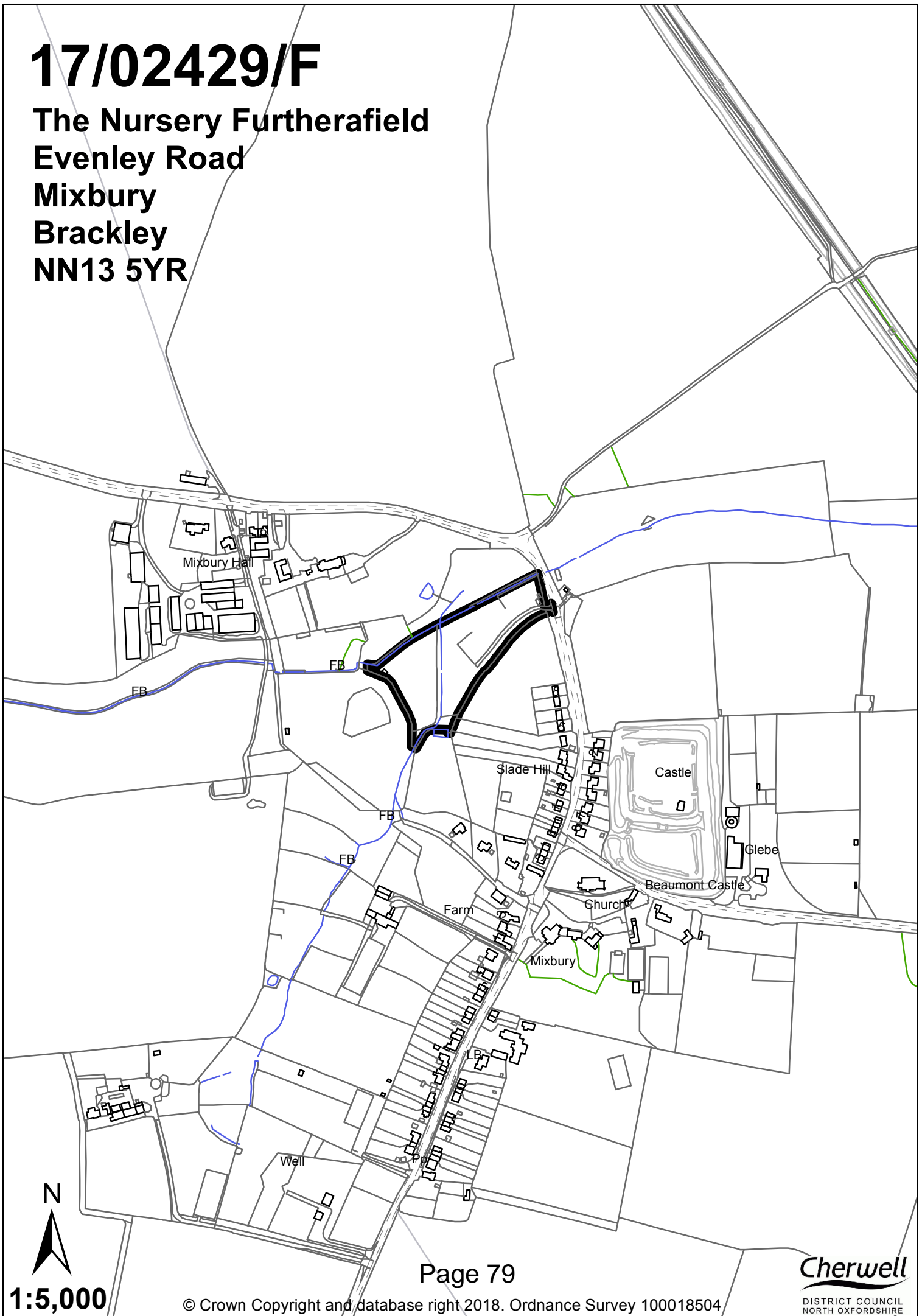
**17/02429/F**

**The Nursery Further  
Afield  
Evenley Road  
Mixbury  
Brackley  
NN13 5YR**



# 17/02429/F

The Nursery Furtherafield  
Evenley Road  
Mixbury  
Brackley  
NN13 5YR



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**The Nursery Furtherafield  
Evenley Road  
Mixbury  
Brackley  
NN13 5YR**

**17/02429/F**

**Applicant:** Absolute Taste Limited

**Proposal:** Erection of glasshouses

**Ward:** Fringford And Heyfords

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

**Reason for Referral:** *Major Application*

**Expiry Date:** 9 May 2018

**Committee Date:** 12 April 2018

**Recommendation:** Approve

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

- 1.1. The application site is a field located to the north of the main built up part of the village of Mixbury. The site is located in a dip in the land and access to with site is provided from Evenley Road to the east.
- 1.2. The site was previously used as a plant nursery and contained a number of structures including polytunnels and sheds. However, there is no formal planning history for this and this use appeared to cease around 2015 and the buildings were cleared from the land.
- 1.3. A public footpath exists opposite the access to the site and extends north east from Evenley Road. The site is also located within a medium area of archaeological potential.

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

- 2.1. The current application seeks permission to erect 2 large glasshouses on the site. These would have small brick wall around the base and a series of pitched roofs. They would have an overall height of 4 metres.
- 2.2. The glass houses would be used to grow food on the site. This would be in connection with the applicants businesses which provide catering for hospitality, weddings, cafes and restaurants. The applicant has stated that the only activity that will take place on the site is the growing of vegetables.

## **3. RELEVANT PLANNING HISTORY**

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

#### 4. PRE-APPLICATION DISCUSSIONS

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

#### 5. RESPONSE TO PUBLICITY

- 5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 05.04.2018, 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.

##### STATUTORY CONSULTEES

- 6.2. OCC HIGHWAYS: **Requests further information.** A Transport Statement is required detailing the existing and proposed site usage. Depending on the level of intensification improvements to the access may be required. A drainage condition is also recommended.
- 6.3. ANGLIAN WATER: **No comments to make.** There is no connection proposed to the network.

##### NON-STATUTORY CONSULTEES

- 6.4. OCC ARCHEOLOGY: **No objections.** The proposals outlined would not appear to have an invasive impact upon any known archaeological sites or features. As such there are no archaeological constraints to this scheme.
- 6.5. CDC LANDSCAPE: **COMMENTS.** The residential receptors of dwellings on Evenly Road, to the southeast of the development will experience a degree of visual harm due the increase in scale from the previous use of the site. Without wanting to over-shade the glasshouse it is recommended the planting of groups of native silver birch near to the existing hedgerow on the south-eastern boundary. This tree creates dappled shade and should not impact the light levels to the glass houses. There to be negligible visual harm to visual receptors on the PRow (route refs 303/22/10 and 303/6/10) located northeast of the site due to intervening trees and hedgerows.
- 6.6. The southerly and westerly views of the site from Mixbury Road are successfully obscured by intervening trees and hedges. The development will be screen with only fleeting views through this vegetation from Evenly Road. Therefore, this structural vegetation must be retained to ensure that this development is successfully mitigated from the highway.
- 6.7. A landscape scheme is required to indicate the aforementioned retained structural vegetation and the tree planting to the south-eastern boundary. The tree planting and their future maintenance is to be in accordance with RHS guidelines.

#### 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)

- ESD13 – Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8 – Sporadic Development
- AG2 – The Construction of Farm Buildings

7.3. Other Material Planning Considerations

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

## **8. APPRAISAL**

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

- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Highways

Principle

- 8.2. The NPPF advises that significant weight should be placed on the need to support economic growth through the planning system and that planning policies should support economic growth in rural areas in order to create jobs and prosperity. This includes supporting the sustainable expansion of all types of business and promoting development of land based rural businesses.
- 8.3. The applicant has stated that the proposed green houses would solely be used for the growing of vegetables and food in connection with their existing catering business. No food preparation or other activities would be undertaken at the site. In light of this officers consider that the proposed development would fall under the definition of agriculture outlined in the Town and Country Planning Act 1990 (as amended). As such no change of use is proposed under this application and the use of the land for the purposes sought is considered to be acceptable.
- 8.4. Furthermore subject to other considerations outlined below the principle of new buildings to support the use of the land for agriculture is considered to be acceptable.

- 8.5. It is noted that the site previously operated as a plant nursery and this use was also likely to fall under the definition of agriculture outlined above.
- 8.6. Impact on character and appearance of the area
- 8.7. Policy ESD13 of the Cherwell Local Plan Part 1 states development will be expected to respect and enhance local landscape character and that proposals will not be permitted if they cause undue visual intrusion into the open countryside. Saved Policy AG2 states that buildings and associated structures that require planning permission should normally be sited so they do not intrude into the landscape or residential areas. Where appropriate landscaping should be included as part of the planning application.
- 8.8. The proposed new glass houses are located in a similar position to the buildings which previously existed on the site in association with the plant nursery however the proposed glasshouse are considerably larger in footprint.
- 8.9. The site itself is relatively flat, though in the immediate landscape setting the site lies at a lower point than some of its surrounds. This alongside the height of the glass houses, the vegetation around the site, including established planting on the eastern and southern boundary of the site means that the site is relatively well contained in the wider landscape. Views from the properties to the north-west of the site are largely filtered through existing vegetation and topography. Whilst some filtered views would be available from the properties to the south of the site given the distance between the proposals and these properties this is not considered to be significant and the landscape officer has requested some additional planting on this boundary to further screen these views.
- 8.10. The views from the public rights of way to the west of the site are also well screened by existing topography and screening as are views from the footpaths to the east of the site. Whilst the proposed development would have some urbanising impact on the site itself this needs to be weighed against the benefits of the scheme in supporting a rural based enterprise. Furthermore the design of the buildings is functional and reflects the agricultural use of the building which is suitable is considered appropriate given the landscape setting.
- 8.11. The site is located within a rural landscape and officers did raise concerns with the applicants' agent that lighting within the green houses during night time hours would lead to further harm to the amenity of the locality. They have stated that any lighting of the glass houses would only operate between 0800 – 1800hrs, and it is considered that provided lighting was not operated outside of these hours of operation the proposal would not cause light pollution.
- 8.12. Overall, it is considered that the application site is relatively well contained by the topography and planting and there would be limited visual impact on the wider character and appearance of the locality. Therefore the impact of the development on the character and appearance of the area is considered to be acceptable subject to a landscaping condition.

#### Residential amenity

- 8.13. Policy ESD 15 of the CLP 2031 (Part 1) requires new development to consider the amenity of both existing and future occupants, including matters of privacy, outlook, and natural lighting. Furthermore, Paragraph 17 of the Framework states that planning should “always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”.

8.14. The proposed development is considered to be a sufficient distance from any of the neighbouring properties to ensure that it would not result in significant amenity issues. It is noted that Mixbury Hall whose garden would be the most significantly impacted upon by the proposals is within the ownership of the applicant.

Highway safety

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

8.16. The Highway Authority (the LHA) has requested further information on the application which has now been received and the LHA has been re-consulted.

8.17. The applicant has confirmed that the building will not be open to the public and will solely be used for the growing of produce. The applicants have indicated that the existing grounds staff at Mixbury Hall will undertake some of the work however an additional 2 part time staff may be employed. Therefore vehicles movements associated with staff are likely to be relatively limited.

8.18. In relation to other deliveries the applicant has stated that would be a maximum of 2 light goods vehicles a day moving produce to a warehouse in Bicester and there would be infrequent deliveries of products (approx. once a month).

8.19. In all it would appear that the level of activity associated with the use is likely to be relatively limited however comments from the LHA will be updated to the Committee.

Other matters

8.20. The proposed development is not considered to significantly impact on the ecological value of the site which appears to be low consisting of mown grass and gravel tracks. There will be no impact on the boundary vegetation.

**9. PLANNING BALANCE AND CONCLUSION**

9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.

9.2. The proposed development would support a rural land based business and lead to some modest economic benefits associated with increasing employment. The site is well screened in the immediate landscape and, subject to conditions, is considered not to result in any significant visual or landscape impacts. Overall the development is considered to constitute a sustainable form of rural development and, subject to the comments from the local highway authority, it is recommended that planning consent be granted.

<b>10. RECOMMENDATION</b>
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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 forms, drawing numbers V17-152-SLP02 A, V17-152-P01 Rev A, V17-152-P02, V17-152-P03 Rev A

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

3. Prior to the commencement of the development hereby approved, a detailed scheme for the surface water drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, and prior to the first use of the building hereby permitted the approved surface water drainage scheme shall be carried out in accordance with the approved details.

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

4. Prior to the first use 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 details of new landscaping to the boundaries of the site and 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
- c) A management and maintenance scheme for the establishing the landscaping.

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

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

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the first use 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 and Government guidance contained within the National Planning Policy Framework.

6. Unless otherwise agreed in writing by the local planning authority, any lighting on the inside or outside of the glasshouses hereby permitted shall only operate between the hours of 0800 and 1800.

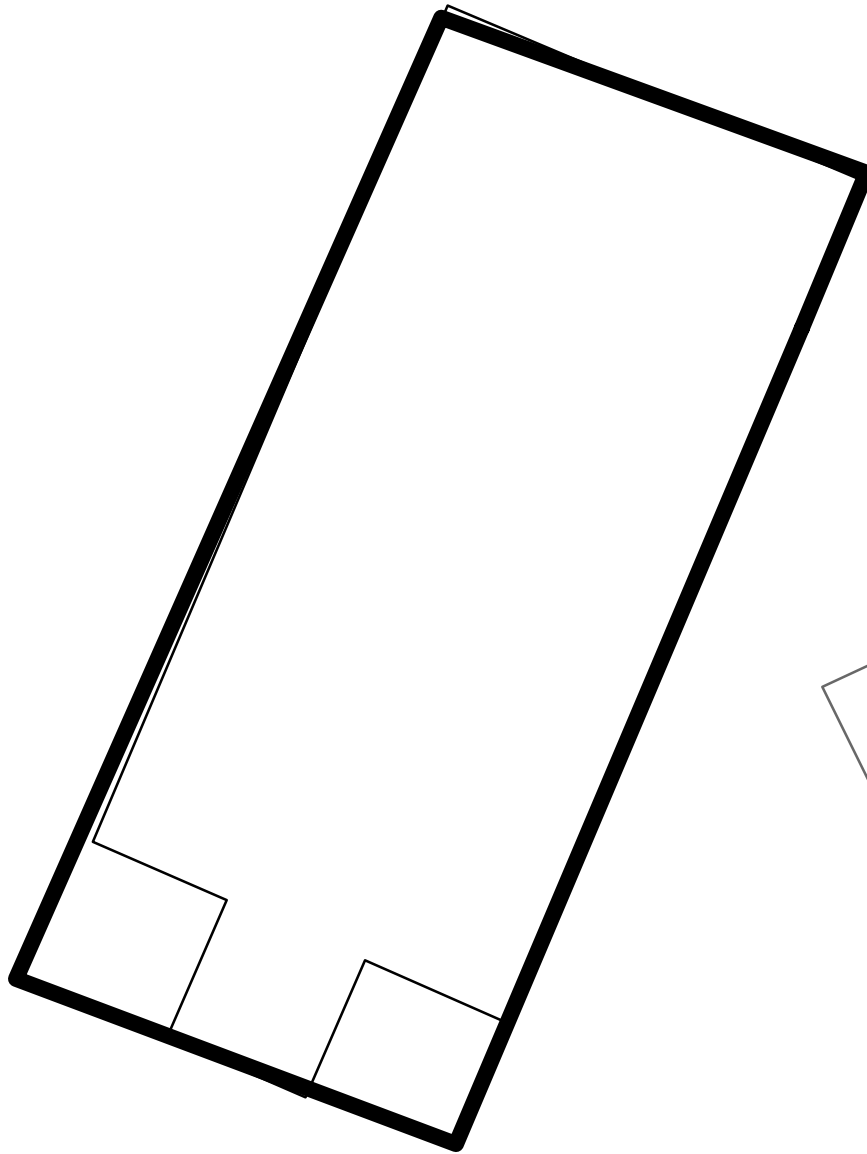
Reason: To protect the character and appearance of the locality in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan Part 1 2015 and advice in the NPPF.

CASE OFFICER: James Kirkham

TEL: 01295 221896

# 17/02430/F

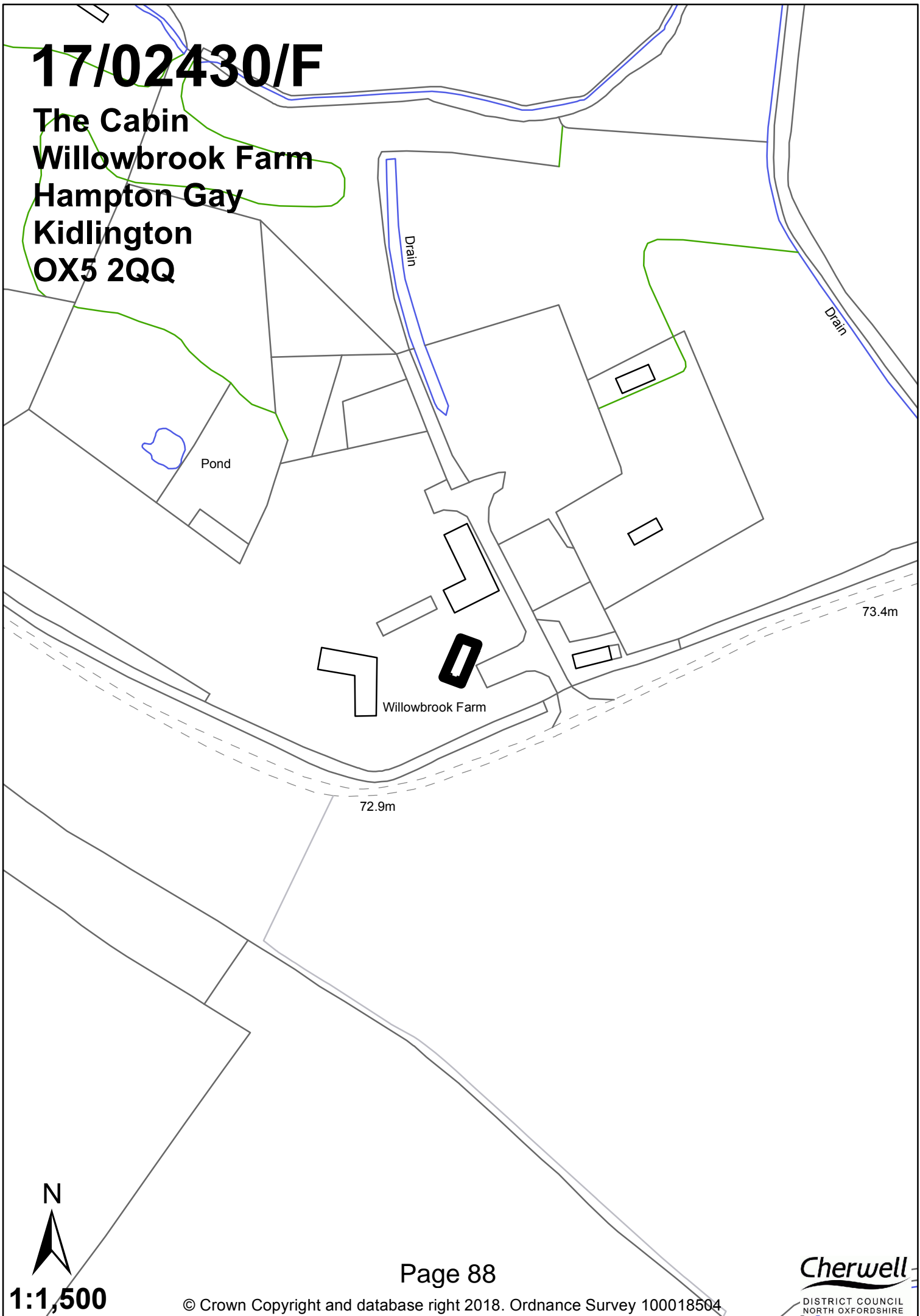
The Cabin  
Willowbrook Farm  
Hampton Gay  
Kidlington  
OX5 2QQ



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# 17/02430/F

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Willowbrook Farm  
Hampton Gay  
Kidlington  
OX5 2QQ



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**The Cabin  
Willowbrook Farm  
Hampton Gay  
Kidlington  
OX5 2QQ**

**17/02430/F**

**Applicant:** Mr & Mrs Lutfi & Ruby Radwan

**Proposal:** RETROSPECTIVE - Continued siting of a temporary agricultural dwelling as a permanent agricultural dwelling for the principal farm worker

**Ward:** Launton And Otmoor

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

**Reason for Referral:** Member request for the application to be determined by Members

**Expiry Date:** 8 February 2018      **Committee Date:** 12 April 2018

**Recommendation:** Approve

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

1.1. Willowbrook Farm is situated within the very loose knit hamlet of Hampton Gay within the Oxford Green Belt. The site is relatively flat and is surrounded by mature hedgerows. It comprises a total holding of approximately 45 acres and is used for farming poultry (eggs and meat), sheep (fleeces and meat), turkeys and geese. Additional income is derived from other uses on the farm such as camping and a café as well as events and farm visits.

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

2.1. Consent is sought for the permanent siting of a temporary agricultural workers dwelling which was originally granted planning permission in 2003.

## **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>
01/01900/F	Erection of 2 No. mobile poultry units and 1 No. mobile office/storage unit	Application not required
02/01991/AGN	Proposed erection of a steel framed barn	Agri Notice requires full planning
02/01994/F	Retention of 2 No. Feed Silos and 1 No. Egg House (RETROSPECTIVE)	Application Refused

02/01995/F	Erection of a mobile home unit to function as a temporary agricultural workers dwelling for a period of 3 years	Application Refused
02/02331/F	Proposed erection of a straw and brooder shed	Application Refused
03/00597/AGN	Proposed erection of timber framed barn	Prior Approval Not Required
03/00604/F	Erection of 2 No. Feed silos for poultry	Application Permitted
03/01077/F	Erection of mobile unit for use as an Agricultural dwelling for a 3 year period	Application Permitted
04/00997/AGN	Erection of a timber livestock penning and handling facility	Prior Approval Required
04/02134/AGN	Erection of composting bays	Prior Approval Not Required
05/00025/AGN	Erection of machinery shed/vehicle servicing bay.	Prior Approval Not Required
05/00028/F	Erection of livestock building.	Application Permitted
06/00146/OUT	OUTLINE - Erection of dwelling for agricultural labour	Application Permitted
06/01383/F	Renewal of 03/1077/F - Erection of mobile unit for use as an Agricultural dwelling for a 3 year period	Application Permitted
07/02666/F	New dwelling-house	Application Permitted
10/01010/AGN	Farm building.	Prior Approval Not Required
11/01485/F	Installation of solar panels to roof of building	Application Permitted
16/00156/AGN	Erection of agricultural building for stable and goat housing	Agri Notice requires full planning
16/00739/AGN	New agricultural storage building for livestock tools, secure chemical store and packaging	Agri Notice requires full planning

16/00741/F	Erection of extension to sheep barn (Retrospective).	Application Permitted
16/00763/F	Washing facility for campsite	Application Permitted
16/00988/AGN	Silos (planning approved) altered for bagged feed stored in bulk bags and not loose feed	Agri Notice requires full planning

3.2. Whilst this is a full history of the applications that have been determined on the site in relation to the farm holding the most relevant applications are 03/01077/F, 06/00146/OUT, 06/01383/F and 07/02666/F.

3.3. Under application 03/01077/F planning permission was granted for a 3 year temporary period for the erection of a mobile unit to provide accommodation for an agricultural worker.

3.4. Consent was granted under application 06/01383/F for the renewal of the temporary consent for a period of two years or until the permanent dwelling approved under application 06/00146/OUT was complete or ready for occupation, whichever was the soonest.

3.5. 06/00146/OUT was the subject of a condition requiring the temporary dwelling to be removed prior to the occupation of the permanent dwelling.

3.6. Subsequently planning permission was granted for a permanent dwelling under application 07/02666/F. This required that the temporary dwelling was removed within 3 months of the permanent dwelling being first occupied.

#### 4. PRE-APPLICATION DISCUSSIONS

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

<u>Application Ref.</u>	<u>Proposal</u>
16/00002/PREAPP	Pre-application advice - Various buildings and business activities for regularisation

4.2. The advice given was that planning applications should be submitted to seek to regularise various buildings and business activities.

#### 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 01.02.2018, 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:

- Objections
  - Income not generated by farming
  - Lack of control by CDC resulting in unauthorised operations/activities/development at the site

- Highway safety arising from the various activities/operations on the site
  - Little evidence of farming
  - Impact on ecology arising from the various activities/operations on the site
  - Noise and disturbance from non-farming activities
  - Loss of value to property
  - Drainage
  - Visual impact of whole site
  - Breach of occupancy condition
  - Lack of need for an additional dwelling.
- Support (including a survey of residents in Hampton Gay and Hampton Poyle and standard letters from local residents and distant supporters).
    - Survival of sustainable rural business
    - Proper functioning of enterprise
    - Essential for farm manager to continue to live on the farm
    - Environmentally friendly farm
    - Education of customers
    - Positive contribution to biodiversity
    - Employment for local economy

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

## 6. RESPONSE TO CONSULTATION

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

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

6.2. HAMPTON GAY & POYLE PARISH MEETING: **Objects** for the following reasons:

- That retaining the temporary building is not justified on agricultural use grounds alone
- The applicants' stated concerns about age and ill health do not justify keeping a second property on site which would break the tie to agricultural use
- Activities at Willowbrook Farm include non agricultural uses which are not properly permitted but contributing to the request to retain the temporary dwelling
- The scale of development at the farm is inappropriate development in the Green Belt and is causing undue disruption to the nearest neighbours at Hampton Gay
- The application is the latest in a series of applications, including some retrospective applications which has led to 'creeping development' away from the original permission for a chicken hatchery.

The Parish Meeting's full response can be viewed on the Council's website.

### STATUTORY CONSULTEES

6.3. HIGHWAY AUTHORITY: **No comment to date**

### NON-STATUTORY CONSULTEES



6.4. AGRICULTURAL CONSULTANT: **No objection.** The Consultant's report concludes that there is an essential need for an agricultural worker to be present at Willowbrook Farm and financial viability and sustainability have been demonstrated. Subject to the applicant's ability to manage the farm it is considered that Willowbrook Farm house cannot be considered to be a relevant dwelling for the purposes of meeting the identified essential functional need. There is an essential need to retain the temporary dwelling at Willowbrook Farm on a permanent basis for an agricultural worker. The full report can be viewed on the Council's website.

## **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)

- ESD1 – Mitigating and Adapting to Climate Change
- ESD10 – Biodiversity and Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD14 – Oxford Green Belt
- ESD15 - The Character of the Built and Historic Environment
- Villages 1 – Village Categorisation

### CHERWELL LOCAL PLAN 1996 (SAVED POLICIES)

- H18 - New dwellings in the Countryside
- C8 - Sporadic development in the countryside
- C28 - Layout Design and External Appearance of New Development
- C30 – Design 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:

- Principle of development (a) in the Green Belt, (b) in terms of essential need
- Impact on Visual Amenities including the Green Belt
- Highway safety

### Principle of development

8.2 Government guidance contained within the NPPF attaches great importance to the design of the built environment as good design is a key aspect of sustainable development. Good design should contribute positively to making places better for people. Planning decisions should aim to ensure that developments will function well

and add to the overall quality of the area and are visually attractive as a result of good architecture and appropriate landscaping.

- 8.3 The NPPF introduces a presumption in favour of sustainable development. It advises that proposals that accord with the development plan should be approved without delay and where the development plan is absent, silent or relevant policies are out of date, approving applications unless any adverse impacts of doing so would significantly or demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
- 8.4 The current proposal is for the retention of a temporary agricultural workers dwelling, originally consented in 2003, in association with an existing farm.
- 8.5 The site lies within the Oxford Green Belt. Paragraph 87 of the NPPF states that “inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances”. Paragraph 88 states that “when considering any planning application local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt, by reason of its inappropriateness and any other harm, is clearly outweighed by other considerations.”
- 8.6 Paragraph 89 of the NPPF states that the construction of new buildings should be regarded as inappropriate unless it falls within one of the exceptions listed. This includes buildings for agriculture and forestry. Policy ESD14 of the Cherwell Local Plan 2011-2031 states that “development proposals within the Green Belt will only be permitted if it maintains the Green Belt’s openness and does not conflict with the purposes of the Green Belt or harm its visual amenities”.
- 8.7 In this case it is considered that, whilst the development does not involve the erection of a new building as such, the temporary dwelling was only approved (originally in 2003) to serve an essential need which was subsequently met with the erection of the permanent dwelling. The temporary dwelling should have been removed from the site within 3 months of the permanent dwelling being occupied but this has not happened and the Council has not taken any formal action to date to seek its removal. Due to the personal circumstances of the applicant the essential need for an agricultural workers dwelling to serve the farm would be no longer met and the retention of the temporary dwelling in my opinion would therefore be tantamount to the erection of a new dwelling.
- 8.8 The planning statement supporting the application sets out the applicant’s case for the permanent retention of the temporary dwelling and this can be viewed on the Council’s website. Financial information has been submitted in the form of accounts for the enterprise along with letters from the applicants’ doctors to support the applicant’s claim that he is no longer able to carry out the essential functional requirements of the farm business, which are confidential.
- 8.9 An appraisal of the farm and the need for the retention of the dwelling on the site for a worker to facilitate the enterprise has been carried out on behalf of the Council by Rhodes Rural Planning. The report can be viewed on the Council’s website. The conclusions reached are as follows:
- There is an essential need for an agricultural worker to be present at Willowbrook Farm and financial viability and sustainability have been demonstrated.
  - Subject to the applicant’s ability to manage the farm it is considered that Willowbrook Farm house cannot be considered to be a relevant dwelling for the purposes of meeting the identified essential functional need.

- There is an essential need to retain the temporary dwelling at Willowbrook Farm on a permanent basis for an agricultural worker.
- 8.10 Paragraph 28 of the NPPF encourages economic growth in rural areas by taking a positive approach to sustainable new development. It states amongst other things that " to promote a strong rural economy, local and neighbourhood plans should:
- support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings; and
  - promote the development and diversification of agricultural and other land-based rural businesses".
- 8.11 Policy Villages 1 of the Cherwell Local Plan 2011-2031 provides a categorisation of the district's villages based on their relative sustainability, and the amount and type of development that could be appropriate in sustainability terms within the built up limits of a village depends on its categorisation under Policy Villages 1. Hampton Gay is a category C village, which is the category of least sustainability, and Policy Villages 1 states that within category C villages only infilling or conversions will be appropriate.
- 8.12 Saved Policy H18 of the Cherwell Local Plan 1996 deals with the construction of new dwellings beyond the built-up limits of settlements. Proposals will only be permitted for such development where it is essential for agriculture or other existing undertakings.
- 8.13 Paragraph 55 of the NPPF states "to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities". It continues however that "local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work".
- 8.14 The conclusions of the appraisal indicate that there is an essential need for a permanent agricultural worker's dwelling at Willowbrook Farm and whilst there is a permanent dwelling on the site currently occupied by the applicant and his family the applicant is in declining physical health and wishes to retire from the business. The condition relating to the occupancy of the permanent dwelling allows for those solely or mainly or last solely or mainly employed in agriculture to live in the property. It is considered therefore that the continued occupancy of the permanent dwelling by the applicant and his family once retired is in compliance with this condition.
- 8.15 As such the permanent dwelling would not be capable of meeting an identified functional need. Case law makes it clear that where a clear essential need has been demonstrated for a new dwelling it is considered unreasonable to require two families to share a property or for the older generation to vacate their family home to make way for the next generation or for a worker.
- 8.16 However, given the relationship between the permanent farmhouse, the farming activities and the dwelling the subject of this application, it would be unacceptable in amenity terms for the dwelling to be occupied separately from Willowbrook Farm. A condition is therefore recommended restricting the occupancy to an agricultural worker at Willowbrook Farm (or a retired worker) or as ancillary accommodation to the permanent dwelling, Willowbrook Farmhouse, and this is set out in the recommendation below..

Impact on Visual Amenities including the Green Belt

- 8.17 The application site lies within open countryside forming part of the loose-knit hamlet of Hampton Gay. Whilst the application site is screened from the highway by hedging the area has the open and rural character that is desired of the Green Belt.
- 8.18 Policy ESD13 of the Cherwell Local Plan 2011-2031 states that development will be expected to respect and enhance local landscape character securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not be permitted where, amongst other criteria, they would cause undue visual intrusion into the countryside or cause undue harm to important natural landscape features and topography. Similarly Saved Policy C8 of the Cherwell Local Plan 1996 states that sporadic development in the open countryside will be resisted to preserve its open and rural character.
- 8.19 It is considered that retaining the temporary dwelling on the site would not result in any detriment to the visual amenities of the Green Belt or rural character of the area.

#### Highway safety

- 8.20 The Highway Authority has not responded to date. However, it is considered that the retention of the dwelling would not give rise to any significant detriment to highway safety. The Highway Authority did not raise any objections to the original consent or for the application for the permanent dwelling erected under application 07/02666/F.

#### Other Matters

- 8.20 Concerns have been expressed by local residents that there are various unauthorised activities/operations taking place on the holding and that there are unauthorised buildings/uses. These issues are currently being investigated and the outcome of these investigations will not have a bearing on the current application bearing in mind the response from the Council's Agricultural Consultant.

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

- 9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 9.2. It is considered that sufficient justification has been provided to show that there is an essential need for a permanent agricultural worker's dwelling to serve the business. In addition it is considered that whilst the site is within the Green Belt, the proposed development is appropriate development within the Green Belt and would not conflict with the purposes of including land within it. It is considered that when analysing the economic, social and environmental impacts of the development as a whole, the benefits of the proposal to support an existing rural enterprise enabling its continued functioning outweigh any harm to the landscape.

### **10. RECOMMENDATION**

That permission is granted, subject to the following conditions

1. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Site Plan, Supporting Statement dated December 2017.

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.

2. The dwelling hereby approved shall be either:
  - (a) occupied only by a person solely or mainly employed, or last solely or mainly employed, in connection with agriculture (as defined in Section 336(1) of the Town and Country Planning Act 1990) at Willowbrook Farm, Hampton Gay, Kidlington including any dependants of such a person residing with him or her or a widow or widower of such a person; or
  - (b) used solely as ancillary accommodation to the existing dwellinghouse, currently known as Willowbrook Farm, Hampton Gay, Kidlington, and as such shall not be sold, leased, let, sub-let or used as an independent dwelling unit.

Reason - The site is in an area where permission for development unrelated to the essential needs of agriculture or forestry would not normally be granted, and this consent is only granted on the basis of there being demonstrated an essential and overriding need for a new dwelling/residential accommodation in this location in accordance with saved Policy H18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. Furthermore, given the proximity of the dwelling hereby approved to the new thatched farmhouse and to the farm buildings (and the potential on-going farming activities) it would be unacceptable in amenity terms if the dwelling hereby permitted was sold or leased separately from Willowbrook Farm.

3. Notwithstanding the provisions of Classes A to E (inc.) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, the approved dwelling(s) shall not be extended, nor shall any structures be erected within the curtilage of the said dwelling(s), without the grant of further specific planning permission from the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the amenities of the occupants of the adjoining dwellings in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. That full details of the enclosures along all boundaries of the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development, and such means of enclosure shall be erected prior to the first occupation of the dwelling.

Reason - To ensure the satisfactory appearance of the completed development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policy G2 of the Oxfordshire Structure Plan 2016 and saved Policies C28 and C30 of the Cherwell Local Plan 1996.

CASE OFFICER: Shona King

TEL: 01295 221643

Agenda Item 12

**18/00098/F**

Garage  
**Park Farm Agricultural Barn**  
**New Street**  
**Deddington**

Eaton House

124.6m

Park

Farm



**1:300**

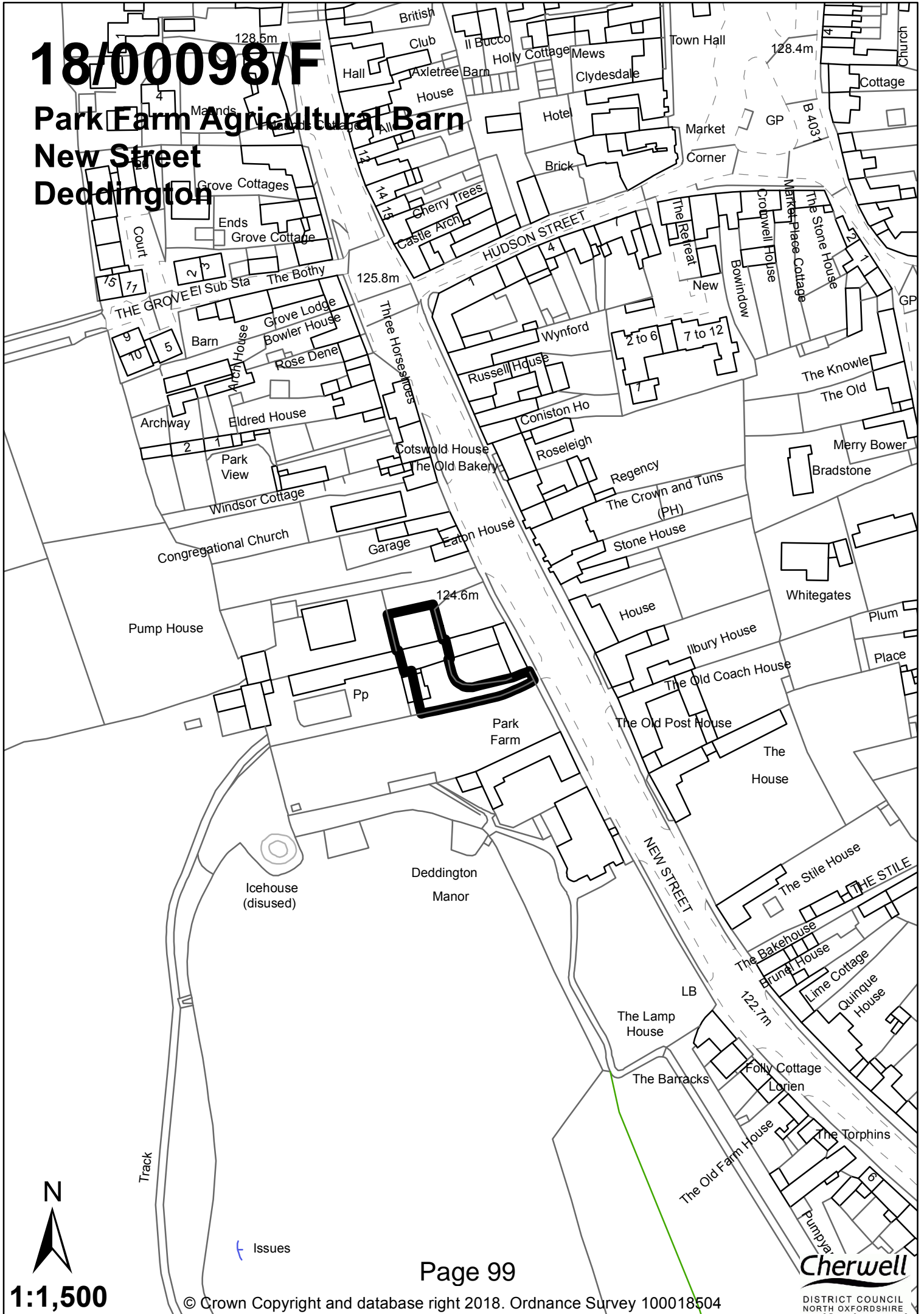
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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

# 18/00098/F

## Park Farm Agricultural Barn New Street Deddington



**Applicant:** Mr & Mrs Bryn Williams

**Proposal:** Conversion of existing barn and associated out-building/stables to residential use. Raise roof of out-building/stables by 860mm.  
New single storey extension to rear with living roof

**Ward:** Deddington

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

**Reason for Referral:** The applicant is one of the Ward Councillors

**Expiry Date:** 14 March 2018      **Committee Date:** 12 April 2018

**Recommendation:** Refusal

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

- 1.1. The application relates to an existing stone barn with natural slate roof, which is part of a wider complex of buildings in a linear arrangement, and which is considered to have previously formed part of Park Farm. Land levels drop across the site from east to west down from the access into the site. To the west of the barn are adjoining stables and previously converted buildings now in residential use. Attached to the south of the main barn is a single storey outbuilding which is of stone and red brick construction again under a natural slate roof. Whilst only single storey this outbuilding is on two levels, given the topography of the site, with only the top (eastern) section falling within the application's site boundary.
- 1.2. To the east of the barn are again adjoining buildings which have been converted to residential use, with grade II listed Park Farm House further to the east fronting on to New Street (A4260), one of the main routes through the village of Deddington. Adjacent to the south is a residential property and walled garden, whilst to the north there an agricultural building with residential properties beyond. The proposed site is accessed via an existing vehicular access off New Street which also serves Park Farm House and other previously converted building.
- 1.3. In terms of site constraints, the application building is a grade II listed building (curtilage listed by association to Park Farm House) and sits within the Deddington Conservation Area, which is considered of archaeological interest. The southern boundary wall is a grade II listed structure in its own right with further grade II listed buildings to the south, including Deddington Manor. There are records of protected and notable species (including Eurasian Badger and Common Swift) within the vicinity of the site. The site also sits within a buffer zone surrounding an area of potentially contaminated land north of the site; and further an area where the geology is known to contain naturally occurring elevated levels of Arsenic, Nickel and Chromium; as seen in many areas across the district.



## 2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. The application seeks planning permission for alterations, extension to and conversion of the existing stone barn and outbuilding to form a 5-Bedroom residential property, with an integral garage, residential garden and associated parking and turning. An associated application for listed building consent, to consider potential direct impacts on the listed building, has also been submitted and is being dealt with under ref. 18/00099/LB.
- 2.2. Alterations to the main barn would include: the introduction of a new floor to provide first accommodation 4 no. bedrooms, all with en suite bathroom; new openings through the historic fabric of the building to provide access through to the outbuilding and new window openings in the northern elevation; the introduction of 4no double-pane rooflights to the northern roofslope; the introduction of 2no new small rooflights in the southern roofslope; the glazed infilling of the main barn opening in the southern elevation and the erection of a single storey flat-roofed extension across the main barn opening on the northern elevation with glazing above. The extension would be constructed in Hornton stone under a living green sedum roof.
- 2.3. With regards to the proposed alterations to the outbuilding, these would include: The raising of the overall roof height by ~0.8m; the introduction of a new floor to provide first accommodation play-room and bedroom with ensuite; the introduction of 3no new rooflights in the eastern roofslope; glazed door with Juliet balcony to the southern elevation; alterations to the eastern elevation, including the enclosing of existing opening and creation of new garage door/entrance, glazed section and front door; infilled using a timber frame construction, clad in horizontal weather boarding.
- 2.4. During the course of the application and following a site meeting with the applicant and his architect, revised plans were received making minor amendments to the proposed development. Officers had raised concerns as to the acceptability of the proposals as originally submitted. Unfortunately these revised plans have not sufficiently addressed the concerns of officers to the extent that the application could be considered acceptable by officers. However, accepting amended plans has resulted in the application going beyond its original determination target; through the need for the appropriate consideration and re-consultation of the amendments and to allow for the applications to be presented to planning committee.

## 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>
CHN.635/91	Alterations to existing accesses vehicular and pedestrian. Conversion of existing agricultural barns into dwellings - 3 No. new houses proposed.	Application permitted
96/00518/F & 96/00519/LB	Renewal of CHN.635/91. Alterations to existing accesses vehicular and pedestrian. Conversion of existing agricultural barns into dwellings - 3 No. new houses proposed.	Applications permitted
01/00597/F & 01/00598/LB	Renewal of 96/00518/F alterations to existing vehicular and pedestrian accesses. Conversion of agricultural barns into dwellings - 3 No. new houses proposed.	Applications permitted



farm complex, and do not preserve or enhance the special architectural or historic interest of the Conservation Area.

6.6. ECOLOGY: **No objections**, subject to conditions.

6.7. ENVIRONMENTAL PROTECTION: **No objections**, subject to conditions

## 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)

- PSD 1: Presumption in favour of sustainable development
- Villages 1: Village categorisation
- ESD 3: Sustainable Construction
- ESD 7: Sustainable Drainage Systems (SuDS)
- ESD 10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD 15: The character of the built and historic environment

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

- H21: Conversion of buildings in settlements
- C21: Proposals for re-use of a listed building
- C28: Layout, design and external appearance of new development
- C30: Design control
- ENV12: Development on contaminated land

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Deddington conservation Area Appraisal
- Deddington Neighbourhood Plan (Pre-submission version) (DNP)

The neighbourhood plan for Deddington, which also covers the villages of Clifton and Hempton, is still at an early stage. A pre-submission version of the plan has been accepted by the Parish Council and has been submitted to Cherwell District Council as part of the consultation process. Given the early

stages of the plan, in accordance with Paragraph 216 of the NPPF, no significant weight can be given to it as a material consideration at this time.

- Historic England - Adapting Traditional Farm Buildings: Best practice guidelines for adaptive reuse (2017).
- Cherwell District Council's informal guidance - Design Guide for the conversion of farm building (2002)

## **8. APPRAISAL**

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

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

### Principle of development:

8.2. The NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

8.3. Paragraph 6 of the NPPF sets out the Government's view of what sustainable development means in practice for the planning system. Paragraph 7 states that, 'there are three dimensions to sustainable development: economic, social and environmental'. It is clear from this that sustainability concerns more than just proximity to facilities, it clearly also relates to ensuring the physical and natural environment is conserved and enhanced as well as contributing to building a strong economy through the provision of new housing of the right type in the right location at the right time. In the context of this proposal this would include conserving and enhancing the historic environment.

8.4. Policy PSD1 contained within the CLP 2031 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 NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that conflicts with the Local Plan should be refused unless other material considerations indicate otherwise (Para. 12). Cherwell District Council can demonstrate a 5.5 year housing land supply and therefore the policies controlling the supply of housing in the development plan can be considered up to date and given full weight in determining applications.

8.6. The principle of residential development within Deddington is assessed against Policy Villages 1 in the Cherwell Local Plan Part 1. Deddington is recognised as a Category A village in the Cherwell Local Plan Part 1. 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. Within Category A villages, residential development will be restricted to the conversion of buildings, infilling and minor development comprising small groups of dwellings on sites within the built up area of the settlement.

- 8.7. Saved Policy H21 of the Cherwell Local Plan 1996 states that: *“Within settlements the conversion of suitable buildings to dwellings will be favourably considered unless conversion to a residential use would be detrimental to the special character and interest of a building of architectural and historic significance.”*
- 8.8. Whilst the principle of converting the existing agricultural buildings to a residential use could be considered acceptable in terms of the sustainability of the site’s location – and as can be seen from the planning history of the site has previously been considered acceptable by the Council, there are significant concerns relating to a number of elements of the proposals (discussed further below), which are considered harmful to the historic and architectural significance of the grade II listed barn and its setting within the Deddington Conservation Area.
- 8.9. Officers consider that the proposals would result in significant harm to the special character and interest of the building’s architectural and historic significance and further detrimentally impacting on the historic farm setting within the Conservation Area, and as such the development, as submitted, is not considered to represent a sustainable form of development and is unacceptable in principle.

Design, and impact on the character of the area:

- 8.10. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 8.11. These aims are also echoed within Policy ESD15 of the CLP 2031 which looks to promote and support development of a high standard which contribute positively to an area’s character and identity by creating or reinforcing local distinctiveness. And further in the context of this current application requires new development to: *‘Conserve, sustain and enhance designated and non-designated ‘heritage assets’ (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG’.*
- 8.12. Saved Policy C21 of the CLP 1996 states that: *‘Sympathetic consideration will be given to proposals for the re-use of an unused listed building provided the use is compatible with its character, architectural integrity and setting and does not conflict with other policies in this plan. In exceptional circumstances other policies may be set aside in order to secure the retention and re-use of such a building’.*
- 8.13. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the rural or urban context of that development.
- 8.14. The site is within the Deddington Conservation Area, which was first designated as such in 1988, reviewed in 2012. Conservation areas are designated by the Council under Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990; with the aim to manage new development within such areas to ensure that the character or appearance of the Conservation Area, and the special architectural or historic interest which it may possess, is preserved and where possible enhanced.
- 8.15. 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. Policy ESD 15 of the CLP 2031 further echoes this aim and advice.
- 8.16. As noted above, the site is within the Deddington Conservation Area, a Designated Heritage Asset. The NPPF (Para. 126) advises that Local Planning Authorities should positively set out strategies for the conservation and enjoyment of the historic environment, and should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance. It further

states that in developing this strategy, local planning authorities should take into account:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
- the desirability of new development making a positive contribution to local character and distinctiveness; and
- opportunities to draw on the contribution made by the historic environment to the character of a place.

8.17. Policy ESD 15 of the CLP is consistent with the advice and guidance within the NPPF with regard to the conservation of the historic environment and looks for development to:

- Contribute positively to an area's character and identity by creating or reinforcing local distinctiveness;
- Conserve, sustain and enhance designated and non-designated Heritage Assets, including their settings, ensuring that new development is sensitively sited and integrated;
- Respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings.

8.18. The site is part of a complex of buildings that would have previously formed part of Park Farm and its use, whilst currently unused, would have been agricultural in nature. From review of historical maps and literature (as noted in the Conservation Officer's comments) the linear form of the agricultural buildings at the site has changed very little over the years; with records dating back to the early 1800s.

8.19. The proposals would make a number of significant alterations to both the main barn and the outbuilding which projects away from the main barn to the south (these are detailed above). Officers appreciate and support the applicants' desire to bring the building back into use and provide a large family home through a change from agricultural to residential use, and the benefits that this would bring; not only to the applicants personally, but also potentially to the historic building securing its mid to long term future. However, this needs to be balanced against what can be realistically achieved ensuring the preservation of the historic building and any features that it may have as a designated Heritage Asset and its setting within the designated Deddington Conservation Area.

8.20. Historic England considers that traditional farm buildings are among the most ubiquitous of historic building types in the countryside, stating that: *'they are not only fundamental to its sense of place and local distinctiveness, but also represent a major economic asset in terms of their capacity to accommodate new uses. The restructuring of farming and other economic and demographic changes in the countryside provide both threats and opportunities in terms of retaining the historic interest of this building stock and its contribution to the wider landscape'*.

8.21. A number of the proposed alterations and the garden room extension are not considered sympathetic to the context and fail to reflect or reinforce the character or architectural/historic interest of these Grade II listed agricultural buildings and the wider farmyard setting.

8.22. The Council's Conservation Officer objects to the proposals considering them detrimental to the character and appearance of the building and having little regard to the historic and architectural interest of the former agricultural buildings, causing

harm to the Heritage Asset, the historic farm complex and its setting within the Conservation Area; an opinion shared by the case officer.

- 8.23. Of particular concern is the proposed garden room/utility room extension to the northern elevation. This proposed extension not only compromises one of the primary and most significant features of the existing barn, its cart door openings through the building, it would also extend the building in a direction contrary to the predominantly linear nature of the building. This would appear as an incongruous addition which, notwithstanding the proposed green Sedum roof, would be visible from the public domain, with views experience from the north-east.
- 8.24. CDC informal farm building conversion guidance advises that accommodation should aim to be contained wholly within the existing buildings and in the rare cases where extensions are proposed they should be of traditional form such as simple lean-to out-shots. It would be highly unusual to have an outshot across the midstrey (main cart door opening) which was a clear opening front to back; it would also be odd to have an outshot near a midstrey due to the turning circles of carts and the need to open the large doors. The opportunity to extend this barn has already been taken on its south elevation, leaving the north elevation simple and free from appendages, which is one of the key features that contributes to the character of the building and its setting within the Conservation Area.
- 8.25. The current proposals also include the raising of the roof of the subservient outbuilding (increasing not only the ridge height increased but also the eaves height) and alterations to its eastern and southern elevations, not only increasing its prominence within the site, but also changing its general character and appearance from that which would have appeared as a simple cart-shed/store set against and ancillary to the main barn.
- 8.26. A number of other overly domestic features included within the scheme further compound the harm that would be caused, detracting from the agricultural character and nature of the buildings and the wider site. These include: the proposed Juliet balcony, new full height window openings and the introduction of a significant number of rooflights into the roofs of both outbuilding and main barn.
- 8.27. For these reasons, the proposals would be out of keeping with the form and character of the building, would result in demonstrable harm to its significance as a designated Heritage Asset and would also detrimentally impact on its setting within the designated Deddington Conservation Area. The proposals therefore demonstrate clear conflict with the Development Plan policies identified above.

Residential amenity:

- 8.28. Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2031 which states that: 'new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space'.
- 8.29. The proposals would have adequate indoor and outdoor amenity that would allow for a good standard of living for potential future occupants of the proposed dwelling and therefore could be considered acceptable in this regard.
- 8.30. There are a number of residential properties surrounding the site that have the potential to be affected by the proposed development, including: Eaton house some 26m to the north, walled garden and stable block some 28m to the south; Park Farm Stables adjacent and Park Farm House ~26m to the east of the outbuilding.
- 8.31. Given the context of the site, the nature and design of the proposed development and its relationship with surrounding properties, and various separation distances, it is considered that the proposals would not result in any significant impact on the

amenity of surrounding residential properties to any greater extent than is currently the situation. The proposals are therefore considered acceptable in terms of residential amenity.

#### Highway safety:

- 8.32. The LHA has assessed the proposals and raises no objection, subject to a condition requiring details of parking provision within the site for four parking spaces. Officers see no reason not to agree with the opinion of the LHA, and consider that the requirements of the LHA could be secured through an appropriate planning condition attached to any such permission should the Council resolve to grant planning permission.
- 8.33. The site is served by an existing access which would not be affected by the proposed development. It is considered that whilst parking for four vehicles is not shown within the current submission, that this could be achieved and that there would be sufficient space for manoeuvring that vehicles could enter and leave the site in a forward manner.
- 8.34. Officers consider that the proposals would not result in any significant impacts on the safety and convenience of highway users and could be considered acceptable in terms of highway safety.

#### Ecology and Biodiversity:

- 8.35. The NPPF - Conserving and enhancing the natural environment, requires 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 commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures” (Para. 109), these aims are reflected in the provisions of Policy ESD 10 of the CLP 2031.
- 8.36. Paragraphs 192 and 193 further add that “The right information is crucial to good decision-taking, particularly where formal assessments are required (such as Habitats Regulations Assessment) and that Local Planning Authorities should publish a list of their information requirements for applications, which should be proportionate to the nature and scale of development proposals. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question”. One of these requirements is the submission of appropriate protected species surveys which shall be undertaken prior to determination of a planning application. The presence of a protected species is a material consideration when a planning authority is considering a development proposal. It is essential that the presence or otherwise of a protected species, and the extent to which they may be affected by the proposed development is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
- 8.37. Local planning authorities must also have regards to the requirements of the EC Habitats Directive when determining a planning application where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”.
- 8.38. In respect to the application site, a Bat Survey Report prepared by Windrush Ecology has been submitted with the application. This report indicates that there was no evidence of roosting bats being found and there was little bat roosting potential. The report did, however, identify three Swallow nests as being present within the outbuilding.



- 8.39. The Council's Ecologist has reviewed the report and its findings and recommendations and considers it is largely acceptable, subject to any work being carried out in accordance with the details of the report, and at a time during the year outside of bird nesting season. The Ecologist further suggests alternative mitigation measures to those identified within the report with regard to potential bird nesting opportunities and it is considered that these could be secured through appropriate conditions attached to any such permission, should such be granted.
- 8.40. It is thus considered that art.12(1) of the EC Habitats Directive has been duly considered in that, notwithstanding the proposed development, the welfare of any protected species found to be present at the site and surrounding land could be safeguarded subject to appropriate conditions attached to any such permission. It is therefore considered that the proposal is acceptable in this respect having regard to the Policy ESD 10 of the CLP and Government guidance in the NPPF - Conserving and enhancing the natural environment.

Other matters:

- 8.41. The site is part of a former working farm and within an area identified as having potential for land contamination associated with such historical uses. Whilst the potential for land contamination to affect the proposed development is considered to be low, it is considered that due regard for this potential would need to be had during the construction phase, and if during development, contamination is found to be present at the site, that no further development should be carried out until full details of a remediation strategy detailing how the unsuspected contamination would be dealt with has been submitted to and approved in writing by the Local Planning Authority.
- 8.42. It is considered that these details could again be secured through an appropriate condition attached to any such permission, to ensure that risks from land contamination are minimised and to ensure that the development can be carried out safely without unacceptable risks in accordance with saved Policy ENV12 of the CLP 1996 and Government guidance contained within the NPPF.

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

- 9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 9.2. In reaching an informed decision on planning applications there is a need for the Local Planning Authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. It is also necessary to recognise that Section 38 of the 1990 Act continues to require decisions to be made in accordance with the development plan and the NPPF highlights the importance of the plan led system as a whole.
- 9.3. While the change of use of the building to residential use in this location could be considered acceptable in terms of the sustainability of the location and would be acceptable in terms of highway safety and residential amenity, the proposals represent an inappropriate form of development which, by virtue of the additions and alterations proposed, would cause *less than substantial* harm to the historic environment in this location.
- 9.4. Officers do not consider that there is a public benefit of this proposal that would outweigh the harm to the character, appearance and significance of the Grade II

Listed Building and its setting within the surrounding Conservation Area, which is clear, significant and demonstrable. It is to be noted that the Council has previously granted permission for schemes that would not cause the same level of harm.

- 9.5. The proposals are therefore considered contrary to the above mentioned policies and as such the application is therefore recommended for refusal for the reason set out below.

## **10. RECOMMENDATION**

That permission is refused, for the following reason:

1. The proposals, by virtue of their siting, scale and design, would result in incongruous additions to this simple arrangement of traditional buildings of agricultural character and would result in significant and demonstrable harm to the special character and historic significance of the listed building, the setting of adjacent grade II listed building and the setting of the surrounding Deddington Conservation Area. The less than substantial harm caused is clear, significant and demonstrable and is not outweighed by the proposal's benefits. The proposals therefore conflict with saved Policies H21, C21, C28 and C30 of the Cherwell Local Plan 1996, Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1, and Government guidance contained within the National Planning Policy Framework.

### **PLANNING NOTES:**

1. For the avoidance of doubt, the plans and documents considered by the Council in reaching its decision on this application are: Application form, Planning Statement/Heritage Asset Assessment, Windrush Ecology - Bat Survey Report (dated November 2017), and drawings numbered: 981-1, 981-2A, 981-3D, 981-4B, 981-5B and 981-6B, initially submitted with the application; and further revised drawings numbered: 981-3E, 981-4D, 981-5D and 981-6D, received during the application (21/03/2018).

CASE OFFICER: Bob Neville

TEL: 01295 221875

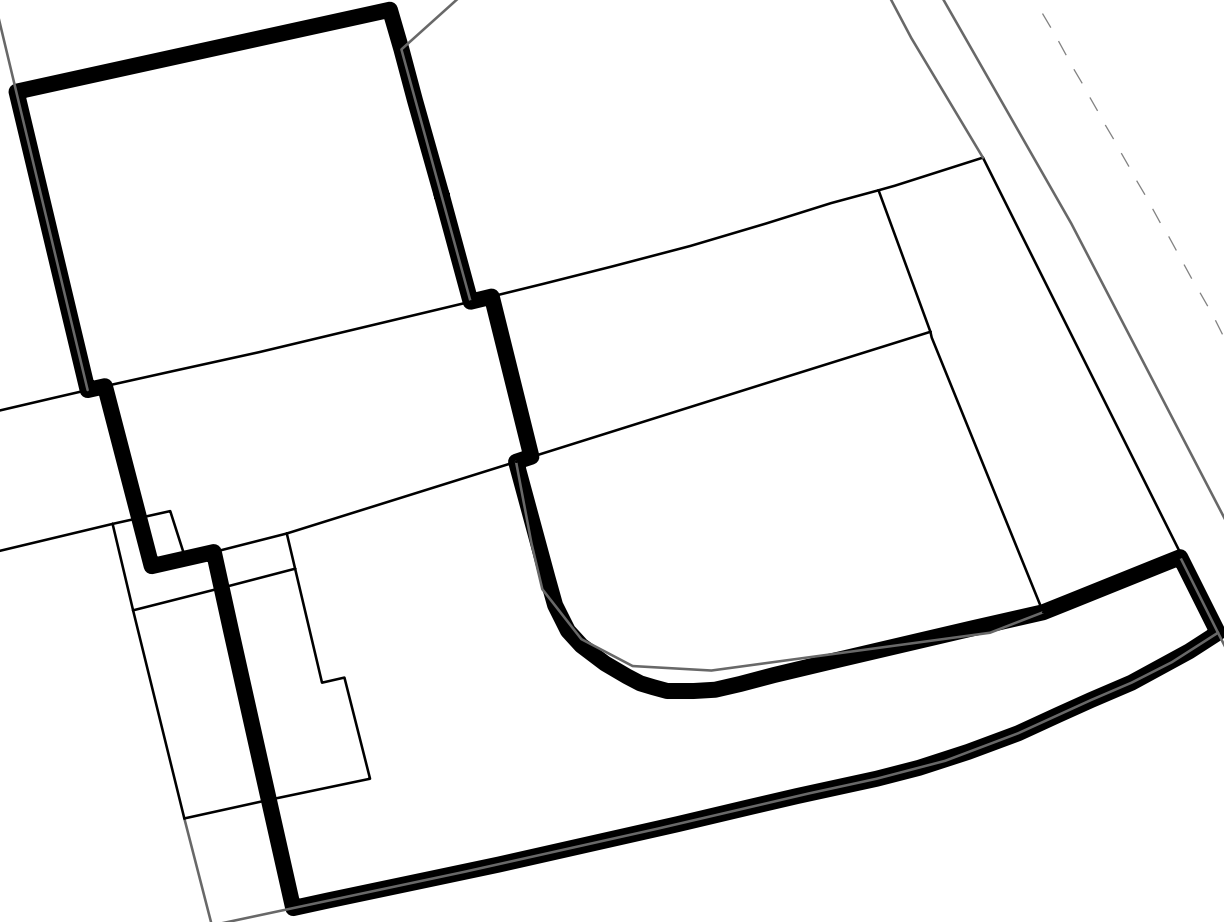
**18/00099/LB**

**Park Farm Agricultural Barn**  
**New Street**  
**Deddington**

Garage

Eaton House

124.6m



Park

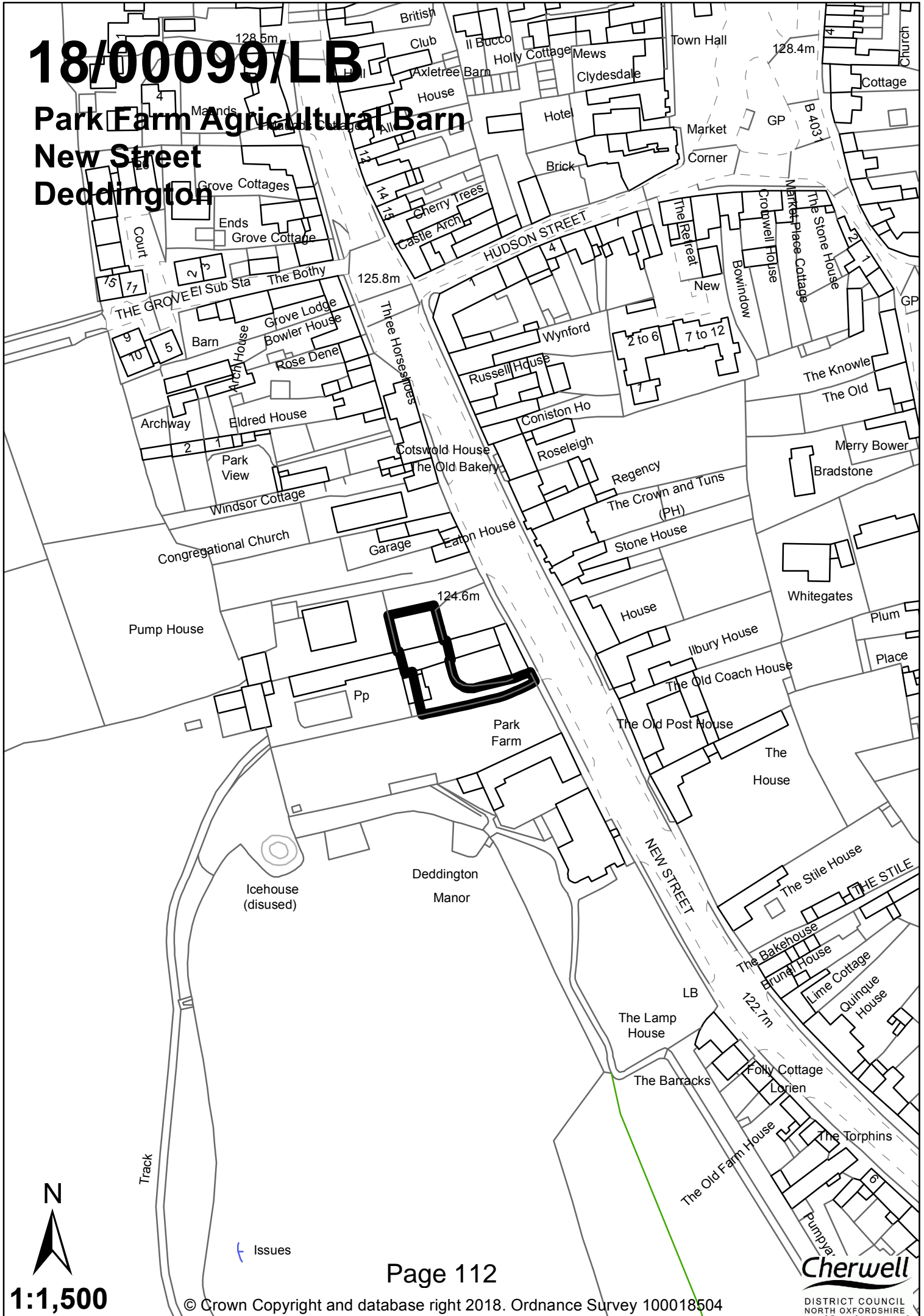
Farm



**1:300**

# 18/00099/LB

## Park Farm Agricultural Barn New Street Deddington



1:1,500

**Applicant:** Mr & Mrs Bryn Williams

**Proposal:** Conversion of existing barn and associated out-building/stables to residential use. Raise roof of out-building/stables by 860mm. New single storey extension to rear with living roof

**Ward:** Deddington

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

**Reason for Referral:** The applicant is one of the Ward Councillors

**Expiry Date:** 14 March 2018      **Committee Date:** 12 April 2018

**Recommendation:** Refusal

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

- 1.1. The application relates to an existing stone barn with natural slate roof, which is part of a wider complex of buildings in a linear arrangement, and which is considered to have previously formed part of Park Farm. Land levels drop across the site from east to west down from the access into the site. To the west of the barn are adjoining stables and previously converted buildings now in residential use. Attached to the south of the main barn is a single storey outbuilding which is of stone and red brick construction again under a natural slate roof. Whilst only single storey this outbuilding is on two levels, given the topography of the site, with only the top (eastern) section falling within the application's site boundary.
- 1.2. To the east of the barn are again adjoining buildings which have been converted to residential use, with grade II listed Park Farm House further to the east fronting on to New Street (A4260), one of the main routes through the village of Deddington. Adjacent to the south is a residential property and walled garden, whilst to the north there an agricultural building with residential properties beyond. The proposed site is accessed via an existing vehicular access off New Street which also serves Park Farm House and other previously converted building.
- 1.3. In terms of site constraints, the application building is a grade II listed building (curtilage listed by association to Park Farm House) and sits within the Deddington Conservation Area, which is considered of archaeological interest. The southern boundary wall is a grade II listed structure in its own right with further grade II listed buildings to the south, including Deddington Manor. There are records of protected and notable species (including Eurasian Badger and Common Swift) within the vicinity of the site. The site also sits within a buffer zone surrounding an area of potentially contaminated land north of the site; and further an area where the geology is known to contain naturally occurring elevated levels of Arsenic, Nickel and Chromium; as seen in many areas across the district.

**2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. The application seeks listed building consent for works associated with the alterations and extension to and conversion of the existing stone barn and outbuilding to form a 5-bedroom residential property, with integral garage, residential garden and associated parking. An associated application for planning permission has also been submitted and is being dealt with under ref. 18/00098/F.
- 2.2. Alterations to the main barn would include: the introduction of a new floor to provide first accommodation 4 no. bedrooms, all with en suite bathroom; new openings through the historic fabric of the building to provide access through to the outbuilding and new window openings in the northern elevation; the introduction of 4no double-pane rooflights to the northern roofslope; the introduction of 2no new small rooflights in the southern roofslope; the glazed infilling of the main barn opening in the southern elevation and the erection of a single storey flat-roofed extension across the main barn opening on the northern elevation with glazing above. The extension would be constructed in Hornton stone under a living green sedum roof.
- 2.3. With regards to the proposed alterations to the outbuilding, these would include: The raising of the overall roof height by ~0.8m; the introduction of a new floor to provide first accommodation play-room and bedroom with ensuite; the introduction of 3no new rooflights in the eastern roofslope; glazed door with Juliet balcony to the southern elevation; alterations to the eastern elevation, including the enclosing of existing opening and creation of new garage door/entrance, glazed section and front door; infilled using a timber frame construction, clad in horizontal weather boarding.
- 2.4. During the course of the application and following a site meeting with the applicant and his architect, revised plans were received, making minor amendments to the proposed development. Officers had raised concerns as to the acceptability of the proposals as originally submitted. Unfortunately these revised plans have not sufficiently addressed the concerns of officers to the extent that the application could be considered acceptable by officers. However, accepting amended plans has resulted in the application going beyond its original determination target; through the need for the appropriate consideration and re-consultation of the amendments and to allow for the applications to be presented to planning committee.

**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>
CHN.635/91	Alterations to existing accesses vehicular and pedestrian. Conversion of existing agricultural barns into dwellings - 3 No. new houses proposed.	Application permitted
96/00518/F & 96/00519/LB	Renewal of CHN.635/91. Alterations to existing accesses vehicular and pedestrian. Conversion of existing agricultural barns into dwellings - 3 No. new houses proposed.	Applications permitted
01/00597/F & 01/00598/LB	Renewal of 96/00518/F alterations to existing vehicular and pedestrian accesses. Conversion of agricultural barns into dwellings - 3 No. new houses proposed.	Applications permitted



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)

- ESD15: The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C18: Development affecting a listed building
- C21: Proposals for the reuse of a listed building
- C28: Layout, design and external appearance of new development

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Deddington Conservation Area Appraisal 2012
- Deddington Neighbourhood Plan (Pre-submission version) (DNP)

The neighbourhood plan for Deddington, which also covers the villages of Clifton and Hempton, is still at an early stage. A pre-submission version of the plan has been accepted by the Parish Council and has been submitted to Cherwell District Council as part of the consultation process. Given the early stages of the plan, in accordance with Paragraph 216 of the NPPF, no significant weight can be given to it as a material consideration at this time.

- Historic England - Adapting Traditional Farm Buildings: Best practice guidelines for adaptive reuse (2017).
- Cherwell District Council’s informal guidance - Design Guide for the conversion of farm building (2002)

## **8. APPRAISAL**

8.1. The key issue for consideration in this case is the impact on the historic significance and setting of the listed building(s).

8.2. Section 16(2) of The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that: *In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* Further, under Section 72(1) of the same Act the Local Planning Authority has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

8.3. Listed Buildings and Conservation Areas are designated heritage assets, and Paragraph 129 of the NPPF states that: *Local planning authorities should identify*



*and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise.*

- 8.4. The site is part of a complex of buildings that would have previously formed part of Park Farm, and its use, whilst currently unused, would have been agricultural in its nature. From review of historical maps and literature (as noted in the Conservation Officer's comments) the linear form of the agricultural buildings at the site has change very little over the years; with records dating back to the early 1800s.
- 8.5. The proposals would make a number of significant alterations to both the main barn and the outbuilding which projects away from the main barn to the south (these are detailed above). Officers appreciate and support the applicants' desire to bring the building back into use and provide a large family home through a change from agricultural to residential use, and the benefits that this would bring; not only to the applicants personally, but also potentially to the historic building securing its mid- to long term future. However, this needs to be balanced against what can be realistically achieved ensuring the preservation of the historic building and any features that it may have as a designated Heritage Asset and its setting within the designated Deddington Conservation Area.
- 8.6. Historic England considers that traditional farm buildings are among the most ubiquitous of historic building types in the countryside, stating that: *'they are not only fundamental to its sense of place and local distinctiveness, but also represent a major economic asset in terms of their capacity to accommodate new uses. The restructuring of farming and other economic and demographic changes in the countryside provide both threats and opportunities in terms of retaining the historic interest of this building stock and its contribution to the wider landscape'*.
- 8.7. A number of the proposed alterations and the garden room extension are not considered sympathetic to the context and fail to reflect or reinforce the character or architectural/historic interest of these Grade II listed agricultural buildings and the wider farmyard setting.
- 8.8. The Council's Conservation Officer objects to the proposals considering them detrimental to the character and appearance of the building and having little regard to the historic and architectural interest of the former agricultural buildings, causing harm to the Heritage Asset, the historic farm complex and its setting within the Conservation Area; an opinion shared by the case officer.
- 8.9. Of particular concern is the proposed garden room/utility room extension to the northern elevation. This proposed extension not only compromises one of the primary and most significant features of the existing barn, its cart door openings through the building, it would also extends the building in a direction contrary to the predominantly linear nature of the building. This would appear as an incongruous addition, which notwithstanding the proposed green Sedum roof would be visible from the public domain, with views experience from the north-east.
- 8.10. CDC informal farm building conversion guidance advises that accommodation should aim to be contained wholly within the existing buildings and in the rare cases where extensions are proposed they should be of traditional form such as simple lean-to out-shots. It would be highly unusual to have an outshot across the midstre (main cart door opening) which was a clear opening front to back; it would also be odd to have an outshot near a midstre due to the turning circles of carts and the need to open the large doors. The opportunity to extend this barn has already been taken on its south elevation, leaving the north elevation simple and free from appendages, which is one of the key features that contributes to the character of the building and its setting within the Conservation Area.
- 8.11. The current proposals also include the raising of the roof of the subservient outbuilding (increasing not only the ridge height increased but also the eaves height)

and alterations to its eastern and southern elevations, not only increasing its prominence within the site, but also changing its general character and appearance from that which would have appeared as a simple cart-shed/store set against and ancillary to the main barn.

- 8.12. A number of other overly domestic features included within the scheme further compound the harm that would be caused, detracting from the agricultural character and nature of the buildings and the wider site. These include: the proposed Juliet balcony, new full height window openings and the introduction of a significant number of rooflights into the roofs of both outbuilding and main barn.
- 8.13. Paragraph 132 of the NPPF states that: *'when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the 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 echoes this guidance.
- 8.14. Paragraphs 133 and 134 of the NPPF both require the decision maker to weigh the level of potential harm against the public benefits of the proposal. In this case the harm caused is considered to be less than substantial. Where the proposal will lead to a less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 8.15. In this instance whilst the proposals would see a currently vacant building being brought back into use and also provide the applicant with a residential property to meet his family needs, the public benefit of the proposals is not such that it would outweigh the significant harm to the architectural and historic interest of the listed building, identified above. It is to be noted that the Council has previously granted permission for schemes that would not cause the same level of harm.
- 8.16. It is considered that the proposals would cause harm to the grade II listed building and setting of other adjacent grade II listed buildings and boundary wall and the proposals are therefore considered to be contrary to the provisions and aims of both local and national policy guidance with regards to the conservation and enhancement of the historic environment.

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

- 9.1. The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having 3 dimensions: economic, social and environmental. Also at the heart of the NPPF is a presumption in favour of sustainable development and in the context of this application this would include conserving and enhancing the historic environment.
- 9.2. It is considered that proposals would result an inappropriate form of development which, by virtue of the additions and alterations proposed, would cause *less than substantial* harm to the historic environment in this location. Officers do not consider that there is a public benefit of this proposal that would outweigh the harm to the character, appearance and significance of the Grade II Listed Building, its setting within the Deddington Conservation Area and the setting of adjacent grade II listed buildings and structures.
- 9.3. The proposals are therefore considered contrary to the above mentioned policies and as such the application is therefore recommended for refusal for the reason set out below.

## **10. RECOMMENDATION**

That permission is refused, for the following reason:

1. The proposals by reason of their siting, scale and design, cumulatively represent an awkward and inappropriate form of development that would result in significant and demonstrable harm to the special character and historic significance of the listed building and its setting within the Deddington Conservation Area. The less than substantial harm caused is clear, significant and demonstrable and is not outweighed by the proposal's benefits. The proposals therefore conflict with saved Policies C18, C21 and C28 of the Cherwell Local Plan 1996, Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1, and Government guidance contained within the National Planning Policy Framework.

### **PLANNING NOTES:**

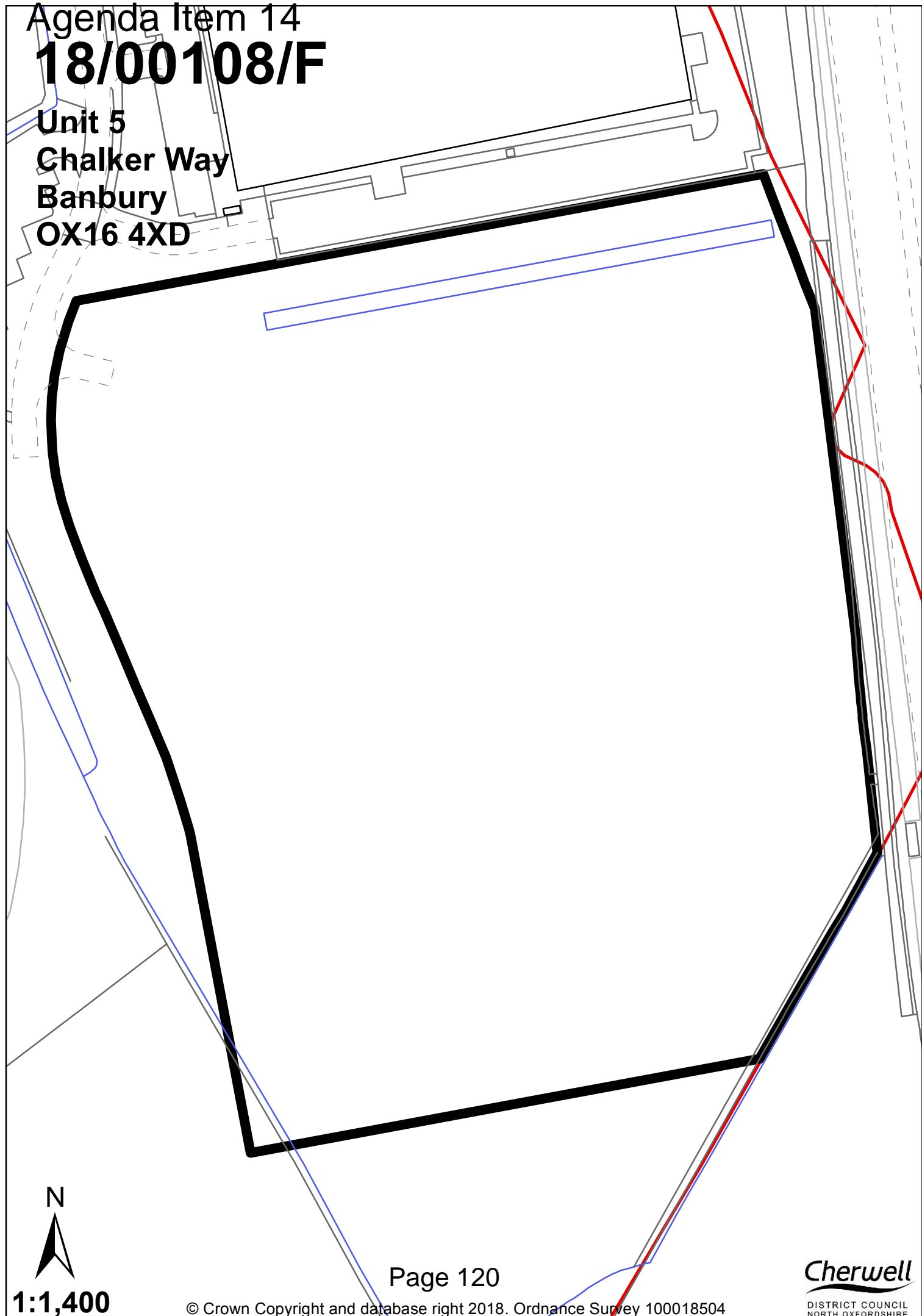
1. For the avoidance of doubt, the plans and documents considered by the Council in reaching its decision on this application are: Application form, Planning Statement/Heritage Asset Assessment, Windrush Ecology - Bat Survey Report (dated November 2017), and drawings numbered: 981-1, 981-2A, 981-3D, 981-4B, 981-5B and 981-6B, initially submitted with the application; and further revised drawings numbered: 981-3E, 981-4D, 981-5D and 981-6D, received during the application (21/03/2018).

CASE OFFICER: Bob Neville

TEL: 01295 221875

Agenda Item 14  
**18/00108/F**

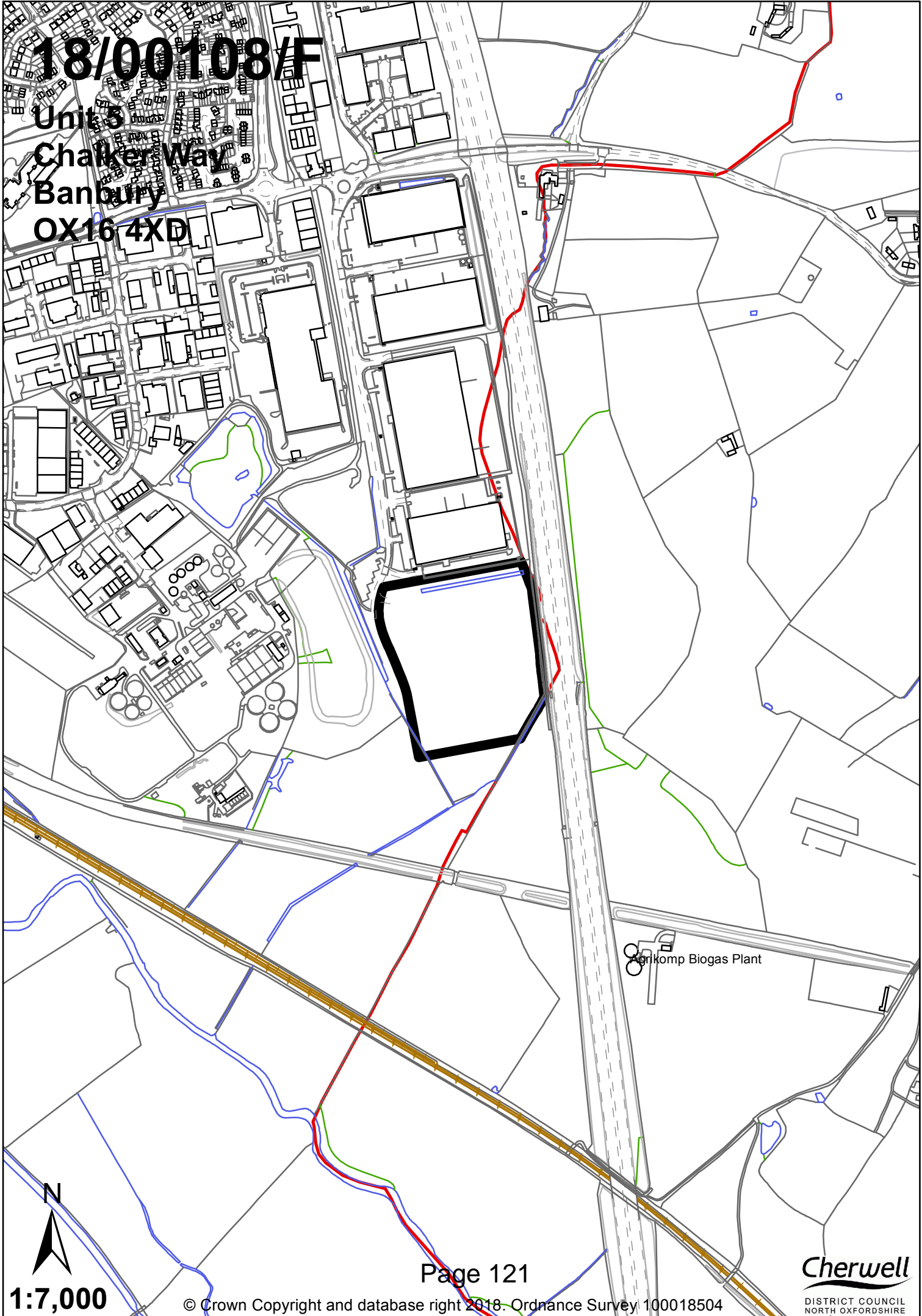
**Unit 5  
Chalker Way  
Banbury  
OX16 4XD**



**1:1,400**

**18/00108/F**

**Unit 3  
Chalker Way  
Banbury  
OX16 4XD**



**1:7,000**

**Applicant:** DB Symmetry Ltd

**Proposal:** Full planning permission for 30,007.5 sqm of logistics floor space, within Class B8 of the Town and Country Planning Use Classes Order 1987, including ancillary Class B1 (a) Offices (929 sqm), service yard and access to Chalker Way.

**Ward:** Banbury Grimsbury And Hightown

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

**Reason for Referral:** *Major Application*

**Expiry Date:** 26 April 2018                      **Committee Date:** 12 April 2018

**Recommendation:** Approve

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

- 1.1. This application relates to 5.57 hectares of land to the south of Overthorpe Road on land that forms part of the BAN 6 allocated site. Access to the site is taken from Chalker Way, the new road that runs south from the Overthorpe Road roundabout. The site lies south of the Unit occupied by Prodrive and is between Chalker Way and the M40. Other warehouse units will be built adjacent to this proposed unit further south on Chalker Way.
- 1.2. The site lies centrally within the BAN 6 employment land allocation contained in the adopted Cherwell Local Plan 2011-2031.
- 1.3. The site is predominantly characterised by patch scrub and rough grassland and is part of an area that is divided up into smaller fields by native species hedges and drainage ditches. The site is very visible to motorists on the M40 and there are longer distance views from Overthorpe, the road between Kings Sutton and Overthorpe and the A422 near Middleton Cheney, all of which sit on the higher ridgeline to the east.

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

- 2.1. In November 2012 outline planning permission was granted for the erection of large scale B2 and B8 buildings on this land subject to a height restriction of 16 metres. In July 2014 a revised outline planning permission was granted which allowed buildings up to 16.75 metres high, and in March 2016 a reserved matters approval was given for Unit 5 (and Units 6-8) which complied with this parameter.

- 2.2. The purpose of this application for full planning permission is solely to allow the height of building already approved as Unit 5 to be higher, with a maximum height of 18.25 metres rather than the 16.75 metres previously allowed, i.e. an increase of 1.5 metres.
- 2.3. The building is large having a length of 240 metres and a depth of 125 metres .Unit 5 is proposed to be oriented with its long rear elevation parallel to the motorway, and is set some 55-60 metres from the motorway boundary. It would have its service yard on this side of the building with a minimum of 10 metres of landscaping near the motorway boundary. Unit 5 will have its requisite parking on the Chalker Way road frontage of the building, replicating the arrangement seen at Units 1-4 to the north. These servicing and car parking arrangements have been previously approved.
- 2.4. The design of the building is also as previously approved and follows the strong pattern established by Units 3 and 4 to the north, and Units 7-8 which have recently been completed, with low barrel-vaulted roof design of distinctive and not unattractive appearance. The roof colouring is dark grey with matching eaves fascia and soffit. The wall cladding is proposed in a format consistent with that previously agreed, and used adjacent, of Alaska grey (a mid grey colour) at lower and higher level, with a substantial silver mid-section. The office sections are proposed with horizontal spanning composite micro-rib metal panels in silver. The combination of design and materials will give this group of buildings a distinctive characteristic and high quality appearance.

### 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>
11/01878/OUT	Erection of up to 115,197 sqm of floorspace to be occupied for either B2 or B8 (use classes) or a mixture of both B2 and B8 (use classes). Internal roads, parking and service areas, landscaping and the provision of a sustainable urban drainage system incorporating landscaped area with balancing pond and bund (OUTLINE)	Application Permitted
11/00029/SO	Screening Opinion to 11/01878/OUT - Erection of up to 115,197 sqm of floorspace to be occupied for either B2 or B8 (use classes) or a mixture of both B2 and B8 (use classes). Internal roads, parking and service areas, landscaping and the provision of a sustainable urban drainage system incorporating landscaped area with balancing pond and bund	Screening Opinion not requesting EIA
14/00175/REM	Reserved Matters to Outline application (14/00180/OUT) - Approval of appearance, landscaping, layout and scale	Application Permitted

14/00180/OUT	Variation of Condition 29 (Height of building to enable Unit 1 to be constructed to an overall height of 16.75m) of 11/01878/OUT	Application Permitted
14/00407/ADJ	Variation of conditions 25 and 29 on S/20144/1620/MAO - Change of roof colour to Goosewing Grey and alter height of Unit 1 to 16.75m.	No Objections
15/02206/REM	Reserved matters pursuant to Condition 5 (Phase 2) OF 14/00180/OUT	Application Permitted

#### 4. PRE-APPLICATION DISCUSSIONS

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

#### 5. RESPONSE TO PUBLICITY

- 5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 01.03.2018, 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** has no objections to this application. The town council would like to highlight the reservation of land for a future highway connection to bypass the Town Centre.

##### STATUTORY CONSULTEES

- 6.3. **Highways England** raise no objections
- 6.4. **Thames Water** has no objection from a sewerage infrastructure capacity point of view. With regards to surface water drainage it is the responsibility of the developer to make proper provision for drainage to ground, water courses or a suitable sewer with appropriate attenuation. With regards to water supply TW recommend the imposition of a condition requiring an impact study.



- 6.5 **South Northamptonshire Council** has no objections subject to:
- A condition to replace condition No. 29 on the outline permission S/2014/302/MAO (CDC ref: 11/01878/OUT) to restrict the height of the buildings to 18.25m and;
  - The re-imposition of the undischarged and ongoing/restrictive conditions attached to the original outline S/2014/302/MAO (CDC ref: 11/01878/OUT) and the reserved matters S/2015/2899/MAR (CDC ref: 15/02206/REM) and;
  - Conditions to require the development to comply with those plans and details already agreed/discharged on the original outline and reserved matters permissions (i.e. outline S/2014/302/MAO (CDC ref: 11/01878/OUT) conditions 1 (phasing plan); 2 (drainage principles); 3 (fluvial flood compensation); 4 (reptile translocation); 6 (land contamination); 7 (archaeology); 8 (landscape management); 9 (drainage strategy); 10 (further ecological survey work); 11 (Construction Traffic Management); 12 (Travel Plan); 14 (landscape buffer); 15 (protection of public footpath); 16 (replacement trees); 17 (ground re-profiling); 19 (footpath construction); AND reserved matters S/2015/2899/MAR (CDC ref: 15/02206/REM) conditions 2 (amended ecological enhancements plan); conditions 3 (ecological enhancements).

- 6.6 **Oxfordshire County Council** raise no objection. They acknowledge that the current development proposals shall not likely create an adverse effect on the local network.
- Legal obligations and conditions relating to the extant outline and reserved matters planning consents must be duly fulfilled/carried over into any new consent.
- OCC continue to seek the safeguarding of land for the South East Relief Road as per the legal agreement associated with the extant permission for this site dated 27th November 2012 and as indicatively shown on page 12 of the adopted Banbury Vision and Masterplan SPD (December 2016)

#### NON-STATUTORY CONSULTTEES

- 6.5. **CDC PRoW team** has no objections as the public footpath numbered 58 which runs across the site of Unit 5 at Chalker Way is currently in the process of being permanently diverted.

I can further advise that the Public Path Diversion Order was made back on 19 December 2016. I am, however, still awaiting confirmation from either the agent (Framptons) or the developer (db Symmetry) that the new diversion route has been fully constructed, and is now accessible for use by members of the public. Once this notification has been received I will be in a position to get the made Order confirmed and certified. The relevant planning officer will be asked to undertake a site visit to inspect the new footpath route once this has been fully constructed and they will be asked to sign a certification of works form to confirm to legal that they are completely satisfied with it. Once all this has been completed I will then be in a position to finalise the Diversion Order process.

(The applicants have responded in reply to say that the diversion route has not yet been fully constructed. The two industrial units (Units 5 and 6) that led to the diversion have not yet been constructed; therefore the diversion cannot yet be fully formed. It is hoped that Units 5 and 6 will be constructed by the end of summer 2018, from which point the footpath will be accessible for the public)

- 6.6 **CDC Environmental Health Officer** has no comments to make on noise, contaminated land, air quality, odour or light.

6.7 **CDC Ecology** comment that **if** this application is just for a change in the height of the agreed units with no further changes to land take, landscaping, lighting etc.. over that previously agreed then I do not think a further ecological appraisal would be required for this specific aspect.

6.8 **CDC Planning Policy** do not wish to comment

## **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
- ESD13 – Local Landscape Protection and Enhancement
- BAN 6 - Employment Land West of M40

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

- C28 – Layout, design and external appearance of new development

7.3. Other Material Planning Considerations

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

## **8. APPRAISAL**

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

- Principle of development
- The increased visual impact of the development due to the increased height
- Impact upon the nearby scheduled ancient monument and heritage asset
- Revised conditions
- The need to vary the existing legal agreement

### Principle of development

8.2. The principle of this land use has been established by the allocation of the land in the Cherwell Local Plan policy BAN 6, and by the granting of outline planning permissions as set out above. Furthermore the Council has already agreed to a building of this footprint in this location, with the identical servicing and parking arrangements, by the approval of a reserved matters consent. The proposal does not change the availability of the possibility of using Chalker Way as part of a southern distributor road. There have been no changes in policy context or local circumstances that would alter that previous consideration and therefore the

principle is considered acceptable and the sole substantive issue is the assessment of impact from the raised height proposed.

### Visual impact

- 8.2 As noted above in para 2.4 above the design of the building is as previously approved and follows the strong pattern established by Units 3 and 4 with low barrel-vaulted roof design of distinctive and not unattractive appearance. Along the motorway frontage this building will continue the trend started by Unit 3 of stepping back into the site from the original positioning on Units 1 and 2. (Unit 4 broke this trend by being oriented East-West rather than North-South and comes closer to the motorway as a result). The obvious quality of the end product and their distance from the motorway will result in an acceptable relationship and appearance from this side. The provision of the 10 metre wide landscaping belt will in time provide adequate screening of the service yards.
- 8.3 Views from the east are obtainable from sporadic locations near Overthorpe and from the Banbury-Middleton Cheney road. Extensive views over Banbury are obtainable from these locations (mainly in South Northamptonshire) and this building will be in the middle foreground with the remainder of the town beyond, as are other units now built on this estate which are set further from the motorway. The use of dark grey for the roofing will help to blend the building into the extensive rural and urban view.
- 8.4 Longer distance views from this district are only really obtainable from the south west off the southern end of Bankside. From here the upper walls and roof of the Prodrive building are just visible, but new buildings recently completed on this estate are now seen in front of that building, and will similarly conceal this building.
- 8.5 The principal issue is whether the increase in height of this one building, albeit a large one, will be harmful to the visual amenities of the short or long range views identified above, or will the height increase even be discernible. From the M40 and from some lower viewpoints it will be possible to discern this increased height by comparison to the buildings which are adjacent. However, this increase of 1.5 metres is relatively minor and will not detract from the composition of the building group, or over-dominate the adjacent buildings or the motorway/Chalker Way routes from which the building is set back from by service yard/ car parking and landscape belts. From longer distance views (which are on higher land) the increased height will be barely distinguishable in your officer's opinion. Overall therefore it is concluded that the increased height will not be harmful and should be agreed.

### Impact upon the scheduled ancient monument and heritage asset

- 8.6 The Council has a duty to consider whether a development affects the significance or setting of a scheduled ancient monument. The monument (which is a former WW1 munitions factory site) is on the eastern side of the motorway. The outline planning permission and reserved matters approval for the first phase were granted in the full knowledge of the SAM and of the non-listed asset on the western side of the motorway. In those cases it was concluded that the development would not be harmful to the setting of the SAM. In this case I see no reason to alter that previously reached conclusion.
- 8.7 When dealing with the earlier reserved matters application for this unit English Heritage withdrew an earlier objection about the possible impact upon a non-listed asset (a further section of the munitions works the remains of which had largely been destroyed by the building of the motorway). As a consequence it is not considered that there is any conflict with Policy Banbury 6 or ESD 15.

### Revised conditions

- 8.8 A number of submissions of details to clear conditions attached to the earlier reserved matters approval for Unit 5 have been made and clearance given. Most of these are equally applicable to this potential consent. Therefore the conditions package set out below is structured to refer back to previous approvals.

### Legal Agreement

- 8.9 The original outline planning permission was the subject of a legal agreement to secure highway contributions and the monitoring and implementation of a travel plan. That agreement was amended with respect to the second outline consent referred to above and will need further amendment if this permission is to be granted. The applicant has provided a draft Unilateral Undertaking to affect this change. An officer view on the acceptability of that document will be reported to Committee.

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

- 9.1. The Council is committed through land allocation in the adopted Local Plan (Policy BAN 6), the granting of outline planning permission, and approval of reserved matters, to a warehouse building of this siting and footprint. The consideration of this application should therefore be focussed upon the assessment of the impact of the increased 1.5 metres in maximum height now proposed.
- 9.2. As explained in paras 8.2-8.5 above it is considered that this increased height will be of negligible significance and will not cause harm to the appearance of this group of buildings, short range views or longer range views from the wider countryside.

## 10. RECOMMENDATION

That permission is granted, (i) subject to the land-owners entering into an appropriate legal agreement and (ii) 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:

- Site location plan(dwg. No. 6235-001)
- Site layout plan (dwg no 6235-002)
- Proposed elevations (dwg no 6235-004)
- Site layout plan external finishes (dwg no 6235-003)
- Proposed context elevation (dwg no 6235-006)
- Design and access statement (Dec 2011) and addendum document (April 2012)
- Architectural design statement (prepared AJA)
- Landscape and Visual Assessment addendum (prepared by Aspect dated Dec2017, re 6421.LVIA Addendum 004)
- Transport Assessment Technical Note (ref C07009C)
- Flood Risk Assessment Technical Note (ref C07009C)

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 drainage strategy for the site shall be in general accordance with the FRA prepared by Peter Brett Associates dated Dec 2011 and the details approved by the Council under application ref.no. 16/00354/DISC on 6 October 2016 and all works shall be complete prior to the occupation of the building

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

4. The flood storage area and associated landscaping, ground re-profiling, and ecological enhancement shall be undertaken in accordance with the details approved by the Council under application 16/00167/DISC on 27 June 2016 ,and planting plans dwg no 4995/ASPOO1-11Rev C/D referred to in Frampton's letter dated 17 January 2018 with respect to conditions 3 and 8 of the Outline Planning permission 14/00180/OUT, and all relevant works shall be complete prior to the occupation of the building

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

5. The strategy for the translocation of reptiles, including the identification of receptor sites, the management scheme, landscaping and the arrangements for implementation. shall be undertaken in accordance with the 'Revised Reptile Mitigation Method Statement (Phase 2 Development) (February 2016 - Ref EDP1419\_07f)' approved under application 15/00512/DISC on 29 February 2016

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

6. The development shall be implemented in accordance with the land contamination strategy set out in the Land Contamination Report, in accordance with the 'Desk Study and Ground Investigation at Overthorpe Road, Banbury - Combined Report (Hydrock Ref: R/11237/003 - March 2013)' submitted in application reference no 15/00062/DISC approved on 23 January 2017

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

7. The development shall be undertaken in accordance with the Archaeological Written Scheme of Investigation, in accordance with the documents titled "Project specification for an archaeological excavation and recording action" - 8th January 2016 (revised 25/5/16) ORB16-150exc; and "Spital Farm, Overthorpe Road, Banbury, Oxfordshire - An Archaeological Evaluation for Kennet Properties" - SFB04-60 (October 2008) submitted in application reference no 15/00062/DISC and approved by the Council on 23 January 2017

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

8. Landscape management and tree planting shall be undertaken in accordance with the Landscape Management Plan Ref No 4995.LMP.005.VF(March 2016) submitted as part of application 16/00167/DISC approved by the Council on 27 June 2016

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

9. No development shall commence until an up to date (no more than one year old) badger, otter, bat roost and reptile survey has been submitted to and approved in writing by the Local Planning Authority. The survey reports shall include full details of the precautionary, mitigation, translocation, and compensation measures that are required to be implemented as a result of the findings.

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

10. Construction Traffic Management shall be undertaken in accordance with the Construction Traffic Management Plan (CTMP) for Phase 2 of the development, including full details of wheel washing facilities, a restriction on construction and delivery traffic during construction and a route to the development site. In accordance with the 'Central M40 (Units 5, 6, 7 and 8) Construction Traffic Management Plan (dated February 2016)' submitted under application ref no 15/00512/DISC and approved by the Council on 29 February 2016.

Reason - In the interests of highway safety and to safeguard the amenities of the occupants of the adjacent dwellings during the construction period and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

11. The development hereby approved shall be the subject of the Travel Plan for Phase 2 of the development, in accordance with the 'Travel Plan - Units 5, 6, 7 and 8 (March 2016)' document submitted under application ref.no. 16/00131/DISC and approved by the Council on 29 April 2016.

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

12. The existing public footpath on the site shall be protected and fenced as set out in the covering letter from Frampton's dated 5th August 2014 and the Heras Fencing details submitted in respect of S/2011/1620/MAO and received 04 February 2014 as submitted under application ref no 14/00035/DISC and approved by the Council on 9<sup>th</sup> December 2014.

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

13. The building 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.

14. The new public footpath to be provided shall be built in accordance with e details submitted under ref no 14/00259/DISC and approved by the Council on 16 October 2014

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

15. The proposed means of access shall be provided prior to the first occupation of the building hereby approved in accordance with the details submitted under application ref no 15/00178/DISC and approved by the Council on 3 August 2015

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

16. The ecological enhancement measures relevant to this site proposed in submitted in application ref.no.16/00505/DISC and approved by the Council on 21 November 2016 shall be implemented prior to its first occupation

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

17. No external lighting shall be installed until details of all external lighting, security lighting and floodlighting including the design, position, orientation and any screening of the lighting has been submitted to and approved in writing by the Local Planning Authority. The lighting shall be installed and operated in accordance with the approved scheme at all times thereafter.

Reason - In order to safeguard the visual amenities of the area in accordance with Policy C28 of the adopted Cherwell Local Plan, ESD 15 of the Cherwell Local Plan 2011-2031 (Part 1) and Government guidance contained within the National Planning Policy Framework.

18. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with the approved drawings. The covered cycle parking facilities so provided shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.

Reason : In the interests of promoting sustainable transport modes in accordance with Government advice in the National Planning Policy Framework

19. The existing areas shown for parking, turning and/or loading and unloading on the approved plan(s) shall be permanently set aside and reserved for that purpose unless otherwise agreed in writing by the Local Planning Authority.

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

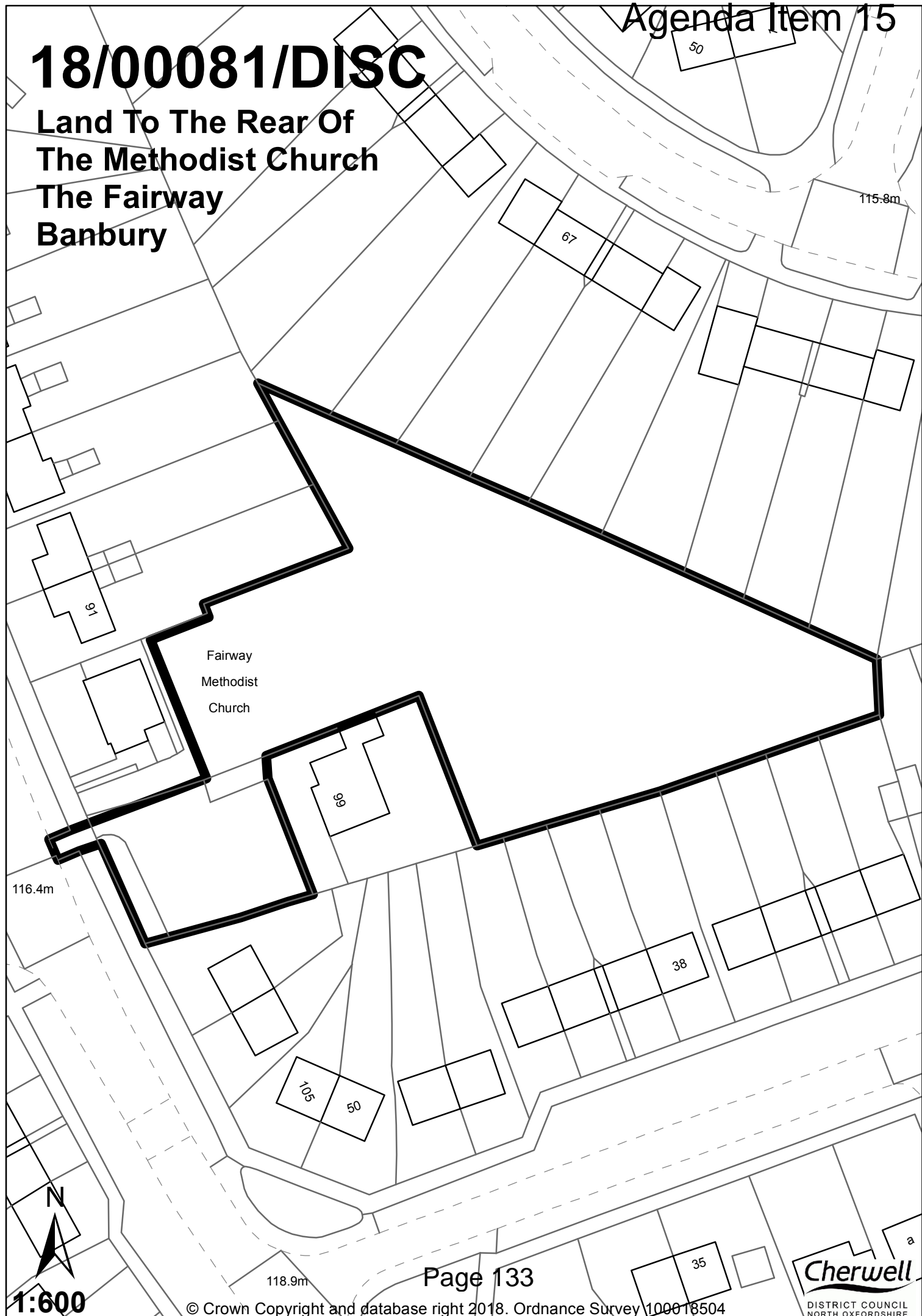
CASE OFFICER: Bob Duxbury

TEL: 01295 221821



# 18/00081/DISC

## Land To The Rear Of The Methodist Church The Fairway Banbury



Fairway  
Methodist  
Church

99

38

105

50

35

116.4m

118.9m

115.8m

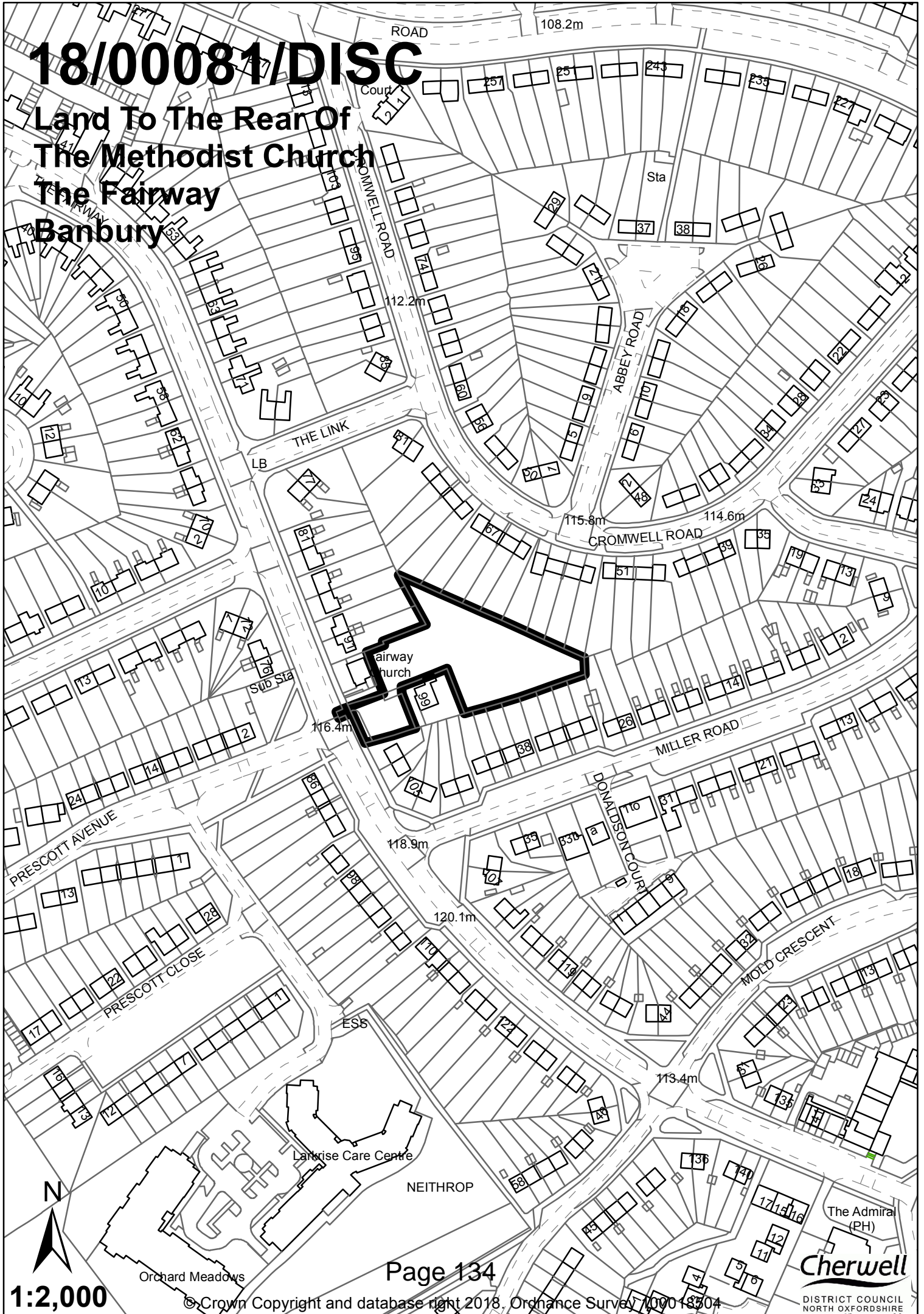
50

67

91

# 18/00081/DISC

Land To The Rear Of  
The Methodist Church  
The Fairway  
Banbury



1:2,000

**Applicant:** Cherwell District Council

**Proposal:** Discharge condition 5 (landscaping) of 16/00313/CDC

**Ward:** Banbury Ruscote

**Ward Councillors:** Cllr Barry Richards, Cllr Sean Woodcock, Cllr Mark Cherry

**Reason for Referral:** CDC application

**Expiry Date:** 10.04.2018                      **Committee Date:** 12.04.2018

**Extension of Time:** 13.04.2018

**Recommendation:** Approval

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## 1. SITE DESCRIPTION AND PROPOSED DEVELOPMENT

- 1.1 The application site is a triangular parcel of land situated to the rear of The Methodist Church on The Fairway; the Church itself currently being rebuilt following approval of 13/01153/CDC. The site is in a predominantly residential area in Banbury with access being taken from the Fairway.
- 1.2 Planning permission was initially granted in December 2015 for the 'Erection of 11no residential units, upgrading the existing vehicular access and parking for the church facility as well as extending this access for the purpose of the proposed residential units, under reference 13/01372/CDC. A subsequent Section 73 "variation of condition" application (16/00313/CDC) was granted permission 12.01.2017, which allowed for the re-siting and redesign of two of the plots (10 and 11) of the approved scheme. The current application is seeking approval of the details required by condition 5 (landscaping) of the later permission.

## 2. CONSULTATION:

- 2.1 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.
- 2.2 CDC LANDSCAPE OFFICER: Initially raised concerns with regards to some of the plant species and the proposed layout the within the landscaping scheme; however these were later withdrawn following the submission of revised plans.

## 3. APPRAISAL

- 3.3 Condition 5 requires the submission and approval of a landscaping scheme, prior to the occupation of the development. An initial landscaping scheme was considered unacceptable

by officers, as for health and safety reasons some plant species were not considered appropriate in the context of the site surrounding a children's play area. Details were amended by the applicant following advice provided by the Council's Landscape Officer. Amended plans (1001 Rev. B) were received with a revised planting schedule, the detail of which is considered acceptable by officers.

- 3.4 The Landscape Officer made comment with regard to the proposed layout, play area and its boundary treatment, within his initial response. The proposed landscaping scheme is largely as was previously accepted with the approval of 16/00189/DISC, with only minor amendments to the layout of the buildings on plots 10 and 11 (as approved under 16/00313/CDC) being different. No significant concerns were raised during the assessment of the previous clearance of the landscaping condition application, and in planning officers' opinion it would now be unreasonable to look for significant amendments to the proposed scheme given the previous consent that was given.

#### **4. RECOMMENDATION – APPROVAL**

The Local Planning Authority considers that the details submitted pursuant to Condition 5 of planning permission 16/00313/CDC are acceptable, and as such it is recommended that the said conditions are discharged.

**Case Officer:** Bob Neville

**Contact Tel:** 01295 221875

## Cherwell District Council

### Planning Committee

12 April 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 **17/02014/F – South Barn, Wiggington, OX15 4LG.** Appeal by Mr Benians against the refusal of planning permission for extension to existing dwelling, landscaping, formation of an additional access from the road and change of use of land from agricultural to residential purpose.
- 2.2 Forthcoming Public Inquires and Hearings between 12 April and 24 May 2018.

**Planning Hearing commencing Tuesday 1 April 2018 at 10am Ground Floor Function Room, Banbury Town Hall, Banbury, OX16 5QB.** Appeal by Catesby Estates Ltd against the refusal of planning permission for outline – demolition of existing building and outline planning application for residential development of up to 37 dwellings (Use Class C3) including means of access into the site (not internal roads) and associated works, with all other matters (relating to appearance, landscaping, scale and layout) reserved (Resubmission of 16/01468/OUT). Land Adj to Manor Farm Barns, Spring Lane, Cropredy. 17/00778/OUT.

## 2.3 Results

Inspectors appointed by the Secretary of State have:

**1) Dismissed the appeal by Mr E + G King against the refusal of outline planning permission for the erection of 10 dwellings. Land South West of Mill Lane, Kirtlington. 16/02295/OUT (Committee).**

The Inspector considered that the main issue is the effect of the development on the character and appearance of the area.

The Inspector stated that the dwellings would turn their back on existing development in Kirtlington which is generally inward looking, therefore the development would appear at odds with the existing layout of development. The Inspector also noted that the long section of road to access the first house would be an excessive and visually intrusive piece of infrastructure which would cause significant harm to this visually more open and rural edge of village location. The Inspector was of the opinion that the development would instead appear as an additional layer of development that would not relate well to Kirtlington or the character and appearance of the area generally.

The Inspector concluded that the proposal would be harmful to the character and appearance of the area and this would not be mitigated by landscaping or house design, therefore the proposal would be in conflict with Policies ESD13 and ESD15 of The Cherwell Local Plan Part 1 (2011-2031) and C28 of the Cherwell Local Plan 1996.

Whilst the Inspector acknowledged that Policy Villages 2 (PV2) of the Cherwell Local Plan Part 1 allows for villages such as Kirtlington to accommodate limited additional housing on the scale proposed, the Inspector noted that the housing needs of the District are currently being met and over 75% of the housing allocated through PV2 has already been approved. This reduces the weight that can be given to this matter. The Inspector also acknowledged the modest social and economic benefits of the proposal and that the appellant stated that there is no better site in Kirtlington for such development, but the Inspector concluded that these matters do not outweigh the environmental harm. The appeal was therefore dismissed by the Inspector.

**2) Allowed the appeal by Mrs Copeland against the refusal of planning permission for a first floor extension above existing extension to create two further bedrooms. 5 Timms Road, Banbury, OX16 9DJ. 17/00902/F (Delegated).**

The proposal was refused by the Council on the basis that it would result in a visually incongruous form of development that would relate poorly to the existing dwelling and the surrounding streetscene. This would be exacerbated by the continued use of bricks that do not match the original dwelling.

The Inspector concluded, however, that the finished house would have an appearance very similar to that of another property in close proximity to the appeal site. It would also present a traditional form to the street elevation, repeating an existing bay window feature and extending the main roof.

On the basis of the above, the appeal was therefore allowed.

**3) Dismissed the appeal by J And R Homes Ltd against the refusal of planning permission for the erection of one detached dwelling with parking. 1 The Green, Chesterton, OX26 1UU. 17/01052/F (Delegated).**

The Inspector considered that the main issue was the effect of the development on the character and appearance of the area.

The appeal site is located within the residential curtilage of 1 The Green, which forms one of a pair of semi-detached houses similar to other properties located along the south side of Green Lane. Together numbers 1 and 2 are located on a corner plot, set at an angle facing the junction and have large front gardens. The Inspector notes that this is a deliberate design choice in responding to the corner location, creating a spacious character to this corner and resulting in a verdant approach to this part of the village, resulting in a gentle transition from the countryside and recreation grounds to the south and the more built up areas of the village beyond.

With regard to the effect of the development on the character and appearance of the area, the Inspector found that the development would introduce a significant built form to the front of number 1, fundamentally eroding the open character that currently exists. The Inspector noted other properties within the village that had gables close to the road, however none are comparable with the appeal site and the contribution it makes to the open character at this edge of village location.

The Inspector therefore concluded that the development would result in harm to the character and appearance of the area, failing to accord with the design aims of Policy ESD15 of the CLP 2031 Part 1, saved Policies C28 and C30 of the CLP 1996 and the requirements of the NPPF to reinforce local distinctiveness. The Inspector did not however agree with the Council that there was conflict with Policy Villages 1 of the CLP 2031 Part 1 in respect of the principle of the development.

In absence of benefits that would outweigh the harm identified, the appeal was dismissed.

**4) Dismissed the appeal by Mr Tagliaferro against the refusal of planning permission for an extension to form a new dwelling. 17 Somerville Drive, Bicester, OX26 4TU. 17/01469/F (Delegated).**

The proposal was for an end of terrace property sitting perpendicular to the road. The blank side elevation would immediately abut the pavement. The Council had previously approved a dwelling on the same site however this was

situated slightly away from the boundary. The inspector noted that most properties in the area, even those sitting perpendicular to the road, were set back from the edge of the road and this made an important contribution to the open character of the area. The proposal would be at odds with this and would appear as a discordant building in this context and fail to reinforce local distinctiveness.

The application was also refused as it was considered that the resulting size of the existing dwellings garden would be inadequate to provide a good standard of amenity for future residents. The inspector noted that Council had previously approved a similar sized garden on the site and was not convinced that the policy context had altered significantly since this. The inspector also noted the Council has no specific outdoor space standards. Given the history of the site and fact there is a large public open space to the front of the site the inspector concluded that the development was acceptable in this regard.

### **3.0 Consultation**

None

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

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

Option 1: To accept the position statement.

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

### **5.0 Implications**

#### **Financial and Resource Implications**

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

Comments checked by:

Denise Taylor, Group Accountant, 01295 221982,  
[Denise.Taylor@cherwellandsouthnorthants.gov.uk](mailto:Denise.Taylor@cherwellandsouthnorthants.gov.uk)

#### **Legal Implications**

5.2 There are no additional legal implications arising for the Council from accepting this recommendation as this is a monitoring report.



Comments checked by:  
Nigel Bell, Team Leader – Planning and Litigation, 01295 221687,  
[Nigel.Bell@cherwellandsouthnorthants.gov.uk](mailto:Nigel.Bell@cherwellandsouthnorthants.gov.uk)

### **Risk Management**

- 5.3 This is a monitoring report where no additional action is proposed. As such there are no risks arising from accepting the recommendation.

Comments checked by:  
Nigel Bell, Team Leader – Planning and Litigation, 01295 221687,  
[Nigel.Bell@cherwellandsouthnorthants.gov.uk](mailto:Nigel.Bell@cherwellandsouthnorthants.gov.uk)

## **6.0 Decision Information**

### **Wards Affected**

All

### **Links to Corporate Plan and Policy Framework**

A district of opportunity

### **Lead Councillor**

Councillor Colin Clarke, Lead Member for Planning

### **Document Information**

<b>Appendix No</b>	<b>Title</b>
None	
<b>Background Papers</b>	
None	
<b>Report Author</b>	Tom Plant, Appeals Administrator, Development Management, Cherwell and South Northants Councils.
<b>Contact Information</b>	01295 221811 <a href="mailto:tom.plant@cherwellandsouthnorthants.gov.uk">tom.plant@cherwellandsouthnorthants.gov.uk</a>