

**Committee:** Planning Committee  
**Date:** Thursday 22 November 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 Maurice Billington</b>
<b>Councillor Phil Chapman</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 Mike Kerford-Byrnes</b>	<b>Councillor Alan MacKenzie-Wintle</b>
<b>Councillor Richard Mould</b>	<b>Councillor Cassi Perry</b>
<b>Councillor D M Pickford</b>	<b>Councillor Lynn Pratt</b>
<b>Councillor G A Reynolds</b>	<b>Councillor Les Sibley</b>

### **Substitutes**

<b>Councillor Mike Bishop</b>	<b>Councillor John Broad</b>
<b>Councillor John Donaldson</b>	<b>Councillor Timothy Hallchurch MBE</b>
<b>Councillor Tony Ilott</b>	<b>Councillor Tony Mephram</b>
<b>Councillor Barry Richards</b>	<b>Councillor Nicholas Turner</b>
<b>Councillor Douglas Webb</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 - 23)

To confirm as a correct record the Minutes of the meeting of the Committee held on 25 October 2018.

### 6. **Chairman's Announcements**

To receive communications from the Chairman.

## **Planning Applications**

7. **Land West Of M40 Adj To A4095, Kirtlington Road, Chesterton** (Pages 26 - 53)  
**18/01332/F**
8. **The Pheasant Pluckers Inn, Burdrop, Banbury, OX15 5RQ** (Pages 54 - 72)  
**18/01501/F**
9. **Summer Place, Blackthorn Road, Launton** (Pages 73 - 94) **18/01259/F**
10. **Kings Two Wheel Centre, 139 Oxford Road, Kidlington, OX5 2NP**  
(Pages 95 - 112) **18/01388/F**
11. **British Waterways Site, Langford Lane, Kidlington** (Pages 113 - 158)  
**17/01556/F**
12. **Willow Hill, Main Street, Wroxton, Banbury, OX15 6PT** (Pages 159 - 167)  
**18/01291/F**
13. **Premier Inn, Kelso Road, Bicester, OX26 1AN** (Pages 168 - 181) **18/01208/F**
14. **Former The Admiral Holland, Woodgreen Avenue, Banbury, OX16 0AU**  
(Pages 182 - 199) **18/01591/CDC**
15. **Land Adjacent To The Oxford Canal, Spiceball Park Road, Banbury**  
(Pages 200 - 205) **17/00147/DISC**
16. **Eco Business Centre, Charlotte Avenue, Bicester, OX27 8BL** (Pages 206 - 210)  
**18/00133/NMA**

## **Review and Monitoring Reports**

### **17. Appeals Progress Report (Pages 211 - 216)**

Report of Assistant Director for Planning Policy and Development

#### **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 14 November 2018

## Cherwell District Council

### Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 25 October 2018 at 4.00 pm

- Present: Councillor David Hughes (Chairman)  
Councillor James Macnamara (Vice-Chairman)
- Councillor Andrew Beere  
Councillor Maurice Billington  
Councillor Phil Chapman  
Councillor Colin Clarke  
Councillor Ian Corkin  
Councillor Surinder Dhesi  
Councillor Chris Heath  
Councillor Simon Holland  
Councillor Mike Kerford-Byrnes  
Councillor Alan MacKenzie-Wintle  
Councillor Richard Mould  
Councillor Cassi Perry  
Councillor Lynn Pratt  
Councillor G A Reynolds  
Councillor Les Sibley
- Substitute Members: Councillor Barry Wood (In place of Councillor D M Pickford)
- Apologies for absence: Councillor D M Pickford
- Officers: Jim Newton, Assistant Director: Planning Policy and Development  
Bob Duxbury, Joint Majors Manager  
Gavin Forrest, Planning Officer  
Nat Stock, Minors Team Leader  
Ben Arrowsmith, Solicitor  
Aaron Hetherington, Democratic and Elections Officer

#### 84 **Declarations of Interest**

##### **7. South East Bicester, Wretchwick Way, Bicester.**

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

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

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

**8. Caravan Park, Station Approach, Banbury, OX16 5AB.**

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

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

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

**11. Bicester Heritage, Buckingham Road, Bicester.**

Councillor Simon Holland, Declaration, as the applicant was known to him and would therefore not take part in the debate or the vote.

**12. Land Adj To Cotwold Country Club And South Of Properties On Bunkers Hill, Shipton On Cherwell.**

Councillor Alan MacKenzie-Wintle, Declaration, as the applicant was known to him and would therefore leave the chamber for the duration of the item.

**13. Warehouse Car Park And Land At Jacobs Douwe Edberts, Ruscote Avenue, Banbury.**

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

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

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

**15. OS Parcels 0069 4900 7761 7980 7600 0003 And 3100 North East Of Dewars Farm And East, Ardley Road, Middleton Stoney.**

Councillor Les Sibley, Declaration, as a member of the Oxfordshire County Council Planning Committee.

85 **Requests to Address the Meeting**

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

86 **Urgent Business**

There were no items of urgent business.

87 **Minutes**

The Minutes of the meeting held on 20 September 2018 were agreed as a correct record and signed by the Chairman.

88 **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.

89 **South East Bicester, Wretchwick Way, Bicester**

The Committee considered application 16/01268/OUT, an outline application with all matters reserved apart from access for residential development including up to 1,500 dwellings, up to 7ha of employment land for B1 and/ or B8 uses, a local centre with retail and community use to include A1 and/ or A2 and/ or A3 and/ or A4 and/ or A5 and/ or D1 and/ or D2 and/ or B1, up to a 3 Form Entry Primary School, drainage works including engineering operations to re-profile the land and primary access points from the A41 and A4421, pedestrian and cycle access, circulation routes, related highway works; car parking; public open space and green infrastructure and sustainable drainage systems at South East Bicester, Wretchwick Way, Bicester for Redrow Homes/Wates Developments - Mr M Stock & Mr J Tarvit.

John Tarvit, the applicant, addressed the committee in support of the application.

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

**Resolved**

That application 16/01268/OUT be approved and that authority be delegated to the Assistant Director of Planning Policy and Development to grant planning permission, subject to:

1. Continuing negotiations in respect of the highways infrastructure.
2. In the event that the highways infrastructure contributions are not resolved satisfactorily then the application will be reported back to committee with a revised recommendation.
3. Conditions (the exact conditions and the wording of those conditions to be delegated to the Assistant Director for Planning Policy and Development).
4. Completion of a planning obligation under Section 106 of the Town and Country Planning Act 1990, as substituted by the Planning and

Compensation Act 1991, in accordance with paragraphs 8.80 and 8.81

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

The Committee considered application 18/00293/OUT, an outline application for the development of car park and caravan park on land to the west of Banbury Railway Station to comprise up to 63 apartments all within Use Class C3; provision of vehicular and cycle parking together with all necessary internal roads and footpaths; provision of open space and associated landscape works; and ancillary works and structures at Caravan Park, Station Approach, Banbury, OX16 5AB for Land Group (Banbury) Ltd.

Stephen Hinsley, agent for the applicant, addressed the committee in support to 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 18/00293/OUT be approved and that authority be delegated to the Assistant Director of Planning Policy and Development to grant planning permission, subject to:

- a) No new material considerations being raised by consultees and third parties to the amended plans.
- b) Completion of a planning obligation under Section 106 of the Town and Country Planning Act 1990, as substituted by the Planning and Compensation Act 1991, in accordance with the summary of the Heads of Terms below:
  - i. Affordable housing as previous UU
  - ii. Canal towpath contribution – This matter is still being discussed by the applicant and CRT
  - iii. Cemetery contribution – as previous formula
  - iv. Community hall contribution – pro rata increase from previous UU on the basis of 63 units rather than 44
  - v. Footbridge contribution calculated on basis set out in OCC response
  - vi. Health and well-being contribution with pro rata increase as above
  - vii. Public art contribution with pro rata increase as above
  - viii. Sports facility contribution with pro rata increase as above
  - ix. Waste contribution with pro rata increase as above
  - x. Education contribution as revised in latest correspondence
- c) Conditions relating to the matters detailed below (the exact conditions and the wording of those conditions to be delegated to the Assistant Director for Planning Policy and Development).



1. No development shall commence until full details of the layout, scale, appearance, and landscaping (hereafter referred to as reserved matters) of the hereby approved development have been submitted to and approved in writing by the Local Planning Authority.
2. In the case of the reserved matters, no application for approval shall be made later than the expiration of three years beginning with the date of this permission.
3. The development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
4. Except where otherwise stipulated by condition, the development shall be carried out in general accordance with the following plans and documents: Application forms, Design and Access Statement dated October 2018, and drawing numbered SKL-01 dated 2.10.18
5. The layout of the site shall provide for a 10 metre wide ecological buffer zone measured from the bank top (defined as the point at which the bank meets the level of the surrounding land) alongside the River Cherwell
6. As part of the reserved matters submission full details of the means of access between the land and the highway, and within the application site, including position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the means of access shall be constructed and retained in accordance with the approved details.
7. Prior to the first use or occupation of the development hereby permitted, covered and uncovered cycle parking facilities shall be provided on the site in accordance with details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.
8. As part of the reserved matters submission full details of refuse vehicle turning within the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.
9. A Construction Traffic Management Plan shall be submitted with the reserved matters application, and shall thereafter be complied with.
10. Prior to the commencement of the development hereby approved, a detailed scheme for the surface water and foul sewage drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, and prior to the commencement of any building works on the site the approved surface water drainage scheme shall be carried out and prior to the first occupation of any

building to which the scheme relates the approved foul sewage drainage scheme shall be implemented. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".

11. The development hereby approved shall proceed in accordance with the Flood Risk Assessment prepared by [insert] received [insert] accompanying the application unless otherwise previously approved in writing by the Local Planning Authority.
12. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The statement shall provide for at a minimum:
  - a) The parking of vehicles of site operatives and visitors;
  - b) The routing of HGVs to and from the site;
  - c) Loading and unloading of plant and materials;
  - d) Storage of plant and materials used in constructing the development;
  - e) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - f) Wheel washing facilities/ road sweeping;
  - g) Measures to control the emission of dust and dirt during construction;
  - h) A scheme for recycling/ disposing of waste resulting from demolition and construction works;
  - i) Delivery, demolition and construction working hours;
  - j) The mitigation measures recommended at (ADD REFERENCES) of the submitted Environmental Statement (DATE)
  - k) Details of the measures to be taken to ensure construction works do not adversely affect residential properties adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
13. Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a Construction Environmental Management Plan (CEMP), which shall include details of the measures to be taken to ensure that construction works do not adversely affect biodiversity, or detrimentally affect the stability or integrity of the canal and river banks shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved CEMP.
14. Prior to the commencement of the development hereby permitted a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model shall be carried out by a competent person and in accordance with DEFRA and the

Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'* and shall be submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval that it is satisfied that no potential risk from contamination has been identified.

15. If a potential risk from contamination is identified as a result of the work carried out under condition 14, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'* and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.
16. If contamination is found by undertaking the work carried out under condition 15 prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'* and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.
17. If remedial works have been identified in condition 16 the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 16. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.
18. Prior to, and within two months of, the commencement of the development, the site shall be thoroughly checked by a suitably qualified ecologist to ensure that no protected species, which could be harmed by the development, have moved on to the site since the previous surveys were carried out. Should any protected species be found during this check, full details of mitigation measures to prevent their harm shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved mitigation scheme.
19. Prior to the development commencing a report should be provided and approved in writing by the local planning authority that shows that all habitable rooms within the dwelling will achieve the noise levels specified in BS8233:2014 (Guidance on sound insulation and noise

reduction for buildings) for indoor and external noise levels (if required then the methods for rating the noise in BS4142:2014 should be used, such as for noise from industrial sources). Thereafter, and prior to the first occupation of the dwellings affected by this condition, the dwellings affected by this condition, the dwellings shall be insulated and maintained in accordance with the approved details.

20. As part of the reserved matters submission an energy statement shall be submitted demonstrating compliance of the development with Policy ESD3 of the Cherwell Local Plan

91 **Land At Tappers Farm, Oxford Road, Bodicote, Banbury, OX15 4BN**

The Committee considered application 18/00792/OUT, an outline application (all matters reserved except for access) for the demolition of existing buildings and erection of up to 46 no. dwellings, with associated works and provision of open space Land At Tappers Farm, Oxford Road, Bodicote, Banbury, OX15 4BN for Hollins Strategic Land LLP.

Councillor Adam Hewins, on behalf of Bodicote Parish Council, addressed the committee in objection to the application.

Stephen Harris, agent for the applicant, addressed the committee in support of the application.

Councillor Heath proposed that application 18/00792/OUT be refused as the application would be contrary to Policy Villages 2 and Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 Part 1 and saved Policies C15 and C33 of the adopted Cherwell Local Plan 1996. Councillor Perry seconded the proposal.

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

**Resolved**

That application 18/00792/OUT be refused for the following reasons:

1. Taking into account the number of dwellings already permitted across the Category A villages and Cherwell District Council's ability to demonstrate a 5.4 year housing land supply, which exceeds the requirement for a 3 year housing land supply the proposal is unnecessary and undesirable as it would result in development of an area of open land which is important in distinguishing the settlements of Banbury and Bodicote and would undermine the character and identity of Bodicote. This would be contrary to Policy Villages 2 and Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 Part 1 and saved Policies C15 and C33 of the adopted Cherwell Local Plan 1996.
2. In the absence of the completion of a satisfactory Planning Obligation under s106 of the Town and Country Planning Act 1990, the Local Planning Authority is not convinced that the necessary infrastructure

directly required to mitigate the impact of this development will be provided. This would not be in the interests of delivering sustainable, mixed and balanced communities by providing affordable housing, appropriate public open space and its future maintenance arrangements, providing adequate health services and community and sports provision, meeting education needs and enhancing sustainable transport options. This would be contrary to Policies INF1, BSC3, BSC7, BSC10, BSC11, BSC12 and SLE4 of the adopted Cherwell Local Plan (2011-2031) Part 1, the Council's Adopted Developer Contributions Supplementary Planning Document (SPD) (February 2018) and the National Planning Policy Framework.

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### **Dewey Sports Centre, Barley Close, Bloxham, Banbury, OX15 4NJ**

The Committee considered application 18/01252/F for the erection of 12 floodlights, extension of existing car park, relocation of long jump, and associated landscaping at Dewey Sports Centre, Barley Close, Bloxham, Banbury, OX15 4NJ for Bloxham School.

Councillor McHugh addressed the committee as Ward member.

David Warlow, a local resident, addressed the committee in objection to the application.

Paul Sanderson, Head Teacher of Bloxham School, addressed the committee in support of the application.

Councillor Heath proposed that application 18/01252/F be refused as the proposed development would be contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996, Policy BL11 of the Bloxham Neighbourhood Plan 2015-2031 and Government guidance contained in the National Planning Policy Framework. Councillor Billington seconded the proposal.

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

### **Resolved**

That application 18/01252/F be refused for the following reason:

1. The site is prominent within an attractive and visually sensitive landscape which affords wide-ranging views to Bloxham village. The proposed twelve 12.5m masts with floodlights, due to their siting, scale and illumination, would create a substantial block of light beyond the built confines of the village and highly visible in the landscape. As such, the proposal would have a visually intrusive impact, harmful to the intrinsic character of the surrounding area. Therefore, and in the absence of sufficient mitigation of the visual harm, the proposed development would be contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996, Policy BL11 of the Bloxham

Neighbourhood Plan 2015-2031 and Government guidance contained in the National Planning Policy Framework.

93 **Bicester Heritage, Buckingham Road, Bicester**

The Committee considered application 18/01253/F for the erection of a hotel and conference facility with associated access, parking, and landscaping at Bicester Heritage, Buckingham Road, Bicester for Bicester Heritage Ltd.

Councillor Jane Nisbet, on behalf of Caversfield Parish Council, addressed the committee in objection to the application.

Dan Geoghegan, the applicant, addressed the committee in support of the application.

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

**Resolved**

That application 18/01253/F be approved and that authority be delegated to the Assistant Director for Planning Policy and Development to grant planning permission subject to:

5. continuing negotiations in respect of the highways infrastructure, in particular the strategic transport contribution and the provision of bus stops.
6. in the event that the highways infrastructure contributions are not resolved satisfactorily then the application will be reported back to committee with a revised recommendation.
7. to receive and review an amended energy statement either prior to determination or via a planning condition.
8. Completion of a planning obligation under Section 106 of the Town and Country Planning Act 1990, as substituted by the Planning and Compensation Act 1991, in accordance with the summary of the Heads of Terms set out below;
  - Strategic Transport Contribution in connection with Policy BIC 1 of the Local Transport Plan 4 in respect of the dualling of the eastern perimeter route and Skimmingdish Lane section (amount to be agreed);
  - £2,180 for Public Transport Infrastructure – for 2 x bus stop flags and case units (to be agreed);
  - £5,200 for an amendment to the Traffic Regulation Order for a reduction in the speed limit on Buckingham Road and a mandatory left-turn egress from the hotel entrance;
  - £2,040 for Travel Plan monitoring
  - An obligation to enter into a S278 agreement with Highways
  - S106 Monitoring fees

9. Conditions relating to the matters detailed below (the exact conditions and the wording of those conditions to be delegated to the Assistant Director for Planning Policy and Development).

### **General**

1. Time limit – 3 years
2. Approved plans
3. Restriction of let of aparthotel rooms to a maximum of 1 month

### **Design**

4. \*Finish floor levels (on grounds of visual impact and surface water flooding mitigation)
5. \*Schedule of materials (including samples)
6. \*Architectural detailing
7. \*Further details of the expanded wire mesh cladding
8. Details as to how the Scheduled Monument on the western boundary will be better revealed and its boundary treatment and also how the northern Scheduled Monument will be preserved within the newly created area of track
9. Boundary treatment (if required) details to be submitted
10. Details of the design of the roof screen to the plant and equipment area on the roof
11. Lighting strategy which also must take into account the recommendations in the ecology assessment and to minimise light pollution
12. Signage strategy

### **Trees and Landscaping**

13. Landscaping scheme – hard and soft details – evergreen species, tree pit detailing
14. Landscape Management and Maintenance Plan
15. \*Tree removal plan
16. \*Tree protection plan
17. \*Grassland protection plan
18. \*Arboricultural method statement
19. Replacement planting
20. Earth mounding – cross sections

### **Highways:**

21. \*Construction Travel Management Plan (CTMP)
22. Cycle parking – secure and covered
23. Parking and manoeuvring details
24. \*New access details
25. Amendments to Travel Plan – including Car Parkin Management Plan
26. \*Details of the realignment and surfacing of the existing track

### **Drainage**

27. \*Surface Water Drainage Strategy and SUDs management and maintenance
28. Waste water – relating to the emptying of the swimming pool
29. Foul water to address capacity issue – Infrastructure Phasing Plan

30. Water network upgrades or Infrastructure Phasing Plan – for water

**Contamination**

31. \*Contamination – including a preliminary risk assessment, site investigation, remediation strategy and verification plan
32. Verification report and long-term monitoring and maintenance plan – no occupation
33. Unexpected contamination not previously identified, require development to stop and submit a remediation strategy

**Energy Efficiency**

34. The development should meet BREEAM 'Very Good' rating

**Noise:**

35. \*Plant and machinery
36. \*Noise – acoustic enclosure
37. \*Construction Environment Management Plan (CEMP)

**Economic:**

38. Employment and Skills and Training Plan
39. Construction apprenticeships

**Ecology**

40. Accord with survey
41. \*Landscape and Ecological Management Plan
42. \*Reptile mitigation strategy

(\* Approval will be required from the applicant for the conditions shown with an asterisk which at the time of writing the report are anticipated likely to need to be pre-commencement conditions)

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

The Committee considered application 18/01491/OUT, an outline application for the demolition of an existing club house, bowling club pavilion and ancillary store for the erection of 10 no. dwellings and access improvements (further to outline planning permission 14/02132/OUT, dated 8 April 2016) and having a lesser proposed cumulative floor area than that permission at Land Adj to Cotswold Country Club and South of Properties on Bunkers Hill, Shipton On Cherwell for Keble Homes Limited.

David Duthie, a local resident, addressed the committee in objection to the application.

Julian Philcox, agent for the applicant, addressed the committee in support of the application.

**Resolved**



That application 18/01491/OUT be approved and that authority be delegated to the Assistant Director of Planning Policy and Development to grant planning permission, subject to:

1. Completion of a planning obligation under Section 106 of the Town and Country Planning Act 1990, as substituted by the Planning and Compensation Act 1991, in accordance with the summary of the Heads of Terms set in para 8.26 and 8.27 and;
2. Conditions relating to the matters detailed below (the exact conditions and the wording of those conditions to be delegated to the Assistant Director for Planning Policy and Development).
3. The following conditions:

**Submission of Reserved Matters**

1. No development shall commence until full details of the layout, scale, appearance and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.
2. In the case of the reserved matters, application for approval shall be made not later than the expiration of three years beginning with the date of this permission.

**Commencement of Development**

3. The development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last reserved matters to be approved.

**Compliance with Approved Plans**

4. Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the application form and the following plans and documents: 392/17/PL1001 rev D, 392/17/PL1002 rev K, 392/17/PL1003, 392/17/PL1004 rev D , Design and Access Statement, Flood Risk Assessment, Preliminary Ecological Appraisal dated 5 January 2018 prepared by Cotswold Wildlife Surveys, and Transport Statement dated February 2018 prepared by HVJ Transport Ltd.

**Pre-commencement Finished Floor Levels**

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

**Pre-commencement Arboricultural Method Statement**

6. Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions

shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

**Pre-commencement Arboricultural Site Supervision**

7. Prior to the commencement of the development hereby approved, full details of a scheme of supervision for the arboricultural protection measures, to include the requirements set out in a) to e) below, and which is appropriate for the scale and duration of the development works, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the arboricultural protection measures shall be carried out in accordance with the approved details.
- a) Written confirmation of the contact details of the project arboriculturalist employed to undertake the supervisory role of relevant arboricultural issues.
  - b) The relevant persons/contractors to be briefed by the project arboriculturalist on all on-site tree related matters
  - c) The timing and methodology of scheduled site monitoring visits to be undertaken by the project arboriculturalist.
  - d) The procedures for notifying and communicating with the Local Planning Authority when dealing with unforeseen variations to the agreed tree works and arboricultural incidents
  - e) Details of appropriate supervision for the installation of load-bearing 'structural cell' planting pits and/or associated features such as irrigation systems, root barriers and surface requirements (eg: reduced dig systems, arboresin, tree grills)

**Pre-commencement Details of Services**

8. Prior to the commencement of the development hereby approved, full details of all service trenches, pipe runs or drains and any other excavation, earth movement or mounding required in connection with the development, including the identification and location of all existing and proposed trees, shrubs and hedgerows within influencing distance of such services, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

**Pre-commencement Open Space Details**

9. Prior to the commencement of the development hereby approved full details of the provision, landscaping and treatment of open space/play space within the site together with a timeframe for its provision shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the open space/play space shall be landscaped, laid out and completed in accordance with the approved details and retained at all times as open space/play space.

**Pre-commencement Full details of Access**

10. Prior to the commencement of the development hereby approved, full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the means of access shall be constructed and retained in accordance with the approved details.

### **Pre-commencement Visibility Splays**

11. Prior to the commencement of the development hereby approved, full details of the access vision splays, including layout and construction shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the proposed development, the vision splays shall be constructed in accordance with the approved details and the land and vegetation within the vision splays shall not be raised or allowed to grow above a maximum height of 0.9m above carriageway level.

### **Pre-commencement New Estate Roads**

12. Prior to the first occupation of any of the dwellings hereby approved, all of the estate roads and footpaths (except for the final surfacing thereof) shall be laid out, constructed, lit and drained in accordance with plans that have first been submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to first occupation of the development, construction shall commence in accordance with the approved details.

### **Pre-commencement Vehicle Tracking**

13. Prior to the commencement of the development, a plan, which must show that a refuse vehicle of not less than 11.6m in length can enter, turn in, and exit the development safely in forward gear, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to first occupation of the development, construction shall commence in accordance with the approved details.

### **Pre-commencement Drainage**

14. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:
  - Discharge Rates
  - Discharge Volumes
  - Maintenance and management of SUDS features (this maybe secured by a Section 106 Agreement)
  - Sizing of features – attenuation volume
  - Infiltration in accordance with BRE365
  - Detailed drainage layout with pipe numbers
  - SUDS (list the suds features mentioned within the FRA to ensure they are carried forward into the detailed drainage strategy)
  - Network drainage calculations
  - Phasing
  - No private drainage into the existing public highway drainage system
  - No private drainage into the adoptable highway drainage system.

### **Pre-commencement Construction Traffic Management Plan**

15. Prior to the commencement of development, a construction traffic management plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, construction shall only commence in accordance with the approved details.

**Pre-commencement Land Contamination: Desk Study/Site Walk Over**

16. Prior to the commencement of the development hereby permitted a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model shall be carried out by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and shall be submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval that it is satisfied that no potential risk from contamination has been identified.

**Pre-commencement Habitat Boxes**

17. Prior to the commencement of the development hereby approved, full details of a scheme for the location of bat, bird, owl and invertebrate boxes shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of any building, the bat, bird, owl and invertebrate boxes shall be installed on the site in accordance with the approved details.

**Pre-commencement Submission of Watching Brief**

18. Prior to any demolition and the commencement of the development a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority.

**Pre-commencement Staged Programme of Archaeological Evaluation**

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

**Schedule of Materials**

20. Prior to the construction of the development above slab level, a schedule of materials and finishes for the external walls and roof(s) of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved schedule.

**Landscaping Scheme**

21. Prior to the construction of the development above slab level, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-
- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
  - (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
  - (c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps.

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

#### **Landscaping Implementation**

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

#### **Tree Retention**

23. a) No retained tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works.
- b) If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority.

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

#### **Land contamination: Intrusive Investigation**

24. If a potential risk from contamination is identified as a result of the work carried out under condition 16 prior to the commencement of the

development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

**Land Contamination: Remediation Scheme**

25. If contamination is found by undertaking the work carried out under condition 24 prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

**Land Contamination: Carry out Remediation**

26. If remedial works have been identified in condition 25 the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 25. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

**Land Contamination not Previously Found**

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

**Refuse Bin Provision and Storage**

28. Prior to the first occupation of the development hereby approved, the appropriate number of refuse bins required in relation to the dwellings shall be provided.

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**Warehouse Car Park And Land At Jacobs Douwe Edberts, Ruscote Avenue, Banbury**

The Committee considered application 18/01246/F for the change of use of premises from B8 to B1c/B2/B8, including internal and external alterations, demolition of ancillary structures and new access to Southam Road at

Warehouse Car Park and Land At, Jacobs Douwe Edberts, Ruscote Avenue, Banbury for Paloma Capital And Graftongate.

James Hicks, agent for the applicant, addressed the committee in support of the application.

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

### **Resolved**

That application 18/01246/F be approved subject to the following conditions:

#### **Full Application: Duration Limit**

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.

#### **Compliance with Approved Plans**

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: Design and Access Statement, Flood Risk Assessment prepared by T R Collier and Associates Ltd, Air Quality Assessment dated June 2018 prepared by Vanguardia Ltd, Transport Assessment dated 11 April 2018 prepared by David Tucker Associates and the following Drawing Nos:16038 P001 Rev B, P002 Rev A, P003 Rev U, P004 Rev B, P006 Rev L, P008 Rev F, P009 Rev D, P0010 Rev J, P011 Rev A, P012 Rev A, P013 Rev A, P014 Rev A, P015 Rev A, P016 Rev A, P017 Rev A, P018 Rev A, P020 Rev A, B3231/E/3231, 2819\_T, SK007 Rev B and 19519 - 03.

#### **Erection of Boundary Fence**

3. Prior to the first use of the building the boundary fence shown green on drawing No. 16083 P010 Rev J along the southern and western boundaries of the site shall be erected and retained as approved thereafter.

#### **Car Parking and Cycle Parking Detail**

4. Prior to the first use of the building full specification details (including construction, layout, surfacing and drainage) of the car and cycle parking shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the building, car parking and cycle parking shall be constructed in accordance with the approved details and shall be retained for the parking of vehicles and bicycles at all times thereafter.

#### **Provision of a Pedestrian Walkway within the Site**

5. Prior to the first occupation of the building details of a pedestrian walkway serving the cycle parking within the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the pedestrian

walkway shall be completed in accordance with the approved details and shall be retained thereafter.

### **Travel Plan**

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

### **Drainage**

7. Prior to the extension of the hardstanding and altering of any land levels hereby approved, a detailed scheme for the surface water and foul sewage drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include:

- Discharge Rates
- Discharge volumes
- SUDS (Underground Attenuation Tank)
- Maintenance and management of SUDS features (To include provision of a SuDS Management and Maintenance Plan)
- Detailed drainage layout with pipe numbers
- Network drainage calculations
- Phasing
- Flood Flow Routing in exceedance conditions (To include provision of a flood exceedance route plan)

Thereafter, and prior to the commencement of any building works on the site the approved surface water drainage scheme shall be carried out and prior to the first occupation of any building to which the scheme relates the approved foul sewage drainage scheme shall be implemented. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".

### **Electrical Vehicle Charging**

8. Prior to the extension of the parking area a scheme detailing the provision of electrical vehicle charging infrastructure shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of the building and the electrical vehicle charging infrastructure shall be retained thereafter.

### **Stourwell Barn, Swalcliffe, Banbury, OX15 5EX**

The committee considered application 18/01555/F for a new agricultural building, extension to silage clamp, works to existing bund and screen planting (re-submission of application 18/00189/F) at Stourwell Barn, Swalcliffe, Banbury, OX15 5EX for Mr & Mrs Taylor.



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

### **Resolved**

That application 18/01555/F be approved and that authority be delegated to the Assistant Director of Planning Policy and Development to grant planning permission, subject to the conditions set out below (and any amendments to those conditions as deemed necessary):

#### **Time Limit**

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.

#### **Compliance with Approved Plans**

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application form, Planning Design and Access Statement (dated August 2018), Environmental Desk Study and Preliminary Risk Assessment report prepared by Apple Environmental (dated April 2018), Landscape and Visual Appraisal report prepared by Crestwood Environmental Ltd (dated 28 August 2018) and drawings numbered: 3210-S1, 3210-A.02.6, 3210-A.02.7, 3210-A.02.9 and 3210-A.02.10.

#### **Surface Water Drainage Scheme**

3. No development shall take place until a full surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the size, position and construction of the drainage scheme and results of soakage tests carried out at the site to demonstrate the infiltration rate and future management plan. The Surface Water Drainage scheme should, where possible, incorporate Sustainable Drainage Techniques in order to ensure compliance with the Flood and Water Management Act 2010. The development shall be carried out in accordance with the approved details prior to the first use of the development hereby approved and shall be maintained in accordance with the management plan thereafter.

#### **Schedule of Materials for the building**

4. Notwithstanding the details submitted, prior to the commencement of the development hereby approved above slab level, a schedule of materials and finishes for the external walls and roof of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved schedule and shall be retained as such thereafter.

#### **Submission of Landscaping Scheme**

5. Notwithstanding the details submitted, prior to the first use of the development hereby approved, a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning

Authority. The scheme for landscaping the site shall include:-

- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
- (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
- (c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps.

The development shall be carried out in strict accordance with the approved landscaping scheme and the hard landscape elements of the approved scheme shall be retained as such thereafter.

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

#### **Contamination found during development**

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

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#### **OS Parcels 0069 4900 7761 7980 7600 0003 And 3100 North East Of Dewars Farm And East, Ardley Road, Middleton Stoney**

The Committee considered application 18/01610/CM, a Section 73 application for the continuation of development permitted under 15/01660/CM (MW.0123/15) (for the winning and working of limestone and clay at Dewars Farm as an extension to Ardley Quarry) without complying with conditions 1 and 2, to allow the quarry to continue operating beyond 2020, to permit working until 2028 and restoration by 2029 at OS Parcels 0069 4900 7761 7980 7600 0003 And 3100 North East Of Dewars Farm And East Ardley Road, Middleton Stoney for Smith And Sons (Bletchington) Ltd. Cherwell District Council was a consultee on the application which would be determined by Oxfordshire County Council.

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

**Resolved**

That having noted that Officers have considered the overall benefits of the proposals against the harm having regard to the development plan and other material considerations and have concluded that the proposal can be supported, and that Cherwell District Council should therefore raise no objection to the development, Oxfordshire County Council be advised that Cherwell District Council raises no objection to the proposal. The reasons for reaching this conclusion are summarised below:

1. Government guidance contained within the NPPF and PPG attaches great weight to the benefits of mineral extraction and encourage flexibility with timings in order to prevent minerals from becoming sterilised.
2. Whilst the temporary harm to the visual amenities of the area would be extended, the ultimate restoration of the site would continue to be secured via planning condition.
3. The Environmental Protection Team has no comments to make regarding the scheme and the impact upon environmental pollution and residential amenity is therefore considered acceptable. Previous planning conditions relating to the prevention of environmental pollution would continue to apply.

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**Appeals Progress Report**

The Assistant Director for Planning Policy and Development 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 8.43 pm

Chairman:

Date:

# Agenda Annex

## CHERWELL DISTRICT COUNCIL

### PLANNING COMMITTEE

22 November 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.

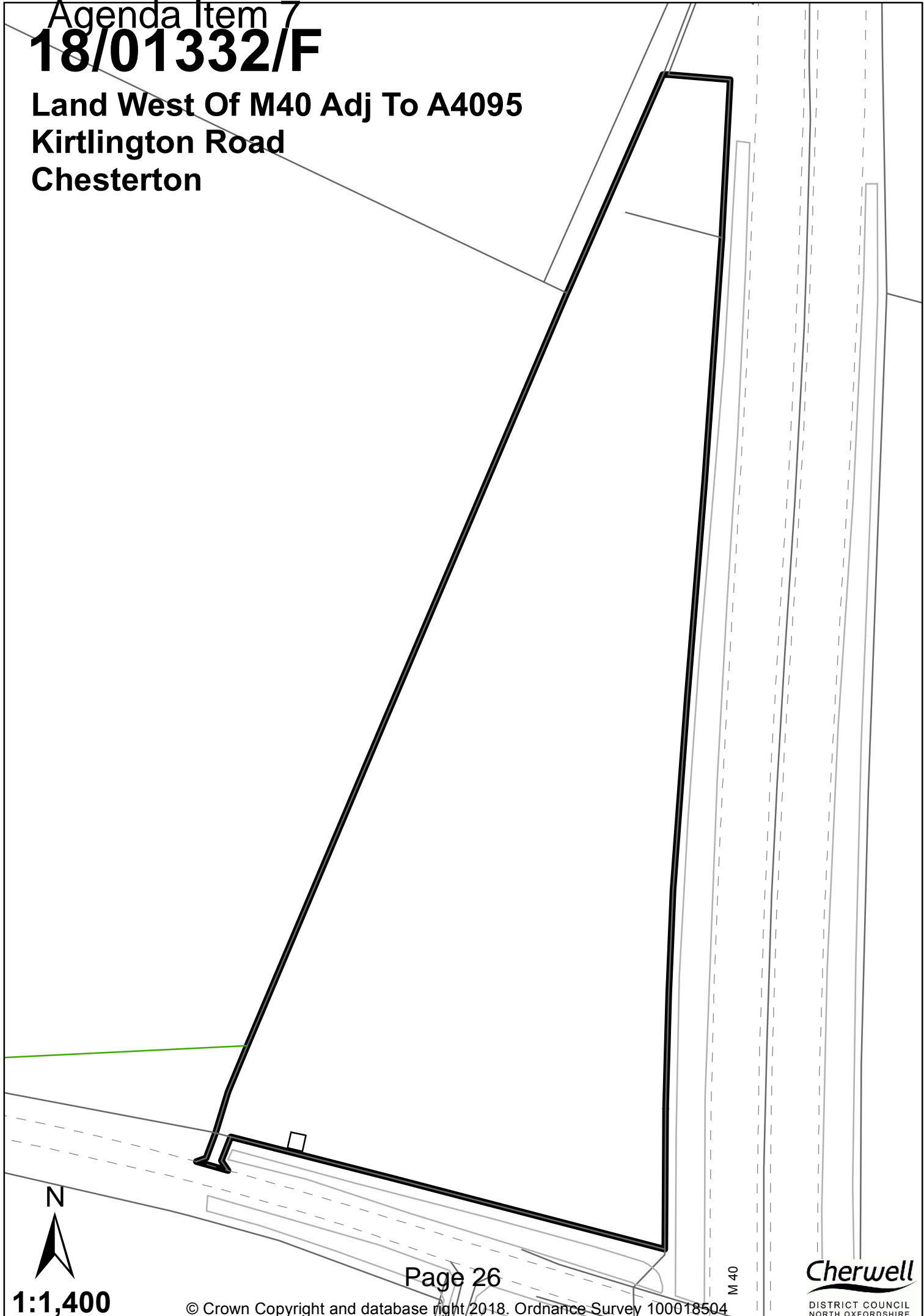
#### **Background Papers**

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	Land West Of M40 Adj To A4095 Kirtlington Road Chesterton	18/01332/F	Fringford And Heyfords	Refusal	James Kirkham
8	The Pheasant Pluckers Inn Burdrop Banbury OX15 5RQ	18/01501/F	Cropredy, Sibfords And Wroxton	Refusal	Bob Neville
9	Summer Place Blackthorn Road Launton	18/01259/F	Launton And Otmoor	Approval	Stuart Howden
10	Kings Two Wheel Centre 139 Oxford Road Kidlington OX5 2NP	18/01388/F	Kidlington East	Refusal	Stuart Howden
11	British Waterways Site Langford Lane Kidlington	17/01556/F	Kidlington West	Approval	Stuart Howden
12	Willow Hill, Main Street Wroxton Banbury OX15 6PT	18/01291/F	Cropredy, Sibfords And Wroxton	Approval	Sarah Willson
13	Premier Inn Kelso Road Bicester OX26 1AN	18/01208/F	Bicester South And Ambrosden	Approval	James Kirkham
14	Former The Admiral Holland Woodgreen Avenue Banbury OX16 0AU	18/01591/CDC	Banbury Ruscote	Approval	James Kirkham
15	Land Adjacent To The Oxford Canal, Spiceball Park Road, Banbury	17/00147/DISC	Banbury Cross and Neithrop	Approval	Bob Duxbury
16	Eco Business Centre Charlotte Avenue Bicester OX27 8BL	18/00133/NMA	Bicester North And Caversfield	Approval	Caroline Ford

Agenda Item 7  
**18/01332/F**

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



**N**  
  
**1:1,400**

# 18/01332/F

Land West Of M40 Adj To A4095  
Kirtlington Road  
Chesterton



1:6,000

<b>Applicant:</b>	Clifford Smith And Robert Butcher	
<b>Proposal:</b>	Change of use of land to use as a residential caravan site for 3 gypsy families, each with two caravans and an amenity building; improvement of existing access, construction of driveway, laying of hardstanding, installation of package sewage treatment plant and acoustic bund	
<b>Ward:</b>	Fringford And Heyfords	
<b>Councillors:</b>	Cllr Ian Corkin Cllr James Macnamara Cllr Barry Wood	
<b>Reason for Referral:</b>	Earlier applications on the site were reported to Planning Committee	
<b>Expiry Date:</b>	23 November 2018 (EOT)	<b>Committee Date:</b> 22 November 2018
<b>Recommendation:</b>	Refuse.	

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## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

### **Proposal**

The application relates to a proposal for 3 gypsy/traveller pitches. This would include a 5 metre bund and fence adjacent to the M40.

### **Consultations**

The following consultees have raised objections to the application:

- Chesterton Parish Council, CDC Environmental Protection.

31 letters of objection have been received.

### **Planning Policy**

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

### **Conclusion**

The key issues arising from the amended application details are:

- Principle of development
- Need for pitches
- Visual Impact and Effect on Landscape Character;
- Residential Amenity;
- Ecological Impact;
- Highway Safety;
- Flooding Risk and Drainage;
- Other Matters



The report looks into the key planning issues in detail, and officers conclude that the proposal is acceptable subject to conditions.

Overall when assessing the development as a whole, the proposed development, by virtue of its poor access to services and facilities, reliance on the private car to access services and facilities, detrimental impact on the rural character and appearance of the area and poor living environment for future residents in relation to noise, is considered to represent an unsustainable form of development. The harm is not considered to be outweighed by the benefits of the scheme.

## **RECOMMENDATION - REFUSE**

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.**

## **MAIN REPORT**

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

- 1.1 The application site is located outside the built limits of any settlement to the north of the A4095 (Kirtlington Road) and is located approximately 1.1 KM to the north west of Chesterton as the crow flies (1.3km from the access to closest edge of Chesterton by road).
- 1.2 A field access to the A4095 exists in the south west corner of the site. The M40 lies immediately to the east of the site and is situated within a cutting along the length of the eastern boundary. To the north and west of the site is open countryside. The site is broadly triangular in shape and is 2.7 hectare site in size. It is currently laid to grass and includes a small animal shelter to the west of the access.
- 1.3 The site is not within a designated Conservation Area; however, a Grade II listed barn exists approximately 350 metres to the west of the site. Public Footpath 161/11/10 is shown to run along the western boundary of the site, but it is noted by the OCC Public Rights of Way Officer, and is apparent on site, that the path runs outside of the application site. The site has some ecological potential as notable species have been recorded within 250 metres of the site, including the Common Kestrel, Small Heath Butterfly and Brown Hare.

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

- 2.1. Planning consent is sought to change the use of the site to a traveller/gypsy site accommodating 3 pitches. An upgraded vehicle access would be positioned in the same location as the existing access and the access road would extend into the site in a northerly direction with 3 pitches to the east of this.
- 2.2. Each pitch would accommodate:
  - a timber clad amenity room accommodating a kitchen, bathroom and small siting area
  - a mobile home
  - an area of hard standing to accommodate a touring caravan and parking.

- 2.3. The areas of land around the pitches would be landscaped with native understorey planting, areas of lawn and wildflower planting. The paddock to the north of the site would be retained in agricultural use.
- 2.4. It is also proposed to erect a 2 metre high earth bund with 3 metre high close boarded fence along the eastern boundary with the M40. This would extend partially along the southern and eastern boundary inside the existing fence line of the site. It is proposed to plant the earth bund with native understorey planting and trees.

### 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>
16/01780/F	Change of use of land to use as a residential caravan site for 8 gypsy families, each with two caravans and an amenity building. Improvement of existing access, construction of driveway, laying of hard standing and installation of package sewage treatment plant.	Application Refused
16/00075/SO	Change of use of land to use as a residential caravan site for 9 gypsy families, each with two caravans and an amenity building. Improvement of existing access, construction of driveway, laying of hard standing and installation of package sewage	Screening Opinion not requesting EIA

This application was recommended for approval by officers on a temporary basis. This was based on a different layout and did not include the bund or fencing. However the Committee considered that the proposed noise environment and harm to the rural character and appearance of the site would be unacceptable and outweigh the benefits of the scheme. It was therefore refused for the following reasons:

1. The proposed development, by virtue of its siting adjacent to the M40, would be adversely affected by noise, thereby resulting in an unacceptable living environment for the occupiers of the proposed traveller pitches. As such, the development would give rise to "Significant Adverse Effects" on the health and wellbeing of residents of the new development and is considered to be unsustainable, contrary to Policy ESD15 of the Cherwell Local Plan Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice within the National Planning Policy Framework and Noise Planning Practice Guidance.
2. The proposed development, by virtue of its siting in the open countryside, overall scale and appearance, would have an urbanising effect on the open countryside, and would result in detrimental harm to the rural character and appearance of the area. Thus, the proposal is contrary to Policies ESD13 and ESD15 of the Cherwell local Plan Part 1, saved Policies C8 and C28 of the Cherwell local Plan 1996 and Government advice within the National

treatment plant.

17/01600/F	Change of use of land to use as a residential caravan site for 8 gypsy families, each with two caravans and an amenity building; alterations to existing access, construction of driveway, laying of hard standing, installation of package sewage treatment plant and erection acoustic bund and fence to eastern boundary.	Application Withdrawn
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This application was withdrawn prior to a decision being made. The application was on the Agenda for Planning Committee and recommended for refusal for the following reason:

1. The proposed development, by virtue of its poor access to services and facilities, reliance on the private car to access services and facilities, detrimental impact on the rural character and appearance of the area and poor living environment for future residents in relation to noise, is considered to represent an unsustainable form of development. The harm is not considered to be outweighed by the benefits of the scheme. The proposal is therefore considered to be contrary to Policies ESD1, BSC6, ESD13 and ESD15 of the Cherwell Local Plan Part 1 (2015), Saved Policy C8 Cherwell Local Plan 1996 and advice in the National Planning Policy Framework and Planning Policy for Travellers Sites (2015).

17/00068/SO	Change of use of land to use as a residential caravan site for 8 gypsy families, each with two caravans and an amenity building. Improvement of existing access, construction of driveway, laying of hard standing and installation of package sewage treatment plant.	Screening Opinion not requesting EIA
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#### **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 12.10.2018, although comments received after this date and before finalising this report have also been taken into account.
- 5.2. 31 letters of objection have been received by third parties. These can be summarised as follows:
  - Consideration has not been given to alternative sites;

- Contrary to policy as it is located within the open countryside;
- Not an identified site in the Local Plan;
- Not sustainable development as it offers no economic, social or environmental improvements;
- Proposal contrary to a number of criteria of Policy BSC6.
- Not sustainably located;
- Housing would not be accepted on this site;
- Too close to the village of Chesterton;
- Infrastructure does not have the capacity;
- The village has limited facilities and services and no bus service;
- The school is almost full and does not have the capacity required for this application;
- Would be to the detriment of the village of Chesterton;
- Would harm the character and appearance of the area;
- Would be visible from public footpaths and Kirtlington Road;
- The bund and fence will further add to the urbanisation of the countryside.
- This is a green field site not previously developed land which the onus is on developing
- The site is much larger than the previous refusal.
- Further pitches would be placed on the site in the future.
- Loss of enjoyment for users of the public footpath to west of the site;
- No assessment on heritage
- The local road network cannot accommodate the extra traffic this will create;
- Access is dangerous;
- Required visibility splay could not be achieved;
- There is no footpath next to the site along the Kirtlington Road and the development would be car reliant and unsafe for residents to walk to facilities;
- Noise and air pollution to future residents as the site is located next to the M40;
- Loss of privacy to existing residents;
- Will create noise nuisance;

- No play area for children
- The site does not promote healthy lifestyles
- Would cause harm to protected species;
- Consideration needs to be given to drainage;
- No water, electricity, gas or sewage facilities serving the site;
- The water supply to the site is private supply to Bignell Park Farm who is under no obligation to provide water to the site.
- Insufficient information on landscaping and sewage treatment works
- Chesterton has already had significant levels of development
- Will not be managed properly and will go beyond what consent allows for;
- Travellers would not successfully integrate with the local community;
- Fear of crime and anti-social behaviour (not a material consideration);
- Devaluation of property prices (not a material consideration);
- Sites should be provided on proposed housing sites through S106 agreements.
- Application contains insufficient information and does not meet the Council's local validation list.

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. CHESTERTON PARISH COUNCIL: **Objects.** Green field site unsuitable for residential usage. There are inadequate services including the present water supply from Bignell Farm. There are environmental issues with the M540 being adjacent and the access to the A4095 with limited visibility. What plans will be in place to ensure the requested number of pitches is not violated. The site is not a suitable location and must be reject.

### STATUTORY CONSULTEES

6.3. HIGHWAYS ENGLAND: **No objection.**

6.4. OCC HIGHWAYS: **No objections** subject to conditions. The access appears acceptable. Full details can be provided by condition and a S278 will be required. Any access gates required need to be set back 12 metres from the carriageway edge to allow vehicles to pull clear of the highway. Highways England should be

consulted in respect of any conflict with the motorway. Request further details on parking, storage of waste and cycle stores. Also request swept path analysis for refuse vehicle. The public footpath alignment on the western boundary is shown different on the definitive map to the walked line however the walked line appears to be in line with the diversion approved in 1987. This needs to be investigated by the Councils Rights of Way Team. The applicant should not obstruct the right of way.

- 6.5. The site plan shows the use of permeable materials. The potential for infiltration needs to be established through soakaway tests. A drainage scheme should be conditioned. OCC raise no objection to the proposed sewerage treatment plans but require an inspection chamber of discharge of the treated water.
- 6.6. ENVIRONMENT AGENCY: **Comment.** New development should be connected to the public mains (with the prior written approval of the statutory undertaker) where possible. Proliferation of individual treatment plants can cause deterioration in local water quality (ground and surface water). This would be contrary to the principles of the EU Water Framework Directive<sup>1</sup> and is supported by paragraph 109 of the National Planning Policy Framework which requires the planning system to ensure the environment is not adversely affected by water pollution. If it is shown not to be feasible to connect to the public foul sewer, an Environmental Permit may be required from the Environment Agency.

#### NON-STATUTORY CONSULTTEES

- 6.7. CDC ENVIRONMENTAL PROTECTION: Original comments: **Objects.** With regards to the internal noise the levels are to be achieved with the windows closed which relies on background ventilation. If the windows are opened this will reduce the noise insulation by approx. 10-15dB. As the noise from the motorway is at a fairly constant level at both daytime and night-time then this means that the occupants would be unable to open the windows if they desire an internal noise level which is only just on the boundary of those set out in BS8233:2014 and by the WHO especially at night-time. In cases such as this we would normally expect to see a higher level or mechanical form of background ventilation to ensure that the required levels of air exchange and thermal comfort are achieved as per ProPG (2.33 and 2.34) – nothing is mentioned in the report or specification to achieve this.
- 6.8. The report indicates that the noise levels in external areas will be between 60-63dB(A) which is 10-13dB(A) above the desired level in BS8233:2014 and 5-8 dB(A) above the upper guideline level acceptable in noisier environments. BS8233:2014 also notes that these may not be achievable in all circumstances where development might be desirable but goes on to say that *“In higher noise areas, such as city centres or urban areas adjoining the strategic transport network, a compromise between elevated noise levels and other factors, such as the convenience of living in these locations or making efficient use of land resources to ensure development needs can be met, might be warranted. In such a situation, development should be designed to achieve the lowest practicable levels in these external amenity spaces, but should not be prohibited”*. Whilst it is for planning officers to make the judgement on whether the development is desirable and if this outweighs the noise concerns in my opinion this location does is not a city centre or urban area adjoining the strategic transport network so a higher level should not be warranted.
- 6.9. ProPG states that *“These guideline values (50-55dB) may not be achievable in all circumstances where development might be desirable. In such a situation, development should be designed to achieve the lowest practicable noise levels in these external amenity spaces”*. I do not feel that all consideration has been made with regards to the design of the bund. The noise report states that a higher

bund/fence had been considered which would give small additional benefits but the visual impact was considered too high and outweighed the benefits. This indicates to me that there could be improvements to be made to achieve the lowest practicable levels and I am not sure on who the visual impact would cause an impact as the view would be from the motorway.

- 6.10. As further mitigation it is proposed that the day-rooms have openable patio windows to provide a “relatively quiet externally ventilated space” as suggested in ProPG if a good acoustic design process has been followed. As stated above I feel that there is more scope to improve the noise levels by a large bund/fence should the site be considered to be desirable so I do not feel that at this stage this is a viable alternative. In addition the plans provided for the day rooms do not have patio doors shown on them.
- 6.11. I am still of the opinion as are my colleagues that this is an inappropriate location for such a development that give rise to significant adverse impacts on the health and quality of life of the future residents as per the NPPF para 123.

Comments further to clarification from applicant:

- 6.12. The acceptability of the scheme will all come down to the desirability of the development. The developers have shown that there is an adequate internal noise level as long as the mobile home installed conforms to the British Standard that is mentioned (this can be conditioned) and with regards to the external amenity space whilst it is far from ideal at the levels that will be achieved it can be relaxed where the site is considered desirable.
- 6.13. CDC PLANNING POLICY: **No objection.** Planning Policy did not object to the previous applications. The adopted Local Plan 2011-2031 provides to meet the identified need for pitches for Gypsies and Travellers. The Government Planning Policy for Traveller Sites (August 2015) will need consideration when considering impacts, alternative sites and personal circumstances and sustainability.
- 6.14. Policy BSC 6 provides for 19 net additional pitches from 2012-2031. The current published five year land supply position for gypsies and travellers is reported in the 2017 AMR. Currently it is 0.9 years for the period 2018-2023. (commencing 1 April 2018).
- 6.15. A Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA) for Cherwell, Oxford, South Oxfordshire and Vale of White Horse Councils was published in June 2017. It identifies new needs for each authority based on the new definition of Travellers for planning purposes. It identifies a new objective assessment of need for each authority based on the new definitions of Gypsies and Travellers and Travelling Showpeople for planning purposes (Annex 1 of the Government’s Planning Policy for Traveller Sites (PPTS, 2015)). It identifies a need for 7 additional pitches for households for Cherwell by 2031 that meet the new planning definition. The Study also identifies a need for up to 20 additional pitches for ‘unknown’ households, where it was not possible to distinguish whether or not they meet the new planning definition.
- 6.16. The Assessment advises that that for 'unknown' travellers 'it would not be appropriate when producing a robust assessment of need to make any firm assumptions about whether or not they meet the planning definition...' based on interviews that have taken place (para. 7.28 of the study). The published five year land supply position for gypsies and travellers based on the GTAA methodology is reported in the 2017 AMR. Currently it is 4 years for the period 2018-2023. (commencing 1 April 2018). This does not take into account the requirement for the

additional pitches for 'unknown travellers' which should be considered after meeting the need requirement.

- 6.17. The aims of the PPTS include '.... To increase the number of traveller sites in appropriate locations with planning permission to address under provision and maintain an appropriate level of supply'. It requires the maintenance of a five year supply and proper consideration of local environmental quality (such as noise and air quality) on the health and wellbeing of travellers.
- 6.18. It is important to note, however, that whilst the figures in the new GTAA 2017 are a material consideration, they need to be treated with caution as the methodology and results have not been subject to the rigour of public examination.
- 6.19. Nonetheless, the district cannot presently demonstrate a five year supply under either the local plan or GTAA scenarios.
- 6.20. Policy BSC 6 provides a sequential and criteria based approach for identifying suitable locations for new traveller sites whether through site allocations in the Local Plan Part 2 or in the determination of planning applications. The proposed site is within 3km of Chesterton which is a Category A village, one of the more sustainable villages in the District (Policy Villages 1). The site is immediately adjacent to the M40 therefore the amenities of any future residents will need to be protected. The site is likely to be subject to significant noise pollution. Air quality will also be an issue to consider.
- 6.21. In terms of securing a satisfactory living environment this is not an ideal site. There needs to be detailed consideration of the health, safety and residential amenity issues, particularly if young children or other vulnerable people are occupying the site. The accessibility of the existing Public Rights Of Way within the site will also need to be safeguarded or alternative, appropriate provision made.
- 6.22. CDC ECOLOGY: **No objection** subject to condition. Little has changed since the earlier application which was considered acceptable subject to conditions. In regards badgers, the submitted badger report still recommends that any boundary fencing is raised above ground level to allow badger access. Viewing the design and access statement it would be reasonable to omit the acoustic fencing from this requirement as it only runs along a strip of the site and it will be possible for badgers to walk around it. The main concern with badger access is the post and rail fence proposed across the site splitting the North and South parts – this is a boundary of the development and this needs to retain access for badgers and they should state how this will be achieved – this could be included in an LEMP.
- 6.23. CDC LANDSCAPE: **No objections**. Originally requested further details on the bund including a cross section. Has requested a number of detailed changes to the landscaping scheme and a landscaping maintenance schedule. Full details can be controlled by condition. If the acoustic fence is to have natural timber finish then over time the surface patina will change to a silvery grey, plus combined with the establishment and growth of the structural landscaping, the potential visual harm will be mitigated. Therefore the proposals, including the bund (with gradients) are acceptable.
- 6.24. CDC ENVIRONMENT AND LICENCING: **No objections**. If planning permission is granted, the site owners will need to apply for a caravan site license as required under the Caravan Sites Control of Development Act 1960.

## 7. RELEVANT PLANNING POLICY AND GUIDANCE



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

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

- PSD1 - Presumption in Favour of Sustainable Development
- BSC6 - Travelling communities
- ESD1 - Mitigating and Adapting to Climate Change
- ESD6 - Sustainable Flood Risk Management
- ESD7 - Sustainable Drainage Systems
- ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 - Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment

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

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

#### 7.3. Other Material Planning Considerations

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

- Noise Policy Statement for England (NPSE)
- The UK Air Quality Strategy (UKAQS)
- Cherwell District Council Statement of Community Involvement (July 2016)

## 8. APPRAISAL

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

- Principle of development
- Need for pitches
- Visual Impact and Effect on Landscape Character;
- Residential Amenity;
- Ecological Impact;
- Highway Safety;
- Flooding Risk and Drainage;
- Other Matters

### Principle of development

8.2. The National Planning Policy Framework (NPPF) states that the purpose of the planning system is to contribute towards the achievement of sustainable development. This required the economic, social and environmental objectives to be pursued in mutually supportive ways. Planning law requires planning applications to be determined in accordance with the development plan unless material considerations indicated otherwise. The Council's development plan consists of the Policies in the Cherwell Local Plan Part 1 (July 2015) and the Saved policies of the Cherwell Local Plan (1996).

8.3. The most relevant policies to the principle of development are Policies ESD1 and BSC6. Policy ESD1 states that to mitigate the impact of development on climate change growth will be delivered in the most sustainable locations (as defined in the local plan) and reduce the need to travel. Policy BSC 6 of the Cherwell Local Plan 2011-2031 Part 1 builds on this in relation travellers pitches in the District and in order to provide and maintain a five year supply of deliverable traveller sites. This states that allocations will be made in Local Plan Part 2 and planning permissions will be granted for suitable traveller sites. Policy BSC6 also states that locations outside the AONB and Green Belt will be considered and: *"In identifying suitable sites with reasonable accessibility to services and facilities the following sequential approach will be applied:*

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

8.4. The site is located outside of the Green Belt and AONB and the application site is located approximately 1.1km road distance from the Chesterton which is a Category A Settlement under Policy Villages A. Therefore the site meets the first criteria relating to the sequential test for the location of sites. However, this does not mean the proposal is *de facto* acceptable in principle as Policy BSC6 also requires the assessment of the suitability of sites against the criteria below:

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

- *Access to GP and other health services;*

- *Access to schools*
- *Avoiding areas at risk of flooding;*
- *Access to the highway network;*
- *The potential for noise and other disturbance;*
- *The potential for harm to the historic and natural environment;*
- *The ability to provide a satisfactory living environment;*
- *The need to make efficient and effective use of land;*
- *Deliverability, including whether utilities can be provided;*
- *The existing level of local provision;*
- *The availability of alternatives to applicants.*

- 8.5. In this case whilst Chesterton is a Category A settlement, which are amongst the most sustainable villages in the district, these range considerably in terms of their size and level of facilities/services. Chesterton has a primary school, nursery, public house, a village hall and playing fields. It does not have a shop or any GP or health services which some other category A settlements in the district have. Therefore the extent of services and facilities is relatively limited. The bus service serving Chesterton is also very limited with only 1 morning service to Bicester which would therefore be unlikely to be of great use to future residents.
- 8.6. The fact Chesterton has a primary school weights in favour of the proposal. The closest secondary schools are located in Bicester. In relation to the closest NHS GP facility there are a number of these in Bicester with the closest being approximately 4.8km (road distance) from the application site. There are also a wider range of other services and facilities at Bicester including shops.
- 8.7. Given the nature of the roads around the application site (national speed limit roads with no footpaths or lighting) it is likely that access to most services would therefore be accessed virtually exclusively by private car as there would be little other attractive alternative apart from potentially cycling to the primary school. Overall officers therefore considered that whilst the primary school is within a reasonable distance of the site, the location of the site is not the most sustainable and the assessment of the proposal against the first two criteria of Policy BSC6 weighs against the sustainability of the site and accessibility to services and facilities is limited with residents likely to have a relatively high reliance on the private car. That said, the proposal is now reduced in size, with only 3 pitches proposed and therefore the number of residents would be fewer. Furthermore the distance to Bicester which includes a wide range of services is relatively close compared to many other parts of the district and means that many car trips to access services would be relatively short.
- 8.8. In relation to the national planning policy context for the provision of traveller sites this is contained within the August 2015 'Planning Policy for Traveller Sites' (PPTS) and should be read in conjunction with the NPPF. The Government's overarching aim is to ensure fair and equal treatment for travellers in a way that facilitates the traditional and nomadic way of life that they have whilst at the same time respecting the amenity and appearance of the settled community.
- 8.9. Policy H of the Government PPTS states that LPAs should consider the existing level of need for site, the availability of alternative accommodation for applicants and their personal circumstances when considering proposals for gypsies and travellers sites and they should determine applications for sites from any travellers and not just those with local connections.
- 8.10. Policy H goes on to advise that LPAs should strictly limit new traveller site development in the open countryside that are away from existing settlements or outside areas allocated in the development plan. The application site is located

outside of any settlement, not having any strong relationship with the form of any village and clearly separated by open fields. Officers have previously therefore considered that the site would be 'away from existing settlements' however the applicant has pointed to a recent appeal decision (in Aylesbury Vale) near Arnott for 19 pitches (appeal ref: APP/J0405/W/18/3193773). That site was approximately 850m from the edge of Arnott and 1km for a small convenience store and village hall. It was 4km from the nearest primary school and GP surgery in Ambrosden and 7km from Bicester with further healthcare facilities and secondary school. In that case the Inspector considered the site was not physically isolated or 'away from the nearest existing settlements' which together provided a good range of facilities. Given the above, the location of the site in relation to other settlements (as outlined above) and the fact that Policy BSC6 has the 3km criteria in relation to Category A villages, on balance it is not considered that the proposal can be said 'away from existing settlements' so would not conflict with national policy in that respect.

8.11. Policy H goes on to state that in rural areas sites development should respect the scale of, and not dominate, the nearest settled community and when considering applications LPAs should attach weight to the following matters:

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

8.12. Given the location of the site, the number of pitches proposed and the size of Chesterton it is not considered that the proposal would dominate the nearest settled community. The site is a green field site which is not previously developed. The other matters are discussed further below.

8.13. Overall the location of the site is not ideal from a geographical sustainability perspective for a combination of the factors discussed above as residents would be likely to be reliant on cars to access day to day services. However, it is acknowledged that many journeys would be relatively short and the scale of the proposal has been reduced compared to earlier schemes. This issue weighs against the proposal; however, this needs to be considered in the planning balance.

#### Need for pitches

8.14. The Local Planning Authority is required to make an assessment of the needs for gypsy and traveller sites within the district and to identify and update annually a 5 year supply of specific deliverable sites. Paragraph 27 of the PPTS states that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when consideration applications for the grant of temporary planning permission.

8.15. Policy BSC6 of the Local Plan 2015 states that the council will provide 19 (net) additional pitches to meet the needs of Gypsy and Travellers from 2012 to 2031. The most recent Annual Monitoring Report (AMR) 2017 (December 2017) displays

two different assessments of the Council's five year supply position for gypsies and travellers as discussed below.

- 8.16. The first assessment is based on figures within the Development Plan. This outlines that at 31<sup>st</sup> March 2017 the total number of authorised pitches in Cherwell for Gypsies and Travellers was 57 and the requirement for pitches within the period 2017-2031 is a need for 31 additional pitches (as there has been a net loss of pitches since the figures in the local plan were formulated). It states that the District currently has a 1.1 year land supply for gypsies and travellers for the period 2017-2022 (18 pitch shortfall) and a 0.9 year land supply for the period of 2018-2023 (19 pitch shortfall). Thus, based on the requirements of the Local Plan Part 1, the Council cannot demonstrate a 5 year supply of sites and has a significant shortfall.
- 8.17. However, since the 2015 Local Plan was adopted the Planning Policy for Traveller Sites (August 2015) has been published. This included a change to the definition of "gypsies and travellers" for planning related purposes so that it now excludes those who have permanently ceased from travelling. The definition of Gypsies and Travellers reads as follows: "*Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependant's education or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show people or circus people travelling together as such*".
- 8.18. In light of this and in order to provide an evidence base for the preparation of Local Plan Part 2, the Council commissioned a new Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA 2017) with a number of neighbouring authorities which was published in June 2017. This takes into account the new definition of gypsies and travellers unlike the Local Plan figure which is based on the old definition. The GTAA 2017 identified a significantly lower need for pitches. It concludes there is a need for 7 additional pitches that meet the new planning definition over the next 15 years (2017-2031/2). It also identified a need for up to 20 additional pitches for unknown households in the district over the same period. Unknown households are household that may meet the new definition of gypsy and traveller however interviews during the research where either refused or not possible. It was therefore not possible to establish whether they met the new planning definition. It is noted that the authors of the assessment note that if their national average applied to the unknown households then the need stemming from the unknown households may be as low as 2 additional pitches.
- 8.19. The AMR therefore includes second assessment of the Councils 5 year land supply using based on the known need within the GTAA 2017. However, the second assessment within the AMR 2017 states that the requirement for pitches within the period 2017-2032 is a need for 15 pitches, rather than 7 identified. This is because the second assessment within the AMR includes the potential need for 8 pitches arising from the closure of the Newlands Caravan Site. Based on this the second assessment states that the District currently has a 5.0 year land supply for gypsies and travellers for the period 2017-2022 and a 4.0 year land supply for the period of 2018-2023 (1 pitch shortfall).
- 8.20. This therefore casts some doubt over the figures in the Development Plan as these figures were based on the previous definition of gypsies and travellers which included residents which had permanently ceased travelling. However, whilst the figures in the new GTAA 2017 are a material consideration they need to be treated with caution as the methodology and results have not been subject to the rigour of public examination like the Development Plan figures and it is noted that there are a high number of unknown households (i.e. those who may meet the new definition).

Furthermore in considering this matter the primacy of the development plan for decision making needs to be taken into account.

8.21. Overall there is a fundamental conflict between the two calculations. The calculation based on the development plan figures recognises a significant shortfall against the 5 year requirement whilst the calculation using the recent GTAA indicates that Council can demonstrate a 5 year supply of sites. There are weaknesses in both the sets of figures with the development plan figures being based on an old definition and the methodology and figures in the new GTAA 2017 having not been subject to independent scrutiny or examination.

8.22. Whilst Officers note that Councillors expressed some concerns regarding this matter in the planning application for the gypsy/travellers site in Piddington (which was presented to Planning Committee in February) officers remain of the opinion that the most robust position to base the assessment of the planning applications on at the current time is the figures contained within the development plan. They have been subject to the rigour of examination and form part of the statutory development plan which is the starting point for decision making. Whilst the new GTAA 2017 is a material consideration it is part of the evidence base for the Local Plan Part 2 and in officers view does not outweigh the development plan. A relatively recent appeal decision in South Oxfordshire District Council (ref: APP/Q3115/W/17/3176196) supported this approach to GTAA 2017. In this appeal the Inspector considering the appeal noted that given the methodology used and assumptions made in the study it is possible that there is an underestimation of the need for sites in the new GTAA. Furthermore the Inspector stated:

*'In any event, the latest GTAA has not yet been adopted and these factors mean that the weight that I will attach to it in respect of the level of identified future need is limited.'*

8.23. A similar view was reached by a planning inspector in a planning appeal in the adjoining district of South Northants (appeal reference APP/Z2830/W/17/3172943) where similar conflict existed between the Local Plan figures and their new evidence base.

8.24. The Council has does not have any allocations for additional sites and there is a lack of alternative provision in the district with applications being assessed on a case by case basis. As outlined above there is considered to be a significant need for additional sites in the area to meet a general need. These matters, alongside the Councils inability to demonstrate a 5 year land supply on the figures in BSC6, are considered to carry significant weight in determining the application and the provision of new pitches is a significant benefit.

8.25. The application site is proposed to be used as a settled base for members of the travelling community which would have benefits relating to healthcare and education. In order to ensure that the site was only occupied by households meeting the revised definition of gypsy/traveller a planning condition can be used in line with Government guidance. Officers are therefore satisfied that the application is for a site that would be used by gypsies/travellers.

8.26. The European Convention of Human Rights is still in force to date. Under Article 8 there is a positive obligation to facilitate the gypsy way of life (paragraph 96 of Chapman v UK (2001)) as gypsies and travellers are identified as a specialist group. The statement submitted with the application identifies that the proposal is for a residential caravan site for gypsies and travellers and the proposed development therefore provides new accommodation for the gypsy and traveller community within

the Cherwell District. Therefore the contribution the site makes to facilitating the gypsy traveller way of life weighs in favour of the proposal.

#### Visual Impact and Effect on Landscape Character

- 8.27. The NPPF recognising the intrinsic character and beauty of the open countryside. ESD13 of the Cherwell Local Plan Part 1 notes that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to the local landscape character cannot be avoided. Policy ESD13 also states that proposals will not be permitted if they would cause undue visual intrusion into the open countryside or be inconsistent with local character.
- 8.28. Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards.”*
- 8.29. Saved Policy C28 of the Cherwell Local Plan 1996 reflects Government guidance in relation to the design of new development by seeking to ensure that such development is in harmony with the general character of its surroundings and is sympathetic to the environmental context of the site and its surroundings. Saved Policy C8 of the Cherwell Local Plan 1996 seeks to protect the character of the open countryside from sporadic development.
- 8.30. The proposed development includes the provision of 3 pitches and associated infrastructure. Each pitch would have space for mobile home and a touring caravan with an area of hard standing. A small day room would also be provided for each pitch. An access road would be provided across the site. In addition to the pitches, a 2 metre bund and 3 metre high close boarded fence is also proposed along part of the eastern and southern boundary.
- 8.31. The application site itself occupies a relatively flat site and given the topography and vegetation in the wider area the visual impacts of the development will be relatively localised to the proximity of the site. The site currently positively contributes to the rural character and appearance of the locality and the intrinsic character and beauty of the open countryside through being an undeveloped agricultural field in an area where built development is limited. The presence of the M40 reduces the tranquillity and remoteness of the site albeit that the motorway is situated in a cutting.
- 8.32. The proposed development would be visible from the public footpath to the west of the site and whilst there is some confusion as to the exact line of this footpath, the walked route runs outside of site to the west of the hedge. Furthermore views of the site would also be available from people travelling along the A4095 in vehicles particularly from the bridge section over the M40 and through the access to the site. Additionally the bund and fence would be clearly visible from people travelling along the M40.
- 8.33. Undoubtedly the proposal, with the addition of mobile homes and day rooms, hardstanding and domestic paraphernalia would detrimentally impact on the landscape character of the site having an urbanising effect on the site within the open countryside setting. This would erode the character and appearance of the site and area. The revised proposal now occupies a smaller part of the site which reduces the visual impacts compared to earlier schemes. The site also has areas of landscaping which provides a more landscaped setting to the site which is supported by Policy H of the PPTS. The fact that the development is largely situated adjacent to the southern boundary of the site, where a planted embankment

exists, also helps to reduce the visual impacts of the development in the wider area given the existing screening.

- 8.34. The proposed 2 metre bund and 3 metre high fence to the eastern boundary of the site would also impact on the area. This has been significantly reduced in length compared to the earlier scheme. Views of the bund itself from the A4095 bridge over the motorway and from the M40 itself would largely appear as an extension of the existing cutting the motorway is located within from this aspect given its height. Subject to appropriate landscaping conditions it is not considered that this would not significantly impact on these views. However, the proposed 3 metre high fencing given its height and appearance would appear as an incongruous and prominent feature that would further contribute to the urbanisation of the site noted above, albeit that it would also be visible for a short period of travel.
- 8.35. Views of the bund and fence from the A4095 immediately to the south of the site would be filtered through the existing tree planting on the southern boundary and by the fact that the site lies between approximately 3-5 metres lower than the A4095 along the extent of the bund. Therefore views from this section of the road would be more apparent in the winter. However, as outlined above views of the bund and fence would be more apparent from the access to the site, the A4095 immediately to the east of the site, the M40 and from the footpaths to the west of site. The height of the bund and fence would appear as incongruous feature on the site in this open countryside setting and would harm the rural character and appearance of the locality.
- 8.36. Whilst over time appropriate landscaping of the site would help soften the appearance of the bund and fence, this would take a number of years to have any significant benefit and the height of the feature and development of the site would still remain incongruous.
- 8.37. Overall the development would result in harm to the rural character and appearance of the area. This harm would be relatively localised and experienced for relatively short periods of time with people travelling through the landscape. It would also diminish somewhat over time with the landscape maturing. Nevertheless it would be significant where it occurs. This would conflict with Policies ESD13 and ESD15 of the Cherwell Local Plan Part 1, Saved Policy C8 of the Cherwell Local Plan 1996 and Government advice contained within the NPPF and weighs against the development.

#### Residential Amenity

- 8.38. The NPPF requires new development provide a high standard of amenity for existing and future occupants. Chapter 15 of the NPPF advises that decision should prevent new development from being subject to unacceptable levels of noise pollution and new development should be appropriate for its location taking into account the likely effects on living conditions. In doing so decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise and avoid noise giving rise to 'significant adverse impacts' on health and the quality of life.
- 8.39. Saved Policy ENV1 of the adopted Cherwell Local Plan states that development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke other types of environmental pollution will not normally be permitted. Policy ESD15 of the Cherwell Local Plan Part 1 states that: "*Development should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space.*"



- 8.40. The main in this case is the noise environment for future occupiers of the site given the presence of the M40 to the east of the site. This formed one of the reasons for refusal on the earlier application and in order to attempt to address this matter a 2 metre earth bund and 3 metre high fence to the eastern boundary with returns either end is proposed to act as noise mitigation.
- 8.41. A noise survey of the site identifies that traffic noise is high throughout the day and night with the north of the site being louder than the southern part of the site where the motorway is in a larger cutting (approximately 4 metres). The development is now proposed to be restricted to the southern part of the site.
- 8.42. The applicants' noise report notes that without suitable mitigation the noise environment on the site would be unsuitable for residential accommodation. With the proposed mitigation (bund and fence) the noise modelling undertaken indicates that the site (mobile homes and day rooms) would be able to achieve acceptable internal noise level during the day so long as the mobile homes provided on the site were designed to meet the requirements of BS 3632:2015 which requires a higher levels of sound insulation to mobile homes. Noise levels in the mobile homes would be reduced to between 32-33 dB Laeq 16 hour daytime and 31-32dB Laeq 8 hour night time. The daytime internal noise environment would therefore comply with the relevant standards however the night time would be 1-2dB(A) above the recommended design aim for internal specified within BS8233. The British Standard does allow for some flexibility where development is necessary or desirable the standard can be relaxed by up to 5dB and still provided reasonable internal conditions. A planning condition can be imposed requiring confirmation that the mobile homes will comply with this standard and this would also ensure adequate ventilation is provided. Therefore a judgement of whether the development is necessary or desirable needs to be made which is discussed below.
- 8.43. There are also concerns that any person occupying a touring caravan on the site would be likely to be subject to a significantly noisier environment than any occupants of the mobile home given that there noise insulation quality of a touring caravan are likely to be lower. The applicant assessment make no reference to this and this further adds to the concerns. However, each pitch (mobile home and touring caravan) operates as a single residential unit and so people would have the option of not occupying the touring caravan when it is on site.
- 8.44. The Councils Environment Protection Officer continues to raise concerns regarding the sites external noise environment. In referencing external noise levels BS 8233:2014 states:
- “For traditional external areas that are used for amenity space, such as gardens and patios, it is desirable that the external noise level does not exceed 50 dB LAeq,T, with an upper guideline value of 55 dB LAeq,T which would be acceptable in noisier environments. However, it is also recognized that these guideline values are not achievable in all circumstances where development might be desirable. In higher noise areas, such as city centres or urban areas adjoining the strategic transport network, a compromise between elevated noise levels and other factors, such as the convenience of living in these locations or making efficient use of land resources to ensure development needs can be met, might be warranted. In such a situation, development should be designed to achieve the lowest practicable levels in these external amenity spaces, but should not be prohibited.”*
- 8.45. The ProPG: Planning and Noise guidance echoes this guidance. The noise modelling predicts the freefield level of 60 to 63dB Laeq,t would be achieved at the position of the proposed mobile homes. This noise levels would therefore be up to 8dB above the upper guideline level of 55dB given in BS8233:2014.

- 8.46. The applicant seeks to argue that the guidance above states that the external noise environment levels will not be able to be achieved in all circumstances and indicates that development should not be prohibited on these grounds where development is desirable. Officers did originally conclude that this guidance is more relevant to urban areas however it is clear that the use of the phrase '*such as*' means that this guidance can be applied to other areas where development is desirable. In this case Officers consider that whilst there are benefits of the scheme in meeting the shortfall of sites and a lack of alternative provision, given the poor accessibility to services and facilities, and the harmful landscape and visual impacts of the development it is not considered that the development is desirable at this location. Therefore flexibility to the standards to the noise environment should not be applied in this instance.
- 8.47. The applicant has also pointed to other decisions where sites have been allowed on sites with louder noise environments than the current site. However, limited information has been provided of these decisions and they pre-date the current guidance and are therefore not considered to be capable of carrying significant weight and each case needs to be assessed on its own merits.
- 8.48. In terms of achieving the lowest practicable noise level to the external amenity areas the applicant has explored raising the bund/fence higher but this did not have a significant benefit in noise terms and would further exacerbate the visual harm. The applicants are also proposing to provide patio doors in the day rooms to provide a relatively quiet externally ventilated space for residents to use which would further aid in the amenity of residents...
- 8.49. Overall the Council's Environment Protection Team continues to object to the application on the basis of the external noise environment and consider it will lead to a significant adverse impact but notes that ultimately it will come down to whether the development is deemed to be 'desirable' weighing all the planning matters relevant to the case. This factor is therefore considered to weigh against the proposed development as ensuring a good standard of amenity is a core part of achieving sustainable development however it needs to be considered in the planning balance.
- 8.50. The site is located in excess of 200 metres from any neighbouring residential properties therefore it is considered that other residential properties would not be directly affected by the proposal in terms of loss of light, outlook, privacy or noise and disturbance.
- 8.51. With regard to the layout of the proposal, the proposed pitches would be spacious and officers are of the view that these pitches are all of a sufficient size and would allow for some privacy and amenity space for each pitch and would avoid the overcrowding of the site.

#### Highway safety

- 8.52. Policy SLE4 of the Cherwell Local Plan 2015 states that development is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported. Paragraph 108 of the NPPF states that in assessing planning applications it should be ensured that safe and suitable access can be achieved for all users and that development will be refused there is an unacceptable impact on highway safety.
- 8.53. The local highway authority (LHA) has raised no objection to the scheme subject to a number of conditions. In relation to the technical matters the LHA has indicated that further details are required of the access to the site however full details of this

could be secured by condition. The LHA has previously indicated that it considers that adequate visibility from the access could be provided. It has also requested additional information on the parking serving the units; however, the plans clearly show sufficient parking to serve the pitches and the provision of this could be secured by condition. The other matters the highway engineer has raised regarding details of the internal road, access gates, turning areas and drainage could be controlled through conditions.

- 8.54. Chesterton public footpath 11 is shown on the definitive map to run along the western boundary within the site. However, the provided and walk footpath is outside on the site on the other side of the field boundary. The footpath was diverted via an order in 1987 (associated with building the M40) and the alignment of the path is on the ground is consistent with the position in the order therefore suggesting that the Definitive Map may be incorrect. This matter is still being investigated by OCC and notwithstanding this matter it is considered that the issues relating to the protection of the footpath both during construction and operational stage could be dealt with by planning condition.
- 8.55. Highways England has raised no objection to the proposal and the proximity to the M40.

#### Flooding Risk and Drainage

- 8.56. The site is identified as being within Flood Zone 1, which is land which has a less than 1 in 1,000 annual probability of river flooding. Policy ESD6 of the Local Plan and the Framework states that a Flood Risk Assessment is required for proposals of 1 hectare or more in in Flood Zone 1. The site exceeds 1 hectare and the Flood Risk Assessment which accompanied the earlier scheme has been submitted alongside this application.
- 8.57. Policy ESD7 of the Cherwell Local Plan Part 1 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is all with the aim to manage and reduce flood risk in the Cherwell District.
- 8.58. The Environment Agency no longer provides comments on this type of application. The submitted Flood Risk Assessment states that the proposal would use SuDs to ensure that the rate of surface water run-off would not exceed the green field rate and that the hard standing would not be impermeable. OCC as the Local Lead Flood Authority have raised no objection to the application subject to full details of the surface water drainage for the site being secured through condition.
- 8.59. Concerns have been raised with the applicant regarding the use of the proposed sewerage treatment plant to treat sewerage including a lack of details regarding this and also the lack of details on the feasibility of connecting to mains drainage which should be the first option explored as outlined in the Planning Practice Guidance. A response is awaited on this. OCC raises no objection to use of main mains drainage but requires an inspection chamber to be built. As with the previous application very limited details are provided of this respect. Whilst it is noted that the EA have noted this is not desirable in the absence of objections from the relevant statutory bodies and given this was considered an acceptable arrangement in the earlier application, this arrangement is considered to remain acceptable; however, full details of this would need to be secured through planning conditions.

#### Ecology

- 8.60. Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity,

and providing net gains in biodiversity where possible, contributing to the Government's aim to halt the overall decline in biodiversity.

8.61. Paragraph 118 of the NPPF seeks to "...conserve and enhance biodiversity by applying, amongst others, the following principles:

- *If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for, then planning permission should be refused*
- *Development proposals where the primary objective is to conserve or enhance biodiversity should be permitted*
- *Opportunities to incorporate biodiversity in and around developments should be encouraged"*

8.62. Policy ESD10 seeks to protect and enhance biodiversity and the natural environment, by achieving a net gain in biodiversity, through supporting developments which incorporate features to encourage biodiversity.

8.63. The site is an open agricultural field currently comprising rough grass land and scrub. The application is accompanied by an Ecological Appraisal which concludes the site is of moderate ecological value.

8.64. In earlier applications the Council's Ecologist requested further information in the potential impact of the development on badgers as some evidence of their presence was found on site. This included a survey of the adjacent M40 verge and revealed no clear evidence of badger setts. Further clarification was also sought regarding the grassland habitat which the applicant states is semi-improved.

8.65. The Council's Ecologist is now generally satisfied that other matters subject to appropriate conditions. The site is of moderate ecological value having both grassland and scrub and the surveying ecologist recommends that boundary vegetation on site should remain untouched to retain its value. The proposed planting is generally appropriate to strengthen boundary vegetation. However, this is little information regarding how the site will be managed or used and the use of parts of the site for animals or domestic activities could harm the value of the site. Therefore the ecologist has recommended that a Landscape and Habitat Management Plan (LEMP) to cover these points which could be dealt with by condition. The Council's Ecologist has also confirmed that the acoustic fence will not need to be raised to allow badgers to pass under it as suggested in earlier applications given the reduced length of the fence. The northern part of the site may be suitable for reptiles and the Council's Ecologist has recommended a pre-commencement condition in this respect.

8.66. Overall the Council's Ecologist considers that subject to conditions the ecological impacts of the development can be made acceptable through the use of planning conditions, and officers agree with this assessment.

#### Heritage Impact

8.67. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard to the desirability of preserving a listed building or its setting should be taken. 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 through development within its setting. In the earlier application a third party noted a Heritage Statement should have been submitted given the proximity of the site to a

Grade II listed barn at Field Farm to the north west of the site. However, the site is approximately 350 metres from this heritage asset and an agricultural field separates these two entities. Furthermore, the site is visually separated from the listed building by existing buildings and landscaping. Overall, given this separation, officers consider that the proposed development on the site, including structures no more than single storey in scale, would not materially alter the way this barn is appreciated or experienced in a rural setting, and that a Heritage Statement is not necessary in this instance. Thus, it is considered that the proposal would not cause harm to the significance and setting of this Grade II listed barn.

#### Other matters

- 8.68. Concerns have been raised in relation to the primary school at Chesterton being near capacity and that there would be no more places at the school as a result of this proposal. It is worth noting, however, that if the proposal were for 3 dwellings instead of 3 traveller pitches, this would fall below the threshold in the PPG for contributions towards schooling. It is therefore considered unreasonable to justify the refusal of the planning application on such grounds.
- 8.69. Concerns have been raised by third parties in relation to the matter of electricity supply, but this is a matter for the utility companies and there appears to be supply to the existing animal shelter and a transformer on the site. Concerns have also been raised in relation to the matter of water supply however the applicant has stated that the site is already served by water
- 8.70. Third parties have noted that the proposal would set a precedent for housing outside the village. However, each case is assessed on its own merits and the policy context is different for such application.
- 8.71. It is noted by third parties that if planning permission is to be granted, the site would not be well managed and the use of the site will exceed what has actually been granted. However, this is not relevant to the determination of this planning application as consideration needs to be given to what is proposed in this planning application and planning conditions can control the scale of the use.
- 8.72. Whilst a number of issues have been raised by third parties, the following are either not supported by an evidence or are private interests and are therefore not capable of carry any significant weight in determining the planning application:
- Fear and increase in crime to surrounding properties as a result of the proposal;
  - Would create anti-social behaviour;
  - Loss of private view; and
  - Devaluation of property
- 8.73. In the earlier application the issue of air quality was also considered due to the proximity of the site to the M40. This included modelling of the site and concluded that the air quality would be acceptable for residential accommodation. The findings of this are still considered to be relevant to the current application and the Environmental Protection Officer has not raised concerns in this regard.

#### Personal circumstances

8.74. A key matter in this type of application is the European Convention on Human Rights as applied by the Human Rights Act 1998 along with the Council's requirement to act in accordance with the Equalities Act 2010. In terms of Equalities legislation, Gypsies and Travellers have a protected status that must be considered in all decisions made by Public Authorities. The Council needs to coherently apply the PPTS. Specifically, the Council in the exercise of its statutory functions (in this case the determination of planning applications) has a clear duty to have due regard to particular needs and lifestyles when making decisions.

8.75. The Public Sector Equality Duty is set out at Section 149 of the Equalities Act 2010. It imposes a duty on all public authorities that they must, in the exercise of their functions, have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

8.76. This is a duty that applies to Local Planning Authorities. The key point is that, whilst the duty is not alone justification to grant planning permission, decision makers must have regard to it when considering Traveller cases. There is also a requirement for decision makers to treat the best interests of any children affected by a decision to grant/refuse planning permission 'a primary consideration'. The requirement comes from Article 3(1) of the *UN Convention on the Rights of the Child* (UNCRC) and is considered by the European Court of Human Rights to be integral to the consideration of Article 8 rights in any case where a decision of a public body will affect children. However, this does not mean it is an overriding consideration and could be properly be found to be outweighed by the identified harm with the best interests of any child being at the forefront of the decision-maker's mind.

8.77. The applicant states that the personal circumstances of the prospective occupiers, in particular the Best Interests of the children, weigh heavily in favour of the current development.

8.78. They states that the future occupants of the site previously resided at the Newlands site in Bloxham and since its closure none of these families have a lawful site to live on and are moving from one unauthorised site to another, sometimes doubling up on other Travellers' pitches whilst they are away travelling. They have an immediate need for accommodation. The occupiers are:

- Mrs. Cybil Butcher (87) lived on the Bloxham site all her life. The intention is for Mrs Butcher to reside on one of the 3 pitches in this application together with her grandson, Mitchell Butcher and his wife (who is expecting her first child at the end of November 2018). Currently Mr. and Mrs. Butcher have no option but to travel from one unauthorised site to another, facing eviction after eviction as there is an acknowledged shortfall in site provision.
- Clifford Smith, his wife and their 3 children (all of whom are under 6 years of age)
- David Stevens, his wife and their 2 children (both of whom are under 5 years of age)

8.79. The applicant claims that all 3 families are Romany Gypsies as well as Travellers in terms of Annex 1 Planning Policy for Travellers Sites (2015) in that they travel for work doing a mixture of landscaping, roofing and other work for up to 6 months of the year. However, beyond the above very limited evidence been provided to demonstrate that the occupiers would meet the new planning definition. The intention is for the application site to be the families' settled base so that their young children can go to school and all parties have access to health services whilst the men would be able to go travelling for work in the knowledge that their wives and children are safe on an authorised site. This weighs in favour of the development however in light of the above these are given limited weight.

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

9.1. The proposal seeks permission for the change of use of existing agricultural land to a residential travellers' caravan site comprising 3no pitches. The site is located approximately 1.1km of the category A village of Chesterton and approximately 3KM from edge of Bicester and benefits from suitable access to the local and wider highway network so can be considered under Policy BSC6 of the Local Plan. However, it is noted that Chesterton is one of the Category A settlements which has fewer facilities for residents and has lost its more regular bus service in recent years since the adoption of the Local Plan.

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

9.3. Criterion (a) considers access to GP and other health services, the nearest NHS GP surgery to the site would be in Bicester approximately 4.8km from the site. In order to access this service given, the infrequent nature of the bus service, they are likely to rely on the private car which weights against the proposal albeit journeys would be relatively short and there would be fewer residents than earlier applications.

9.4. Criterion (b) considers access to schools; the nearest primary school is located at Chesterton and given the nature of the roads, without footpaths or lighting, is likely to be travelled by the private car as opposed to alternative modes of transport. Given this it is considered by officers that the site has relatively poor access to education which would weigh against the proposal when assessed against the sustainability and suitability criteria.

9.5. Criterion (c) seeks to avoid areas at risk of flooding. The site is not identified on the Environment Agency's mapping as subject to flooding. A suitable drainage scheme could be controlled through condition. The proposal is considered acceptable in this regard.

9.6. Criterion (d) considers the suitability of the site in relation to access to the existing highway network; in this respect the proposal is considered to be appropriately located without demonstrable harm caused to highway safety.

9.7. Criterion (e) considers the potential for noise and disturbance. The site is considered acceptable in regard to the impact on neighbouring uses. The noise environment of the site is poor however based on the current guidance if the development is considered to be desirable then the flexibility can be given to the external noise environment and the applicant has tried to reduce the noise impacts as far as practical. Therefore this weighs heavily against the development.

9.8. Criterion (f) seeks to ensure harm to the historic and natural environment is limited. The proposal would not adversely impact on any heritage assets or the ecology of

the site. However there would be harm to the rural character and appearance of the site and locality in the immediate vicinity of the site. This harm would be significant were it occurs and weighs against the development.

- 9.9. Criterion (g) seeks to ensure that proposals provide for a satisfactory living environment. In this case due to the noise environment of the site this is not considered to be met as discussed above.
- 9.10. Criterion (h) seeks to ensure that efficient and effective use of land is made. In this case the current proposal would result in the development of a green field site. The agricultural land is rated moderate to good (grade 3); however, it is considered that the amount of agricultural land lost and the quality of the land would not be a significant loss.
- 9.11. Criterion (i) considers the likely deliverability of the proposal, including whether utilities can be provided on the site. The applicant's agent states that water and electricity already serves the site. It is not proposed to connect to mains drainage however this has not been justified. It appears feasible that an electricity supply could be made to the site however the applicant has not produced any compelling evidence that an adequate water supply could be provided.
- 9.12. Criterion (j) looks at the existing level of local provision for gypsy and travellers across the Cherwell District. Officers acknowledge that the issue of general need is unclear based on the new definition of traveller/gypsy. Whilst there is conflict in the figures outlined in the Annual Monitoring Report officers considered that the most robust position to take regarding this is to use the Development Plan figures which show there is a significant shortfall in pitches across the district (1.1 years supply – 18 pitch shortfall). The benefits of the proposal in providing additional pitches to meet a general unmet need therefore carry significant weight in favour of granting permission.
- 9.13. Criterion (k) considers the availability of alternative sites for the applicant. In this case no alternative sites are allocated in the Local Plan and little progress has been made in this regard. The application is supported by some limited information about individuals that are interested in occupying the site; however, there is a significant general identified need for pitches which this application goes some way towards addressing and significant weight is attached to this and the lack of alternative provision.
- 9.14. In conclusion, the site is not the most accessible and future residents would be likely to be highly reliant on private car to access services and facilities with few options for more sustainable forms of transport. The proposal would lead to significant harm to the rural character and appearance of the countryside and whilst this would be relatively localised it would be significant were it occurs. The external noise environment is above the guidance and is considered to lead to significant adverse impacts on future residents. The proposal is not considered to dominate the nearest settled community and officers consider that there is a significant unmet need for gypsy and traveller pitches in Cherwell which should carry substantial weight in support of the application. The lack of alternative provision is also a matter that weighs heavily in support of the proposal and there is limited progress in respect of addressing the need through new allocations. The applicant site providing a settled base for children and providing access to healthcare and education are also considered to weigh in favour of the development.
- 9.15. Overall when assessing the development as a whole, the harm stemming from the poor access to services and facilities, harm to the landscape and visual amenity of the area, and poor living environment for future residents are considered to



outweigh benefits of the scheme. It is therefore recommended that planning permission be refused.

#### **10. RECOMMENDATION**

That permission is refused, for the following reason:

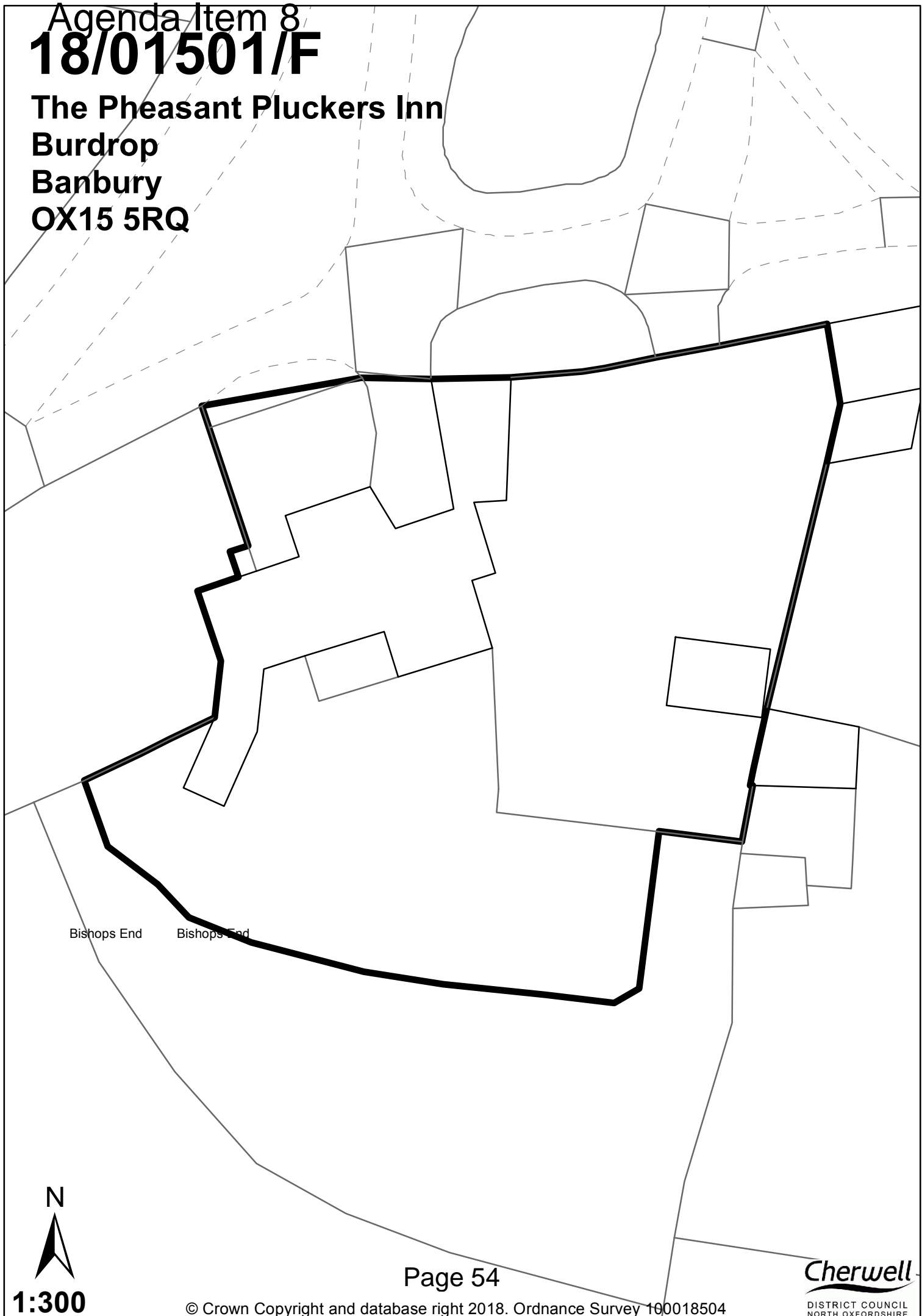
1. The proposed development, by virtue of its poor access to services and facilities, reliance on the private car to access services and facilities, detrimental impact on the rural character and appearance of the area and poor living environment for future residents in relation to noise, is considered to represent an unsustainable form of development. The harm is not considered to be outweighed by the benefits of the scheme. The proposal is therefore considered to be contrary to Policies ESD1, BSC6, ESD13 and ESD15 of the Cherwell Local Plan Part 1 (2015), Saved Policy C8 Cherwell Local Plan 1996 and advice in the National Planning Policy Framework and Planning Policy for Travellers Sites (2015).

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Agenda Item 8  
**18/01501/F**

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Banbury  
OX15 5RQ**



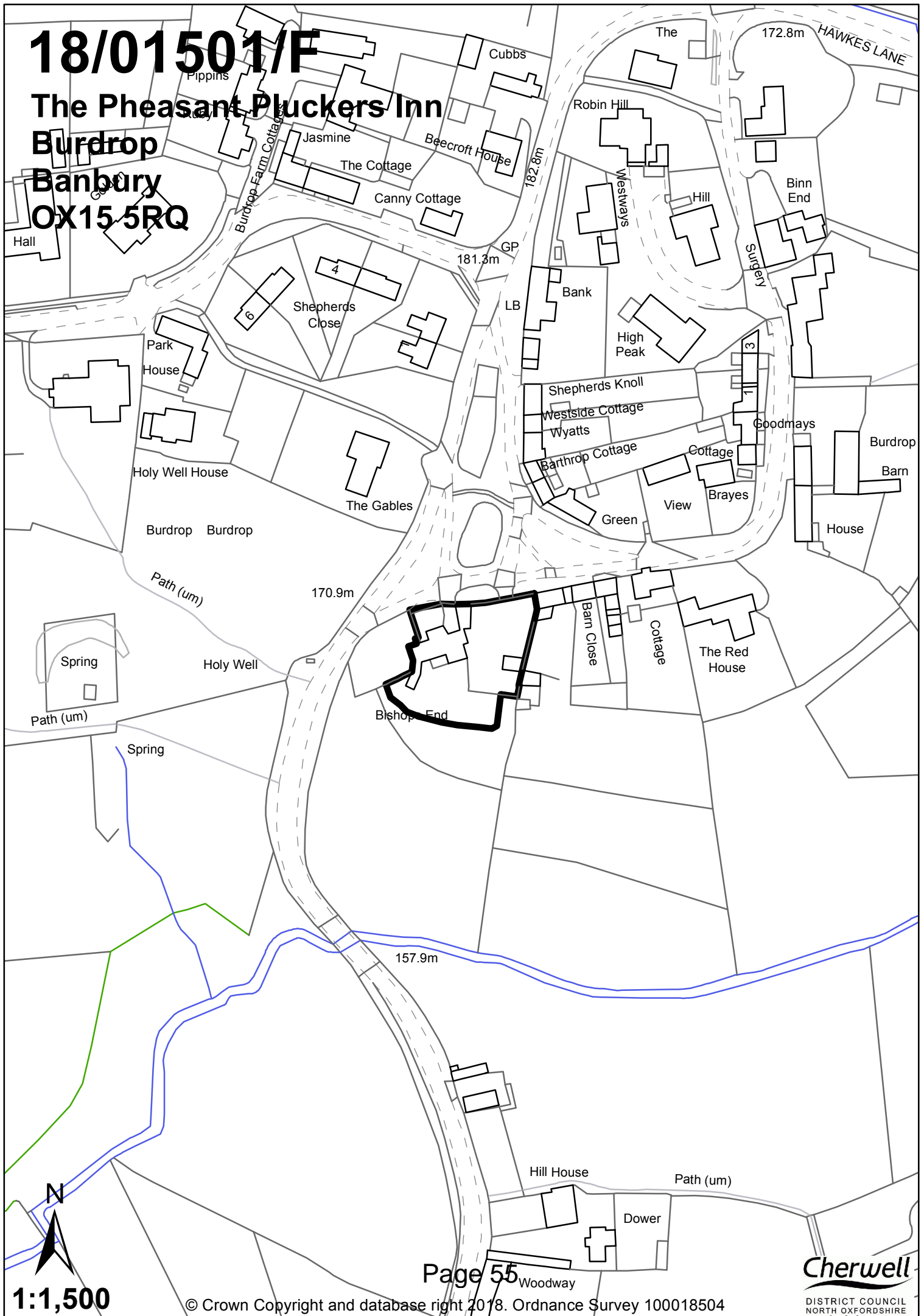
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# 18/01501/F

## The Pheasant Pluckers Inn Burdrop Banbury OX15 5RQ



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

**18/01501/F**

**Applicant:** Mr Geoffrey Richard Noquet

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

**Ward:** Cropredy, Sibfords And Wroxton

**Councillors:** Cllr George Reynolds  
Cllr Douglas Webb  
Cllr Phil Chapman

**Reason for Referral:** Member call-in in light of public interest – Cllr George Reynolds

**Expiry Date:** 21 November 2018      **Committee Date:** 22 November 2018

**Recommendation:** Refusal

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## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

### **Proposal**

The application seeks planning permission for the change of use of an existing Public House (currently known as the Pheasant Pluckers Inn, previously the Bishops Blaize) and associated land to a residential dwelling with associated parking and residential curtilage.

### **Consultations**

The following consultees have raised objections to the application:

- Sibford Gower Parish Council
- Sibford Ferris Parish Council

30 Letters/emails of objection, and no letters of support, have been received during the application.

### **Planning Policy**

In terms of key planning constraints the following are considered relevant:

- The site lies within the Sibford and Burdrop Conservation Area;
- The Public House is identified as a Locally Significant Asset within the 2012 Conservation Area Appraisal document;
- The Public House was designated as an Asset of Community Value (ACV) in February 2016.

The application has been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

### **Conclusion**

The key issues arising from the application are:

- Relevant history and whether there has been a material change in circumstances
- Principle of development
- Impact on the character of the area; including impact on Heritage Assets

- Highway Safety
- Residential amenity

The report looks into the key planning issues in detail, and officers conclude that the loss of the public house would lead to an unacceptable impact on the character and appearance of the conservation area and the local community.

## **RECOMMENDATION - REFUSE**

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.**

## **MAIN REPORT**

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

- 1.1. The application relates to a public house located within Burdrop, a small settlement which forms part of the Sibford Gower/Ferris village settlement. The site is a stone building under a slate roof, on the edge of Burdrop, overlooking the 'Sib Valley' which separates Sibford Gower and Burdrop from Sibford Ferris. The site also includes a former bottle store which is attached to the public house and is now in use as a holiday let ancillary to the public house. Immediately to the east of the site lies an existing vehicle access and associated existing car park.
- 1.2. In terms of site constraints, the site lies within the designated Sibford and Burdrop Conservation Area, the public house is identified as a Locally Significant Asset within the Conservation Area Appraisal and was designated as an Asset of Community Value (ACV) in February 2016. There are a number of grade II listed buildings within the vicinity of the site with the nearest being Barn Close ~12m east of the site. To the south of the site, beyond the car park and the pub garden, the land drops away into the valley known as the Sibford Gap.

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

- 2.1. The application seeks planning permission for the change of use of an existing Public House (currently known as the Pheasant Pluckers Inn, previously the Bishops Blaize) and associated land to a residential dwelling with associated parking and residential curtilage.
- 2.2. The application comes following the refusal at planning committee (23/11/2017) of application 17/01981/F for similar proposals; and subsequent dismissal of appeal against the Council's refusal, with the Inspector's decision being issued 4<sup>th</sup> July 2018.
- 2.3. As can be seen from the planning history of the site detailed below there have been a number of similar applications made on the same site over the years, and concerns have been previously raised by the local community with regards to the Council continuing to consider such similar applications. Under Section 70A of the Town and Country Planning Act 1990 (as amended) Local Planning Authorities have the power, in their discretion, to refuse to register a repeat planning application where a similar proposal has previously been refused planning permission either by itself or on appeal. Following receipt of the application on the 21/08/2018 legal advice was sought on this matter. Following receipt of Counsel advice it was considered that there had been a material change in the circumstances (discussed

further below), and the application was registered as being valid on 26/09/2018 following the receipt of the relevant planning application fee from the applicant.

- 2.4. As with the previous submission (17/01981/F) the application's site boundary was amended at the outset of the application to omit an area of paddock land which, whilst in the applicant's ownership, was not considered to form part of the curtilage of the public house. The applicant submitted a revised location plan in this respect, prior to the required publicity and consultations being undertaken on the application.
- 2.5. Further information was requested from the applicant at an early stage in the application and revised planning statements and various supporting documents have been received during the course of the assessment of the application and are available to view via the Council's website.
- 2.6. Unfortunately due to the timing of the planning committee in relation to the application's determination period, the application will go over its 8-week determination target date (21/11/2018) by the time of the planning committee on the 22/11/2018. The applicant was made aware of this issue early on in the application, but unfortunately no agreement was reached with the applicant with regards to agreeing an extended determination target date.

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

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
82/00329/N	Change of use of the premises to a single dwelling (The application was withdrawn as a condition of the approval was that the liquor licence had to be surrendered prior to a decision being issued. The licence was not surrendered and the pub was sold as a going concern)	Application withdrawn
85/00698/N	Change of use to a single dwelling (resolution to approve the application but a condition of any approval was that the liquor licence had to be surrendered prior to the decision being issued. The landlord at that time wished to keep the pub open and withdrew the application)	Application withdrawn
99/01783/F	Single storey extensions to bar area and to form a new freezer store and replacement garden store, as amended by plans received 5.11.99.	Application permitted
06/00248/F	Single storey bar extension to provide non-smoking restaurant facility.	Application permitted
06/01697/F	Change of use from licenced premises to dwelling house.	Application refused

07/00630/F	Resubmission of 06/01697/F - Change of use from licenced premises into dwelling house	Application refused
09/01275/F	Alterations and extension to barn to provide 4no en suite letting rooms.	Application withdrawn
09/01557/F	Change of use from closed public house to dwelling	Application withdrawn
12/00011/CLUE	Certificate of Lawful Use Existing - Use as a single dwelling house	Application refused. Appeal against subsequent enforcement notice dismissed at Public Inquiry
12/00678/F	Change of use of a vacant public house to C3 residential (as amended by site location plan received 18/07/12)	Application refused and appeal dismissed
12/00796/CLUE	Certificate of Lawful Use Existing - Use as a single dwelling house	Application refused
13/00116/F	Retrospective - New roof to barn; 3 No rooflights and door installed to the upper floor	Application permitted
13/00743/F	Erection of two new dwellings	Application withdrawn
13/00781/F	Change of use of a redundant barn/store into a 1 bedroom self-contained holiday letting cottage	Undetermined. Non-determination appeal allowed
13/00808/CLUE	Certificate of Lawful Use Existing - Change of use from A4 to A1.	Application refused
13/01511/CLUE	Certificate of lawful use existing - A1 use for the sale of wood burning stoves and fireside accessories	Application returned
14/01383/CLUP	Certificate of Lawful Use Proposed - Change of use from A4 to A1.	Application refused
15/01103/F	Removal of conditions 3 and 4 of planning permission 13/00781/F to allow occupation of holiday let cottage as a separate dwelling	Application refused and appeal dismissed
16/01525/F	Erection of a two storey cottage with 2 en-suite bedrooms, kitchen, dining and	Application refused

lounge facilities. Permission is also required for the siting of a garden shed

16/02030/F	Erection of a single storey building providing 3 No en-suite letting rooms - re-submission of 16/01525/F	Application refused and appeal allowed
17/01981/F	Change of use from A4 to C3 (ACV Listed)	Application refused and appeal dismissed

#### 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 01.11.2018, although comments received after this date and before finalising this report have also been taken into account.

5.2. 30 Letters/emails of **objection** have been received during the application. The comments raised by third parties are summarised as follows:

- Nothing has changed since previous applications and appeals have been refused; why are repeat applications being considered?
- The Pheasant Pluckers Inn is ACV listed.
- Offers have previously been made for the pub.
- There are no details of where the pub is for sale or at what price. If it is not advertised it cannot be considered to be up for sale.
- There appears to have been no further attempts by the applicant to open and run the building as a public house, and the applicant is living there in breach of planning regulations and a previous court order.
- The pub could easily be turned into the local amenity it previously was and with the right management and staff would be a very viable proposition.
- The pub signage has gone and no-one can find the pub.
- There are a number of pubs in similar small villages that are running successfully.
- The owner has no intention either of running it as a pub or selling it at a reasonable price and has driven people away.
- The application is driven by financial considerations and the potential profit to be gained through the change of use.
- The population of the Sibfords will increase over the next few years and this Asset of Community Value will be needed and used.
- The Community are well placed to make a bid for this Asset of Community Value.



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

## 6. RESPONSE TO CONSULTATION

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

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

6.2. SIBFORD FERRIS PARISH COUNCIL (SFPC): **Objects.** In their comments SFPC noted that:

- Nothing had changed in the circumstances of the property or of its owners since they last made a bid to change its use from a pub to a house a year ago and the previous refusal and subsequent appeal dismissed.
- This time they are appealing on the grounds that there has been a failure to respond to the planning inspectors conclusions of the 4th of July 2018.
- There are sound reasons why the community has not responded; including that no serious attempt had been made to sell the property and it has not been advertised, following notification by the applicants to dispose of the property being an ACV.
- SFPC further states that: 'The inspector previously stated that when the Bishops Blaize acquires the right owner the onus will be on the wider community in the area to respond and confirm the inspectors own conclusion that nothing has been demonstrated in this reapplication that as a Public House the premises cannot be made financially viable in the long term. This is the view that is held widely in the community, we believe'.
- SFPC reiterate their comments on the previous application and indicate their support for the previous refusal of the council to grant planning permission for this repeated attempt to change the pub into a private house.
- SFPC remain of the general view that this Public House, when functioning as such, was a successful and an important community asset and its current category of A4 should be retained.

6.3. SIBFORD GOWER PARISH COUNCIL (SGPC): **Objects.** In their comments SGPC noted that:

- There is no detail in the ACV guidance which requires a bid to be lodged within the Moratorium period and while a conditional offer to purchase the property, dated 15th October 2018, had been published on the CDC website, the Applicant stated that the property was not currently for sale.
- SGPC considers the expert opinion contained in the previously identified Bruton Knowles Report (13/11/17) continues to be current and relevant in respect of long term financial viability.
- It was further noted that the current application is based in two clauses (paras 20 & 21) abstracted from the Appeal Inspector's Report, date 4th July 2018, taken out of context and ignoring the Report's conclusion (para 22) with regard to long term financial viability and identified conflict with local and national planning constraints. The Parish Council Committee unanimously concluded that there was no material change in circumstances to the application and recommended it be refused.

### STATUTORY CONSULTEES

6.4. LOCAL HIGHWAYS AUTHORITY: **No objections.**

NON-STATUTORY CONSULTEES

6.5. None undertaken.

**7. RELEVANT PLANNING POLICY AND GUIDANCE**

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

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

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

- Villages 1: Village categorisation
- SLE 3: Supporting Tourism Growth
- BSC 12: Indoor Sport, Recreation and Community Facilities
- ESD15: The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28: Layout, design and external appearance of new development
- S29: Loss of existing village services
- H21: Conversion of buildings within settlements

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Town and Country (General Permitted Development) (England) Order 2015 (as amended) (GPDO)
- Sibford Ferris, Sibford Gower and Burdrop Conservation Area Appraisal 2012
- Neighbourhood Planning Act 2017
- Localism Act 2011

**8. APPRAISAL**

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

- Relevant history and whether there has been a material change in circumstances
- Principle of development
- Impact on the character of the area; including impact on Heritage Assets
- Highway Safety
- Residential amenity

Relevant history and whether there has been a material change in circumstances:

- 8.2. As can be seen from the planning history of the site detailed above there is a long and complex history of applications and appeals at the site, and this is a material consideration in the context of the current application.
- 8.3. Since the assessment, refusal and subsequent dismissed appeal in relation to the previous application 17/01981/F there has been a change in the national planning policy context with the Government publishing the revised NPPF on the 24/07/2018.
- 8.4. Following the issuing of the Inspector's decision dismissing the appeal against the previous refusal of application 17/01981/F on the 04/07/2018, the owner/applicant notified CDC of his intention to dispose of the property, as being an ACV on the 05/07/2018. This triggered the start of a six week 'interim moratorium', during which time qualifying community organisations could express an interest in bidding, and this would have the effect of extending the moratorium to six months, to allow for such a bid/offer to be progressed.
- 8.5. CDC informed Sibford Gower Parish Council (SGPC) of the interim moratorium, and placed a site notice at the property. The ACV register published on CDC's website was amended accordingly.
- 8.6. Officers note that it is often the case that the vendor of an ACV will publicise their asking price, and will want enquiries and offers to be handled by an agent who is marketing the property. In this case, no asking price was stated and no agent was named. The Council asked the owners for their agent's details on the 17/07/2018, but they declined at this time, advising CDC that it should forward the details of any expression of interest to them (the owners), which they would subsequently forward 'to our representative who will be acting for us in this process'. This is entirely legitimate and in line with the regulations. The applicant further indicated that he would be willing to disclose agent details to the case officer, but at the time of preparation of this report these details had not been received. Should such details be forthcoming prior to the committee meeting they could be reported within any written update to the application.
- 8.7. No organisation or Community Interest Group (CIG) came forward within the interim moratorium so, when it ended on 15/08/2018, a 'protected period' began. The protected period lasts until 04/01/2020. During this time the owner is free to dispose of the property without complying with the normal ACV restrictions. The notice of the intention to dispose of the ACV does not compel groups to make any bid and if any such bid is received the applicants are under no obligation to accept any such bid.
- 8.8. The Council has been made aware of two letters of offer being made of and by Mr Richard Butt on behalf of The Bishop Blaize Support Group (BBSG) dated 25<sup>th</sup> January 2018 £250,500.00 and again on the 15<sup>th</sup> of October 2018 £250,501.00 (subject to a survey & contract). However, it is unclear as to whether the applicant has seen these, as Mr Butt indicates that the October letter was attempted to be delivered on the 17/10/2018 but returned undelivered as the "the recipients refused to accept it". The applicant has not commented on this matter in rebuttals against other third party comments.
- 8.9. The applicant has put the application forward on the basis of paragraphs within the Inspector's decision and the fact that no expressions of interest were received during the 'interim moratorium' period. The applicant has not commented on this matter in his rebuttal of comments made during the application.

- 8.10. In undertaking the wider planning balance and reaching a conclusion on the appeal against refusal of the previous application 17/01981/F the Inspector states at para. 22 of the decision notice:

*Para. 22: 'As the proposal stands, I conclude that it has not been demonstrated that the public house premises cannot be made financially viable in the long term and that the proposed change of use of the building to a dwellinghouse from its lawful use as a public house would conflict with the provisions of saved policy S29 of the 1996 Local Plan, CLPP1 Policy BSC12 and the national policy in the Framework. This conflict is not outweighed by any other consideration and this indicates that the appeal should not be allowed'.*

However, in the preceding paragraphs he also offers an opinion with regards to the planning balance:

*Para. 20: 'In bringing this conclusion on the main issue into the wider planning balance, the conflict with the development plan suggests that the appeal should not be allowed. However, I have to say that the balance of considerations in favour of the development plan policy is marginal. I have serious concerns about whether there is enough adult population in 'the Sibfords' to sustain another pub and also that a move towards a 'gastro-pub' may put the appeal site premises in direct competition with the Wykham Arms in Sibford Gower'.*

*Para. 21: 'However, to my mind a critical event in the overall judgement is the designation of the building as an ACV. The appellant recognises that the main purpose of such designation is to allow the community to make a reasonable bid to buy the property if and when it comes onto the market. The representations submitted on the appeal do not suggest to me that that has happened in a clear and positive way. To the contrary, the representations indicate clear local tensions between the appellant and his wife and many others in the local community. The allegation that the premises have been boycotted by the locals in the past will not help secure the reinstatement of the pub. Notwithstanding this, I consider that the onus now lies with the local community to demonstrate that the pub can be viable in the long term and make a considered offer to purchase. Further, the scope for such a solution should not be open-ended and the local community should in my view be able to complete this activity within a reasonably short period'.*

- 8.11. As can be seen the Inspector considers the planning balance to fall on the side of the conflict demonstrated against development plan policy, but that this was finely balanced and there were factors that weighed against the public house becoming again viable in the future, including the tensions that clearly exist between the applicants and the local community. And this view again is a material consideration in the assessment of the current application.

Principle of development:

*Policy*

- 8.12. The National Planning Policy Framework (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.

- 8.13. The general thrust of the NPPF is one of supporting the achievement of sustainable development through the planning system; recognising the need to secure gains in the overarching objectives (economic, social and environmental). It is clear from guidance within the NPPF that sustainability concerns more than just proximity to facilities, it clearly also relates to ensuring the physical and natural environment is conserved and enhanced as well as contributing to building a strong economy and promoting sustainable healthy and safe communities. These provisions and aims are reflected in the policies of CLP 2031 and saved policies of the CLP 1996.
- 8.14. Paragraph 12 of the NPPF notes that the development plan is the starting point of decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.
- 8.15. There has been a relatively short period of time since the Inspector's dismissal of the appeal against the refusal of the previous application 17/01981/F on the 4<sup>th</sup> July this year, and the general policy context remains largely the same as during the previous application; with the revisions to the NPPF carrying forward guidance with regard to community facilities and assets. As with previous applications for change of use of the property to a residential dwelling at the site, the principle of development in this case is clearly dependent on two distinct elements: the principle of residential development on the site and the loss of the public house facilities. The principle of residential development on the site shall be dealt with first.
- 8.16. Cherwell District Council can demonstrate a five year supply of deliverable housing sites, and as such its policies in terms of housing can be considered to be up-to-date and given full weight.

#### *Provision of Housing*

- 8.17. The principle of residential development in Burdrop is assessed against Policy Villages 1 in the CLP 2031. Burdrop is recognised as a Category A village in the Cherwell Local Plan 2011 – 2031 Part 1, by virtue of its close association Sibford Ferris and Sibford Gower. Within Category A villages residential development is restricted to minor development, infilling and conversions.
- 8.18. Saved Policy H21 of the CLP 1996 states that within settlements the conversion of suitable buildings to dwellings will be favourably considered unless conversion to a residential use would be detrimental to the special character and interest of a building of architectural and historic significance. In all instances proposals will be subject to the other policies in this plan.
- 8.19. Whilst the site currently contains ancillary residential accommodation associated with the public house, the proposed development would involve the conversion of the entire public house (A4) to a private dwelling house (C3). The Pheasant Pluckers Inn is located within the built up limits of Burdrop and therefore in this respect the proposed development is considered to comply with the housing policies of the development plan and is acceptable in this regard, subject to the loss of the village service and its acceptability in terms of other material planning considerations.

#### *Loss of Public House*

- 8.20. Turning now to the loss of the public house. Within the NPPF the Government demonstrates the need for supporting both existing and new community facilities within rural areas. It advises that polices should look to support economic growth in

rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development; and that there should be support for sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should also include promotion of the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship (NPPF, Para. 83).

8.21. Further at paragraph 92 of the NPPF that:

To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;
- b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;
- c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;
- d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and
- e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.

8.22. The Government appears to further acknowledge that the loss of public houses/drinking establishments is a growing issue, with recent amendments to the permitted development regime (The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2017) with regard to A4 (Drinking Establishments) and permitted changes under the GPDO; with the only permitted changes of A4 uses, now currently being restricted to A3 (Restaurants and Cafes) or AA (Drinking Establishments with expanded food provision), where previously changes to A1 (Retail) and A2 (Professional and Financial Services) had been considered permitted development, subject to conditions, including that the building was not an ACV.

8.23. Policy BSC12 of the CLP 2031 Part 1 does not specifically refer to public houses, however the policy does cover the provision of community facilities and states that the Council will encourage the provision of community facilities to enhance the sustainability of communities and will seek to protect and enhance existing facilities. Policy SLE 3 further looks to support development which enhances tourism opportunities within the district.

8.24. Saved Policy S29 of the CLP 1996 covers the loss of existing village services. The policy states that proposals that will involve the loss of existing village services which serve the basic needs of the local community will not normally be permitted. The policy does go on to state, however, that it is also recognised that it will be difficult to resist the loss of such facilities when they are proven to be no longer financially viable in the long term.

- 8.25. There is significant planning history at the site and significant concerns have been raised by the local community with regard to the potential loss of the pub as a community facility both during the current application and with previous applications at the site, and these concerns are again expressed by the Parish Councils and local community in response to consultation on the application. There is an opinion within the community that the applicant has deliberately run the public house down with the sole intention of financial gain potentially being made through the change of use of the property to a residential use and subsequent sale; this to some extent is borne out by the planning history of the site.
- 8.26. The Public House was designated an Asset of Community Value (ACV) in February 2016, and as noted in the previous application there is still strong support for the pub to be brought back into regular use; this is again demonstrated by the significant number of objections to the application from the community including both local parish councils. The applicant notes that some of the third party representations come from outside of the Sibford area and that the actual comment from the local residents only represents 1.35% of the adult population. Officers consider that the level of third party interest coupled with that of both the local Parish Councils demonstrates that there still remains significant community interest in the facility.
- 8.27. The applicant has provided details of pub closures in support of their application. During the previous application it was noted that media reports suggested that there are 21 net pub closures every week. More recent media coverage suggests that there is a continuing trend in the number of pub closures; with the BBC reporting that there were 476 closures in the first six months of the year, 13 more than in the last six months of 2017. This does suggest that public houses do clearly face significant challenges in remaining viable and open for business.
- 8.28. As with previous applications, comment has been made with regard to the viability of the public house, designated as an Asset of Community Value, given its restricted opening hours and current levels of service it provides. Recent opening times for the Pheasant Pluckers Inn are not clear, with local residents claiming that the pub has not been open since the time of the previous application, whilst the applicant has indicated that the pub has been open for up to three days a week (6-10pm Thursday to Saturday inclusive) through July to mid-September. Officers have not been able to substantiate such opening times either way. However, during daytime site visits officers noted that there is no evident signage or anything that would suggest that the property was a public house or open for business, and further that there did not appear to be any advertising on social media or online suggesting that the pub has been open for business, as had been the case previously put forward by the applicant during application 17/01981/F. The applicant has indicated that from the middle of September (16/09/2018) the pub has not been open and is currently 'closed awaiting planning decision'.
- 8.29. The applicant has not provided any financial information or evidence of recent marketing with the current application. Further, officers have not been able to find any online records of the site being up for sale, which would appear to indicate that the pub is not on the market; and which would further appear to be borne out in the comments of SGPC in which they indicate that: *'the Applicant stated that the property was not currently for sale'*. The property has not been placed on the market within any publically available valuation or details and it is unclear as to what the applicant would consider as an acceptable value for the property and business.
- 8.30. Previously the Council commissioned an independent assessment which was undertaken by Bruton Knowles (BK), a leading property consultant. The BK report ultimately concluded that the Pheasant Pluckers Inn could still be viable as a public house, but that this would be subject to certain factors and improvements. The BK

report is considered to be the most up to date information in terms of viability of the site as an ongoing concern, and conclusions of the BK report further were agreed by the Inspector in the dismissal of the appeal against the refusal of the previous application 17/01981/F.

- 8.31. As noted in inspectors' decisions in dismissing appeals (APP/C3105/C/12/2170904 in 2012, APP/C3105/A/13/2190714 in 2013 and most recently APP/C3105/W/17/3191365 in 2018) against previously refused applications at the site, the proposed change of use of the Pheasant Pluckers Inn has been consistently considered contrary to the provisions and aims of saved Policy S29 of the CLP and policy guidance with the NPPF and this remains the case with the current application.
- 8.32. Notwithstanding the opinion expressed by the Inspector in dismissing the previous recent appeal '*...the onus now lies with the local community to demonstrate that the pub can be viable in the long term...*', as advised within the NPPF, the starting point for any decision must be the policies of the Development Plan. As noted above saved Policy S29 and BSC12 seek to resist the loss of important community facilities and these provisions and aims are reflected in Section 8 of the NPPF. The supporting text to Policy S29 indicates that: '*...it is also recognised that it will be difficult to resist the loss of such facilities when they are proven to be no longer financially viable in the long term [officer's emphasis]*'. The applicant has provided no evidence that they have attempted to apply an amended business model that would promote a more active use of the existing public house that could potentially see it becoming more financially viable in the future, through public and community use and engagement or that they have made any significant effort to market the business as an on-going concern.
- 8.33. Given the lack of any fresh information being submitted with the application, and the conclusions reached in the BK report and Inspectors decision, officers cannot reasonably reach any other different conclusion to that reached during the assessment of the previous application 17/01981/F. It remains officer's opinion that the applicant has failed to satisfactorily demonstrate, notwithstanding that the public house is not currently be run under a viable business model, that the Pheasant Pluckers Inn could not be viable in the long-term, contrary to the provision of saved Policy S29 CLP 1996.
- 8.34. There remains very strong evidence from the community of a wish to see the Pheasant Pluckers Inn (formerly Bishop Blaize) retained as a public house. Officers see no new conclusive evidence to consider that circumstances in this respect have significantly changed since previous refusals at the site. The Pheasant Pluckers Inn is clearly not viable whilst being run under the current business model.
- 8.35. As noted in the comments of third parties and the Parish Councils the pub has previously provided a much valued facility and service over the years. It is considered that the periods of closure and reduced operations, initiated by the applicants over the years, has reduced the local community's ability to meet its day-to-day needs. As such the proposals are considered contrary to the identified policies of development plan and Government advice and guidance with regard to protecting and retaining valued community facilities and therefore are considered unacceptable in principle.

Impact on the character of the area: including Heritage Assets:

- 8.36. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places



better for people. These aims are also echoed within Policy ESD15 of the CLP which looks to promote and support development of a high standard which contribute positively to an area's character and identity by creating or reinforcing local distinctiveness.

8.37. The site is within the Sibford Ferris, Sibford Gower and Burdrop Conservation Area, which was designated as such in 1985. Conservation areas are designated by the Council under Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990; with the aim being to manage new development within such areas to ensure that the character or appearance of the Conservation Area, and the special architectural or historic interest which it may possess, is preserved and where possible enhanced.

8.38. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

8.39. As noted above, the site is within the Bloxham Conservation Area, a Designated Heritage Asset. The NPPF (Paras. 184 & 185) advises Local Planning Authorities to positively set out strategies for the conservation and enjoyment of the historic environment, and that they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

8.40. 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.

8.41. The 2012 Sibford Ferris, Sibford Gower and Burdrop Conservation Area Conservation Area Appraisal document identifies the public house as a Locally Significant Asset and is therefore a Non-Designated Heritage Asset within the Conservation Area. The Pheasant Pluckers Inn (Former Bishop Blaize Public House) is described as a significant building within the vernacular tradition of the area. It is also a visually significant building being located on the lip of the valley. This significance is enhanced by its slight physical separation from the neighbouring buildings.

8.42. Whilst there is no operational development proposed as part of this application, the change in use of the property from a functional public house to a residential property would result in a change in the character and appearance of the site. Some of the impacts of the proposed change of use have already been realised with the loss of the previous public house signage, and as noted in comments made in objection to the application, and as observed by officers during site visit, the property currently has nothing which would identify the property as public house and attract visitors/customers into the building.

8.43. The use of the property for purely residential purpose would have a significantly different appearance to that of active public house, and in this respect the proposed change of use would not sustain the established character and appearance of the conservation area. The NPPF (Para. 196) advises that: *'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'*. The site has been a successful public house and a focal point for community activity in the past. It has not been demonstrated that such a use could not again be viable in the long term. It is considered the public benefit gained would not outweigh the harm that would be caused to the character and appearance of the Designated Heritage Asset of the Sibford Ferris, Sibford Gower and Burdrop Conservation Area nor the Non-Designated Heritage Asset of the Bishop Blaise (Pheasant Pluckers Inn) Public House'; therefore failing to comply with the provisions and aims of Policy ESD 15 of the CLP 2031 and policy guidance within the NPPF.

#### Highway Safety:

- 8.44. The Highways Authority has again assessed the proposals and raises no objections, in line with the position taken by them on the previous application 17/01981/F.
- 8.45. Officers see no reason to disagree with this opinion. The site has an existing car park area associated with the existing public house, which although this area is currently somewhat restricted by storage of various items and materials, there still remains sufficient space for vehicles to enter and leave the site in a forward manner; and further there is additional parking to the front of the property.
- 8.46. The proposals would not result in any increase in vehicular movements to and from the site and no further parking requirement above the current situation. The proposals would not result in any significant impact on the safety and convenience of other highway users or result in any significant detrimental impact on highway safety, and are therefore considered acceptable in this regard.

#### Residential Amenity:

- 8.47. 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'.
- 8.48. As with the previous application (17/01981/F), whilst no detailed plans have been submitted with application, officers consider that it is highly likely that the conversion of the public house to a three bedroom would provide levels of both indoor and outdoor amenity that would allow for a very good standard of living for potential future occupants of the property and therefore could be considered acceptable in this regard.
- 8.49. Given the context of the site, the relationship with neighbouring properties and the nature of the development (that there would be no operational development) it is considered that the proposed change would not result in any significant impacts on neighbour amenity above those currently experience and is therefore also acceptable in this regard.

#### Other Matters:

- 8.50. Comment has been made with regard to the applicants apparent lack regard to planning regulations and previous enforcement notice requirements with regards to the occupation of the ancillary residential accommodation. The residential accommodation is only ancillary to the use of the public house; therefore the primary use must be current and property operated as a public house to allow for the ancillary residential use. However, it should be noted that this is not considered a material planning consideration in the context of the current application.
- 8.51. Notwithstanding the above prior to the application being submitted the Council's Enforcement Team were pursuing enforcement action at the site, in relation to the site being used as a residence not ancillary to the Public House use. However, following the submission of the application it was not considered appropriate to progress any such action further until such time as the planning application had been resolved. Should the committee be minded to refuse this application, officers, under delegated powers, would then continue with further enforcement action. It should be noted, however, that should the application be refused and appealed then any such action would again be delayed until such time as the appeal is resolved. It is unfortunate that the planning process can be used as a delaying tactic in this way, though in the present instance this would only hinder the applicant's case rather than assist it, because the record of repeated planning applications and appeals itself suggests that there is no serious intention to run the property as a public house.

## **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 advises that the three dimensions to sustainable development (economic, social and environmental), which are interdependent; need to be pursued in mutually supportive ways.
- 9.2. In reaching an informed decision on planning applications there is a need for the Local Planning Authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. It is also necessary to recognise that Section 38 of the 1990 Act continues to require decisions to be made in accordance with the development plan and the NPPF highlights the importance of the plan led system as a whole.
- 9.3. Given the above assessment in the light of current guiding national and local policy context, whilst a residential use in this location could be considered acceptable in terms of the sustainability of the location and would be acceptable in terms of highway safety and residential amenity, it is considered that a change of use of the public house – a valued community facility designated as both an Asset of Community Value and a Non-Designated Heritage Asset – would result in the loss of a valued village service. The proposal would also detrimentally impact on the character and appearance of the surrounding conservation area through the change of use of the site to residential.
- 9.4. Whilst the applicant has triggered the community's right to express an interest in bidding on the property through the legislation relating to the ACV status on the building, which has not been taken up, officers do not consider this lack of action of any community interest group as being determinant as to whether there remains a significant community interest in seeing the public house being brought back into an active and viable use, and once again a valued community asset. The property has not been placed on the market within any publically available valuation or details and it is unclear as to what the applicant would be considered as an acceptable value for the property and business.

- 9.5. On the basis of the application and the contributions received, it is considered that there has not been a significant change in the circumstances of the site, in what has been a relatively short period of time since the dismissal of the appeal against the refusal of the previous application (17/0981/F), that would suggest that a different conclusion should be reached, to that of the inspector in his decision of 04/07/2018, as to the acceptability of the proposed change of use of the public house site to a residential use. Further it has not been conclusively demonstrated that the existing facility is not viable in the long-term.
- 9.6. It is further considered that any potential public benefits of the change of use to residential would not outweigh the harm identified above and the proposals are therefore considered contrary to the above mentioned development plan policies; as such the application is therefore recommended for refusal for the reasons set out below.

## **10. RECOMMENDATION**

That permission is refused, for the following reason:

1. The proposal would result in the loss of a valued village service and Asset of Community Value which, on the basis of the application and the contributions received, it has not been conclusively demonstrated as not being viable in the long-term. As such, the loss of the service would lead to an unacceptable impact on the character and appearance of the conservation area and the local community and would therefore be contrary to saved Policy S29 of the Cherwell Local Plan 1996, Policies ESD 15 and BSC 12 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance and advice on supporting and building a strong, competitive economy and promoting healthy and safe communities contained within the National Planning Policy Framework.

### **PLANNING NOTES:**

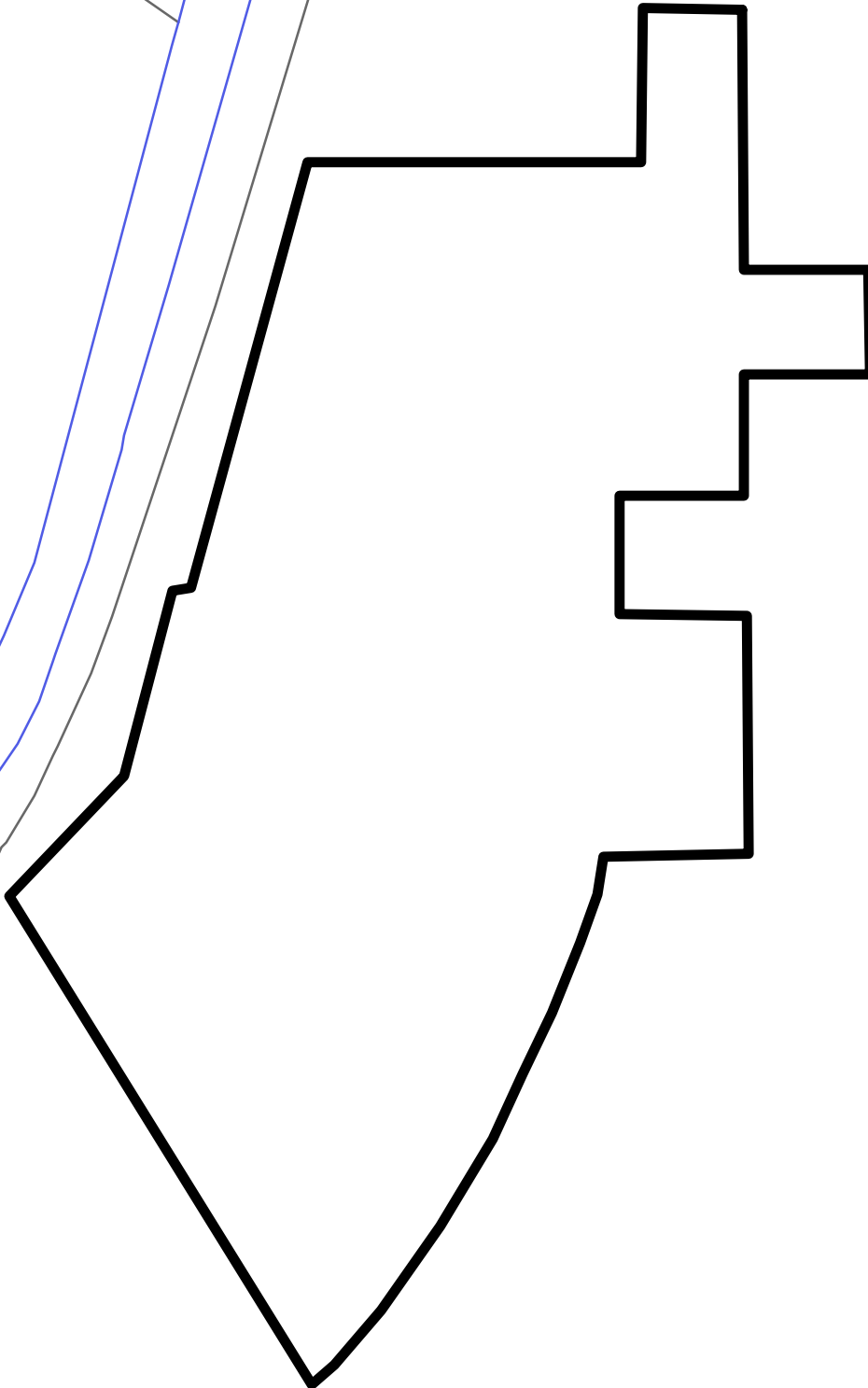
1. For the avoidance of doubt, the plans and documents considered by the Council in reaching its decision on this application are: Application forms, supporting statement and associated documents submitted with the application, the amended site location plan received 01/10/2018 and further items received in correspondence from the applicant during the application.

CASE OFFICER: Bob Neville

TEL: 01295 221875

**18/01259/F**

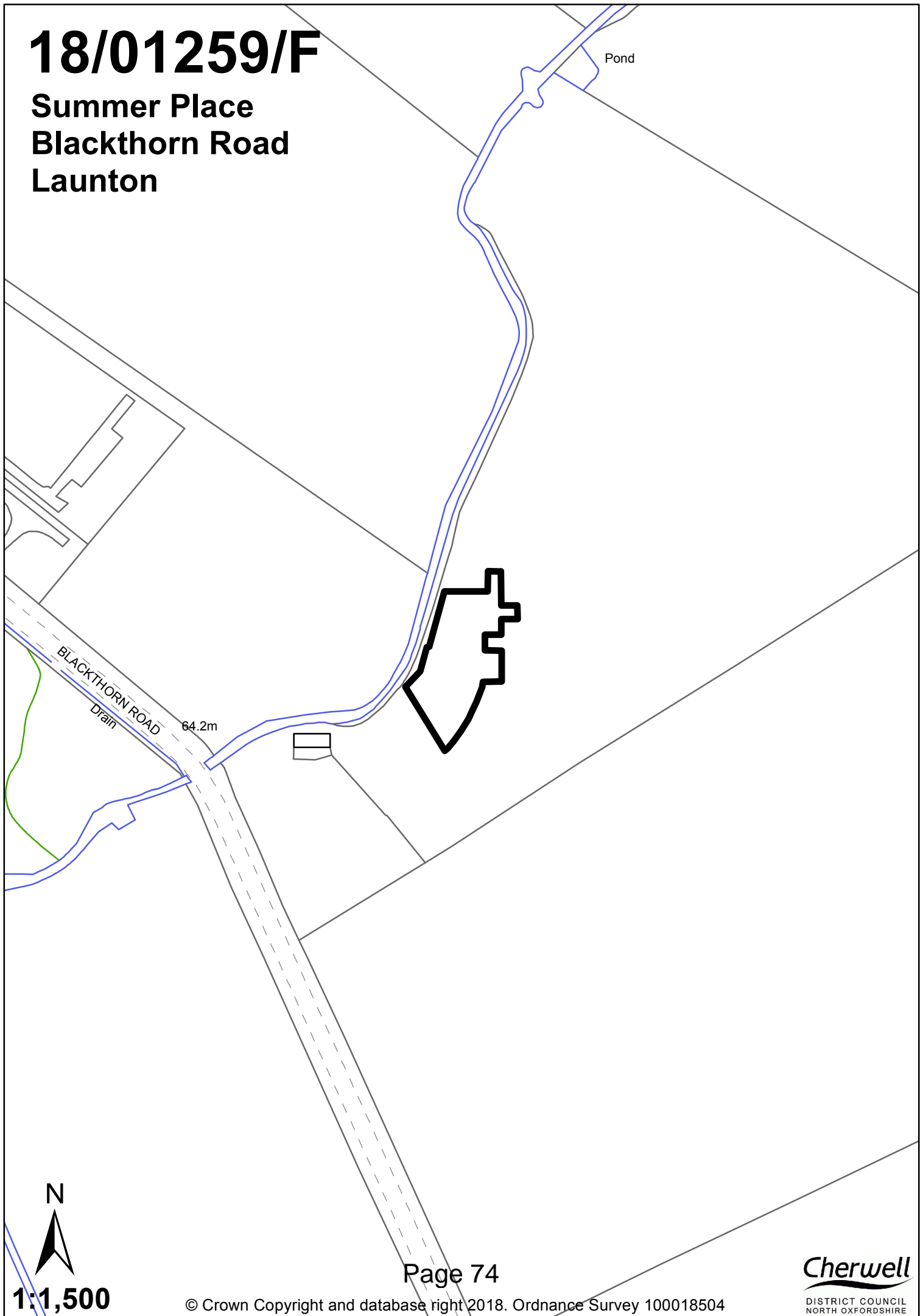
**Summer Place  
Blackthorn Road  
Launton**



**1:300**

# 18/01259/F

Summer Place  
Blackthorn Road  
Launton



Pond

BLACKTHORN ROAD  
Drain

64.2m

N

1:1,500

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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Summer Place  
Blackthorn Road  
Launton**

**18/01259/F**

**Applicant:** Mr Jerry Connors

**Proposal:** Use of land for the stationing of caravans for residential purposes

**Ward:** Launton And Otmoor

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

**Reason for Referral:** Called in by Ward Member – Cllr David Hughes

**Expiry Date:** 24 September 2018      **Committee Date:** 22 November 2018

**Recommendation:** Approve

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## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

### **Proposal**

Planning permission is sought for the change of use of the site so as to extend the existing gypsy and traveller caravan site at Summer Place further to the north east and provide 4 additional pitches. Each pitch would contain a mobile home, amenity room and touring caravan.

### **Consultations**

The following statutory consultee has raised objections to the application:

- Launton Parish Council

1 Letter of objection has been received.

### **Planning Policy**

The site lies adjacent to the Launton Brook which is classified as a 'main river'. The site itself is not within Flood Zone 2 and 3, but it is bordered by these higher probability flooding zones on the south and east boundaries. The site has some ecological potential as legally protected species have been recorded within the vicinity of the site. The site is also within the Ray Conservation Target Area.

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

### **Conclusion**

The key issues arising from the amended application details are:

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

- Ecological Impact.

The report looks into the key planning issues in detail, and officers conclude that the proposal is acceptable subject to conditions. The scheme meets the requirements of relevant CDC policies.

## **RECOMMENDATION - GRANT PERMISSION SUBJECT TO CONDITIONS**

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.**

## **MAIN REPORT**

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

- 1.1. The application site is located within the open countryside, some 150 metres to the south east of the village of Launton. The site is located on the north east side of Blackthorn Road and in between the site and this highway is an existing traveller site with permission for 4 pitches. The site comprises an area of grass land which is in agricultural use. The site is accessed off Blackthorn Road and this access also serves the current traveller site.
- 1.2. The site is not within a conservation area and there are not any listed buildings within close proximity to the site. The site itself is not within a Flood Zone 2 and 3, but it is bordered by these higher probability flooding zones on the south and east boundaries. The site has some ecological potential as legally protected species have been recorded within the vicinity of the site including the Kestrel, Eurasian Badger and Common Frog and the site is within 20 metres of a 'main river' which runs adjacent to the north west boundary of the site. The site is also within the Ray Conservation Target Area.

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

- 2.1. Planning permission is sought for the change of use of the land from agriculture to the stationing of caravans for residential purposes. This is to extend the existing gypsy and traveller caravan site further to the north east. The site is proposed to accommodate four pitches, with each pitch containing a mobile home, amenity room and touring caravan. A package treatment plant is proposed to deal with the foul waste from the pitches. No alterations to the current access off Blackthorn Road are proposed. Loose bound permeable hard standing is proposed on the site.

### **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>
13/00279/F	Change of Use of land to a private gypsy and traveller caravan site comprising of 2 No pitches; 1 No dayroom and associated hardstanding; retention of stables and	Application Approved



septic tank

- 3.2. This application related to land to the west of the site and it was adjacent to the highway boundary. Consent was granted for each pitch to include 1 No. mobile home, 1 No. touring caravan and a dayroom. A number of conditions were attached to this consent, including a number of pre-commencement conditions (5, 8, 10 and 11) and these were discharged on 14th February 2014 (ref: 13/00172/DISC).

16/00034/F                      Place two further static mobile homes on      Withdrawn  
the site. Enlarge the two day rooms to  
accommodate the increase in use

16/01719/F                      Addition of two further static mobile homes      Withdrawn  
and enlarge the two day rooms and relocate  
one, to accommodate the increased use -  
Resubmission of 16/00034/F

- 3.3. Officers raised concerns with these applications due to the lack of justification for the proposal and the inaccuracies within the plans therefore these applications were withdrawn.

17/00031/F                      Addition of two further static mobile homes      APPROVED  
and enlarge the two day rooms and relocate  
one, to accommodate the increased use -  
Resubmission of 16/00034/F

- 3.4. The site related to land between the site subject of this current application before Members and the site of the approved application referred to above (13/00279/F). Planning permission was granted for 2.No additional traveller pitches, each comprising 1 No. mobile home, 1 No. touring caravan and 1 No. day room. A number of conditions were attached to this consent, including:

- Condition 5 of the previous consent at the site stated: *“Within 6 months of the date of this permission, and prior to the occupation of the additional pitches hereby approved, a detailed scheme for the surface water and foul sewage drainage of the development incorporating sustainable drainage systems where practicable shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, and within 12 months of the date of this permission, and prior to the occupation of the additional pitches hereby approved, the approved drainage scheme shall be carried out and maintained as such thereafter.”* This condition has not been complied with as no such information has been submitted. Thus, Planning Enforcement has been made aware.
- Condition 7, which stated that: *“The 8 metre landscape buffer adjacent to Launton Brook, as shown on Drawing Number 1311-PL-01f received from the applicant's agent by e-mail on 23rd May 2017, shall be kept free of development at all times and no development or storage of goods, vehicles or materials shall take place at any time whatsoever”*. However, having visited the site, officers hold the view that it is likely that this plan has not been complied with. Fencing appears to have been installed within the buffer zone. Planning Enforcement has been notified.

#### 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. The final date for comments was 05.09.2018, although comments received after this date and before finalising this report have also been taken into account.

5.2. One letter of objection has been received. The comments raised by this third party are summarised as follows:

- Water is taken from other land and there is no mains water supply;
- The existing traveller site is not in compliance with the permissions at the site;
- There is not proper treatment of foul sewage;
- The access is unsafe.

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. LAUNTON PARISH COUNCIL: **Objects** to the application on the following grounds:

- The site bears little resemblance to the plans submitted;
- Overdevelopment of the site and limited justification for this;
- Access is unsafe;
- No meaningful means of disposal of sewage and effluent;
- No legal provision for water.

##### STATUTORY CONSULTEES

6.3. ENVIRONMENT AGENCY: A buffer of 8 metres from the watercourse (Launton Brook) is required.

6.4. OCC DRAINAGE: **No objections** subject to a drainage scheme

6.5. OCC HIGHWAYS: **No objections** subject to conditions

6.6. THAMES WATER: **No comments received.**

##### NON-STATUTORY CONSULTEES

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

6.8. CDC ENVIRONMENTAL PROTECTION: **No objections** subject to Electric Vehicle charging infrastructure on site.

6.9. CDC LICENSING: **No objections**, but a caravan site license will be required.

6.10. CDC WASTE & RECYCLING: **No comments received.**

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

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

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

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

- PSD1: Presumption in Favour of Sustainable Development
- SLE4: Improved Transport and Connections
- BSC6: Travelling communities
- ESD1: Mitigating and Adapting to Climate Change
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD11: Conservation Target Areas
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment
- Villages 1: Village Categorisation

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

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

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Planning Policy for Traveller Sites (August 2015) (PPTS). This document sets out the Government’s planning policy specifically for traveller sites and should be read in conjunction with the NPPF
- Designing Gypsy & Traveller Sites (2008) (although this document was withdrawn by the Government on 1st September 2015, it remains a useful starting point for considering the design and layout of proposed travellers sites)
- Gypsies and Travellers: Planning Provisions – Briefing Paper January 2016. Provides useful background information and summarises changes to the updated PPTS. It should be noted however that as this is only a Briefing Paper; it carries very limited weight and should not be relied upon as a substitute for specific advice
- CDC Annual Monitoring Report 2017 (AMR) (December 2017)
- Cherwell, West Oxfordshire and South Northamptonshire Gypsy and Traveller Needs Assessment (2012/2013) (GTAA)

- Cherwell, Oxford City, South Oxfordshire and Vale of White Horse Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (2017) (GTAA 2017)
- European Convention on Human Rights (ECHR) Articles 8 and Article 14 of Protocol 1
- Housing Act (2004)
- The Equality Act (2010)
- Cherwell District Council Statement of Community Involvement (July 2016)

## 8. APPRAISAL

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

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

### Principle of the Development

8.2. Policy PSD1 of the Cherwell Local Plan (2011-2031) Part 1 echoes the NPPF's requirements for 'sustainable development' and that planning applications that accord with the policies in the Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise. The Council's development plan consists of the Policies in the Cherwell Local Plan (2011-2031) Part 1 and the Saved policies of the Cherwell Local Plan (1996).

8.3. Policy ESD1 of the Cherwell Local Plan (2011-2031) Part 1 states that to mitigate the impact of development on climate change, growth will be delivered in the most sustainable locations (as defined in the local plan) and reducing the need to travel. Policy BSC 6 of the Cherwell Local Plan (2011-2031) Part 1 builds on this to meet the identified need for new traveller pitches in the District and in order to provide and maintain a five year supply of deliverable traveller sites. This states that allocations will be made in Local Plan Part 2 and planning permissions will be granted for suitable traveller sites. Policy BSC6 also goes on to state that locations outside the AONB and Green Belt will be considered and: *"In identifying suitable sites with reasonable accessibility to services and facilities the following sequential approach will be applied:*

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

8.4. Under Policy Villages 1 of the Cherwell Local Plan, Launton is identified as a Category A village. Category A villages are considered the most sustainable settlements in the District's rural areas. The site is approximately 200 metres by road from Launton therefore the proposal meets the first criteria relating to the

sequential test for the location of sites. It is worth noting that the site is also approximately 1.6KM from the town of Bicester by road.

- 8.5. However, this does not mean the proposal is de facto acceptable in principle as Policy BSC6 also requires the assessment of the suitability of sites against the criteria below:

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

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

- 8.6. To begin with, it is worth noting that the land to the south west of the site has permission as a traveller site. Furthermore, the site is within 3km of a shop (within Launton), primary school (within Launton), public houses (within Launton), as well as within 3km of the town of Bicester which contains GP and health services, schools, shops, recreational facilities, a library and many other service. There is also a regular bus service between Launton and Bicester.

- 8.7. In relation to the national planning policy context for the provision of traveller sites, this is contained within the August 2015 ‘Planning Policy for Traveller Sites’ (PPTS) and should be read in conjunction with the NPPF. The Government’s overarching aim is to ensure fair and equal treatment for travellers in a way that facilitates the traditional and nomadic way of life that they have whilst at the same time respecting the amenity and appearance of the settled community.

- 8.8. Policy H of the Government PPTS states that LPAs should consider the following matters when considering proposals for gypsies and travellers:

- a) the existing level of local provision and need for sites;
- b) the availability (or lack) of alternative accommodation for the applicants;
- c) other personal circumstances of the applicant;
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites;
- e) that they should determine applications for sites from any travellers and not just those with local connections.

- 8.9. Policy H goes on to advise that LPAs should strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas allocated in the development plan. Whilst the site is located outside of any settlement, it would be located adjacent to an existing traveller site and would only be approximately 200 metres away from the Category A village of Launton and approximately 1.6km from Bicester. Given this, it is not considered that the proposal can be said to be ‘away from the nearest existing settlements’ and so would not conflict with national policy in that respect

- 8.10. Policy H then notes that when considering applications LPAs should attach weight to the following matters:
- a) effective use of previously developed (brownfield), untidy or derelict land;
  - b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;
  - c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children;
  - d) not enclosing sites with excessive hard landscaping, high walls or fences that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.
- 8.11. Given the location of the site, the number of pitches proposed even when viewed together with the existing traveller site, and the size of Launton, it is not considered that the proposal would dominate the nearest settled community. The site is a greenfield site which is not previously developed. The other matters are discussed further below.
- 8.12. Overall, it is considered that the location of the site is within a relatively sustainable location for a new gypsy and traveller site in general sustainability terms. This weighs in favour of the application.

#### Gypsy and Traveller Pitch Provision and 5 Year Supply Position

- 8.13. The Local Planning Authority is required to make an assessment of the needs for gypsy and traveller sites within the district and identify and update annually a 5 year supply of specific deliverable sites. Paragraph 27 of the PPTS states that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission.
- 8.14. Policy BSC6 of the Local Plan states that the Council will provide 19 (net) additional pitches to meet the needs of Gypsy and Travellers from 2012 to 2031. The most recent Annual Monitoring Report (AMR) 2017 (December 2017) displays two different assessments of the Council's five year supply position for gypsies and travellers as discussed below.
- 8.15. The first assessment is based on figures within the Development Plan. This outlines that at 31st March 2017 the total number of authorised pitches in Cherwell for Gypsies and Travellers was 57 and the requirement for pitches within the period 2017-2031 is a need for 31 pitches (as there has been a net loss of pitches since the figures in the local plan were formulated). It states that the District currently has a 1.1 year land supply for gypsies and travellers for the period 2017-2022 (18 pitch shortfall) and a 0.9 year land supply for the period of 2018-2023 (19 pitch shortfall). Thus, based on the requirements of the Local Plan Part 1, the Council cannot demonstrate a 5 year supply of sites and has a significant shortfall.
- 8.16. However, since the Cherwell Local Plan Part 1 was adopted the Planning Policy for Traveller Sites (August 2015) has been published. This included a change to the definition of "gypsies and travellers" for planning related purposes so that it now excludes those who have permanently ceased from travelling. The definition of Gypsies and Travellers reads as follows: "*Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependant's education or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show people or circus people travelling together as such.*"

- 8.17. In light of this and in order to provide an evidence base for the preparation of the Local Plan Part 2, the Council commissioned a new Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA 2017) with a number of neighbouring authorities which was published in June 2017. This takes into account the new definition of gypsies and travellers unlike the Local Plan figure which is based on the old definition. The GTAA 2017 identified a significantly lower need for pitches. It concludes there is a need for 7 additional pitches that meet the new planning definition over the next 15 years (2017-2031/2). It also identified a need for up to 20 additional pitches for unknown households in the district over the same period. Unknown households are households that may meet the new definition of gypsy and traveller however interviews during the research were either refused or not possible. It was therefore not possible to establish whether they met the new planning definition. It is noted that the authors of the assessment state that if their national average applied to the unknown households then the need stemming from the unknown households may be as low as 2 additional pitches.
- 8.18. The AMR therefore includes a second assessment of the Council's 5 year land supply based on the known need within the GTAA 2017. However, the second assessment within the AMR 2017 states that the requirement for pitches within the period 2017-2032 is a need for 15 pitches, rather than 7 identified. This is because the second assessment within the AMR includes the potential need for 8 pitches arising from the closure of the Newlands Caravan Site. Based on this second assessment, it is stated that the District currently has a 5.0 year land supply for gypsies and travellers for the period 2017-2022 and a 4.0 year land supply for the period of 2018-2023 (1 pitch shortfall).
- 8.19. This therefore casts some doubt over the figures in the Development Plan as these figures were based on the previous definition of gypsies and travellers which included residents which had permanently ceased travelling. However, whilst the figures in the new GTAA 2017 are a material consideration they need to be treated with caution as the methodology and results have not been subject to the rigour of public examination like the Development Plan figures and it is noted that there are a high number of unknown households (i.e. those who may meet the new definition). Furthermore, in considering this matter the primacy of the development plan for decision making needs to be taken into account.
- 8.20. Overall there is a fundamental conflict between the two calculations. The calculation based on the development plan figures recognises a significant shortfall against the 5 year requirement whilst the calculation using the recent GTAA indicates that the Council can demonstrate a 5 year supply of sites. There are weaknesses in both sets of figures with the development plan figures being based on an old definition and the methodology and figures in the new GTAA 2017 having not been subject to independent scrutiny or examination.
- 8.21. Whilst Officers note that Councillors expressed some concerns regarding this matter in the planning application for the gypsy/traveller site in Piddington (which was presented to Planning Committee in February), Officers remain of the opinion that the most robust position to base the assessment of the planning applications on at the current time is the figures contained within the development plan. They have been subject to the rigour of examination and form part of the statutory development plan which is the starting point for decision making. Whilst the new GTAA 2017 is a material consideration, it is part of the evidence base for the Local Plan Part 2 and in the view of Officers it does not outweigh the development plan.
- 8.22. A relatively recent appeal decision in South Oxfordshire District Council (appeal reference: APP/Q3115/W/17/3176196) supported this approach to the GTAA 2017. The Inspector considering this appeal noted that given the methodology used and

assumptions made in the study it is possible that there is an underestimation of the need for sites in the new GTAA. Furthermore the Inspector stated:

*“In any event, the latest GTAA has not yet been adopted and these factors mean that the weight that I will attach to it in respect of the level of identified future need is limited.”*

- 8.23. A similar view was reached by a planning inspector in a planning appeal in South Northamptonshire (appeal reference: APP/Z2830/W/17/3172943) where a similar conflict existed between the Local Plan figures and their new evidence base.
- 8.24. The Council does not have any allocations for additional sites and there is a lack of alternative provision in the district with applications being assessed on a case by case basis. As outlined above there is considered to be a significant need for additional sites in the area to meet a general need. These matters, alongside the Council's inability to demonstrate a 5 year land supply on the figures set out in Policy BSC6, are considered to carry significant weight in the determination of the application and the provision of new pitches is a significant benefit.
- 8.25. The application site is proposed to be used as a settled base for members of the travelling community which would have benefits relating to healthcare and education. In order to ensure that the site was only occupied by households meeting the revised definition of gypsy/traveller a planning condition can be used in line with Government guidance. Officers are therefore satisfied that the application is for a site that would be used by gypsies/travellers.
- 8.26. The European Convention of Human Rights is still in force to date. Under Article 8 there is a positive obligation to facilitate the gypsy way of life (paragraph 96 of Chapman v UK (2001)) as gypsies and travellers are identified as a specialist group. The proposal is for a residential caravan site for gypsies and travellers and the proposed development therefore provides new accommodation for the gypsy and traveller community within the Cherwell District. Thus, the contribution the site makes to facilitating the gypsy way of life weighs in favour of the proposal.

#### Visual Impact and Effect on Landscape Character

- 8.27. The NPPF recognising the intrinsic character and beauty of the open countryside. ESD13 of the Cherwell Local (2011-2031) Plan Part 1 notes that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to the local landscape character cannot be avoided. Policy ESD13 also states that proposals will not be permitted if they would cause undue visual intrusion into the open countryside or be inconsistent with local character.
- 8.28. Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 states that: *“New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards.”*
- 8.29. Saved Policy C28 of the Cherwell Local Plan 1996 reflects Government guidance in relation to the design of new development by seeking to ensure that such development is in harmony with the general character of its surroundings and is sympathetic to the environmental context of the site and its surroundings. Saved Policy C8 of the Cherwell Local Plan 1996 seeks to protect the character of the open countryside from sporadic development.



- 8.30. The application site comprises part of an agricultural field, with the Launton Brook running along the north-west boundary of the site and the existing traveller site to the south west. The site is relatively flat and relatively well screened from Blackthorn Road by a mature hedge along the highway boundary. Surrounding hedging also contributes in screening the site from this road. The site is mostly visible from Blackthorn Road through to the access into the site, but the proposal would be viewed amongst the existing traveller site which is adjacent to the highway boundary. Partial views would be achievable from the Public Right of Way (272/2/10) to the north east of the site in the winter months, although the site would be relatively well screened from this footpath by an intervening hedgerow and this Public Right of Way is approximately 300 metres away from site.
- 8.31. The proposed hardstanding to the site would undoubtedly further urbanise the locality and the addition of static caravans, cars, dayrooms and domestic paraphernalia would only add to this harm. Thus, I consider that the development would cause harm to the rural character and appearance of the landscape. That said, the proposal would not result in any wider landscape impacts and the harm would be localised.
- 8.32. Further details of the means of enclosure proposed are required and this can be conditioned should permission be granted. Officers are concerned with the use of close board fencing as displayed on the block plan and are not convinced that this would be entirely appropriate within this sensitive rural locality. As the site extends further east into the countryside than the previous consents for the traveller site and introduces additional pitches, should permission be granted it is considered necessary to restrict permitted development rights for the erection of any new fences, walls and means of enclosure along the boundaries of the site to protect the character of the area.

#### Residential Amenity

- 8.33. The NPPF requires new development provide a high standard of amenity for existing and future occupants.
- 8.34. 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.
- 8.35. Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 states that: *"Development should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space."*
- 8.36. The site is not within close proximity to any residential properties therefore it is considered that other residential properties would not be directly affected by the proposal.
- 8.37. In relation to their scale, the proposed pitches would not be very private from each other, and the relationship would appear to be more compact to the approved situation at the existing traveller site between the pitches. However, officers consider that the site is of a sufficient size for four pitches so as to avoid the overcrowding of this site, and achieve a satisfactory living environment for future occupiers.
- 8.38. In relation to noise, the Council's Environmental Protection Officer has raised no objections to the proposal. However, on the matter of odour, the site is located within close proximity to a sewage works and the Environmental Protection Officer has noted that it is advisable to consult Thames Water. Whilst Thames Water has

been consulted, no comments have been received from this consultee. Furthermore, there is an existing traveller site adjacent to the site and the Environmental Protection Officer has noted that there does not appear to be any complaints regarding this sewage works. It is therefore considered that the proposed occupiers would not be adversely affected by noise or odour.

#### Highway Safety

- 8.39. Policy SLE4 of the Cherwell Local Plan 2015 states that development is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported. Paragraph 108 of the NPPF states that in assessing planning applications it should be ensured that safe and suitable access can be achieved for all users and that development will be refused there is an unacceptable impact on highway safety.
- 8.40. Whilst it is acknowledged that third parties have raised concerns with the established access to the site off Blackthorn Road, the Local Highways Authority (LHA) has raised no objections to the proposal. The LHA has stated that the access is suitable for a touring caravan to access/egress from the site. The LHA has therefore concluded that the proposals are unlikely to have any adverse impact upon the local highway network from a traffic and safety point of view, but this is subject to conditions including full specification details of the parking and manoeuvring areas. Officers see no reason to disagree with this assessment.

#### Flooding Risk, Drainage and Pollution

- 8.41. Whilst the site is surrounded by land within Flood Zones 2 and 3 on its north east and south east boundaries (higher risk flood zones), the site itself is identified as being within Flood Zone 1, which is land that has a less than 1 in 1,000 annual probability of river flooding (low risk of flooding). Policy ESD6 of the Cherwell Local Plan (2011-2031) Part 1 and the Framework state that a Flood Risk Assessment (FRA) is required for proposals of 1 hectare or more in in Flood Zone 1. The site is below this threshold therefore an FRA is not required and one has not been submitted.
- 8.42. Nonetheless the Environment Agency has been consulted. However, as the site is within Flood Zone 1 they have not raised any objections in relation to flooding risk.
- 8.43. Policy ESD7 of the Cherwell Local Plan (2011-2031) Part 1 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is all with the aim to manage and reduce flood risk in the Cherwell District.
- 8.44. Regarding foul waste, it is currently proposed to install a sewage treatment plant for the proposed pitches. The proposed treatment plant can serve up to 3 houses or up to 12 bedrooms. It is also proposed to clear the sludge from the tank approximately every 6 to 7 months. On the matter of discharging the water, limited information has been provided of how this is to be regulated. Whilst the Environment Agency would prefer connection to the mains where possible for foul drainage, the Environment Agency has raised no objections to this. The Environment Agency has noted that they do no comment on the matter of foul drainage at the planning application stage and that this is dealt with through the Environmental Permit process.
- 8.45. The application contains very limited information in relation to drainage. The application proposes to use permeable surfacing for the site and OCC Drainage has stated that this could potentially allow surface water to be managed by draining to and infiltrating to the ground below, depending on adequate infiltration potential and conditions of the underlying geology. OCC drainage has stated that a more

formalised drainage system will be required to ensure satisfactory drainage of the site for the residents and ensure adequate control of flood risk if infiltration rate potential is inadequate at the site.

- 8.46. Thus, in the absence of objections from the relevant statutory bodies, it is considered that the proposal could be made acceptable in drainage terms, but that a drainage scheme is required, which can be conditioned.

#### Ecological Impact

- 8.47. Section 40 of the Natural Environment and Rural Communities Act 2006 (as amended) places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making. Paragraph 99 of Circular 06/2005: Biodiversity and Geological Conservation states that: *"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."*
- 8.48. Paragraph 170 of the NPPF states that: *"The planning system should contribute to and enhance the natural and local environment by...minimising impacts on and providing net gains for biodiversity."*
- 8.49. 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."*
- 8.50. The Council's Ecologist has not raised comments within the consultation period. That said, the Environment Agency has requested an 8 metre buffer along the Launton Brook. An amended block plan was submitted displaying an 8 metre buffer, but this shows fence within the buffer therefore a condition will be attached requesting an amended buffer area without any development within it. Whilst it is acknowledged that such a buffer for the existing traveller site has not been implemented despite this being conditioned, this does not relate to this current application before members and Planning Enforcement has been made aware of this matter.
- 8.51. The site comprises agricultural grassland and the proposal would not result in the removal trees or hedging. Thus, subject to a condition relating to the buffer zone, it is considered that the proposal is unlikely to cause adverse harm to any protected species and will not adversely affect the aims of the Conservation Target Area.

#### Other Matters

- 8.52. It is acknowledged that no method for dealing with foul waste has been supplied for the existing traveller site despite planning permission 17/00031/F conditioning such information. Furthermore, concerns have been raised that this previous permission has not been complied with as the number of pitches can exceed the approved number. However, this does not directly relate to the current application and Planning Enforcement has been made aware of these issues.

- 8.53. Third parties have noted that currently, water is taken from neighbouring land without the land owner's consent. However, the applicant's agent has stated that the water is taken by mains with an approved water meter. A water bill from Thames Water for the site has also been provided to Officers.
- 8.54. The Environmental Protection Officer has requested environmental charging infrastructure is installed on the site. Given the nature of the proposal, this is not considered necessary to make the development acceptable or reasonable to request.

## **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. Paragraph 12 of the NPPF states that: "*The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Local Planning Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.*" Furthermore, Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that: "*If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.*"
- 9.3. The proposal seeks permission for the change of use of existing agricultural land to a residential traveller caravan site comprising 4.No pitches, adjacent to an existing traveller site. The site is located approximately 200 metres away from the category A village of Launton and approximately 1.6KM from edge of Bicester by road and benefits from suitable access to the local and wider highway network so can be considered under Policy BSC6 of the Cherwell Local Plan (2011-2031) Part 1.
- 9.4. In assessing the sustainability and suitability of the site the criteria set out within Local Plan Policy BSC6 is relevant in determining the most suitable locations for gypsy and traveller sites.
- 9.5. Criterion (a) and (b) consider access to GP and health services as well as access to schools. Launton, which is approximately 200 metres away from the site, has a primary school and Bicester, which is approximately 1.6KM away and accessible by a regular bus from Launton, has a number of schools, GP and health services and a number of other services and facilities. This weighs in favour of the proposal when assessed against the sustainability and suitability criteria.
- 9.6. Criterion (c) seeks to avoid areas at risk of flooding. Whilst Flood Zones 2 and 3 (higher risk flood zones) lie adjacent to part of the boundary of the site, the site itself is within Flood Zone 1, which is land which has a less than 1 in 1,000 annual probability of river flooding (low risk of flooding). The Environment Agency has therefore not objected to the proposal on the ground of flooding risk. Whilst limited information has been provided in relation to drainage, OCC considers that this matter can be sufficiently managed by means of a condition and Officers see no reason to disagree with this. The proposal is therefore considered acceptable in this regard.

- 9.7. Criterion (d) considers the suitability of the site in relation to access to the existing highway network; in this respect the proposal is considered to be appropriately located without undue harm caused to highway safety.
- 9.8. Criterion (e) considers the potential for noise and disturbance. The site is considered acceptable in regard to the impact on neighbouring uses, as well as the impact upon the amenities of the proposed occupiers of the site.
- 9.9. Criterion (f) seeks to ensure harm to the historic and natural environment is limited. The proposal would not cause harm to any heritage assets given its siting. Furthermore, subject to the ecological buffer of 8 metres being implemented and maintained, it is considered that the proposal would not cause demonstrable harm to protected species. However, there would be some harm to the rural character and appearance of the site and locality in the immediate vicinity of the site given that the development is proposed on a greenfield site. That said, this site would be adjacent to an existing traveller site and would be read in this context from where visible. Thus, whilst weighing against the development, the weight given is relatively limited.
- 9.10. Criterion (g) seeks to ensure that proposals provide for a satisfactory living environment. In the case of the noise and odour environment of the site, this is considered adequate. It is also considered that there would be adequate space provided on the site for the future occupiers so as to provide an ideal standard of amenity.
- 9.11. Criterion (h) seeks to ensure that efficient and effective use of land is made. In this case, the current proposal would result in the development of a greenfield site. However, the agricultural land is not of high quality (grade 4) and the proposal would not result in a significant loss of this land too.
- 9.12. Criterion (i) considers the likely deliverability of the proposal, including whether utilities can be provided on the site. In this case, a water bill from Thames Water has been provided to demonstrate that the site has mains water supply. Whilst a treatment plant is proposed to deal with foul waste, there are no objections from OCC Drainage and the Environment Agency in relation to this arrangement. Furthermore, an Environmental Permit is likely to be required for the operation of this treatment plant.
- 9.13. Criterion (j) looks at the existing level of local provision for gypsy and travellers across the Cherwell District. Officers acknowledge that the issue of general need is unclear based on the new definition of traveller/gypsy. Whilst there is conflict in the figures outlined in the Annual Monitoring Report, Officers consider that the most robust position to take regarding this is to use the Development Plan figures which show there is a significant shortfall in pitches across the district (1.1 years supply – 18 pitch shortfall). The benefits of the proposal in providing additional pitches to meet a general unmet need therefore carry significant weight in favour of granting permission.
- 9.14. Criterion (k) considers the availability of alternative sites for the applicant. In this case no alternative sites are allocated in the Local Plan and little progress has been made in this regard. Whilst it is noted by the applicant's agent that the pitches would serve the extended family of the current occupants of the existing pitches at Summer Place, it is not specified that there is need to do so (i.e. limited personal circumstances have been put forward). However, there is an identified need for pitches which this application goes some way towards addressing and weight must be attached to this.

- 9.15. In conclusion, the site is accessible, and services and facilities are located nearby and could be accessed by means of walking, cycling or public transport. Whilst the proposal would lead to harm to the rural character and appearance of the countryside, this is considered to be localised and relatively limited. The external noise and odour environment is considered acceptable. The proposal is not considered to dominate the nearest settled community and Officers consider that there is a significant unmet need for gypsy and traveller pitches in Cherwell which should carry substantial weight in support of the application. The lack of alternative provision is also a matter that weighs heavily in support of the proposal and there is limited progress in respect of addressing the need through new allocations.
- 9.16. Overall when assessing the development as a whole, the benefits of the scheme, particularly in meeting a significant unmet need, are considered to convincingly outweigh the relatively limited harm resulting from the scheme. It is therefore considered that the proposal is in compliance with Policy BSC6 of the Cherwell Local Plan (2011-2031) Part 1 and it is recommended that planning permission be granted subject to conditions.

## 10. **RECOMMENDATION**

Delegate to the Assistant Director of Planning Policy and Development to grant planning permission, subject to the conditions detailed below (the exact conditions and the wording of those conditions to be delegated to the Assistant Director for Planning Policy and Development).

### **Time Limit**

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.

### **Approved Plans**

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

- Application form submitted with the application;
- Cover letter dated 12<sup>th</sup> July 2018 by GreePlanningStudio submitted with the application;
- Drawing Numbers 17\_912\_001 Revision A and 17\_912\_005 Revision A submitted with the application;
- Drawing Number 17\_912\_003 Revision D received from the applicant's agent by e-mail on 24<sup>th</sup> September 2018;
- Kingspace Klargester specification received from the applicant's agent by e-mail on 24<sup>th</sup> September 2018 and e-mails received from the applicant's agent 18<sup>th</sup> September 2018, 24<sup>th</sup> September 2018 and 28<sup>th</sup> September 2018 specifying which treatment plant is to be used

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.

### **Surface Water Drainage**

3. No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:

- Discharge Rates
- Discharge Volumes
- SuDS ( Permeable Paving, Porous Sub-base)
- Maintenance and management of SUDS features
- Infiltration in accordance with BRE365 (To include infiltration testing)
- Detailed drainage layout with pipe numbers
- Network drainage calculations

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

#### **Parking**

4. No development shall take place until full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas has been submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

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

#### **Ecological Buffer**

5. Notwithstanding the 8 metre ecological buffer adjacent to Launton Brook which includes a fence within it as displayed on Drawing Number 17\_912\_003 Revision D received from the applicant's agent by e-mail on 24th September 2018, no development shall take place until a plan displaying an 8 metre ecological buffer adjacent to Launton Brook has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the 8 metre buffer shall be kept free of development at all times and no development or storage of goods, vehicles or materials shall take place at any time whatsoever.

Reason: In the interests of ecology and to support the aims of the Conservation Target Area, and to comply with Policies ESD10 and ESD11 of the Cherwell Local Plan (2011-2031) Part 1, and Government guidance contained within the National Planning Policy Framework.

#### **Means of Enclosure**

6. Notwithstanding the means of enclosure as displayed within Drawing Number

17\_912\_003 Revision D received from the applicant's agent by e-mail on 24th September 2018, prior to the first occupation of the site, full details of the means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved means of enclosure shall be erected in accordance with the approved details, prior to the first occupation of those dwellings, and shall be retained as such thereafter.

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

#### **Number of Caravans**

7. No more than 12 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 8 shall be static caravans or mobiles homes), shall be stationed on the site at any one time and these shall be sited within the pitches as displayed on the drawing titled 'Site Layout Plan' at 1:500 Scale on A4 paper submitted with the application.

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

#### **Access**

8. The existing access and driveway to the site leading from Blackthorn Road shall be kept free of obstructions at all times and used only for the specified purpose.

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

#### **Commercial Vehicles and Activities**

9. No more than one commercial vehicle per pitch shall be kept on the land. Each vehicle shall not exceed 3.5 tonnes in unloaded weight and shall not be stationed, parked or stored on the site except within the relevant pitch and shall not be used other than by occupiers of that pitch. No other commercial vehicles shall be kept on the land.

Reason: In order to safeguard the amenities of the area in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and the National Planning Policy Framework.

10. No commercial activities, including the storage of materials, shall take place on the land other than the storage of materials in vehicles authorised to be parked on the site.



Reason: In order to safeguard the amenities of the area in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and the National Planning Policy Framework.

### **Occupation restricted to Gypsies and Travellers**

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

*“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.”*

Reason: To ensure the proposed development makes provision for gypsy and traveller pitches and in accordance with Policy BSC6 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework and Planning Policy for Travellers Sites.

### **Removal of Permitted Development Rights**

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

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

### **PLANNING NOTES**

1. Under the Caravan Sites and Control of Development Act, 1960, the site owner will need to apply for a caravan site licence and in order for the licence to be granted the site owner must comply with the licence conditions. For further advice and guidance, please contact Public Protection at Cherwell District Council by email: [public.protection@cherwell-dc.gov.uk](mailto:public.protection@cherwell-dc.gov.uk) or tel: 01295 227990.
2. It should be noted that there are public sewers crossing or close to the development. In order to protect public sewers and to ensure that Thames Water can gain access to those sewers for future repair and maintenance, approval should be sought from Thames Water where the erection of a building or an extension to a building or underpinning work would be over the line of, or would come within 3 metres of a public sewer. Thames Water will usually refuse such approval in respect of construction of new buildings, but approval may be granted in some cases for extensions to existing buildings. The applicant is advised to contact Thames Water Developer Services on 0845 850 2777 to discuss the options available at this site.
3. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the

development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.

CASE OFFICER: Stuart Howden

TEL: 01295 221815

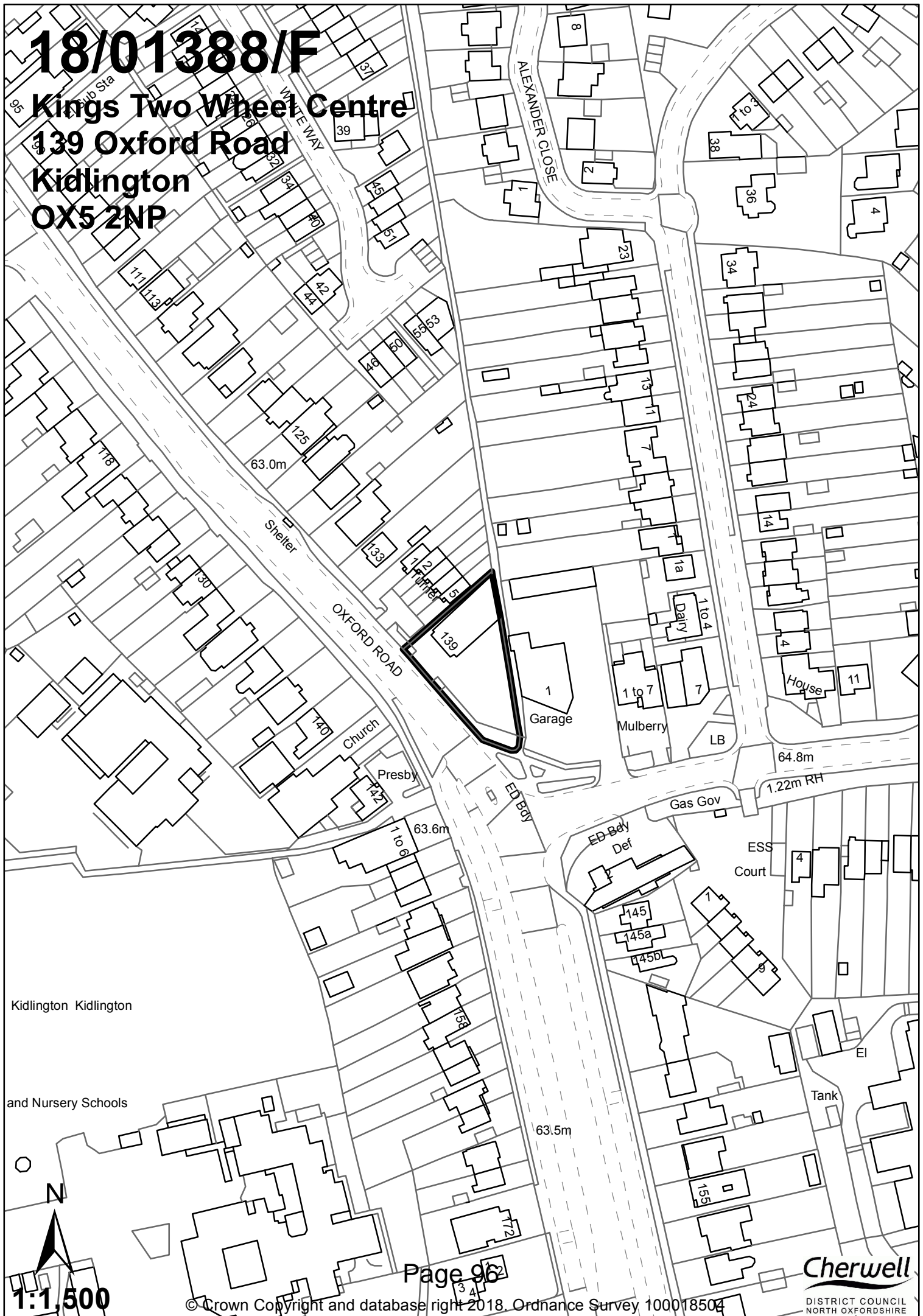
# 18/01388/F

**Kings Two Wheel Centre**  
**139 Oxford Road**  
**Kidlington**  
**OX5 2NP**



# 18/01388/F

**Kings Two Wheel Centre**  
**139 Oxford Road**  
**Kidlington**  
**OX5 2NP**



Kidlington Kidlington

and Nursery Schools

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**Kings Two Wheel Centre**  
**139 Oxford Road**  
**Kidlington**  
**OX5 2NP**

**18/01388/F**

**Applicant:** Keble Homes Limited

**Proposal:** Demolition of existing vacant workshop and show room buildings. Erection of two and three storey building to provide 10no dwellings (8 x 2-bed and 2 x 1-bed). Provision of off-street car parking, secure cycle storage and covered refuse/recycling store – revised scheme of 18/00130/F

**Ward:** Kidlington East

**Councillors:** Cllr Maurice Billington  
Cllr Carmen Griffiths  
Cllr Neil Prestidge

**Reason for Referral:** Major application

**Expiry Date:** 1 November 2018      **Committee Date:** 22 November 2018

**Recommendation:** Refuse      **Extension of time:** 30 November 2018

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## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

### **Proposal**

Planning permission is sought for the demolition of an existing building on the site and the erection of a part 2/part 3 storey building comprising 10 residential units (8 x 2 bed and 2 x 1 bed). The flat roofed building would be constructed from grey fibre cement cladding, buff brick, ashlar Cotswold stone and 'self-coloured' render.

### **Consultations**

Consultees have raised no objections to the application

Two letters of objection have been received, and four letters have been received which request clarification on certain matters.

### **Planning Policy**

The site is within the built up area of Kidlington. A public footpath runs adjacent to the eastern boundary of the site. The site is on land that is potentially contaminated. The site has some ecological potential as protected species have been recorded within the vicinity of the site.

The application has been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

### **Conclusion**

The key issues arising from the application details are:

- Principle of the Development;
- Design, and Impact on the Character of the Area;
- Residential Amenities;

- Accessibility, Highway Safety and Parking;
- Ecological Impact;
- Planning Obligations;
- Other Matters.

The report looks into the key planning issues in detail, and officers conclude that the proposal is unacceptable against the relevant policies for the following reasons:

1. Detrimental harm the character, quality and appearance of the area; and
2. Absence of the completion of a satisfactory Planning Obligation.

## **RECOMMENDATION - REFUSE**

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.**

## **MAIN REPORT**

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

- 1.1. The application site is located on a corner plot on the north east side of Oxford Road and the north side of Bicester Road. The site comprises a part two/part single storey building which previously accommodated the Kings Two Wheel Centre (a motorcycle dealer), but this business has moved to another location within Kidlington. The locality is predominantly residential in character, but to the east of the site is a car showroom (Kidlington Garage).
- 1.2. The site is not within a conservation area and there are no listed buildings within close proximity to the site. A public footpath runs adjacent to the eastern boundary of the site. The site is on land that is potentially contaminated. The site has some ecological potential as it is located within 2KM of the Rushy Meadows SSSI and a number of legally protected species have been recorded within the vicinity of the site including the west European Hedgehog and bats.

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

- 2.1. Planning permission is sought for the demolition of the vacant showroom building and the erection of a part two/part three storey building to accommodate 10 no dwellings (comprising 8 x 2 bed and 2 x 1 bed). The building would mainly be three storeys in height, but would be two storeys at the north end. The flat roof building is proposed to be constructed from buff coloured brick, 'self-coloured' render, grey fibre cement cladding and ashlar stone. Balconies are proposed for flats a first and second floor level. Courtyard gardens are proposed for the ground floor flats.
- 2.2. The existing vehicular access to the site off Oxford Road is to be utilised, but reduced in width to approximately 5.5m. Parking for 10 vehicles is proposed on the site. A grass verge with planting against a 1.2 metre high facing brick boundary wall is proposed. Bin storage and cycle storage is proposed in the northern corner of the site.

### **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>
18/00130/F	Demolition of existing vacant workshop and showroom buildings. Erection of two and three storey building to provide 10 no. dwellings (8 x 2-bed and 2 x 1-bed). Provision of off-street car parking, secure cycle storage and covered refuse/recycling store	WITHDRAWN

Officers advised that they could not support the application due to the impact it would have upon the character and appearance of the area. It was stated that the development did not engage with Oxford Road in terms of its siting, form and appearance and that it appeared as a standalone development that does not reinforce local distinctiveness. There were other concerns raised with the proposal including, but not limited to:

- The building being rather uninspiring in terms of design;
- The siting of the building backing onto the public footpath creating a tunnelling effect on the public right of way;
- The 1.8m wall to the front of the site would detach the development from Oxford Road and would not be in keeping with the character of this part of Oxford Road; and
- The southern elevation failed to engage with Bicester Road.

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

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

- 18/00177/PREAPP - 2-3 storey development of 10no dwellings - Closed on 9<sup>th</sup> August 2018. This pre-application request followed the withdrawal of the planning application at the site referred to above. However, it was concluded that officers would not be in a position to support the submitted proposal. It was considered that proposal, but virtue of its siting, scale, form and appearance, would appear as an incongruous standalone addition to the street-scene that would not reinforce local distinctiveness. The reduction in the number of flats was strongly encouraged so as to achieve an acceptable design.

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

5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 21.09.2018, 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:

- Overdevelopment of the site due to the inappropriate scale of the building for the size and location of the plot;

- The scale and massing would not be in-keeping within this context;
- Not in keeping with the residential dwellings on Oxford Road;
- The creation of a tunnelling effect on the alleyway to the rear of the site and this will encourage vandalism and safety issues;
- The colour of the brick should be a darker red/brown and the render should be in a 'colour wash' tone to harmonise with the darker brick;
- Stone copings should be used rather than aluminium;
- Loss of privacy and overlooking into 1 Blenheim Road;
- Overbearing impact upon Kidlington Garage showroom;
- Will increase traffic movements and this could pose highway safety issues;
- The trees proposed are welcomed;
- Inadequate on-site parking provision resulting in dangerous on-street parking;
- 8 swift bricks should be included.

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 comments received.**

### STATUTORY CONSULTEES

6.3. OCC HIGHWAYS: **No objections** subject to conditions and a contribution of £3,600 towards double yellow lines and bus stop clearways.

6.4. THAMES WATER: **No objections** in relation to waste water network and waste water process infrastructure capacity, as well as water network and water treatment infrastructure capacity.

### NON-STATUTORY CONSULTEES

6.5. OCC ARCHAEOLOGY: **No objections.**

6.6. CDC BUILDING CONTROL: **No objections.** The proposed works will require a building regulation application. The Map of Sewers do not show the proposal to affect public sewers

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

6.8. CDC ENVIRONMENTAL PROTECTION: **No objections** subject to conditions relating to noise and contaminated land.

6.9. CDC HOUSING STANDARDS: **No objections.**

6.10. CDC WASTE & RECYCLING: The developer has not stated that there is adequate storage for waste and recycling but they will have to satisfy the Council that it is accessible and large enough before the application is agreed.

## 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 and Efficient Use of Land
- BSC4: Housing Mix
- ESD1: Mitigating and Adapting to Climate Change
- ESD7: Sustainable Drainage Systems (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15: The Character of the Built and Historic Environment
- Villages 1: Village Categorisation
- INF1: Infrastructure

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

- C28: Layout, design and external appearance of new development
- 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 (2016)
- Cherwell Residential Design Guide Supplementary Planning Document (SPD) (July 2018)
- Developer Contributions Supplementary Planning Document (February 2018)
- Cherwell District Council: Home Extensions and Alterations (2007)
- Technical housing standards – nationally described space standard (2015)

## **8. APPRAISAL**

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

- Principle of the Development
- Design, and Impact on the Character of the Area
- Residential Amenities
- Accessibility, Highway Safety and Parking

- Ecological Impact
- Planning Obligations
- Other Matters

### Principle of the Development

- 8.2. Paragraph 11 of the National Planning Policy Framework (NPPF) states that the decision maker should apply a presumption of sustainable development. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.
- 8.3. Paragraph 12 of the NPPF notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.
- 8.4. Cherwell District Council can demonstrate a five-year supply of deliverable housing sites and paragraph 11 of the NPPF needs to be applied in this context.
- 8.5. Paragraph 103 of the NPPF states that the planning system should: *“Actively manage patterns of growth”*, whilst Policy ESD1 of the Cherwell Local Plan (2011-2031) Part 1 states that: *“Measures will be taken to mitigate the impact of development within the District on climate change.”* Policy ESD1 states that this includes distributing growth to the most sustainable locations as defined in the Local Plan and delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars.
- 8.6. The principle of residential development in Kidlington is assessed against Policy Villages 1 in the Cherwell Local Plan (2011-2031) 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 buildings, infilling and minor development comprising small groups of dwellings on sites within the built up area of the settlement.
- 8.7. Theme 2 of the Kidlington Masterplan focusses on ‘creating a sustainable community’ and in relation to the approach to housing development it states: *“A range of options for development within the existing built-up area should be considered including appropriate redevelopment, intensification and infill while protecting Kidlington’s key assets. This may involve increasing housing densities, reconfiguring land uses and introducing mixed used development.”*
- 8.8. Policy SLE1 of the Cherwell Local Plan (2011-2031) Part 1 aims to retain existing employment sites in employment uses and this Policy then sets out some criteria to when the loss of the use could be acceptable. Employment uses are defined as B class uses within the Cherwell Local Plan (2011-2031) Part 1 (see Para B.48). The site was used as a showroom for motorcycles before the occupiers left and the site is therefore within a sui-generis use. Therefore the proposal would not result in the loss of an employment use as defined in the Cherwell Local Plan. Given this and that there is no policy resisting the loss of such a use, the loss of the showroom is considered acceptable.

- 8.9. This proposal is considered to constitute minor residential development in the village of Kidlington. Given the above and that there are no policies relating to the loss of this car garage use at the site, it is considered that the proposal could be acceptable in principle, but this is subject to other material considerations which I will go on to discuss.

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

#### *Policies*

- 8.10. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPF goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Further, Paragraph 130 of the NPPF states that 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.

- 8.11. Paragraph 127 of the NPPF states that planning decisions should ensure that developments:

- *Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- *Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change;*
- *Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- *Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

- 8.10. 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.”* The Cherwell Residential Design Guide SPD also encourages development which is locally distinctive and the use of appropriate materials and detailing, but states that new development should avoid the creation of ‘anywhere places’ which do not respond to local context.

- 8.11. 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.

- 8.12. The Cherwell Residential Design Guide SPD states that development within Kidlington should look to strengthen the character of the village.

- 8.13. The Design Guide SPD states that new development should avoid architectural focus on individual buildings rather than the overall street composition. The SPD goes on to state that individual buildings should be designed to relate well to their neighbours, creating a harmonious overall composition and work with site conditions.

- 8.14. Kidlington Masterplan SPD, Theme 2: Creating a sustainable community, subheading 'Securing high design standards' states that: *"The design of the site layout, access arrangements, scale, massing and appearance will be required to demonstrate a positive relationship with the immediate surrounding context of the site and respect and enhance the townscape character of Kidlington as a whole."*
- 8.15. The site is on a prominent corner plot located relatively centrally within Kidlington and therefore the proposed development will be clearly visible from the public domain. The visibility of the building is also increased by the fact a public footpath runs adjacent to the rear boundary (east) of the site.

#### *Layout and Siting*

- 8.16. Existing development on the Oxford Road runs relatively parallel with Oxford Road, including the existing garage building on the site. On Bicester Road, development within close proximity to the site runs in a relatively similar line and again parallel to this highway. However, the proposed building would be set at a different angle to development on Oxford Road and would not run parallel with the Oxford Road. The development would also not run parallel with Bicester Road. Therefore the proposed development does not engage with Oxford Road or Bicester Road in terms of its siting. Instead, it appears as a standalone development.
- 8.17. The applicant's agent has provided a plan which seeks to show why the building is sited as proposed. This includes reasoning such as impacts upon the neighbour amenity of Turner Court and the impact upon the overall design of the scheme. However, these problems could be satisfactorily overcome by reducing the number of units as has been stressed in the previous application at the site and at the pre-application advice stage. There are also other ways of making the proposed building engage with the Oxford Road than displayed on the 'alternative design approach' plan. As noted at the pre-application stage, a potential way of overcoming the siting issue would be for the building, at the northern end of the site, to follow a similar line of development to the dwellings on Oxford Road. This could then kink where it runs close to the rear boundary and then run parallel with this boundary.
- 8.18. The applicant's agent has also provided a plan of showing a possible line of development along Bicester Road if the Kidlington Garage site were to be redeveloped. However, this would not be the context the proposal would be viewed within and this scenario is hypothetical. Therefore I afford this limited weight.
- 8.19. Whilst parking is provided between the proposed building and the highway, the parking area would be more of a forecourt rather than a driveway which is out of character in this locality. Whilst the dwellings on Turner Court to the north-west of the site do not have their own individual driveways, the parking is located to the front of each individual dwelling and there is not a scattered approach to the parking as with this scheme before Members.
- 8.20. In addition to this, small courtyards are provided to the rear of the building rather than a garden area which is found to the rear of other dwellings, though officers acknowledge that it would be difficult to achieve a much larger rear amenity space given the shape of this site.
- 8.21. It is proposed to install a boundary wall of approximately 1.2 metres on the south west side of the site and this is considered to be of an adequate height so as to maintain the open character of the area and not creating an insulated development like at Turner Court. The use of soft landscaping outlined in the application could soften the impact of the rather urban feature of the parking area to the front of the site to some extent.

### *Design and scale*

- 8.22. In relation to Oxford Road, the immediate context to the application site is predominantly one of traditional 1 and 2 storey hipped roof properties, which are mostly rendered. Thus, the street scene of Oxford Road is characterised by relatively modest and more simply detailed suburban housing. In relation to Bicester Road and Blenheim Road, whilst there are buildings which appear more as apartments than single family homes within close proximity to the site, these have the appearance of buildings that are 2½ storeys in height given the detailing of the second floor.
- 8.23. The submitted plans have been annotated to suggest that the proposed building would be no greater in height than the dwellings on Turner Court next door. However, the dwellings on Turner Court are two storeys in height and have pitched roofs whereas the proposed development would have three storeys and a flat roof.
- 8.24. The proposed development would be introducing a three storey building along Oxford Road, where there are mainly 1 and 2 storey dwellings. The overall mass of the building, by reason of its 3 storey scale, would be further emphasised by its excessive width and overly-complicated form with numerous projecting elements, which generates a large and bulky building that is not in keeping with the scale and form of buildings generally in the area. The three storey element of the building would be highly prominent within the street scene given that this site is on a corner plot and given the single storey height of the Kidlington Garage building next door. It is therefore considered that the three storey element of the building would over-dominate the single storey Kidlington Garage building.
- 8.25. Whilst it is acknowledged that part of the third storey of the building is slightly recessed, officers considered that this does not do enough to give the impression of a two and a half storey building rather than a three storey building.
- 8.26. Furthermore, given the height of the building backing on to the footpath, officers consider that this would create a tunnelling effect on this Public Right of Way which would be undesirable and it would not create an attractive place, as required by local and national planning policy. The addition of lighting and windows facing this path would do little to prevent the tunnelling effect.

### *Materials*

- 8.27. Regarding the appearance of the building a mix of construction materials are proposed. Whilst a mix of materials is understandable in attempt to break up the overall width and prevent the building from appearing monotonous, it is considered that the proposed design includes too many materials, which has the effect of making the design an incohesive mish-mash, and which would give the building an overly-complicated appearance that is not in keeping with the residential development in the locality.

### *Conclusion*

- 8.28. Thus, by virtue of the layout of the building on the site which does not engage with Oxford Road or Bicester Road, the overly large scale, bulky and complicated appearance of the building, the poor design of the building, tunnelling effect upon the nearby Public Right of Way and the large car parking area, the proposed development would be an incongruent form of development on a prominent corner plot that would constitute a visually obtrusive form of development within the street scene and nearby public footpath, detrimental to the visual amenities of the locality.

The proposal would therefore not constitute 'minor acceptable development' and would be contrary to Policies Villages 1 and 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 NPPF.

- 8.29. It is considered that a more appropriate scheme could be achieved if the number of units were to be reduced. This point was relayed to the applicant's agent during the last application at the site and at the pre-application enquiry stage.

#### Residential Amenity

##### *Policy*

- 8.30. 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.
- 8.31. Saved Policy ENV1 of the Cherwell Local Plan 1996 states that: *"Development which is likely to cause detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution will not normally be permitted."*
- 8.32. Paragraph 127 of the NPPF states that planning decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

##### *Impact on Turner Close*

- 8.33. No.5 Turner Close is the closest residential property to the site and this is located to the north west of the site. The proposed building would be set at an angle from No.5 and this would prevent the rear and front elevations of the building breaching the informal 45 degree line as taking from the nearest rear and front windows of No.5 to the site. Furthermore, the side of the building would be set away from the rear garden of No.5. The side elevation of No.5 has a first floor window, but this is obscurely glazed and does not serve a habitable room. Officers therefore consider that the proposal would not cause undue harm to No.5 Turner Close in terms of loss of light or the creation of an overbearing effect.
- 8.34. Whilst windows are proposed in the north side elevation at first floor level, these would serve bathrooms and could be conditioned as obscurely glazed so as to prevent undue harm in terms of overlooking into the rear garden of No.5 Turner Close. It is considered that the proposal would not cause undue harm to No.5 Turner Close in terms of overlooking or loss of privacy.

##### *Impact on Blenheim Road*

- 8.35. The residential property of No.1 Blenheim Road is located to the rear of the site. The occupiers of this property have raised concerns in relation to overlooking and loss of privacy as a result of the proposal. However, the rear elevation of this proposed building would not directly face towards the rear of this property as it would be set at an oblique angle from it. It is therefore considered that the proposed building would be sited so as to prevent demonstrable harm to No.1 Blenheim Road in terms of loss of privacy or overlooking. Furthermore, it is considered that the proposed building would be sited so as to prevent demonstrable harm to No.1 in terms of loss of light and the creation of an overbearing effect.

##### *Impact on Kidlington Garage*

8.36. The occupier of the Kidlington Garage to the east of the site has raised concerns that the proposal would overshadow this neighbouring building. Whilst officers consider that the proposed building is likely to have an overbearing effect on the showroom, it is not considered that this would adversely affect the operation or viability of this business.

#### *Impact on Future Occupiers*

8.37. In terms of the amenity of the future occupiers, the Council's Housing Standards Officer has raised no objections to the scale of the rooms. However, a garden for all the apartments has not been provided and the courtyards for the ground floor flats are very limited in scale. That said, there are parks within Kidlington that are accessible to the public parks and the lack of such space is not considered to result in such a poor quality living environment that would warrant the refusal of the application.

8.38. The site is located next to a garage and there is potential for noise disturbance from this use. Paragraph 182 of the NPPF states that planning decisions should ensure that new development can be integrated effectively with existing businesses and that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. However, it is acknowledged that there are other residential properties which are adjacent to the Kidlington Garage.

8.39. The Council's Environmental Protection Officer has requested a condition recommending a report that shows that all habitable rooms within the units will achieve the noise levels specified in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings). Officers consider that should permission be granted a condition relating to mitigating any potential noise from this neighbouring use could be attached.

#### Highway Safety

##### *Policy*

8.40. Policy ESD15 of the CLP (2011-2031) Part 1 states, amongst other matters, that new development proposals should: *"Be designed to deliver high quality safe...places to live and work in."* This is consistent with Paragraph 110 of the NPPF which states that: *"Developments should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles."*

8.41. Policy SLE4 of the CLP (2011-2031) Part 1 states that: *"All development where reasonable to do so, should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling."*

##### *Parking*

8.42. The Local Highways Authority (LHA) has raised no objections to the proposal in principle. 10 parking spaces are proposed on the site, with no space for visitor parking. The LHA has considered the proposal as a low car development, primarily due to its position within reasonable walking distance of Kidlington village centre and also the presence of bus stops with very frequent bus services very close to the site.

8.43. That said, the LHA has noted that they are concerned about the negative impact that any off site, on street parking would have on the efficient operation of the

Oxford Road route due to the proximity of the site to a signalised junction and the use of the road a strategic bus route. The LHA would therefore expect that the applicant makes a financial contribution towards double yellow lines in the vicinity of the Oxford Road/Bicester Road junction – both sides as far as the bus stop laybys north of Bicester Road and both sides of Bicester Road as far as just beyond Buckland Court and Blenheim Road (including a short distance along both those side roads). Additionally, and to protect the pair of bus laybys north of Bicester Road, the LHA has stated that the developer is expected to contribute financially towards the introduction of bus stop clearway markings at both those bus stops. The contribution sought for the above is £3,600.

- 8.44. Cycle parking for 18 bicycles is proposed to the north of the site, which is considered sufficient for this number of apartments in this location, but further details of the stands are required. This matter could be conditioned should permission be granted.

#### *Traffic*

- 8.45. In relation to the impact upon the local highway network, the LHA comments that the amount of traffic movements generated by this development is unlikely to have anything other than a small negative impact on the operation of the local highway network in either road safety or congestion terms, particularly given that the site could be brought back into use as a garage without the need for planning permission.

#### *Access, Waste Collection and Construction Traffic*

- 8.46. The LHA comments that the proposed access is acceptable in principle, but has requested further information about how the access would be formed. This matter could be conditioned should permission be granted.
- 8.47. The development proposals do not give any details about how household waste would be collected from the site and details of waste management could be conditioned should permission be granted. It will be important to minimise the impact upon this important part of the highway network.
- 8.48. The LHA has also requested a construction traffic management plan as well as travel information packs to be provided to residents and these matters could be conditioned should permission be granted.

#### *Conclusion*

- 8.49. Thus, subject to a contribution of £3,600 towards double yellow lines and bus stop clearways and the planning conditions referred to above, the LHA considers that the proposal would not have an adverse impact upon the safe and efficient operation of the highway network. Officers see no reason to disagree with this assessment.

#### Ecological Impact and Trees

- 8.50. 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.”*

- 8.51. Paragraph 170 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.”*
- 8.52. 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.”*
- 8.53. Comments have not been received from the Council’s Ecologist during the course of this application, but comments were received during the pre-application process referred to in section 4 of this report. The Ecologist stated that the presence of nesting birds is possible, but provided the works were conducted at a suitable time of year this should not be an issue. The Ecologist also stated that there are opportunities to put in biodiversity enhancements in the new building (for example swift bricks and sparrow terraces) and these could be conditioned should permission be granted. Overall, it is considered unlikely that the proposal would cause adverse harm to protected species.
- 8.54. On the matter of trees, Policy ESD10 of the Cherwell Local Plan (2011-2031) Part 1 requires the protection of trees amongst other ecological requirements. Whilst the tree to the north east of the site is considered to be of amenity value, it is considered that this tree could be protected subject to appropriate construction methods. This matter could be conditioned.

#### Planning Obligations

- 8.55. Policy INF1 of the Cherwell Local Plan (2011-2031) Part 1 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.”*
- 8.56. 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; an
  - Fairly and reasonable related in scale and kind to the development.
- 8.57. Policy BSC11 of the Cherwell Local Plan (2011-2031) 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.”*

- 8.58. Policy BSC11 sets out 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.
- 8.59. As 10 dwellings are proposed, this triggers the requirement for a LAP. However, the design layout does not allow for the use of a LAP on site, and it is considered that an off-site contribution is reasonably required. This would go towards the enhancement of a nearby play area and further details could be provided should permission be granted. The Developer Contributions SPD highlights that a commuted sum of £23,068.62 would be required for such development.
- 8.60. Policy BSC11 also sets out that for schemes for 10 or more urban dwellings, general green space of 200 square metres will need to be required. However, again, the design layout does not allow for this to be provided on the site. The Developer Contributions SPD highlights that a commuted sum of £14,262.65 will be required for such development. This would go towards addressing shortfalls in the locality or improving/enhancement of existing areas within the locality.
- 8.61. Regarding recreation and sports facilities, the Council's Recreation Department have not been consulted. However, for schemes of a similar scale, they have not been able to identify community hall or sports facility projects within Kidlington as to where the contributions would be focussed. As the PPG sets out that tariff style planning obligations should not be sought for schemes under 10 dwellings, off-site contributions towards sports and community hall facilities will not be requested should permission be approved.
- 8.62. Regarding the matter of education, given the relatively small scale of the scheme, it is considered that the proposal is unlikely going to have a significant impact upon schooling facilities, therefore it is not considered necessary to request any contributions in relation to the matter of education. Furthermore, the proposal does not meet the relevant threshold as set out in the Developer Contributions SPD to request contributions towards primary medical care infrastructure.
- 8.63. Policy BSC3 of the Cherwell Local Plan (2011-2031) Part 1 requires developments of 11 or more dwellings within locations such as Kidlington to provide 35% affordable housing on site and provides detail on the mix that should be sought between affordable/social rent and shared ownership. 10 dwellings are proposed and this falls below this threshold. However Policy BSC3 also notes that affordable housing should be sought on sites suitable for 11 or more dwellings gross. Officers are of the opinion that the addition of further dwellings on the site would likely cause further harm to the character and appearance of the area therefore officers are satisfied that the site would not be suitable to accommodate more than 10 dwellings. Thus, affordable housing is not being sought on the site.

#### Other Matters

- 8.64. On the matter of drainage, OCC Drainage has stated that very few details with respect to the drainage strategy were provided with the application. OCC Drainage has noted that it appears from the submitted details that the proposals will not result in an increase in impermeable areas at the site. The proposals outlined on the submitted plans show the use of permeable paving at the site for parking areas. This will assist in meeting sustainable drainage system (SuDS) objectives of reducing runoff rates and volumes and improving water quality at the site. OCC Drainage has stated that infiltration testing at the site must be undertaken to establish the infiltration potential and OCC has recommended that a condition is attached to any planning permission to secure suitable surface water drainage of the site. Thus, should permission be granted, a drainage strategy could be conditioned.

8.65. The site is on land that is potentially contaminated and the Council's Environmental Protection Officer recommended full contaminated land conditions which include a site walk over and desk based assessment. Should permission be granted, this could be conditioned.

8.66. It is considered that adequate waste storage is provided to the north of the site.

## 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. Paragraph 12 of the NPPF states that: *"The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Local Planning Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed."* Furthermore, Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that: *"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

9.3. For the reasons set out in this report the proposal would cause demonstrable harm to the character, quality and appearance of the area and would be contrary to Policy Villages 1 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and saved Policies C28 and C30 of the Cherwell Local Plan 1996.

9.4. The proposal would have some limited economic benefits including some construction opportunities. Furthermore, there would be some social benefits including a contribution to the District's on-going five year supply, and in general spatial terms the site is well located to the village. However, these limited benefits are not considered to outweigh the significant and demonstrable harm caused by the development by virtue of the conflict with an up-to date development plan.

9.5. Thus, it is concluded that the proposal does not constitute sustainable development and the application is therefore recommended for refusal.

## 10. RECOMMENDATION

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

1. The proposal, by virtue of its layout which does not engage with Oxford Road or Bicester Road, overly large scale, bulky and complicated appearance, the poorly articulated design, tunnelling effect upon the nearby Public Right of Way and large car parking area, would fail to sympathetically integrate with the built environment and would constitute a visual intrusion within the street scene and nearby public footpath. The proposal would therefore cause demonstrable harm to the character, quality and appearance of the area and would fail to reinforce local distinctiveness, and so would be contrary to Policies Villages 1 and 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.

2. In the absence of the completion of a satisfactory Planning Obligation, the Local Planning Authority is not convinced that the necessary infrastructure directly required off site as a result of this development, in the interests of highways safety and safeguarding public infrastructure, will be provided. This would be contrary to Policies INF1, PSD1, SLE4, ESD15 and BSC11 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

#### **PLANNING NOTES**

For the avoidance of doubt, the plans and documents considered by the Local Planning Authority in reaching its decision on this application are:

- Application Form and Design and Access Statement submitted with the application;
- Drawing Numbers: 17032-L001; 17032-P010-B; 17032-P011-C; 17032-P012-C; 17032-P013-C; 17032-P014-B; 17032-P015-B; 17032-P016; 17032-P017-C; 17032-P018-A; 17032-P019; 17032-SU001; 0738 1.1; and 17032-P020 received from the applicant's agent by e-mail on 31<sup>st</sup> October 2018; and
- E-mail received from the applicant's agent by e-mail on 31<sup>st</sup> October 2018

CASE OFFICER: Stuart Howden

TEL: 01295 221815

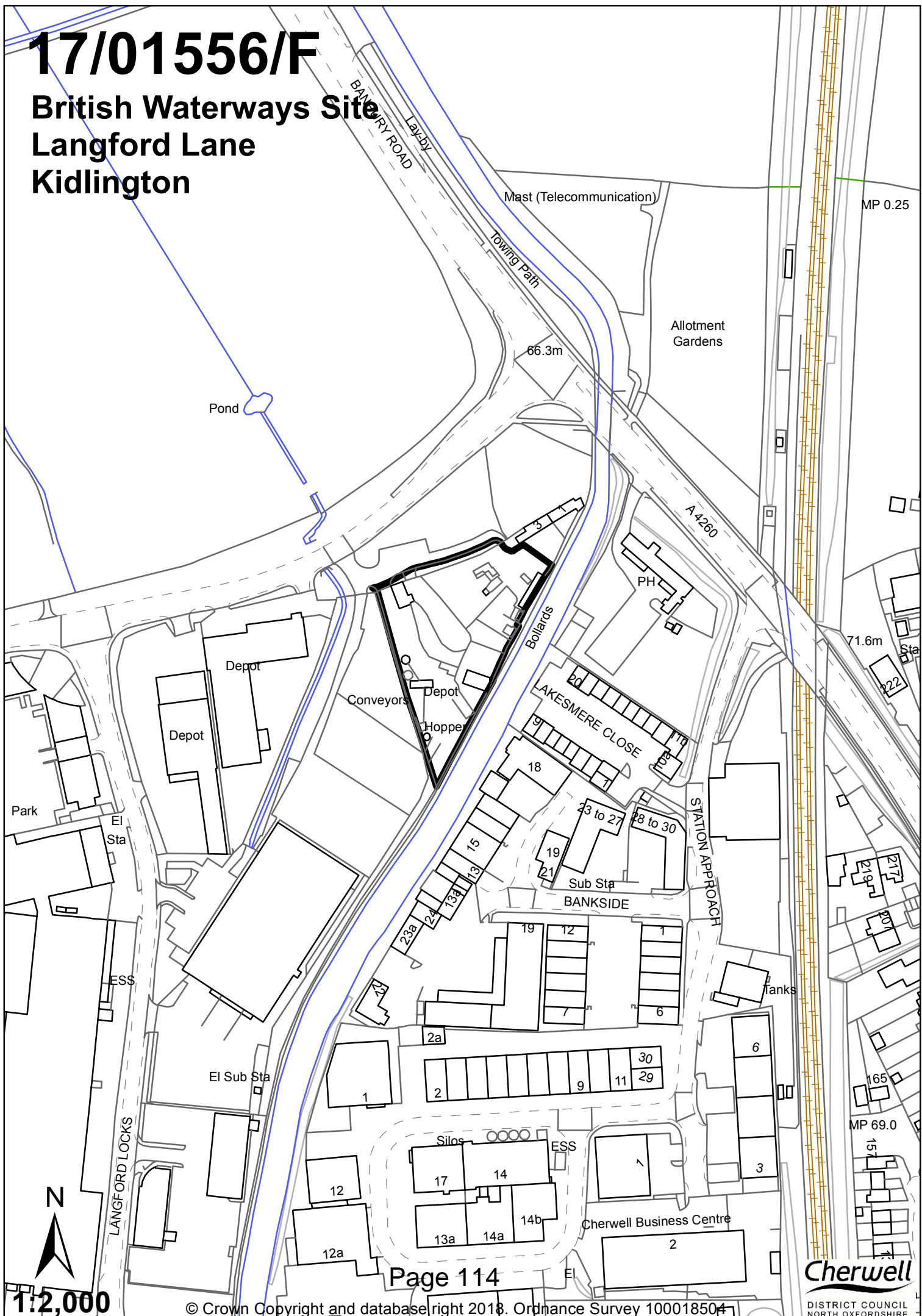
# 17/01556/F

**British Waterways Site  
Langford Lane  
Kidlington**



# 17/01556/F

## British Waterways Site Langford Lane Kidlington



<b>Applicant:</b>	H2O Urban & Canal & River Trust	
<b>Proposal:</b>	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.	
<b>Ward:</b>	Kidlington West	
<b>Councillors:</b>	Cllr Alan Mackenzie-Wintle Cllr Sandra Rhodes Cllr Alaric Rose	
<b>Reason for Referral:</b>	Major Development (10 dwellings or more)	
<b>Expiry Date:</b>	26 October 2017	<b>Committee Date:</b> 22 November 2018
<b>Recommendation:</b>	Approve	<b>Extension of time:</b> 15 December 2017

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## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

### **Proposal**

Planning permission is sought for the demolition of some of the existing outbuildings and structures on the site, including the concrete batching plant, and the erection of 10 residential dwellings running parallel to the Oxford Canal. A number of the outbuildings would be converted too so that they are ancillary to the residential properties.

This planning application is back at Planning Committee after the original decision was quashed at judicial review. The report has been revised to address issues raised during the Judicial Review process.

### **Consultations**

The following non-statutory consultees have raised objections to the application:

- Kidlington & District Historical Society

13 Letters of objection have been received.

### **Planning Policy**

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 there are SSSIs located 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.

The site is located within 20 metres of a 'Main River'.

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

## **Conclusion**

The key issues arising from the application details 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.

The report looks into the key planning issues in detail, and officers conclude that the proposal is acceptable subject to conditions. The scheme meets the requirements of relevant CDC policies.

## **RECOMMENDATION - GRANT PERMISSION SUBJECT TO LEGAL AGREEMENT AND CONDITIONS**

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.**

## **MAIN REPORT**

### **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 car park serving the boaters 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 lay-by 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 boaters' ELSAN facilities area. A former air raid shelter just behind the stable building is proposed to be used as a boaters' store. The Washhouse 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.
- 2.9 This application went before Members in April this year and there was a resolution to approve the application in line with the Officer recommendation. However, after the decision notice was issued the lawfulness of this decision was challenged by a neighbouring land owner and the decision was quashed by the High Court following a Judicial Review. The item is now back before members and the committee report has been revised to address the matters raised in the Judicial Review process.

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

- 3.1. The following planning history is considered relevant to the current 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 the 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)
- Cherwell Residential Design Guide Supplementary Planning Document (SPD) (July 2018)
- Developer Contributions Supplementary Planning Document (SPD) (February 2018)

## 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 11 of the National Planning Policy Framework (NPPF) states that decisions should apply a presumption of sustainable development. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.

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

- 8.4. Cherwell District Council can demonstrate a five-year supply of deliverable housing sites therefore paragraph 11 of the NPPF will therefore need to be applied in this context.
- 8.5. There are two elements to the principle of the development in this case: the first being from a spatial strategy point of view in relation to where housing should be sited within the district; and the second being a land use point of view.
- 8.6. Moving on to the first aspect, i.e. the spatial strategy in relation to where housing should be sited within the district, Policy Villages 1 of the Cherwell Local Plan (2011-2031) Part 1 recognises Kidlington as Category A village. 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 and could be acceptable in principle, but this is subject to other considerations, including whether the proposal is in compliance with the Council's land use strategy, discussed below.
- 8.7. In relation to the Council's land use strategy, it is noted within Policy SLE1 of the Cherwell Local Plan (2011-2031) Part 1 that 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."*
- 8.8. Policy SLE1 then sets out where employment development should be focussed. However, after this it is stated that: *"New dwellings will not be permitted within employment sites except where this is in accordance with site specific proposals set out in the Local Plan."*
- 8.9. Paragraph 118 of the NPPF states that planning decisions should:
- Give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;

- Promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively
- 8.10. Paragraph 121 of the NPPF states that Local Planning Authorities should: *“Take a positive approach to applications for alternative uses of land which is currently developed, but not allocated for a specific purpose in plans, where this would help meet identified development needs. In particular, they should support proposals to use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or site or the vitality and viability of town centres, and would be compatible with other policies in this Framework.”*
- 8.11. 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).
- 8.12. A third party has noted that because Policy SLE1 states that new dwellings will not be permitted within existing employment sites, the proposed development should be refused. However, when reading Policy SLE1 as a whole, the general message is that employment uses should be retained unless the criteria as set out in paragraph 8.7 of this report can be met. Furthermore, this approach is consistent with Government guidance contained within the NPPF which allows for flexibility depending on the specific circumstances of the proposal put forward and does not place blanket restrictions on such development. Thus, to explicitly state that no new dwellings will be permitted within employment sites would be inconsistent with Government guidance within the NPPF.
- 8.13. Given this, Officers will now assess whether the proposal for a non-employment use meets the criteria within Policy SLE1 as set out in paragraph 8.7 of this report. Whilst the applicant’s agent has not demonstrated any of the three criteria in the bullet points in paragraph 8.7 of this report, it been 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.
- 8.14. 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 if have a material impact on levels of economic growth in the District.
- 8.15. 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.
- 8.16. A third party has noted that the Kidlington Masterplan seeks to protect land to the south of Langford Lane for employment purposes. It is true to note that one of the themes of the Kidlington Masterplan is *‘to support the growth of an integrated cluster of high value employment uses to the west of the village including Langford Lane, London Oxford Airport and Begbroke Science Park.’* However, the Kidlington Masterplan does not specifically identify the site as part of any growth proposals and



explicitly highlights the need for the preparation of an employment strategy for Kidlington to be prepared. Furthermore, the Masterplan does not state that this land should be protected for employment purposes.

- 8.17. It is noted that a third party has questioned whether Policy Villages 1 is relevant in respect of this application because they are of the opinion that Policy SLE1 specifically deals with how housing should be treated in that the policy informs a decision maker where not to put residential development. Officers disagree with this and consider that Policy Villages 1 is highly relevant in the consideration of housing development within the district. This policy contributes in setting out the Council's spatial strategy in relation to housing and aims to site housing in the most appropriate locations from a general sustainability point of view. In addition, Policy SLE1 has also been considered in relation to the principle of the development in this case given that the site is on an employment site.
- 8.18. 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

- 8.19. 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*

- 8.20. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 notes that with respect to buildings in conservations areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area.
- 8.21. Paragraph 189 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."*
- 8.22. Paragraph 193 of the NPPF states that: *"When considering the impacts of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance."* Paragraph 194 of the NPPF goes on to state that: *"Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification"*
- 8.23. Paragraph 196 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, where appropriate, securing its optimum viable use."*
- 8.24. Paragraph 200 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.

- 8.25. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPF goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Further, Paragraph 130 of the NPPF states that 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.
- 8.26. Paragraph 127 of the NPPF states that planning decisions should ensure that developments:
- Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change;
  - Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
  - Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 8.27. Paragraph 131 of the NPPF states that: *“In determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.”*
- 8.28. 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.”*
- 8.29. 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.”*
- 8.30. 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.
- 8.31. 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.

- 8.32. 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.
- 8.33. 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 the understanding of the importance of the area as an important transport interchange.
- 8.34. 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.
- 8.35. 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.
- 8.36. 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 noting 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 as well as the Oxford Canal 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 this building and therefore the significance of Langford Wharf Conservation Area and the significance of the Oxford Canal Conservation Area and its setting.

#### *Coal sheds*

- 8.37. 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.

- 8.38. 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 boaters' ELSAN facilities area. Rain water goods are proposed on the western elevation of the building. Furthermore, cast iron is proposed to be fixed to the existing door opening 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 the 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*

- 8.39. 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's 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.
- 8.40. The stone shed would be to the rear of plots 1 and 2 and would act 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.
- 8.41. 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.

#### *Washhouse building*

- 8.42. To the west end of the cottages is a single storey brick outhouse with plain-tiled roof and chimney (the washhouse 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 washhouse for the residents of the cottages. The date of construction of the washhouse is not so clear from using historical mapping. However, it appears that the washhouse 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 washhouse 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.

- 8.43. The washhouse 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 be 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.
- 8.44. Third parties have raised concerns with the loss of the visual connection between the cottages and the washhouse. The means of enclosure between the washhouse and the cottages has now been softened with the replacement of a fence with a hedge, but the washhouse 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.
- 8.45. 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 washhouse was constructed to serve the domestic function of the cottages rather than the canal itself therefore Officers consider that this washhouse 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.
- 8.46. The division of this building from the workers' cottages by hedging is considered to cause some harm to the significance of the Langford Wharf Conservation Area 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.
- 8.47. However, 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 washhouse 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 washhouse from main cottage is acceptable as the public benefits as outline in this paragraph outweigh the above identified harm to the significance of the conservation area caused by the division of the wash-house from the workers' cottages.

#### *Air raid shelter*

- 8.48. 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.
- 8.49. 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*

- 8.50. 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.
- 8.51. 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*

- 8.52. Further to the south west of the cottages are two relatively large brick outbuildings which sit in the Langford Wharf 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 of 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.

- 8.53. 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.
- 8.54. 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 Kidlington 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 Langford Wharf Conservation Area. This building is proposed to be demolished, which in light of the above is considered acceptable.
- 8.55. There is a large hopper to the west of the site, which just sits outside the Langford Wharf and Oxford Canal Conservation Areas, 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 Langford Wharf Conservation Area, to the detriment of its historical significance.
- 8.56. The removal of the hopper 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.
- 8.57. 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. Thus, their proposed removal is considered to be acceptable and not cause harm to the Langford Wharf Conservation Area.
- 8.58. 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.

*New development proposed*

- 8.59. 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 conservation 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.
- 8.60. 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.
- 8.61. The overall arrangement of the proposed dwellings presents a regular frontage to the Oxford 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 the 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.
- 8.62. 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.
- 8.63. The Conservation Officer has raised concerns that the buildings do not directly address the canal, but that they 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 towards it, and because the wall would be maintained.
- 8.64. Notwithstanding the above, 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. Close boarded 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 mostly 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 from appearing overly-domestic.
- 8.65. 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.

- 8.66. 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 and historic interest. Thus, the partial loss of this wall would result in some harm to the significance of the Langford Wharf 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.
- 8.67. 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.
- 8.68. 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.
- 8.69. 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.
- 8.70. 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
- 8.71. 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.
- 8.72. 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.

- 8.73. 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.
- 8.74. 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.
- 8.75. 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.
- 8.76. 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.
- 8.77. 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.
- 8.78. In terms of the impact upon the Langford Wharf and Oxford Canal Conservation Areas, 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.
- 8.79. 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.
- 8.80. Thus, there would be some harm to the significance of the Langford Wharf Conservation Area with the loss of the historical connection between the washhouse and cottages as well as with the loss of a section of the north western wall on the site. As a result of this, and despite there being no other harm to the significance of the Langford Wharf Conservation Area, there would be some degree of conflict with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1. However, Policy ESD15 refers the decision maker to the NPPF. As stated already, Paragraph 196 of the NPPF informs the decision maker that where there is less than substantial harm

to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

- 8.81. In this case, the proposal would provide the public benefit of the long term viable use for the washhouse building. 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.
- 8.82. 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.
- 8.83. 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.
- 8.84. 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.
- 8.85. There would be some harm with the partial loss of the 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 Langford Warf 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 the Langford Wharf Conservation Area. In addition the environmental improvements along this part of the Oxford Canal would assist in creating a more attractive route for people to use, in line with the aims of the Kidlington Masterplan and would therefore enhance the setting of the Oxford Canal Conservation Area too. These public benefits are considered to significantly outweigh the identified harm to the significance of the Langford Wharf Conservation Area and overall therefore the proposal accords with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1.
- 8.86. In addition to the above, it is also considered that the overall scheme would not cause harm to the visual amenities of the locality.

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

- 8.87. Section 66 of The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the duty of Local Planning Authorities (when considering whether to grant planning permission for development which affects a listed building or its setting) to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 8.88. Paragraph 197 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 directly or indirectly affect 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.”*
- 8.89. Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 states that new developments should, conserve and enhance non-designated heritage assets and that: *“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.”*
- 8.90. 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.
- 8.91. 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 dwellings 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.
- 8.92. 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.
- 8.93. Thus, the majority of the proposal would not cause harm to the significance of this locally listed building or its setting. However, the subdivision of the washhouse, as noted above, would erode the historic understanding between the washhouse and the workers’ cottages. This is considered to cause some harm to the setting of the workers’ cottages and thereby some harm to the significance of this non-designated heritage asset. Thus, there would be some degree of conflict with Policy ESD15 here. However, as noted already, the policy refers to the decision maker to the NPPF and Paragraph 196 of the NPPF informs the decision maker that where there is less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 8.94. In this case, and as alluded to above, the proposal would result in the retention of this washhouse building, which is welcomed given that it is of some historical and architectural value and it makes a positive contribution to the Langford Wharf Conservation Area, as well as the significance and setting of this locally listed

building. Thus, the proposal would secure the long term retention of this building and this public benefit is considered to outweigh the limited harm to the significance of this non-designated heritage asset (and the consequent slight conflict with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1).

#### Residential Amenity

- 8.95. 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.”*
- 8.96. Paragraph 127 of the NPPF also notes that planning decisions should ensure that developments seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 8.97. 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.”*
- 8.98. 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.
- 8.99. Paragraph 180 of the NPPF states that: *“Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*
- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;*
  - b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*
  - c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.”*
- 8.93. Paragraph 182 of the NPPF goes on to state that planning decisions: *“Should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.”*
- 8.100. 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.”*

8.101. The PPG adds to the above 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.”*

8.102. 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) 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.

8.103. 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).

8.104. 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

8.105. 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.

8.106. 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.

8.107. The Council's Environmental Protection Officer has raised concerns with a number of matters with the noise appraisal.

8.108. 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.

8.109. 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.

8.110. 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.

8.111. 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.

8.112. 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.

8.113. 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.

- 8.114. 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).
- 8.115. 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.
- 8.116. However, it is noted that Paragraph 182 of the NPPF looks to prevent existing businesses having unreasonable restrictions placed on them as a result of development permitted after they were established. That said, it is considered that the surrounding commercial uses would not result in unacceptable levels of noise for the future occupiers, especially given the mitigation proposed and therefore officers hold the view that the proposal would not result in unreasonable restrictions on these existing businesses.
- 8.117. 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.
- 8.118. 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.
- 8.119. 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.
- 8.120. 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.



- 8.121. 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.
- 8.122. 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.
- 8.123. 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.
- 8.124. 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.
- 8.125. 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

- 8.126. Policy ESD15 of the CLP 2031 Part 1 states, amongst other matters, that new development proposals should: *"Be designed to deliver high quality safe...places to live and work in."* This is consistent with Paragraph 110 of the NPPF which states that: *"Developments should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles."*
- 8.127. The Local Highway Authority (LHA) has raised no objections to the application subject to conditions.
- 8.128. 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.
- 8.129. 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.

- 8.130. 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.
- 8.131. 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.
- 8.132. 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.
- 8.133. 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.
- 8.134. 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.
- 8.135. 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.
- 8.136. 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.
- 8.137. 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.
- 8.138. 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.

- 8.139. 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

- 8.140. 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"*.
- 8.141. Paragraph 170 of the NPPF states that: *"The planning system should contribute to and enhance the natural and local environment by...minimising impacts on and providing net gains for biodiversity."*
- 8.142. 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."*
- 8.143. 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."*
- 8.144. 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.
- 8.145. 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.
- 8.146. 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.

8.147. 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.

8.148. 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.

8.149. 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.

8.150. 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.

8.151. 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.

8.152. 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.

8.153. 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

8.154. 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.

- 8.155. 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.
- 8.156. 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.
- 8.157. 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

- 8.158. 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.
- 8.159. 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.
- 8.160. 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.
- 8.161. In relation to sewerage infrastructure capacity, Thames Water has raised no objections.
- 8.162. 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

8.163. 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.

8.164. 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

8.165. 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."*

8.166. 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.

8.167. 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."*

8.168. 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.

8.169. 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. **A Legal Agreement has been agreed which secures the above requested contribution.**

- 8.170. 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.
- 8.171. 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.
- 8.172. **Since the previous resolution by Planning Committee to grant permission a satisfactory Section 106 agreement has been completed.**

#### Local Finance Considerations

- 8.173. 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

- 8.174. 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 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. Paragraph 12 of the NPPF states that: *"The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Local Planning Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed."* Furthermore, Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that: *"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*
- 9.3. In relation to the spatial strategy as to where housing should be sited in the district, the proposal seeks planning permission for 'minor' residential development within

the Category A village of Kidlington therefore the proposal would be in compliance with Policy Villages 1 on the Cherwell Local Plan (2011-2031) Part 1.

- 9.4. Moving on to the Council's land based strategy, there is potential conflict with Policy SLE1 of the Cherwell Local Plan (2011-2031) Part 1 in that it would result in the loss of part of an existing (approved) employment site.
- 9.5. In addition to the above, the proposal would also cause *less than substantial* (but limited) harm to the significance 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 workers' cottages. There would also be *less than substantial* (but limited) harm to the significance and setting of the non-designated heritage asset of the former workers' cottages on Langford Lane with the loss of the historic connection between the washhouse and the cottages. As a result of this, and despite there being no other harm to the significance of the Langford Wharf Conservation Area or the significance and setting of the locally listed building, there would be some degree of conflict with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1.
- 9.6. Despite the degree of conflict with Policy ESD15, this policy refers the decision maker to the NPPF. Paragraph 196 of the NPPF informs the decision maker that where there is *less than substantial* harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 9.7. It is considered that 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 Langford Wharf 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 would assist in creating a more attractive route for people to use, in line with the aims of the Kidlington Masterplan and this would enhance the setting of the Oxford Canal Conservation Area too. The proposal would also make more efficient use of an underused site. In addition, 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 of Kidlington and its services and facilities which would be accessible by walking and cycling. New development also commonly brings economic benefits including some construction opportunities.
- 9.8. The environmental, economic and social public benefits of the proposal outlined above are considered to convincingly outweigh the limited harm to the significance of the Langford Wharf Conservation Area and the limited harm to the significance and setting of the non-designated heritage asset of the workers' cottages. Thus, these benefits are considered to significantly outweigh the degree of conflict with Policy ESD15.
- 9.9. In relation to compliance with Policy SLE1, the majority of the site is not in an employment use, and the loss of employment land in this case would be relatively limited (~0.1 hectares), and it could be argued that this land would have limited alternative economic use. It is also 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 if have a material impact on levels of economic growth in the District. Furthermore, as discussed in Paragraph 9.7 above, it is considered that the proposal would secure environmental improvements, and these are considered to be significant when viewed together. The proposal would also



have economic benefits and social benefits as listed above. Officers consider that together, these environmental improvements and social and economic benefits convincingly outweigh the value of retaining the site in an employment use. The loss of employment land is therefore considered acceptable in this instance. It is therefore considered that the proposal would be in compliance with Policy SLE1 of the Cherwell Local Plan (2011-2031) Part 1.

- 9.10. It is therefore concluded that the proposal constitutes sustainable development and the application is therefore recommended for approval subject to the conditions set out below.

#### 10. **RECOMMENDATION**

Delegate to the Assistant Director of Planning Policy and Development to grant planning permission, subject to:

1. The completed planning obligation under Section 106 of the Town and Country Planning Act 1990, as substituted by the Planning and Compensation Act 1991;
2. Conditions relating to the matters detailed below (the exact conditions and the wording of those conditions to be delegated to the Assistant Director for Planning Policy and Development).

#### **Time**

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.

#### **Approved Plans**

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents:
  - Application form submitted with the application;
  - Planning Statement submitted with the application;
  - Heritage Appraisal by Canal & Rivers Trust dated July 2017 submitted with the application;
  - Heritage Impact Assessment and Justification Statement submitted with the application;
  - Transport Report by H2O Urban submitted with the application;
  - Drawing Number 22074-STL-P\_001 submitted with the application;
  - Drawing Numbers: 22074-STL-P\_005 Revision B; 22074-STL-P\_006 Revision A; 22074-STL-P\_010 Revision A; 22074-STL-P\_011 Revision A; 22074-STL-P\_020 Revision A; 22074-STL-P\_021 Revision A; 22074-STL-P\_022 Revision A; 22074-STL-P\_023 Revision A; 22074-STL-P\_030 Revision A; 22074-STL-P\_035 Revision A; 22074-STL-P\_040 Revision A; 22074-STL-P\_041 Revision A; 22074-STL-XX-XX-DR-L-ZZZZ-09001 Revision PL04; 22074-STL-XX-XX-DR-L-ZZZZ-09401 Revision PL04; 22074-STL-XX-XX-DR-L-ZZZZ-09402 Revision PL04; 22074-STL-XX-XX-DR-L-ZZZZ-09403 Revision PL04; and 22074-stl-XX-XX-SP-L-4080-SP002 Revision PL04 received from the applicant's agent by e-mail on 7th

November 2017; and

- Design and Access Statement by Stride Treglown dated July 2017 received from the applicant's agent by e-mail on 7th November 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.

### **Material Samples**

3. Prior to the commencement of the development hereby approved above slab level, samples of the materials to be used in the construction of the external walls, roofs and outbuildings (including brick sample panels for the dwellings, to demonstrate brick type, colour, texture, face bond and pointing), shall be submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details and shall be retained as such thereafter.

Reason: To preserve the significance of the Langford Lane Wharf Conservation Area, to ensure and retain the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Window Details**

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

Reason: To preserve the significance of the Langford Lane Wharf Conservation Area, to ensure and retain the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Method of demolition**

5. Prior to the demolition of the British Waterways Building adjoining the south east boundary wall of the site, a method statement for the demolition of the British Waterways building shall be submitted to and approved in writing by the local planning authority. The method statement shall include details of how the boundary wall is to be retained. The development shall be carried out in accordance with the approved details.

Reason: To preserve the significance of the Langford Lane Wharf Conservation Area, to ensure the satisfactory appearance of the completed development and to comply with Policy ESD 15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Access Details**

6. Prior to the commencement of the development hereby approved, full details of the

means of access between the land and the highway and the parking and manoeuvring areas (including, position, layout, construction, drainage and vision splays) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the means of access shall be constructed and retained in accordance with the approved details.

Reason: In the interests of highway safety and to comply with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

#### **Surface Water Drainage Scheme**

7. No development shall take place until a surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. This will be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development. The scheme shall subsequently be implemented in accordance with the approved details prior to the first occupation of the development, or such other timetable as has been submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with Policy ESD6 and ESD7 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

#### **Construction Traffic Management Plan**

8. No development shall take place until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Construction Traffic Management Plan shall be implemented and operated in accordance with the approved details.

Reason: In the interests of highway safety and the residential amenities of neighbouring occupiers in accordance with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

#### **Arboricultural Method Statement**

9. No development shall take place until an Arboricultural Method Statement (AMS) has been undertaken in accordance with BS:5837:2012 (and all subsequent amendments) and has been submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

Reason: To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Landscaping Scheme**

10. Notwithstanding the soft landscaping details within Drawing Numbers: 22074-STL-XX-XX-SP-L-4080-SP001-Outline Soft Landscape Specification Revision PL04 dated 26th October 2017 and 2074-STL-XX-XX-DR-L-ZZZZ-09140 Revision PL04

received from the applicant's agent by e-mail on 7th November 2017, no development shall take place until a soft landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

- a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
- b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,

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

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

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

#### **Levels**

11. No development shall take place until a plan showing full details of the existing and proposed site levels, including a cross section of the swale has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved finished floor levels plan.

Reason: To ensure that the proposed development is in scale and harmony with its neighbours and surroundings and to comply with Policy ESD 15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Construction Environmental Management Plan**

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

Reason: To protect habitats of importance to biodiversity conservation from any

loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

### **External Lighting**

13. Prior to the commencement of development hereby approved above slab level, an external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the lighting scheme shall be carried out in accordance with the approved details and shall be retained as such thereafter.

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

### **Bat and Bird Boxes**

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

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

### **Pedestrian Access**

15. Prior to the commencement of development, and notwithstanding the pedestrian access shown in plan 22074-STL-XX-XXDR-L-ZZZZ-09001 Revision PL04 received from the applicant's agent by e-mail on 7<sup>th</sup> November 2018, full details of the path to Langford Lane shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in strict accordance with the approved plan and shall be retained as such thereafter.

Reason: In the interests of sustainability, to ensure a satisfactory form of development and in accordance with Policies PSD1, SLE4 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

### **Travel Information Pack**

16. Prior to the first occupation of the development hereby approved, a Travel Information Pack shall be submitted to and approved by the Local Planning Authority. Thereafter and upon occupation the first residents of each dwelling shall be provided with a copy of the approved Travel Information Pack.

Reason: In the interests of sustainability, to ensure a satisfactory form of development and in accordance with Policies PSD1, SLE4 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

### **Landscape Management Plan**

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

Thereafter the development shall be carried out in accordance with the approved details.

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

### **Contamination**

18. Prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

19. If contamination is found by undertaking the work carried out under condition 18, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

20. If remedial works have been identified in condition 19, the development shall not be occupied until the remedial works have been carried out in accordance with the

scheme approved under condition 19. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Bat Survey**

21. If the demolition of the buildings hereby approved does not commence by June 31st 2019, a revised bat survey shall be undertaken prior to the commencement of the development to establish changes in the presence, abundance and impact on bats. The survey results, together with any necessary changes to the mitigation plan or method statement shall be submitted to and approved in writing the Local Planning Authority.

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

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

### **Foundations**

22. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reasons: To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Removal of Permitted Development Rights**

23. 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 preserve the significance of the Langford Lane Wharf Conservation Area, to ensure and retain the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

24. Notwithstanding the provisions of Class A of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, no gate, fence, wall or other means of enclosure shall be erected, constructed or placed on the site without the grant of further specific planning permission from the Local Planning Authority.

Reason: To preserve the significance of the Langford Lane Wharf Conservation Area, to ensure and retain the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **PLANNING NOTES**

1. Attention is drawn to a Legal Agreement related to this development or land which has been made pursuant to Section 106 of the Town and Country Planning Act 1990, Sections 111 and 139 of the Local Government Act 1972 and/or other enabling powers.
2. With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. The contact number is 0800 009 3921. This is to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.
3. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
4. Due to the presence of protected species and because the Oxford Canal lies adjacent to the site, the Environment Agency pollution prevention guidelines should be followed to avoid pollution of the canal.
5. In relation to condition 14 the Council's Ecology Officer has noted the most effective type of boxes are integrated swift bricks within the walls of the new buildings and the swift conservation officer or the Council's Ecology Officer would be happy to provide further information regarding appropriate locations.
6. In relation to the targeted programme of interpretative historic building survey proposed for the BWB building to the south west of the site, it is recommended that the result of this are submitted to the Historic Environment Record at Oxfordshire County Council.
7. Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be necessary if protected species or habitats are affected by the development. If protected species are discovered you must be aware that to proceed with the



development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0300 060 3900.

8. Birds and their nests are fully protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds can be avoided by carrying out vegetation removal or building work outside the breeding season, which is March to August inclusive.
9. Bats are a highly mobile species which move between a number of roosts throughout the year. Therefore all works must proceed with caution and should any bats be found during the course of works all activity in that area must cease until a bat consultant has been contacted for advice on how to proceed. Under the Wildlife & Countryside Act 1981 (as amended) and the Habitat and Species Regulations 2010 it is illegal to intentionally or recklessly disturb, harm or kill bats or destroy their resting places.
10. In relation to condition 11, the swale will need to be consistent with the drainage plan requested under condition 7.
11. In relation to condition 8 the Construction Traffic Management Plan (CTMP) should incorporate the following in detail:
  - The CTMP must be appropriately titled, include the site and planning permission number.
  - Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
  - Details of and approval of any traffic management needed during construction.
  - Details of wheel cleaning/wash facilities - to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
  - Details of appropriate signing, to accord with the necessary standards/requirements, for pedestrians during construction works, including any footpath diversions.
  - Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.
  - The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.
  - No unnecessary parking of site related vehicles (worker transport etc) in the vicinity - details of where these will be parked and occupiers transported to/from site to be submitted for consideration and approval. Areas to be shown on a plan not less than 1:500.
  - Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.
  - Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution.
  - Any temporary access arrangements to be agreed with and approved by Highways Depot.
  - Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.

12. In relation to condition 7 the drainage scheme should include:

- Discharge Rates
- Discharge Volumes
- Maintenance and management of SUDS features (including details of who will be responsible for maintaining the SUDS & landowner details)
- Sizing of features - attenuation volume
- Infiltration tests to be undertaken in accordance with BRE365
- Detailed drainage layout with pipe numbers (to include direction of flow)
- SUDS (list the suds features mentioned within the FRA to ensure they are carried forward into the detailed drainage strategy)
- Network drainage calculations (to prove that the proposals will work)
- Phasing plans
- Flood Risk Assessment

13. A Section 278 agreement will be required to deliver off-site highway improvement works including a footway between site and Langford Lane.

14. The applicant's and/or the developer's attention is drawn to the requirements of the Control of Pollution Act 1974, the Environmental Protection Act 1990 and the Clean Air Act 1993, which relate to the control of any nuisance arising from construction sites. The applicant/developer is encouraged to undertake the proposed building operations in such a manner as to avoid causing any undue nuisance or disturbance to neighbouring residents. Under Section 61 of the Control of Pollution Act 1974, contractors may apply to the Council for 'prior consent' to carry out works, which would establish hours of operation, noise levels and methods of working.

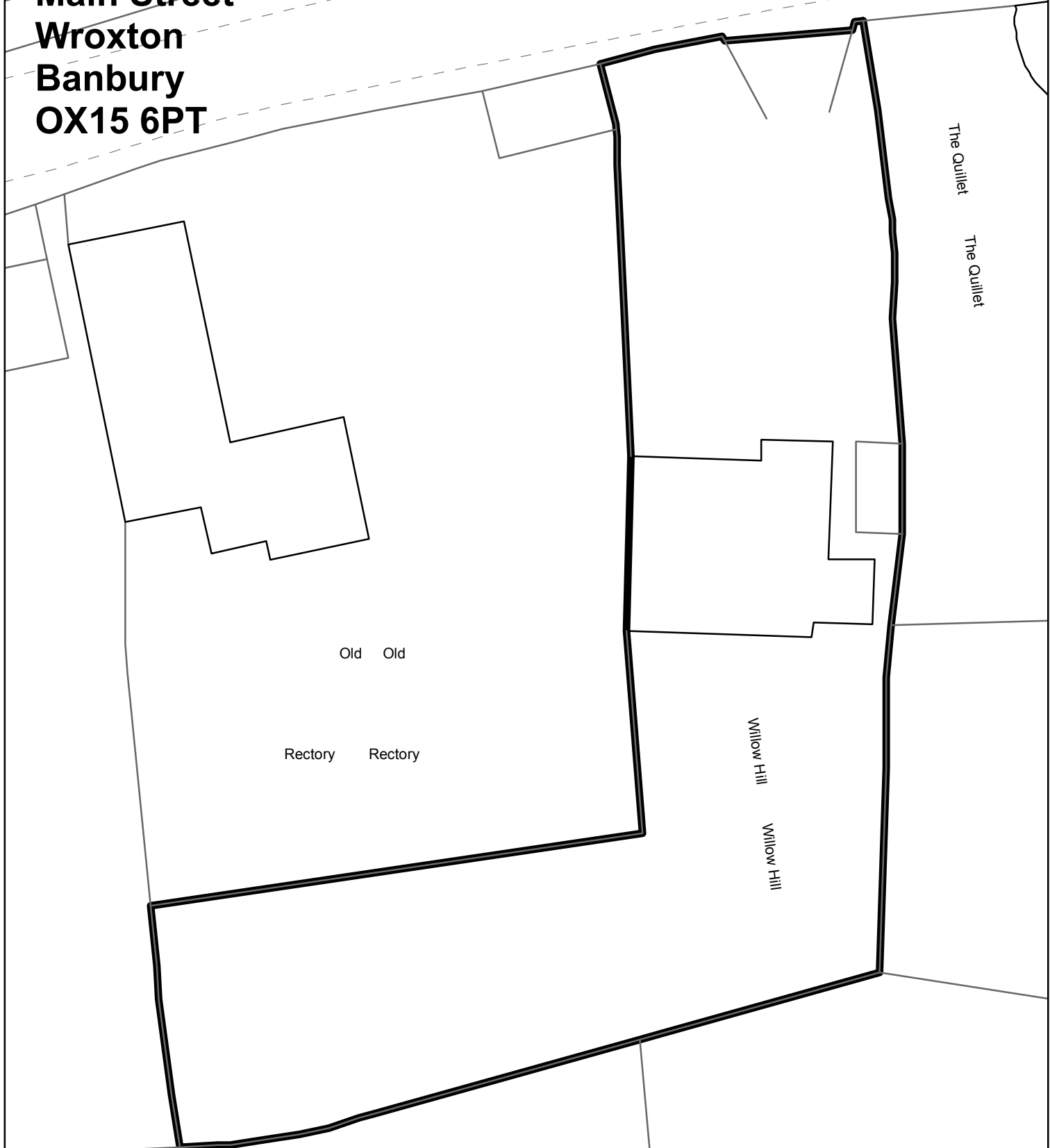
15. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.

CASE OFFICER: Stuart Howden

TEL: 01295 221815

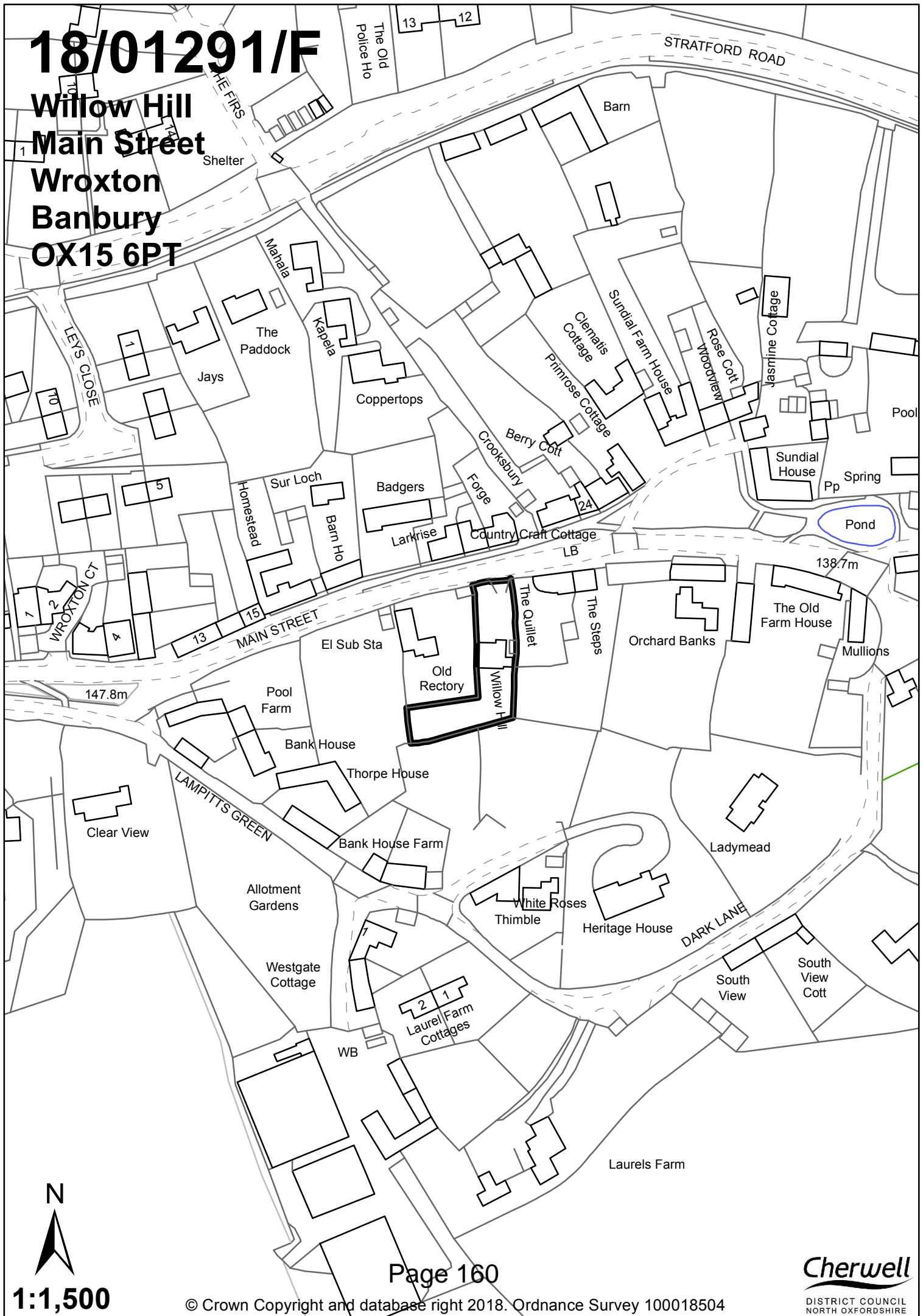
# 18/01291/F

**Willow Hill  
Main Street  
Wroxton  
Banbury  
OX15 6PT**



# 18/01291/F

Willow Hill  
Main Street  
Wroxton  
Banbury  
OX15 6PT



1:1,500

**Willow Hill,  
Main Street  
Wroxton  
Banbury  
OX15 6PT**

**18/01291/F**

**Applicant:** Mr and Mrs Anthony and Andrea Williams

**Proposal:** 1.5 storey side and rear extension, including general refurbishment and other internal and external alterations

**Ward:** Cropredy, Sibfords And Wroxton

**Councillors:** Cllr George Reynolds  
Cllr Douglas Webb  
Cllr Phil Chapman

**Reason for Referral:** Application called in by Ward Councillor – Cllr Douglas Webb

**Expiry Date:** 25 September 2018      **Committee Date:** 22 November 2018

**Recommendation:** Approve

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## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

### **Proposal**

Planning permission is sought for a 1.5 storey rear and side extension to the existing dwelling.

### **Consultations**

The following consultee has raised objections to the application:

- Wroxton Parish Council

Three letters of objection have been received and no letters of support have been received.

### **Planning Policy**

The site is within the designated Wroxton Conservation Area and is within the setting of three Grade II listed buildings.

The application has been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

### **Conclusion**

The key issues arising from the amended application details are:

- Design and impact on the character of the area

The report looks into the key planning issues in detail, and officers conclude that the proposal is acceptable subject to conditions. The scheme meets the requirements of relevant CDC policies.

## **RECOMMENDATION - GRANT PERMISSION SUBJECT TO CONDITIONS**

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

**MAIN REPORT**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. Willow Hill is a detached dormer bungalow, dating back to the late 1950s (planning permission B.200/59) located on the south side of Main Street in Wroxton. It occupies an elevated position, set back around 20 metres from the road. The site has substantial changes in level from north to south up to the house with a further steeply sloping garden behind the property. The property is within a large L shaped plot and has a large parking area to the front.
- 1.2. The property is within the Wroxton Conservation Area and within the setting of three Grade II Listed Buildings: The Quillet, Larkrise and Craft Cottage. Unlike the application property, Main Street is typified by stone terraced cottages fronting the road interspersed with more modern dwellings set further back from Main Street.

**2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. The proposal is for a 1.5 storey rear and side extension. The extension has a pitched roof with a front gabled end. It is proposed to be built from Hornton Stone with a blue slate tile roof. To the rear elevation vertical timber cladding is proposed.
- 2.2. Other refurbishments to the main dwelling include changing all existing windows from white uPVC to aluminium frames, using lead facings for dormers, inserting aluminium frame sliding doors to the rear elevation and two roof lights to the rear roof slope.
- 2.3. Following discussions with officers during the application process amended plans were submitted. The above description relates to the plans received on 19/09/18 which removed the proposed use of timber cladding to the front and side elevations, and changed the roof material from zinc to slate.

**3. RELEVANT PLANNING HISTORY**

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

**4. PRE-APPLICATION DISCUSSIONS**

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

<u>Application Ref.</u>	<u>Proposal</u>
17/00375/PREAPP	1.5 storey side and rear extension incorporating a new entrance lobby at the front
18/00112/PREAPP	FOLLOW UP TO 17/00375/PREAPP - 1.5 storey side and rear extension incorporating a new entrance lobby at the front. Proposed works are broadly located on the footprint of the existing garage and utility room. The proposals include the general refurbishment and internal alterations of existing

part of the property. Associated external works.

- 4.2. Although the principle of development was considered acceptable, the applicant was advised to address officer concerns in respect of scale and design.

## 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 16.10.2018, although comments received after this date and before finalising this report have also been taken into account.
- 5.2. Three letters of **objection** have been received. The comments raised by third parties are summarised as follows:
- Proposed materials are inappropriate to the area
  - Enlargement of front dormer and impact on privacy of properties across the street
  - Potential noise arising from music room
- 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. WROXTON PARISH COUNCIL: **Object** to the application on the basis that the proposed materials are out of keeping with the Wroxton Conservation Area. No comments received on revised plans.

### STATUTORY CONSULTEES

- 6.3. CDC CONSERVATION: **No objection** subject to conditions
- 6.4. OCC HIGHWAYS: **No objection**

## 7. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

- ESD15 - The Character of the Built and Historic Environment

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

- C28 – Layout, design and external appearance of new development
- C30 – Design of new residential development

### 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Wroxton Conservation Area Appraisal

## **8. APPRAISAL**

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

- Design, impact on the character of the area and heritage assets
- Residential amenity
- Highway safety/parking provision

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

- 8.2. 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.
- 8.3. Saved Policies C28 and C30 of the Cherwell Local Plan 1996 exercise control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context. New housing development should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 8.4. Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 states that new development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards, and should respect the historic environment including Conservation Areas and listed buildings.
- 8.5. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Likewise Section 66(1) of the same Act states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.



- 8.6. The proposed extension and alterations will be visible in the public realm and will therefore have an impact on the character of the Wroxton Conservation Area and setting of neighbouring listed buildings. The site occupies a reasonably prominent position in the street scene owing to the changes in land level across the site from north to south. The existing building, however, is not of historic significance and given its appearance could not be considered to be a positive addition to the Conservation Area.
- 8.7. The proposed form of what is being proposed is considered to be acceptable in design terms. Whilst there are contemporary elements, they do not appear out of context with the existing structure and, in the main, are not readily visible from the public realm.
- 8.8. The application, as originally submitted, included the use of vertical timber cladding to the front and side elevations, and a zinc roof. The Parish Council objected on design grounds as these materials are not a feature of the Conservation Area. This view was shared with the Case Officer and the Conservation Officer. Following discussions with the applicants' agent, revised plans were submitted which propose Hornton stone and blue slate tiles instead.
- 8.9. The Conservation Officer made the following comments in respect of the revisions: *The proposed extension to the property is now considered to be in proportion in terms of scale and the general approach with the materials is considered appropriate, subject to stone sample panel and sample of slate. There were initial concerns with the proposed contemporary openings, but set within traditional materials they are considered to be an appropriate addition to the building.*
- 8.10. Although it would have been preferable to have had further changes to the pallet of materials e.g. there are sections of timber cladding on the rear elevation and the applicant intends to use slate to cover the roof of the extension; other than the use of aluminium for the fenestration they are not readily visible from the public domain. Although local objectors have argued that the fenestration should be constructed from timber, aluminium would still be preferable to the existing uPVC and whilst timber is prevalent in the surrounding area, there is an absence of consistency in respect of its appearance, most notably colouring. So given this environment, the distance from the road, Officers conclude that the fenestration would not appear particularly incongruous in this setting.
- 8.11. Based on the above officers are satisfied that the proposed development would not unduly affect the character and appearance of the Wroxton Conservation Area or the settings of the nearby listed buildings. The proposed development therefore accords with Policy ESD15 of the CLP 2031 Part 1.

#### Residential amenity

- 8.12. Paragraph 17 of the NPPF includes, as a core planning principle, a requirement that planning should: *always seek to secure...a good standard of amenity for all existing and future occupants of land and buildings.* This is reflected in Policy ESD15 of the CLP 2031 Part 1, which states that new development proposals should: *consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space.*
- 8.13. The Council's Home Extensions and Alterations Design Guide (2007) provides informal guidance on how the Council will assess proposed extensions to houses, including guidance on assessing the impact on neighbours. This includes assessing whether a proposed extension would extend beyond a line drawn at a 45° angle, as measured horizontally from the mid-point of the nearest habitable room window.

8.14. Owing to the detached nature of the property, the distance from neighbours and screening between properties, any impact on the amenity of neighbouring residents in terms of privacy, loss of light or overlooking would be negligible. The use of one of the rooms as a music room is not a material planning consideration; environmental health legislation would ensure that the amenities of neighbouring residents are protected. It is therefore concluded that the proposed development complies with Policy ESD15 of the CLP 2031 Part 1 in respect of residential amenity.

#### Highway safety/parking provision

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

8.16. The proposed extension would create up to three additional bedrooms. However as the site benefits from off street parking for a minimum of 3 cars with an unimpeded view when accessing Main Street, Officers and the Local Highways Authority are satisfied that the proposal would not result in any highway safety issues and accords with Policy ESD15 of the CLP 2031 Part 1.

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

9.1 The principle of development is considered to be acceptable, as the previous scheme has already been implemented. The changes would not cause demonstrable harm to the settings of the neighbouring Grade II listed buildings, or the character and appearance of the Wroxton Conservation Area. The development would not cause harm to the amenity of neighbours or the safety of the highway network and therefore the development is recommended for approval.

## **10. RECOMMENDATION**

Delegate to the Assistant Director of Planning Policy and Development to grant planning permission, subject to conditions relating to the matters detailed below (the exact conditions and the wording of those conditions to be delegated to the Assistant Director for Planning Policy and Development).

### **Time Limit**

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.

### **Approved Plans**

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: DCS042-02-101 Proposed Site Plan; DCS042-03-101 Proposed Ground and First Floor Plan; DC042-05-101 Proposed Elevations; DC042-05-102 Proposed Elevations.

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.

### **Matching Stone**

3. The natural ironstone stone to be used on the walls of the extension shall be of the same type, texture, colour and appearance as the stone on the existing building and shall be laid dressed, coursed and pointed to match that of the existing building.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the materials used on the existing building and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Samples of Slate**

4. Prior to works to the roof of the extension hereby approved, samples of the slate to be used in the construction of the roof of the extension shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the materials used on the existing building and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Window Details**

5. Prior to works to the approved openings, full details of the doors and windows hereby approved shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the doors and windows shall be installed within the building in accordance with the approved details.

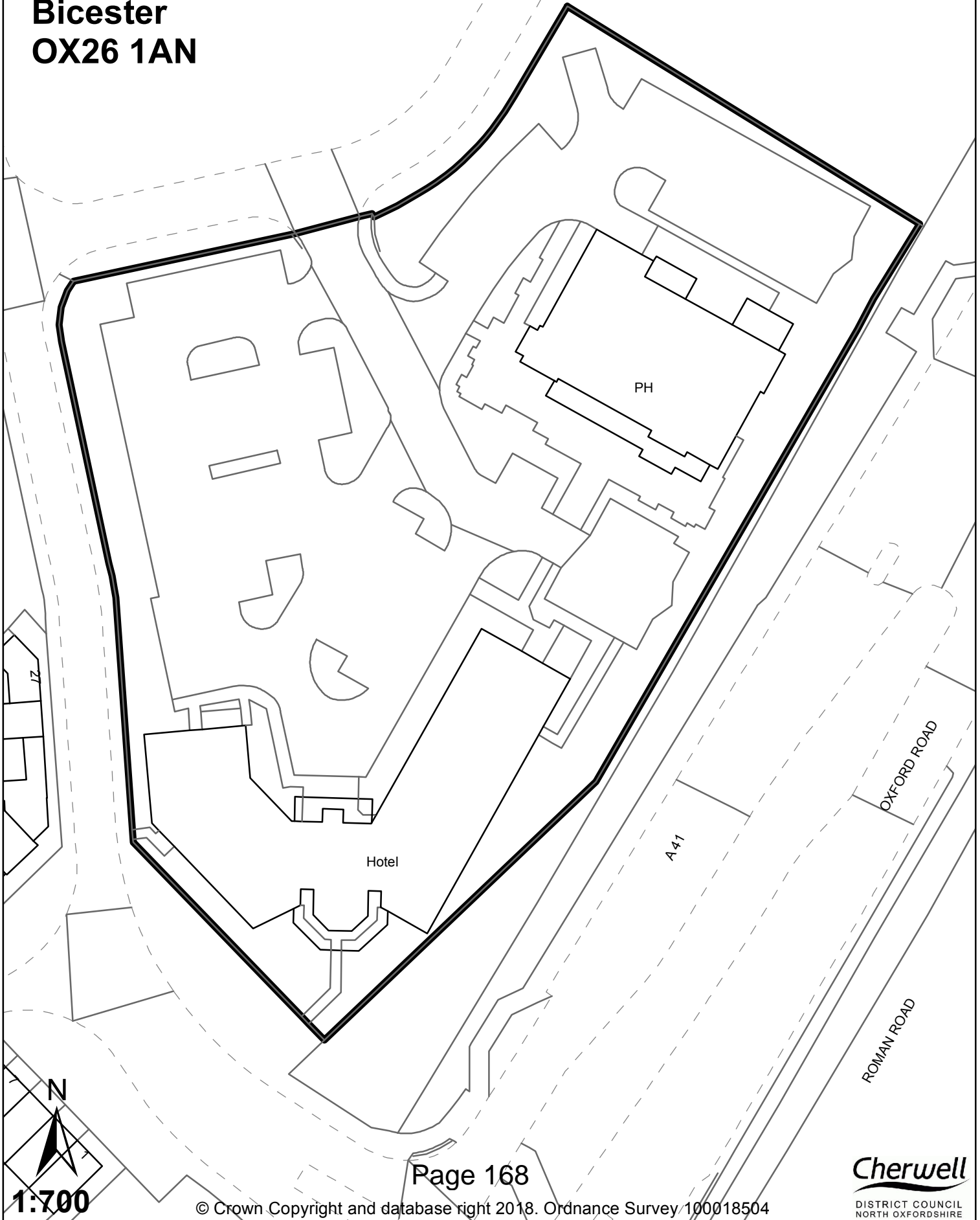
Reason - To ensure that the development is constructed and finished in materials which are in harmony with the materials used on the existing building and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Sarah Willson

TEL: 01295 227006

Agenda Item 13  
**18/01208/F**

**Premier Inn  
Kelso Road  
Bicester  
OX26 1AN**



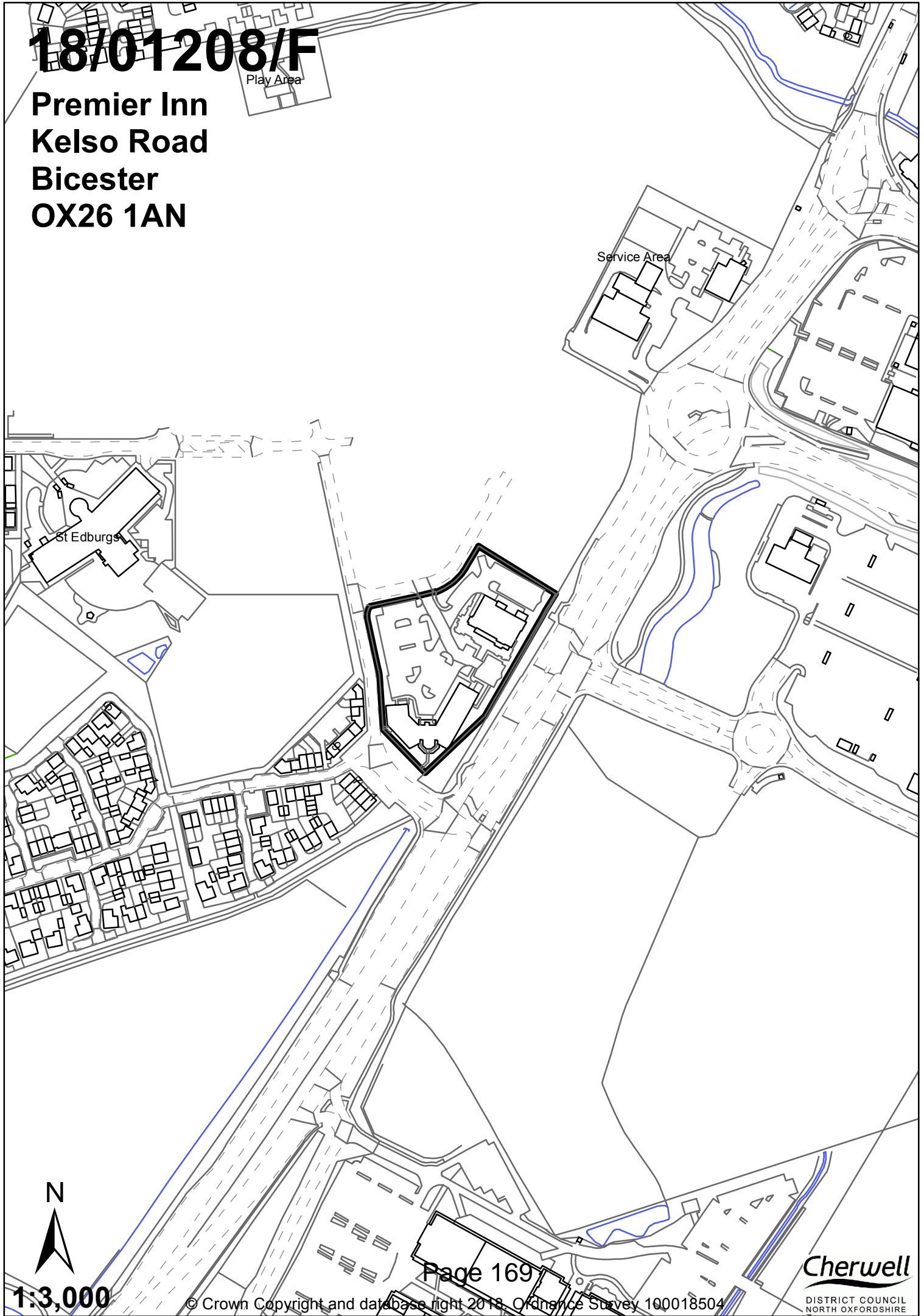
**18/01208/F**

Play Area

**Premier Inn  
Kelso Road  
Bicester  
OX26 1AN**

Service Area

St Edburges



**Premier Inn  
Kelso Road  
Bicester  
OX26 1AN**

**18/01208/F**

**Applicant:** Premier Inn Hotels Ltd

**Proposal:** Two and three storey 56 bedroom hotel extension and alterations to the car park layout

**Ward:** Bicester South And Ambrosden

**Councillors:** Cllr David Anderson  
Cllr Dan Sames  
Cllr Lucinda Wing

**Reason for Referral:** Major application

**Expiry Date:** 23<sup>rd</sup> November 2018    **Committee Date:** 22<sup>nd</sup> November

**Recommendation:** Approved subject to legal agreement and conditions

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## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

### **Proposal**

The application relates to a proposed extension to the existing Premier Inn in south west Bicester. The extension would have 56 bedrooms (resulting in a total of 140 bedrooms) and the car park would be reconfigured to increase its capacity from 123 to 147 spaces. The extension would be 2 and 3 storey and face onto Pioneer Way.

### **Consultations**

No consultees have raised objections to the application

2 letters of objection have been received.

### **Planning Policy**

The site is located in the built up limited of Bicester in the south west Bicester development. The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

### **Conclusion**

The key issues arising from the amended application details are: (list the key issues below as identified in the report)

- Principle of Development;
- Design;
- Highways and Parking

The report looks into the key planning issues in detail, and officers conclude that the proposal is acceptable for the following reasons:

The proposal is for an extension to the existing hotel on a previously allocated site for a hotel. It is in an area that serves the strategic road network and Bicester Village and is considered to be acceptable in principle. The design would be in keeping with the existing

building and the application submission has demonstrated that the extended car park would have capacity to accommodate the extension.

**RECOMMENDATION - GRANT PERMISSION SUBJECT TO COMPLETION OF A LEGAL AGREEMENT AND CONDITIONS**

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.**

**MAIN REPORT**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is located within the South-West Bicester phase 1 development. It is situated adjacent to the junction between the A41 and Pioneer Way and consists of part 3 storey and part 2 storey rendered and stone building with glazed feature which operates as a hotel with 84 bedrooms (Premier Inn). A shared car park with the adjacent restaurant (222 covers) exists to the north of the building and accommodates 123 parking spaces.
- 1.2. Planning consent has been granted for a large retail and leisure development to the north of the site (18/00488/OUT). However, at the current time this has not been implemented. A school and residential development exist to the west of the site.

**2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. The current application seeks permission to erect a 56 bedroom extension (140 rooms in total) to the existing hotel which would be constructed of render and bradstone and be a mix of 2 and 3 storeys in height. It would have a flat roof with overhanging eaves like the existing building.
- 2.2. This would extend along the frontage of Pioneer Way on an areas currently laid to grass and car parking. It is also proposed to reconfiguration the car park including the loss of a number of landscaped areas. Overall the capacity of the shared parking areas would increase from 123 spaces to 147 spaces.

**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>
06/00967/OUT	Outline - Up to 1585 no. dwellings; health village to include health and employment uses and elderly persons nursing home; B1 and B2 employment uses; local centre comprising of shops, a pub/restaurant, children's day nursery, offices and a community centre; 2 no. primary schools and 1 no. secondary school; a hotel; a sports pavilion; formal and informal open space; a link road between A41 and	Application Permitted

Middleton Stoney Road/Howes Lane junction; associated new roads, junctions, parking, infrastructure, earthworks and new accesses to agricultural land (as amended by plans and documents received 24.10.06).

12/00063/REM	Reserved Matters (Outline Application 06/00967/OUT) - Part 3 storey, part 2 storey hotel, part single, part 2 storey pub/restaurant, access and parking - Hotel Site	Application Permitted
12/00140/DISC	Discharge of Conditions 4, 14, 17, 18, 19 of 12/00063/REM	Application Permitted
12/00142/DISC	Discharge of Conditions 2, 3, 6, 7 & 16 of 12/00063/REM	Application Permitted

3.2. The following applications have been approved on the land to the north of the site:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
18/00488/OUT	Variation of condition 4 (plans) and 12 (plant compounds) of 16/02505/OUT - substitute the approved plans in respect of Block A to widen the building to enable a reconfiguration of the service yard, extended front colonnade and car park alterations to facilitate the subdivision of Block A. Revisions to block B to facilitate a new service corridor between Unit D and E and to realign the external walls at ground and first floor level which results in an increase in floor space of Block B and revised plans showing plant compounds and variation of condition 26 to allow the sub-division of Unit B within Block A.	Application Permitted
16/02505/OUT	Bicester Gateway (Kingsmere - Retail) Four Class A1 (retail) units, one Class A3 (cafe/restaurants) unit, a Class D2 (gym) unit, surface level car parking, access, servicing and associated works	Application Permitted
17/02320/REM	Reserved Matters pursuant to outline permission 16/02505/OUT as amended by S73 18/00488/OUT for proposed soft and hard landscaping.	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 12.11.2018, 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:

- Impact on parking provision which is already problematic.
- Impact on air quality.
- Electric vehicle charging points should be included.

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

#### **6. RESPONSE TO CONSULTATION**

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

##### STATUTORY CONSULTEES

6.2. OCC SINGLE RESPONSE: **Comments on amended plans are awaited.**

6.3. Originally objected to the application as there was insufficient information on the traffic impact of the development on the Pioneer Way/A41 Oxford Road junction as a percentage of the peak given its location close to Bicester 4 and Bicester 10 and the potential cumulative impact. In terms of car parking provision raised objections that the car parking survey was not carried out during a neutral month and was therefore not robust.

6.4. Additional information has been provided on the traffic impact of the development at the A41 Oxford Road/Pioneer Way junction and this indicates approximately a 0.5% increase in traffic movements which is not significant and would not exceed the thresholds the county council apply. Therefore there is no objection in respect of traffic.

6.5. A revised parking survey has been undertaken in a neutral month and additional information provided on the other Premier Inn hotels and the occupancy rate of the hotel. The car park survey shows the area typically operates with a degree of spare capacity. Taking this spare capacity into account it is considered that the proposed extension to the hotel and associated extension to the car park is unlikely to lead to issues with overspill parking as a result of car parking demand exceeding capacity. Therefore the County removes its objection in this respect.

6.6. Vehicular and pedestrian access would be as existing and are considered to be acceptable.

- 6.7. Seeks contribution of £22,927 for the installation of a south bound bus shelter and real time information facilities on the eastern side of the A41 Oxford Road south of the A41 Oxford Road/Lakeview Drive junction to make the development more accessible by bus for customers and employees. A S278 is required to be entered in to complete these works. Also provides a number of detailed comments on the travel plan and request a travel plan monitoring fee.
- 6.8. The drainage strategy includes the use of permeable paving and porous sub base to manage surface water from the development using infiltration. Whilst infiltration is used at the current site further tests are required to ensure this is feasible and details of the seasonal high ground water level at the site. A calculation of the storage volumes that will be needed is also required. Detailed design is also required of the proposed SUDs along with flood exceedance route plans and maintenance and management plans. These matters can be controlled though condition.
- 6.9. HIGHWAYS ENGLAND: **No objections.**
- 6.10. THAMES WATER: **No objections.** The foul water sewage network infrastructure has capacity for the development. Surface water will not be discharge to the public network.

#### NON-STATUTORY CONSULTEES

- 6.11. CDC LANDSCAPING: **No objection** subject to conditions on hard and soft landscape layout, and tree pit details.

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

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

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

- PSD1 – Presumption in Favour of Sustainable Development
- SLE2 – Securing dynamic town centres
- SLE3 – Tourism
- SLE4 – Traffic
- Bicester 5 – Bicester town centre
- ESD15 - The Character of the Built and Historic Environment

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

- C28 – Layout, design and external appearance of new development
- C30 – Design
- ENV1 – Environmental

- 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
- Highways matters
- Residential amenity
- Other matters

### Principle

- 8.2. Policy SLE3 of the Cherwell Local Plan 2015 states that the Council will support proposals for new or improved tourist facilities in sustainable locations to increase overnights stays and visitor numbers in the District. Therefore there is general support for such development.
- 8.3. The NPPF advises that hotels are main town centre uses and that the sequential test should be applied to such uses, which is also echoed in Policy SLE2. This means such uses should be located in town centres, then edge of centre locations and only if suitable sites are not available should out of centre site be considered.
- 8.4. The Planning Practice Guidance notes that the application of the sequential test should be proportionate and appropriate for the given proposal and flexibility should be applied. It goes on to state that the sequential test should recognize that certain main town centre uses have particular market and locational requirements, which means that they may only be accommodated in specific locations. Robust justification must be provided where this is the case.
- 8.5. In terms of the sequential test the current site is located in an 'out of centre' location. However, the current proposal is for an extension to an existing hotel so is not establishing a new use on the site and it therefore needs to be considered in the context of being an extension. Furthermore the application site forms part of the South West Bicester Phase 1 planning approval which was allocated under Policy H13 of Non-statutory Cherwell Local Plan for a mixed use development, which included the provision of a hotel on the land and the current proposal is contained within the same red line as was approved under the reserved matters application for the original hotel.
- 8.6. The applicant has also stated that the locational requirements are also relevant in this case. The hotel provides accommodation with easy access to the motorway and also provides accommodation for visitors to Bicester Village which is a major visitor attraction in the district within the proximity of the application site. The applicant also states that given the high occupation rates of the hotel (on average weekly occupancy rates of over 90%) demonstrates there is a high demand for accommodation in this area. Given the scale of the proposed development and nature of the use an impact assessment is not required.
- 8.7. Overall, taking all these matters into account, the proposal is considered to be acceptable in this regard and would serve the locational needs of the area on an existing authorised site that was supported by the Council's earlier planning policy framework. The principle of extending the hotel is therefore considered to be acceptable subject to other considerations.

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

- 8.8. Policy ESD15 seeks to ensure that new development contributes positively to an area's character and identity. It goes on to note that development should be designed to deliver high quality safe, attractive and durable places to live and should be designed to integrate with existing streets and respect the form, scale and massing of existing properties.
- 8.9. The site is located with the wider Kingsmere development site and therefore regard also needs to be given to the approved design code for the wider development as a material consideration. In this respect the site is noted to be located within the employment area of the design code.
- 8.10. The site currently forms a landmark building at one of the main entrances to the wider development. The proposal would extend the built frontage along Pioneer Way and be situated opposite the 3 storey residential buildings which exist to the west of Pioneer Way and the bund associated with the playing field serving St Edburghs School. To the north of the site the land is currently developed. However, planning consent has been granted for a large, mixed use retail and leisure development, which would substantially alter the character of that site. This includes a glazed, metal and timber clad building along the Pioneer Way frontage with a height of approximately 12.5 metres (tallest element approx. 15m).
- 8.11. The proposed development has been amended during the course of the application to address concerns that the proposed extension lacked articulation and variation and appeared rather monolithic. The revised proposal now seeks to follow a similar design approach to the existing building, which is considered to be acceptable as it would clearly be read as an extension but also part of the same building given its physical attachment and relationship.
- 8.12. The proposal would create a stronger building frontage onto Pioneer Way and would replace an area of inactive frontage which currently consists of the car parking area associated with the application site and a bund associated with a playing field on the opposite side of Pioneer Way. The creation of an active frontage in this location would be beneficial to the character and appearance of the area and would help to enclose this part of the perimeter block.
- 8.13. The amended proposal consists of 2 and 3 storey elements to break up the massing and bulk of the building and create a sense of rhythm. This follows a similar approach and use of materials to the existing building with the use of render and reconstituted stone panels. The variation in the roof heights, the steps in the building line and creation of smaller bays all help to break up the massing of the building. The height of the building would be within the parameters of the design code (max. 11.5m whilst the Design Code allows for up to 14.5m) and whilst it is noted that the design code seeks to have the tallest part of the hotel building close to the A41 the proposal is not considered to unduly compete with the main part of the building closest to the A41 as it is considered the existing element will still retain its prominence and landmark status on the site given the glazed design of the corner. Furthermore the height of the building is considered to be appropriate given the height of the buildings opposite and those which have permission to the north of the site.
- 8.14. The parking layout has also been amended during the course of the application and now includes further opportunities for planting to create an attractive environment.
- 8.15. Overall, therefore, the design of the proposal is considered to be appropriate for the site.

### Highways matters

- 8.16. Policy SLE4 of the Cherwell Local Plan 2015 states that development is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported. Paragraph 108 of the NPPF states that in assessing planning applications it should be ensured that safe and suitable access can be achieved for all users and that development will be refused there is an unacceptable impact on highway safety.

#### *Access and impact on junction*

- 8.17. The proposed development would be served from the existing access which is considered to be acceptable by the highway authority. The applicant was also requested to provide further information on the impact of the development on the Pioneer Way/A41 junction and this demonstrates that the impact on the junction would not be significant due to the small impact of traffic stemming from the proposal in the peak hours (15 two way movements in the AM peak and 12 in the PM peak). The development is therefore considered to be acceptable in this regard.

#### *Parking*

- 8.18. The main issue in respect of highway matters is considered to be the impact of the development on the parking provision serving the site. The parking area is shared with the adjacent restaurant and currently has 123 parking spaces. The proposed development includes the reconfiguration of the car park, which would provide a total of 147 spaces.
- 8.19. The applicant has undertaken week-long parking accumulation studies at the site. The first was undertaken in January and noted a peak accumulation of 76 vehicles (out of 123 parking spaces) at the existing site serving the hotel and the restaurant. Concerns were raised that the January period was not a 'neutral month' particularly in light of the car park area being shared with a restaurant. The applicant therefore undertook another week-long parking accumulation study in September which had a peak accumulation of 72 vehicles. They also included details of the occupation levels of the existing hotel, which showed that with the exception of the Sunday evening occupation rates were between 79-85 rooms (of the 86 rooms present at the site). Furthermore the applicant has provided survey data from comparatively located hotel and restaurant sites.
- 8.20. Based on this information the applicant has forecast the likely parking demand with the hotel extension, which indicates that the extended car park is still likely to operate within capacity (121 spaces out of 147 spaces occupied) at peak times. Furthermore the applicant proposes to implement a Travel Plan for the site to encourage other sustainable forms of travel to the site and this can be secured by condition with a monitoring fee secured through a legal agreement. The County Council as local highway authority (LHA) is now satisfied that based on the information provided that the extended site is unlikely to lead to issues with overspill parking and is therefore considered acceptable in this regard.
- 8.21. The applicant has amended the layout of the parking area during the application and has been requested to provide swept path analysis to show that adequate space exists for the hotel and restaurant to be serviced.

#### *Bus Stop*

- 8.22. The LHA has also requested the provision of a new south bound bus stop (layby) on the A41 and financial contribution towards the infrastructure including a real-time

passenger information system. This has already been secured under 16/02505/OUT for the retail and leisure development and also appears to be a commitment of the Bicester 4 scheme if planning consent is granted. However, neither of these schemes has been implemented and therefore it is uncertain that such infrastructure will be provided. The applicant has agreed in principle to this and officers are in discussions with the LHA regarding this matter.

#### Residential Amenity

- 8.23. 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. 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.
- 8.24. The proposed extension would impact on the outlook and privacy of the residential properties on the opposite side of Pioneer Way. However, the proposed development is separated from these properties by the road and the relationship between these properties is not dissimilar to what already exists between the buildings and what is common in built up areas. Therefore this impact is not considered to be significant.
- 8.25. The remaining land uses are commercial in nature and the proposal is considered to be acceptable in regard to these neighbours.

#### Other matters

- 8.26. The proposal would lead to some economic benefits including 15 additional staff according to the application and also the wider benefits of further spending in the locality associated with increase in overnight stays.
- 8.27. The site lies within Flood Zone 1 which is the lowest area of flood risk. The drainage strategy accompanying the application notes the proposal seeks to use permeable paving and porous sub base to manage surface water from the development using infiltration. The Lead Local Flood Authority has raised no objection to the proposal in these regards and full details including soakage tests, details of the seasonal high ground water level, details of design and management and maintenance of the SUDs can be controlled through conditions. Thames Water has raised no objection to the application in regard to water supply or foul water infrastructure.
- 8.28. Concerns have been raised in regard to the impact on air quality however given the limited traffic impact of the development this is not considered to result in a significant impact.

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

- 9.1. The proposed development would result in the extension of an existing hotel with high occupancy rates which was previously supported on the site through the local planning policy framework. The extension is contained to the previously approved site and has locational specific requirements for being on the site associated with its relationship with the strategic road network and Bicester Village. The proposed development is responsive to the design of the existing building and would provide a beneficial active frontage at one of the main entrances to this large development site where the frontage is rather weak. The proposed development is also considered to be acceptable in highway terms and is considered to provide adequate parking to

serve the development. It is therefore recommended that planning permission be granted.

## **10. RECOMMENDATION**

Delegate to the Assistant Director of Planning Policy and Development to grant planning permission, subject to:

1. Completion of a planning obligation under Section 106 of the Town and Country Planning Act 1990, as substituted by the Planning and Compensation Act 1991, in accordance with the summary of the Heads of Terms set in para 8.22 and;
2. Conditions relating to the matters detailed below (the exact conditions and the wording of those conditions to be delegated to the Assistant Director for Planning Policy and Development).

### **Time Limit**

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.

### **Approved Plans**

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application form, Site Location Plan, Drawing numbers 4591/P19 Rev A, 4591/P20 Rev A, 4591/P16 Rev A, 4591/P17 Rev A, 4591/P18 Rev A and 803-SW-01 Rev B

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.

### **Hedgerow and landscape protection**

3. No development shall take place until full details of the hedgerow and landscape protection for the existing retained landscaping on and adjacent to the site has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved scheme. Any landscaping removed or damaged during construction shall be replaced in accordance with a scheme to be submitted and approved in writing (including timing of planting) by the local planning authority within 6 months of the occupation of the building.

Reason: To ensure the adequate soft landscaping is provided to ensure an attractive and well-designed place in accordance with Policy ESD15 of the Cherwell Local Plan Part 1 (2015) and advice in the NPPF.

### **Surface water drainage**

4. No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the

hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development being occupied. The scheme shall also include:

- Discharge Rates
- Discharge Volumes
- Maintenance and management of SUDS features
- Sizing of features – attenuation volume
- Infiltration in accordance with BRE365
- Detailed drainage layout with pipe numbers
- SUDS (list the suds features mentioned within the FRA to ensure they are carried forward into the detailed drainage strategy)
- Network drainage calculations
- Phasing
- No private drainage into the public highway drainage system.

Reason: In the interests of flood risk management in accordance with Policy ESD6 of the Cherwell Local Plan and advice in the National Planning Policy Framework.

### **Hard Landscaping Works**

5. Prior to any works to the hard landscaping of the development hereby approved, a hard 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 the hard surface areas, including pavements, parking and manoeuvring areas, crossing points and steps. The development shall therefore be carried out in accordance with the approved details prior to the first occupation of the development hereby permitted and shall be retained as such thereafter.

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

### **Parking**

6. Prior to the first occupation of the extension hereby permitted, the car parking and manoeuvring areas shall be laid out in accordance with the details as shown on the approved plans. They shall thereafter be retained and used for no other purposes.

Reason: To ensure there is adequate parking and manoeuvring space to serve the development in the interests of highway safety in accordance with Government guidance contained within the National Planning Policy Framework.

### **Travel Plan**

7. Prior to the first occupation of the extension hereby permitted, a workplace travel plan must be submitted to and approved in writing by the Local Planning Authority. Thereafter, occupation shall only commence in accordance with the approved details.

Reason: In the interests of maximising the opportunities for travel by sustainable modes of transport in accordance with the National Planning Policy Framework.



### **Landscaping**

8. The landscaping scheme as shown on drawing number 803-SW-01 Rev B shall be carried out in the first planting and seeding seasons following the first use of the extension or on the completion of the development, whichever is the sooner. 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, 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.

### **Materials**

9. The materials to be used in the construction of the extension hereby permitted shall match those used on the existing building.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2015 and Government guidance contained within the National Planning Policy Framework.

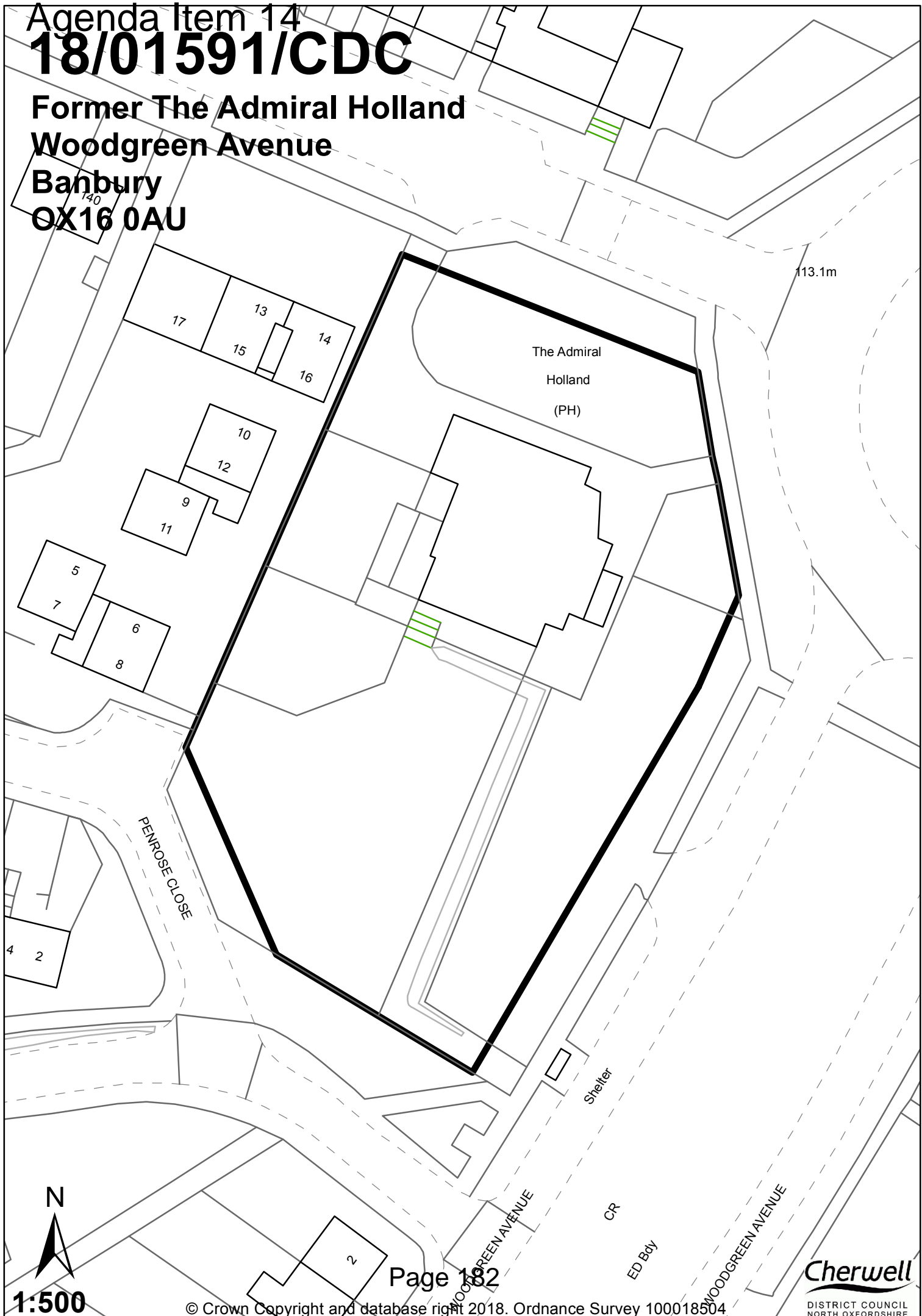
CASE OFFICER: James Kirkham

TEL: 01295 221896

# 18/01591/CDC

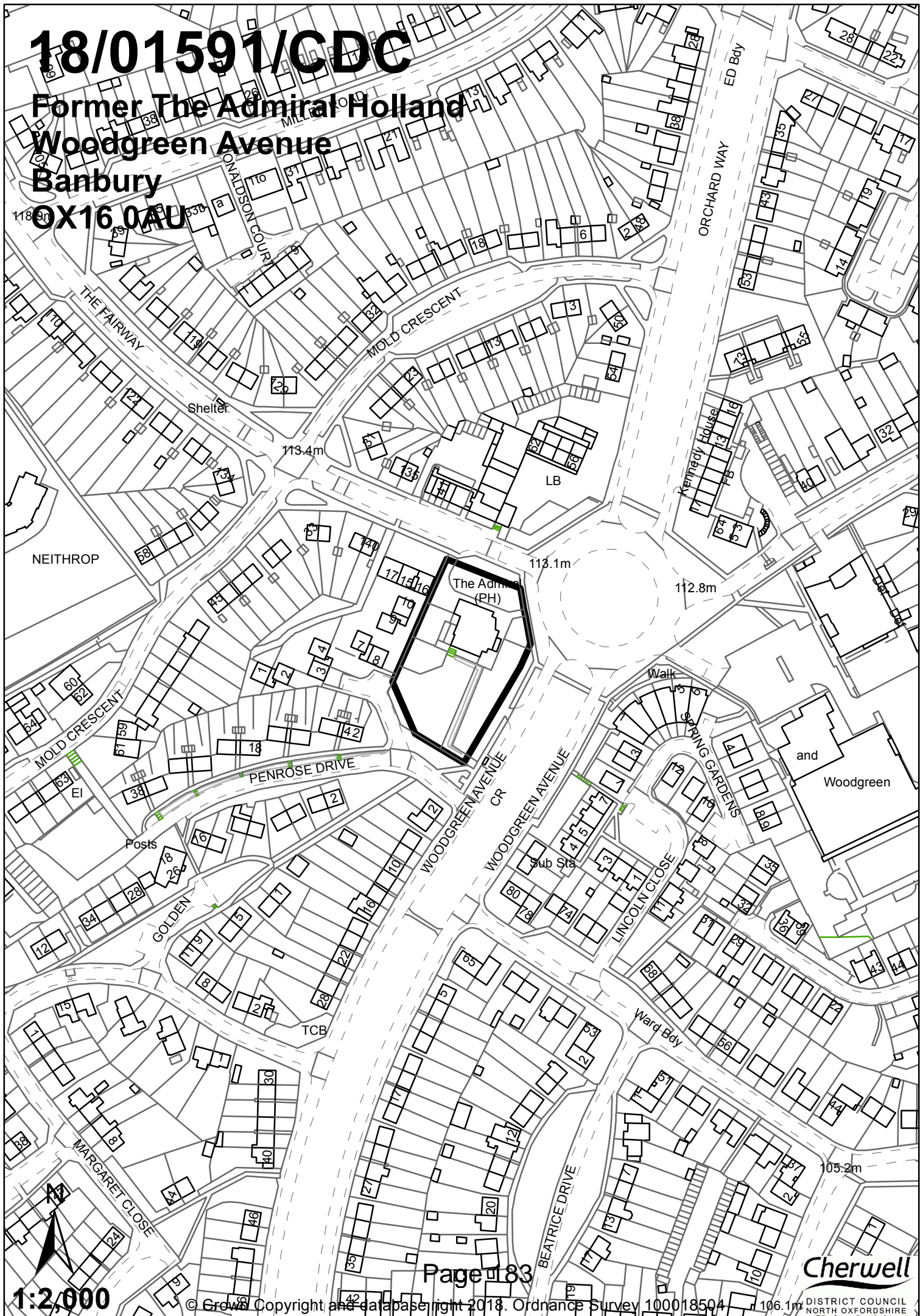
## Former The Admiral Holland Woodgreen Avenue

### Banbury OX16 0AU



# 18/01591/CDC

## Former The Admiral Holland Woodgreen Avenue Banbury OX16 0AU



**Former The Admiral Holland  
Woodgreen Avenue  
Banbury  
OX16 0AU**

**18/01591/CDC**

**Applicant:** Cherwell District Council

**Proposal:** Development of 8 No houses and 6 No flats

**Ward:** Banbury Ruscote

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

**Reason for Referral:** Major application made by the Council

**Expiry Date:** 12 December 2018      **Committee Date:** 22 November 2018

**Recommendation:** Approve subject to legal agreement and conditions

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## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

### **Proposal**

The current application seeks permission for the erection of 14 dwellings on the site of the former Admiral Holland public house. These would be 2 storey in scale and orientated to create a frontage to Woodgreen Avenue and The Fairway. Parking would be provided in rear courtyard accessed for The Fairway.

### **Consultations**

- Consultees have raised no objections to the application

2 Letters of objection have been received.

### **Planning Policy**

The application site lies within the built up limits of Banbury and is also situated in the area identified by Banbury 10 as Bretch Hill Regeneration Area.

The application has been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

### **Conclusion**

The key issues arising from the application details are:

- Principle of Development
- Loss of the pub
- Design and layout
- Provision of affordable housing
- Parking and access

The report looks into the key planning issues in detail, and officers conclude that the proposal is acceptable subject to conditions

**RECOMMENDATION - GRANT PERMISSION SUBJECT TO CONDITIONS AND COMPLETION OF A LEGAL AGREEMENT**

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

**MAIN REPORT**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application relates to the site of the former Admiral Holland public house in Banbury. It is situated to the south of The Fairway and to the west of Woodgreen Avenue adjacent to the roundabout. A small group of commercial uses including a shop and takeaway exist to the north of the site. A number of residential apartments exist to the west of the site.
- 1.2. The site lies in the Bretch Hill Regeneration Area as identified by Policy Banbury 10 of the Cherwell Local Plan Part 1 2015. The site contains a number of trees, in the northern and south-west areas of the site. The site is located on approximately 1 metre higher ground than The Fairway.

**2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. The current application seeks permission to erect 14 dwellings on the site. This would consist of 6 x 1 bed flats, 7 x 2 bed houses and 1 x 3 bed house.
- 2.2. They would all be two storeys in scale and constructed of brick under a tile roof. They would be arranged with a frontage created onto Woodgreen Avenue and The Fairway with a multi-angled building on the corner accommodating the flats. Parking for the dwellings would be provided in a rear courtyard parking area utilising the existing access serving the former public house from The Fairway.

**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>
16/02393/DEM4	Demolition of the Admiral Holland pub	Permitted Development
18/00071/SO	Screening opinion to 18/01591/CDC - proposed development of 8 No houses and 6 No flats	Screening Opinion not requesting EIA

**4. PRE-APPLICATION DISCUSSIONS**

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

<u>Application Ref.</u>	<u>Proposal</u>
-------------------------	-----------------

15/00138/PREAPP Pre-application advice - Demolition of pub and construction of 15 units, predominantly housing

16/00083/PREAPP Pre-application advice - Revised scheme: 28 Apartments

17/00239/PREAPP 8 No two bed four person new build houses (shared ownership) and 10 No one bed two person new build flats (affordable rent).

4.2. The above pre-application enquiries all related to the application site, but each of the proposals was significantly different to the current proposal. It was advised that the loss of the public house would need to be justified and that in design terms the proposed development should actively address both the surrounding roads and the corner in a positive manner. It was also advised that the trees on the site are positive features of the locality which should be retained.

## 5. RESPONSE TO PUBLICITY

5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 17.11.2018, although comments received after this date and before finalising this report have also been taken into account.

5.2. Two letters of objection have been received. The comments raised by third parties are summarised as follows:

- Loss of the pub which was profitable and thriving. It provided a social hub and its loss is harmful to the community.
- The Council closed the pub against the will of the people.
- Publicity of application insufficient.
- Overlooking from balconies given the height of the site.
- No need for further housing.

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. TOWN COUNCIL: **No objection**; however, considers that it would reinforce the history and character of the area if the new development referenced the name of the old pub "The Admiral" in some way.

### STATUTORY CONSULTEES

- 6.3. OCC HIGHWAYS: **No objections subject to conditions and legal agreement.** The site is well located for shops and services. The works to the access will require a S278 agreement with dropped kerbs for the crossing. The width of the access road is acceptable and the access gate is set back 15m into the site to allow vehicles to pull off the carriageway. The Woodgreen Avenue access will need to be formally stopped up. Bin collection points for the dwellings need to be considered. The vehicle tracking has been updated to show a refuse vehicle can turn on site. In accordance with OCC guidance 27 parking spaces should be provided. 26 spaces are proposed however the shortfall is not considered to warrant an objection. Cycle storage has been incorporated in the scheme.
- 6.4. Requests contribution £21,622 for improvements to the bus service in accordance with Policy Banbury 10 and a real-time information display at the closest bus stop. A S106 is also required to enter into a S278 to secure improvements works to the access and closure of Woodgreen Avenue access.
- 6.5. In relation to surface water drainage the proposal includes permeable paving and underground geo-cellular soakaways. The details include infiltration testing, calculations and a maintenance plan. The development would be carried out in accordance with this and this should be conditioned.
- 6.6. Request conditions for a Construction Travel Management Plan, full access details, car parking and turning areas (including lighting), cycle provision and drainage.
- 6.7. THAMES WATER: **No objections.** Surface water will not discharge to the public system. There is adequate capacity in the foul and water network to accommodate the development.

#### NON-STATUTORY CONSULTEES

- 6.8. CDC HOUSING: **Support.** This scheme is subject to Oxfordshire Growth Deal funding and as such is fully supported by the Housing Strategy Team. The scheme provides 100% much needed additional affordable housing for the area by bringing a now empty site back into use. The size and tenure mix of the housing is acceptable:-

Affordable Rent: 7 x 2B4P houses

Shared Ownership: 6 x 1 B2P maisonettes and 1 x 3B5P house

- 6.9. The general design of the units is also acceptable, provided that 50% of the affordable rented units meet the Building Regulations Requirement M4 (2) Category 2: Accessible and Adaptable Dwellings requirement. All of the units are to be built to the government's Nationally Described Space Standards. Satisfied for the CDC Build! Team to manage these units.
- 6.10. CDC TREES OFFICER: An impact assessment is required in relation to the impact on the trees.
- 6.11. CDC LANDSCAPE: Request provision of 800m<sup>2</sup> of public open space and the provision of a Local Area of Play. The provision on site is considered to be acceptable.
- 6.12. CDC ENVIRONMENTAL PROTECTION: **No objections** subject to conditions on Construction Environmental Management Plan and ducting being provided for electric vehicle charging points.

- 6.13. CDC BUILDING CONTROL: **Comments** that the issue of bin collection from the private road should be considered and that escape windows will be required. Level access should be provided to the site.
- 6.14. CDC WASTE AND RECYCLING: **Comments** that bin storage should be provided in line with the Councils guidance.

## **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)

- PDS1 – Presumption in Favour of Sustainable Development
- BSC2 – The effective and efficient use of land
- BSC12 – Indoor Sport, Recreation and Community Facilities
- ESD1 – Mitigation and Adapting to Climate Change
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15 - The Character of the Built and Historic Environment
- Policy Banbury 10 – Bretch Hill Regeneration Area

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

- C28 – Layout, design and external appearance of new development
- C30 – Design

### 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide SPD (2018)
- Developer Contributions for Cherwell SPD (2018)

## **8. APPRAISAL**

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

- Principle of development including loss of public house
- Design, and impact on the character of the area
- Highways
- Residential amenity
- Other matters

### Principle of development including loss of public house



- 8.2. The Local Plan states that housing growth will be directed towards the urban areas of Banbury and Bicester. Paragraph B88 states: *“By focussing development in and around the towns of Bicester and Banbury we aim to ensure that the housing growth which the District needs only takes place in the locations that are most sustainable and most capable of absorbing this new growth”*. The site is positioned within the built up limits of Banbury and has good access to public transport links, local shops and amenities. In addition, the site is located in the Bretch Hill Regeneration Area (Policy Banbury 10), which states that development proposals will be permitted for small scale redevelopment/renewal that would result in improvements to the existing housing stock and community facilities. It is therefore considered to be located within a sustainable urban location which in principle is suitable for residential development subject to other material considerations.
- 8.3. Whilst the site is currently vacant, following the demolition of the former public house, the lawful use of the site remains as a public house (Use Class A4). Public houses are classified as a use which serves as a community facility and Policy BSC12 seeks to protect and enhance the quality of existing facilities. Paragraph 92 of the National Planning Policy Framework states planning decisions should guard against the unnecessary loss of valued facilities particularly where this would reduce the communities ability to meet its day to day needs.
- 8.4. In considering the loss of the public house there are a number of matters, which need to be taken into consideration. The applicant has been requested to submit details in relation to the marketing of the public house and also to justify the loss of the facility.
- 8.5. Whilst limited marketing information has been provided, the applicant has submitted a detailed viability appraisal undertaken by Thomas E Teague who specialises in the valuation of licensed properties. The report considers the viability of the pub taking into account numerous issues such as the location, the buildings, layout and the fact the pub was not tied to any brewery. It notes that the rateable value of the building is derived from an estimate of fair maintainable receipts (as assessed by the Valuation Officer) and the reduction in rateable value over the years prior to its closure suggests the pub has been in slow decline. It also notes that at the time of his visit (after the closure of the pub but prior to its demolition) considerable investment (approx. £150k) would have been required to address the vandalism caused to the building.
- 8.6. The Viability Report has made attempts to assess how the pub operated prior to its closure based on the expertise of the author. Unfortunately they were not able to obtain barrellage or turnover figures from the previous tenant of the now demolished pub. However, based on the information that was provided, it has been assumed that trade was predominately wet-led with negligible food sales. It also considers that, given the above factors, it would continue to operate in a similar manner and would be likely to serve a local customer base and have little visitor potential. It considers that changes in the economy and the public house industry over the years and the more deprived nature of the area has meant that such pubs are particularly hard hit. Overall the report concludes, even where the public house was still standing, that the public house would not be viable to reopen as the risk associated with making the necessary investments in the property would be too great to attract a new occupier and the pub would be likely to trade at a loss.
- 8.7. It is also important to note that in protecting public houses the NPPF states that the intention is to guard against the unnecessary loss of ‘valued facilities’ particularly where this would reduce the communities ability to meet its day to day needs. In the current application only two objections from the public have been received in relation to the loss of the pub and the Town Council does not object to the application.

Therefore the facility does not appear to be a use which was strongly valued by the wider community. It is also noted that the site was not listed as an Asset of Community Value at any point.

- 8.8. Furthermore in considering whether the proposal would 'reduce the communities' ability to meet its day-to-day needs' it is important to take into account the availability of alternative provision of public houses in the locality. The site lies approximately 1.2km (walking distance) from the town centre which includes a wide range of public houses. Those closest to the site include The Horse & Jockey, West Bar St; The Dog and Gun, North Bar St.; The Swan, South Bar Street; The Exchange, High Street and The White Horse, Parson Street. There are also a number of other public houses further from the site in the town centre which are available as alternatives.
- 8.9. There are also a number of pubs situated within 1.5km which serve the residential areas much like the Admiral Holland would have. The Musketeer exists on Ruscote Avenue 1.1km to the north of the site and the Barlow Mow exists approximately 1.4km (by foot) to the north west of the site. The Easington exists approximately 1.4km to the south of the site. Whilst these sites are not ideally placed for residents in the immediate vicinity of the Admiral Holland and none is within 1km or 15mins walking distance, they would all be reasonably proximate to the application site. A number of these pubs, and those in the town centre, also provide a similar type of pub to that which previously operated from the application site.
- 8.10. Having regard to all the above matters, the loss of the public house is considered to be acceptable. Whilst the loss of the pub is unfortunate for those in the community who used it and would restrict choice for the local community, it would appear there is little prospect that a public house could be viably be operated from the site in the future. It is questionable whether the facility was valued by the wider community given the lack of objection to the loss of the facility and there is also alternative provision in the locality as outlined above which would be available to meet the day to day needs of the community despite the loss of the application site as a public house.

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

- 8.11. Policy ESD15 seeks to ensure that new development contributes positively to an area's character and identity. It goes on to note that development should be designed to deliver high quality safe, attractive and durable places to live and should be designed to integrate with existing streets and respect the form, scale and massing of existing properties. Policy Banbury 10 also requires a high quality of design and paragraph 93 of the NPPF goes onto state planning decisions should consider the social, economic and environmental benefits of estate generation.
- 8.12. The proposed development has been sited and orientated in a manner to have a similar relationship with the street to new development the opposite side of the roundabout (Spring Gardens) and creates a positively and active frontage onto both Woodgreen Avenue and The Fairway. The proposal addresses the corner of the site with a faceted unit and seeks to retain the existing mature trees which exist to the front of the site and positively contribute to the area. A full impact assessment on these trees has been requested from the applicant.
- 8.13. The units are set back slightly further from the Woodgreen Avenue than the existing properties immediately to the south of the site. However, the relationship is not dissimilar to the new development opposite in terms of siting. Furthermore the proposed development would clearly be read as a separate parcel of development to the post-war housing to the south and the prominence of the buildings on the

application site, particularly those on the northern part of the site, would be increased by the fact that they are located on higher land than The Fairway.

- 8.14. Given the depth of the site, the limited access points and the desire to have a strong frontage to Woodgreen Avenue and The Fairway, the proposal has a relatively large rear courtyard parking area,. However, there is a requirement for parking on the site, and a rear parking court is better than siting parking to the front (which would create a weaker frontage and appear more car-dominated) and is considered to be acceptable in this location. The rear courtyard is proposed to be a secure and private area, and the boundary details to this part of the site can be controlled through conditions. Furthermore amendments have been sought to the plan to include further landscaping in this area and improve the quality of the environment be providing an additional sense of surveillance from lower boundary treatments to the dwellings gardens. The provision of balconies and entrances to the rear of the flats would also provide activity and surveillance to this area and small area of open space is also proposed in this area for the use of residents.
- 8.15. The surrounding area contains a wide mix of buildings with varying architectural styles and materials. Given that many of the existing buildings are of limited architectural value, the applicant has sought to take on board some of the characteristic of the locality in order to integrate the development into the surroundings. However, it is also important, as the Build! development on the opposite corner has done, to seek to elevate the standard of built development in the locality.
- 8.16. Some interesting detailing is proposed, e.g. brick insets within the building elevations add interest to the elevation and are reflective of panelling used on other dwellings in the locality and the design of the buildings has a strong vertical emphasis and the use of deep window reveals will also add interest and depth of the elevations to help create an attractive development. The grey famed windows and doors also pick up on the grey used on the new development opposite.
- 8.17. Overall, the design, layout, form and detailing of the building is considered to be acceptable and, subject to conditions to secure appropriate materials, would result in a contextually appropriate design with a more contemporary appearance.

#### Affordable Housing

- 8.18. Policy BSC3 requires development within Banbury to provide 30% affordable housing on site and provides detail on the mix that should be sought between affordable social rent (70%) and shared ownership (30%). Policy Banbury 10 states development proposals including an element of shared ownership/shared equity properties will be encouraged.
- 8.19. The current scheme proposes 100% of the housing to be provided as affordable in the form of:
- Affordable Rent: 7 x 2 bed houses
- Shared Ownership: 6 x 1 bed maisonettes and 1 x 3 bed house
- 8.20. This more than exceeds the policy requirement for affordable housing and is a significant benefit arising from the development and would need to be secured through a legal agreement alongside the standards required by the housing officer. Given the mix of tenures the proposal does not conflict with the Councils guidance that no more than 10 units of one tenure or 15 units of multiple affordable tenures should be clustered together.

### Accessibility, Highway Safety and Parking

- 8.21. Policy SLE4 states that: *“All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported.”*
- 8.22. The proposed development would utilise and alter the existing access from The Fairway to serve the development and would provide 26 parking spaces including 3 visitor parking spaces. The highway engineer has raised no objection to the use of the access and it is considered to be acceptable in terms of visibility and safety. The site layout has been revised and allows for a refuse vehicle to turn on site. The gated access is set back far enough from the road to allow vehicles to pull clear of the highway whilst the gates are opening without obstructing the road.
- 8.23. The level of parking provided is considered to be appropriate and allows 2 parking spaces for the 2 bed units and 1 space for the 1 bed units. Cycle stores are provided in the flats and there are sheds in the gardens for cycle storage to the dwellings. Subject to conditions the proposal is therefore considered to be acceptable in this regard.
- 8.24. The Highway Engineer has also requested a construction traffic management plan which has been submitted by the applicant and comments from the highway authority are awaited.

### Residential amenity

- 8.25. 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. 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.
- 8.26. The proposed development would largely be sited away from the boundaries of the neighbouring properties and, given its scale, distance and orientation, is not considered to significantly impact on any of neighbouring properties in terms of light or overbearing impact.
- 8.27. The proposed development would alter the outlook of the properties in Penrose Close, which includes a number of units with first floor windows facing over the western boundary of the application site. There would also be some increased overlooking as a result of the balconies to the rear of the proposed flats and the windows of the dwellings facing these properties. However, the given the distance to these property and the relative position of windows and openings, this is not considered to result in an unacceptable level of privacy particularly in light of the former use of the site being a public house.
- 8.28. In term of the amenity of the future flats they are all considered to be of a sufficient size to provide a good standard of amenity internally and, whilst some of the rear gardens of the proposed dwellings are rather small (approx. 8.5 metres), on balance the proposal is considered to be acceptable in this regard, particularly in light of the shared amenity grass space in the rear parking area.

### Other matters

- 8.29. Policy BSC11 of the Cherwell Local Plan Part 1 requires development proposals to contribute to the provision of open space, sport and recreation, together with secure arrangements for its management and maintenance. It states provision should usually be made on site in accordance with the minimum standards of provision set out in the Local Plan. In this case the proposed development would require a local area of play (non-equipped) and also a general green space (approx. 800 sq m). There are areas to the rear of the parking area which could serve as a local area of play and an area to the front flats (adjacent to The Fairway) which can be used to meet the green space requirements. Whilst they would not be available to the wider public to use they would be available to the proposed residents. The applicant has stated that these areas would be managed and maintained by a management company and the landscape officer is satisfied with this.
- 8.30. 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 methods. The reference to allowable solution in Policy ESD2 and 'zero carbon' are no longer being pursued by the government so are no longer relevant however the water usage requirements of ESD3 are still required to be met. In regard to energy efficiency the Council now seek to secure in excess of that required under the 2013 Building Regulations, up to the equivalent of the (now withdrawn) Code for Sustainable Homes Level 4 – i.e. a 19% improvement in carbon reductions on 2013 Part L of the Building Regulations. The applicant has been requested to provide an energy statement to demonstrate compliance with this and these details are awaited or could be controlled through a condition.
- 8.31. In terms of flood risk the site lies within Flood Zone 1 (lowest area of flood risk). The proposal seeks to use a series of sustainable urban drainage systems including permeable block paving in the rear parking area and cellular soakaways to accommodate a 1 in 100 year storm event plus an allowance of 40% for climate change. The Lead Local Flood Authority has raised no objection to the scheme subject to a compliance condition. Thames Water has raised no objection to the proposal in relation to foul water connection or water supply.
- 8.32. Ground investigation has been undertaken and found the site is suitable for residential development and the Environmental Protection and Building Control have raised no objection in this respect.
- 8.33. The Environmental Protection Officer has also requested the submission of a construction management plan to ensure the amenity of neighbouring properties during construction however given the relatively small scale of the scheme this is not considered to be justified and can be controlled through other environmental legislation. The provision of ducting for electric vehicle charging points can be controlled through condition.
- 8.34. The site would also re-use a brown field site in the built up limits of the town which is supported by Policy BSC2 of the Cherwell Local Plan and this is a significant benefit arising from the development. The site is also identified as a site on the Council's Brownfield Land Register.

#### Infrastructure

- 8.35. 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.* The Developer Contributions SPD 2018 is the starting point for such contributions however the local

authority is also required to ensure that any contributions sought meet the following tests, set out at Regulation 122 of the Community Infrastructure Regulations 2011 (as amended):

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

8.36. Having regard to the above, the following would be sought if this application were to be approved:

- Contribution of £21,622 towards public transport services. This would include the provision of a real time information display at Mold Crescent bus stop (served by the B5) and improvements to the bus service. This is supported by Policy Banbury 10 which states development proposals including improvements and enhancement of the bus service will also be encouraged and the NPPF which seeks to ensure that sustainable forms of transport are encouraged.
- Contribution of £14,980 toward community hall facilities. This is in line with the Developer Contributions SPD. This would be towards the landscaping of the outdoor areas and the outdoor equipment fit out of The Hill Youth and Community Centre located in Bretch Hill
- Contribution of £106 per dwelling for bin and collection vehicle provision.

8.37. A legal agreement would be required to secure these alongside the affordable housing provision and S278 works for the works to the highway. Given the scale of the development Oxfordshire County Council has not requested any education contributions. Contributions have been sought in line with the SPD for indoor and outdoor provision; however, in light of the fact that no specific projects have been identified it is not considered that these contributions would comply with the regulations and so are not being pursued in this case.

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

9.1. The proposed development would lead to the loss of site previously used for a public house which is unfortunate. However, on the evidence available, it is considered unlikely that the site would trade profitably as a public house and there are a number of alternative provisions within the locality, with various pubs in the town centre only 20-25mins walk. The proposed development would re-use a brownfield site in a sustainable location and would also provide 100% affordable housing which are significant benefits arising from the proposal. The proposal is considered to be acceptable in design terms and would successfully integrate with the surrounding locality. Overall the development is considered to comply with the Development Plan when read as a whole and it is recommended that planning permission be granted.

## **10. RECOMMENDATION**

Delegate to the Assistant Director of Planning Policy and Development to grant planning permission, subject to:

1. Completion of a planning obligation under Section 106 of the Town and Country Planning Act 1990, as substituted by the Planning and

Compensation Act 1991, in accordance with the summary of the Heads of Terms set in para 8.36 and 8.37 and;

2. Conditions relating to the matters detailed below (the exact conditions and the wording of those conditions to be delegated to the Assistant Director for Planning Policy and Development).

### **Time**

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.

### **Approved Plans**

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application form and drawing numbers 001-(PL)-8146 Rev A, 003-(PL)-8146 Rev D, 311-(PL)-8146 Rev C, 004-(PL)-8146 Rev B, 003-(PL)-8146 Rev D, 201-(PL)-8146 Rev D, 203 (PL)-8146 Rev B, 202-(PL)-8146 Rev B, 102-(PL)-8146 Rev C, 101-(PL)-8146 Rev C

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.

### **Tree Protection**

3. No development shall take place until an Arboricultural Impact Assessment and Method Statement, undertaken in accordance with latest British Standard has been submitted to and approved in writing by the Local Planning Authority. This shall include details of tree protection during construction. Thereafter, all works on site shall be carried out in accordance with the approved details.

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

### **Sustainable Construction**

4. Prior to the commencement of any works associated with the construction of a dwelling, details of the means by which all dwellings will be designed and constructed to achieve an energy performance standard equivalent to a 19% improvement in carbon reductions on 2013 Part L of the Building Regulations shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details and no dwelling occupied until it has been constructed in accordance with the approved energy performance measures.

Reason - In the interests of environmental sustainability in construction in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1.

## **Materials**

5. Notwithstanding the details submitted, a schedule of materials and finishes to be used in the external walls, windows and roof(s) of the building(s), along with further details of the architectural detailing of the exterior of the building(s), including the design, materials and colour/finish of the windows and doors, window and door recesses, the inset brick panels, the eaves and verge treatment of the buildings, and the screens to the balconies shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The development shall thereafter be completed in accordance with the approved details.

Reason : To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. Prior to the commencement of any works above slab level to the development hereby approved, and notwithstanding the details submitted, a brick sample panel, to demonstrate brick type, colour, texture, face bond and pointing (minimum 1m<sup>2</sup> in size) shall be constructed on site, inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the development shall be constructed in strict accordance with the approved brick sample panel and shall be retained as such thereafter.

Reason: To ensure the materials are appropriate for the site in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of any works above wall plate level of the development hereby approved, samples of the external roof material to be used in the construction of the roof of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved and shall be retained as such thereafter.

Reason: To ensure the materials are appropriate for the site in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

## **Access Details**

8. Prior to the laying out of the access of the development hereby approved, full details of the means of access between the land and the highway on The Fairway, including position, layout, and vision splays, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of any of the development, the means of access shall be constructed and retained in accordance with the approved details.

Reason - In the interests of highway safety and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework

## **Parking and Surfacing**



9. Prior to works commencing on the parking and turning areas of the development, full specification details of the access drives, car parking and turning areas to serve the development which shall include construction, layout, surfacing and drainage, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of any part of the development, the access, car parking and turning areas for that part of the development shall be constructed in accordance with the approved details. All car parking shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter, unless otherwise agreed in writing beforehand by the local planning authority.

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

### **Boundary Enclosures**

10. Prior to the commencement of any works above slab level to the development hereby approved, full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of the vehicle access and the means of control. Thereafter, the approved means of enclosure shall be carried out in accordance with the approved details prior to the first occupation of those dwellings, and shall be retained as such thereafter.

Reason: To protect the character and appearance of the area and provide a safe and durable development in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

### **External Lighting**

11. Prior to the commencement of any works above slab level to the development hereby approved, full details of the external lighting shall be submitted to and approved in writing by the Local planning Authority. Thereafter, the development shall be carried out in strict accordance with the approved details prior to the first occupation of the development, and shall be retained as such thereafter in accordance with the approved details.

Reason: To protect the amenity of the neighbouring properties and ensure the lighting is appropriate for the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

### **Landscaping**

12. Prior to the first occupation of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-
- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
  - (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the

- nearest edge of any excavation,  
(c) details of the amenity space within the rear courtyard.  
(d) details of the hard surface areas, including parking area, pavements, crossing points and steps.

The development shall be carried out in accordance with the details approved prior to the first occupation of the development and the hard landscape elements shall be retained as such thereafter.

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

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

### **Drainage Strategy**

13. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) (SEPT 2018 / Doc Ref: 3232-ADMI-ICS-XX-RP-C-001/Infrastruct CS Ltd) and the following mitigation measures detailed within the FRA:

- Use of permeable paving and geo-cellular soakaway SuDS to manage surface water runoff (Section 7.7 of the FRA) and as shown on the drawing : ' Proposed Drainage Layout' < SEPT 2018 / Drg Ref : ADMI - ICS – 01- XX - DR - C - 003 - P2 / Infrastruct CS Ltd)
- A SuDS Management and Maintenance Plan (based on the principles outlined in Appendix J of the FRA).
- Raising finished floor levels 150mm above the average ground level to mitigate against the risk of any surface water flooding ( Section 7.8 of the FRA)

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason : To ensure satisfactory drainage of the site in the interests of achieving sustainable development, public health, to avoid flooding of adjacent land and property to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice in the National Planning Policy Framework.

### **Cycle Parking**

14. Prior to the first occupation of the development hereby permitted, the cycle parking facilities, as shown on the approved plans (garden shed, etc.) shall be provided on the site.

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

**Electrical Vehicle Infrastructure**

15. Each dwelling shall be provided with ducting to allow for the future installation of electrical vehicle charging infrastructure to serve that dwelling prior to its first occupation.

Reason - To maximise opportunities for sustainable transport in accordance with Government guidance contained within the National Planning Policy Framework.

**Water Efficiency**

16. No dwelling shall be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres person/day and shall continue to accord with such a limit thereafter.

Reason - In the interests of sustainability in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1.

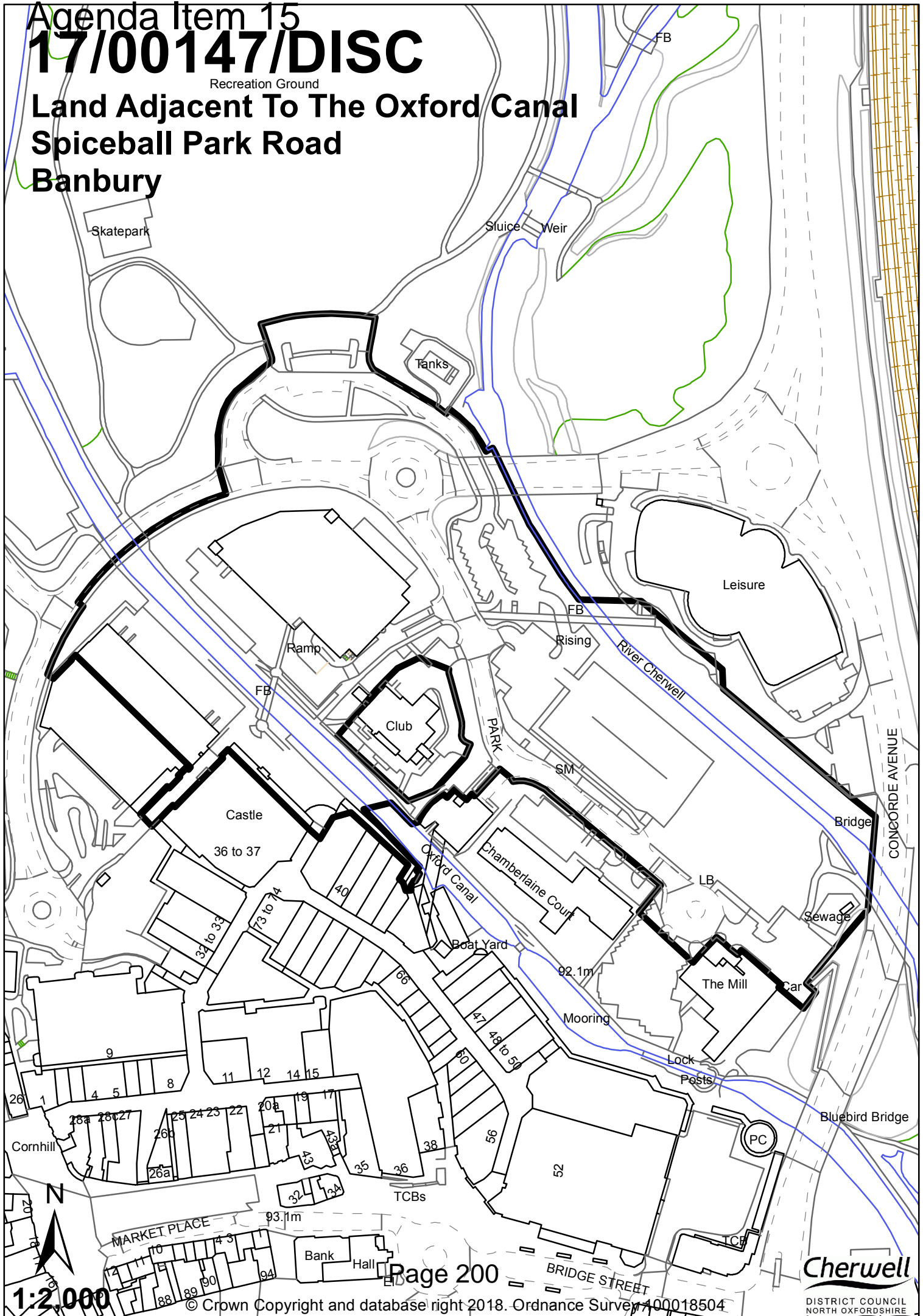
CASE OFFICER: James Kirkham

TEL: 01295 221896

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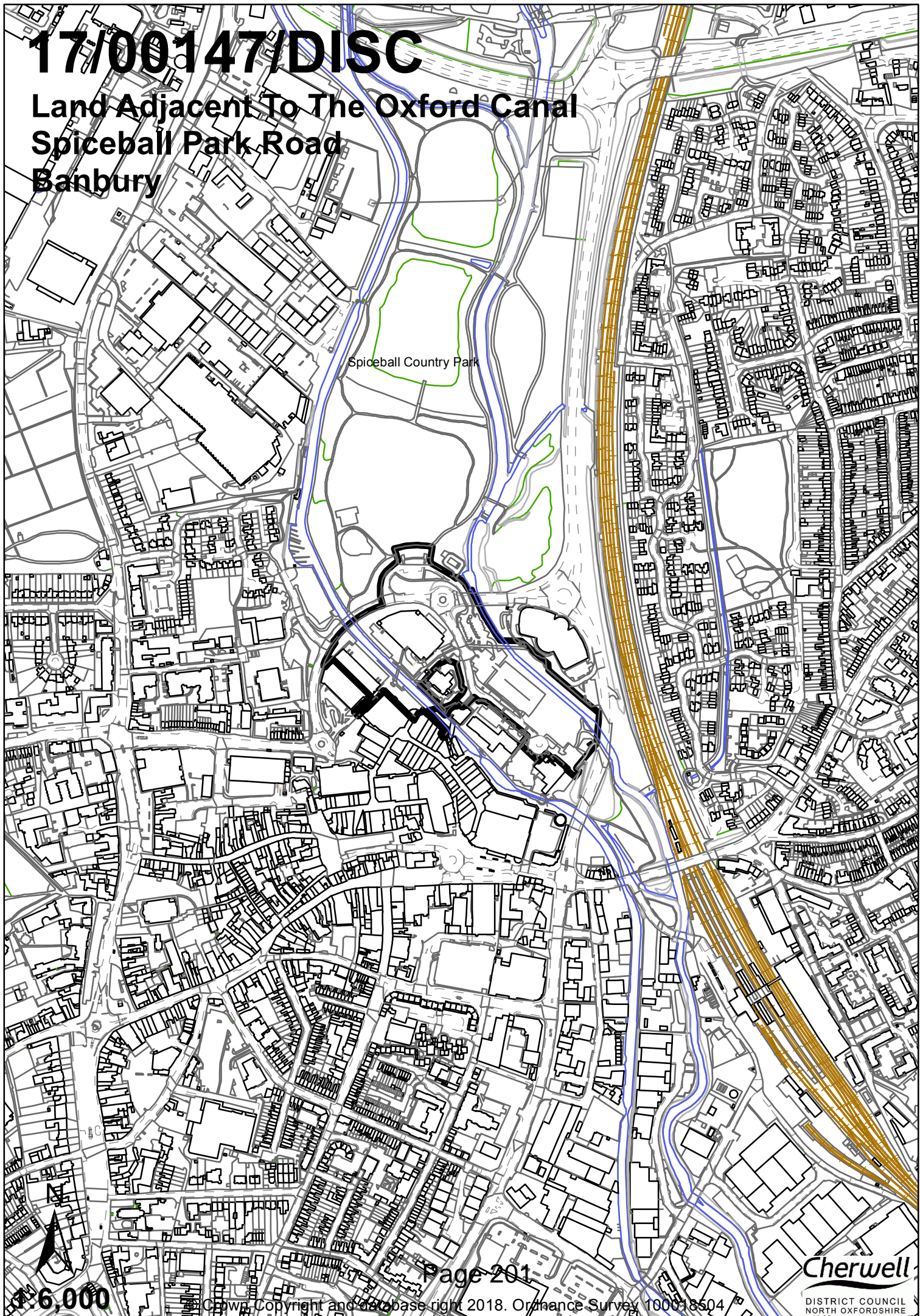
Recreation Ground

## Land Adjacent To The Oxford Canal Spiceball Park Road Banbury



# 17/00147/DISC

Land Adjacent To The Oxford Canal  
Spiceball Park Road  
Banbury



Spiceball Country Park

**Applicant:** Scottish Widows PLC & Scottish Widows Unit

**Proposal:** DRAFT - Discharge of conditions 1 (reserved matters application), 5 (flood mitigation), 6 (flood management scheme), 7 (floodplain compensation), 9 (archaeological organisation), 10 (archaeological evaluation), 11 (investigation for archaeological mitigation), 12 (archaeological mitigation), 21 (Noise), 23 (surface water and foul drainage) 25 (phasing of works) and 31(SUDs drainage scheme) of 16/02366/OUT

**Ward:** Banbury Cross And Neithrop

**Councillors:** Cllr Hannah Banfield  
Cllr Surinder Dhesi  
Cllr Cassi Perry

**Reason for Referral:** Cherwell District Council has taken over as developer of this site

**Expiry Date:** **Committee Date:** 22 November 2018

**Recommendation:** Approve

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## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

### **Proposal**

This application relates to the Castle Quay 2 development proposals on both sides of the Oxford Canal in Banbury. The application seeks the clearance of conditions attached to the outline planning permission.

### **Consultations**

Consultees have raised no objections to the application

### **Conclusion**

That the majority of the submissions made have been agreed by the consultees. Clarification is being sought on a limited number of matters and comments are awaited from OCC drainage.

### **RECOMMENDATION – CLEAR CONDITIONS (as set out below) and DELEGATED AUTHORITY (on conditions 12, 23 and 31)**

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.**

## **MAIN REPORT**

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

- 1.1. This application relates to the Castle Quay 2 development proposals on both sides of the Oxford Canal in Banbury

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

- 2.1. This application seeks the clearance of conditions attached to the outline planning permission. Approval is sought for details concerning

- Flood mitigation measures (conditions 5,6 and 7)
- Archaeology (conditions 9 to 12)
- Noise control (condition 21)
- Drainage (condition 23)
- Phasing (condition 25)
- Suds (condition 31)

## **3. RELEVANT PLANNING HISTORY**

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

13/01601/OUT Outline planning permission for the redevelopment of land adjacent to the Oxford Canal comprising; the demolition of the Castle Quay Shopping Centre northern car park and the General Foods Sports and Social Club; change of use of part of the ground floor of the Castle Quay Shopping Centre southern car park and associated works; the erection of a retail foodstore (Use Class A1), hotel (Use Class C3), cinema (Use Class D2), restaurants and cafes (Use Class A3 and A4) and altered vehicular and pedestrian accesses, landscaping, construction of infrastructure, car parking and associated works, including glazed canopy over the Oxford Canal and the construction of pedestrian/cycle bridges over the Oxford Canal and River Cherwell. Details of new vehicular access off Cherwell Drive and alterations to Spiceball Park Road. Approved Oct 2016

16/02366/OUT Removal/ Variation of conditions 4 (list of approved drawings) and 9 (enhancement of River Cherwell) to 13/01601/OUT - Condition 4 to be varied to reflect alterations in the access and servicing strategy for Block C, with variations to maximum deviations in block and Condition 9 to be removed as no longer justified Approved June 2018

17/00284/REM Reserved Matters Application to 16/02366/OUT across the whole development site is sought. Application for approval of reserved matters for scale, layout, appearance and landscaping. Approved September 2018

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

- 4.1. Pre-application discussions have taken place with regard to these conditions and on others on the reserved matters application that are the subject of a separate application to be reported to the December meeting.

## 5. RESPONSE TO PUBLICITY

- 5.1. This application has not been publicised due to the technical nature of the submissions

## 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. ENVIRONMENT AGENCY: **Satisfied** that Conditions 5, 6 and 7 can be cleared. Currently checking that intended revisions to floor levels do not alter that clearance

### NON-STATUTORY CONSULTEES

- 6.3. CANAL AND RIVER TRUST : **No objections**
- 6.4. OCC ARCHAEOLOGIST : **No objections** Confirms that conditions 9-11 have been met. Clarification being sought on the necessary additional steps to clear condition 12
- 6.5. OCC DRAINAGE : Comments awaited on condition 23 and 31
- 6.6. CDC ENVIRONMENTAL PROTECTION: **No objections** to the discharge of condition 21

## 7. APPRAISAL

- 7.1 Conditions 5, 6 and 7 deal with the engineering details associated with the construction of the buildings, the floor levels and flood mitigation measures, together with a flood risk summary report. The Environment Agency were satisfied with the details submitted.
- 7.2 The archaeology conditions on the outline planning permission sought a written scheme of archaeological investigation, a programme of evaluation investigation and recording, a report on evidence found and potentially a further phase of archaeological mitigation (condition 12). The county Archaeologist has confirmed that conditions 9-11 have been fulfilled. The Council's agents are seeking clarification of the need for any further work.
- 7.3 Condition 21 of the outline planning permission sought the submission of on-site noise measurements, agreed noise limits and a scheme of any necessary mitigation. These submissions have been confirmed to be satisfactory.
- 7.4 The scheme is not to be phased so this condition is no longer necessary.
- 7.5 Comments are awaited from OCC Drainage with regards to the SUDS drainage details required by conditions 23 and 31. A written update on this will be given at Committee.



**8. RECOMMENDATION**

- (a) That Conditions 5,6,7,9-11,21 and 25, be cleared in accordance with the submitted drawings
- (b) That delegated authority be given to the Assistant Director of Planning and Development to clear conditions 12, 23 and 31 upon the receipt of appropriate clearance from consultees

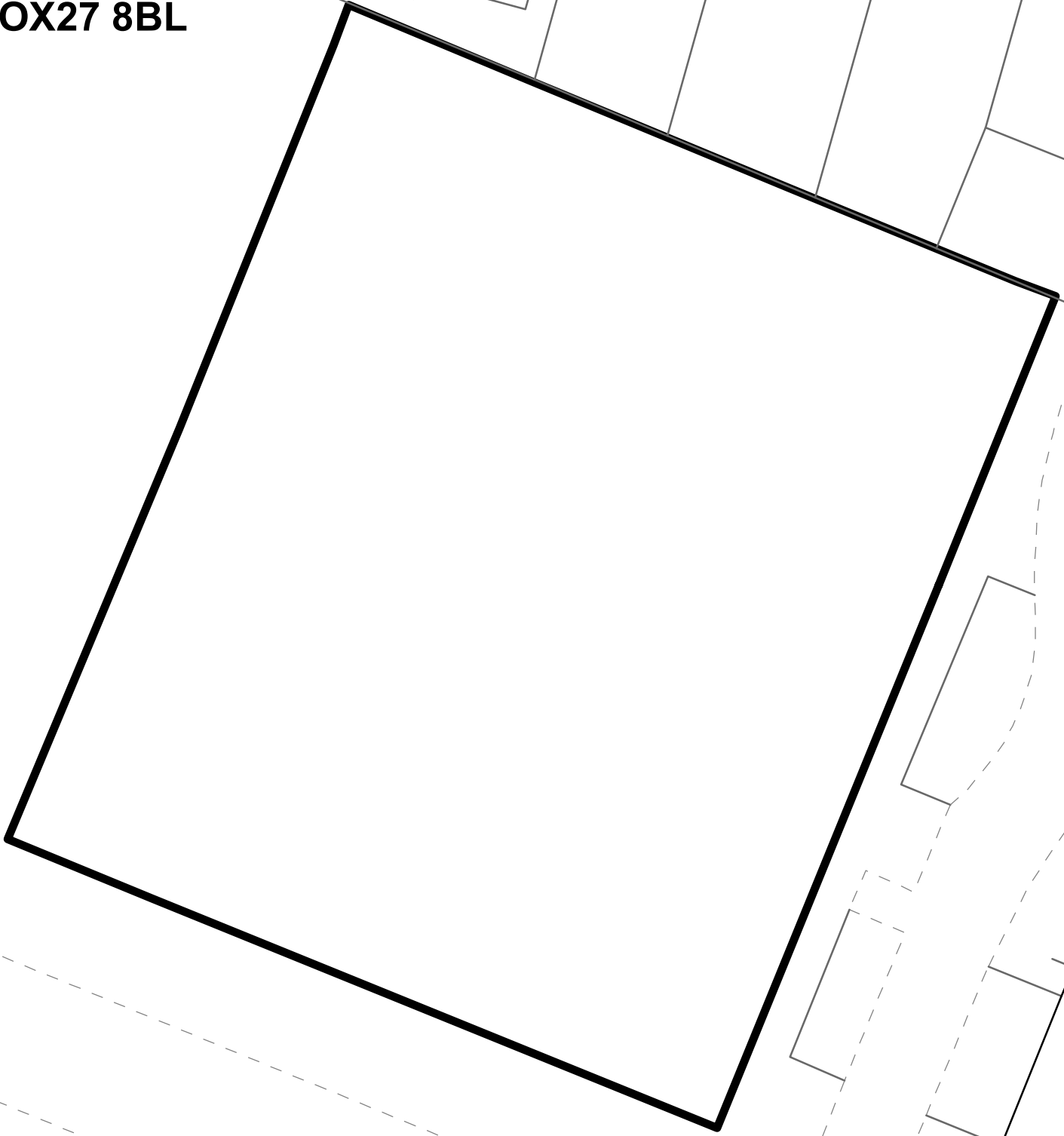
CASE OFFICER: Bob Duxbury

TEL: 01295 221821

Agenda Item 16

# 18/00133/NMA

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



**1:250**

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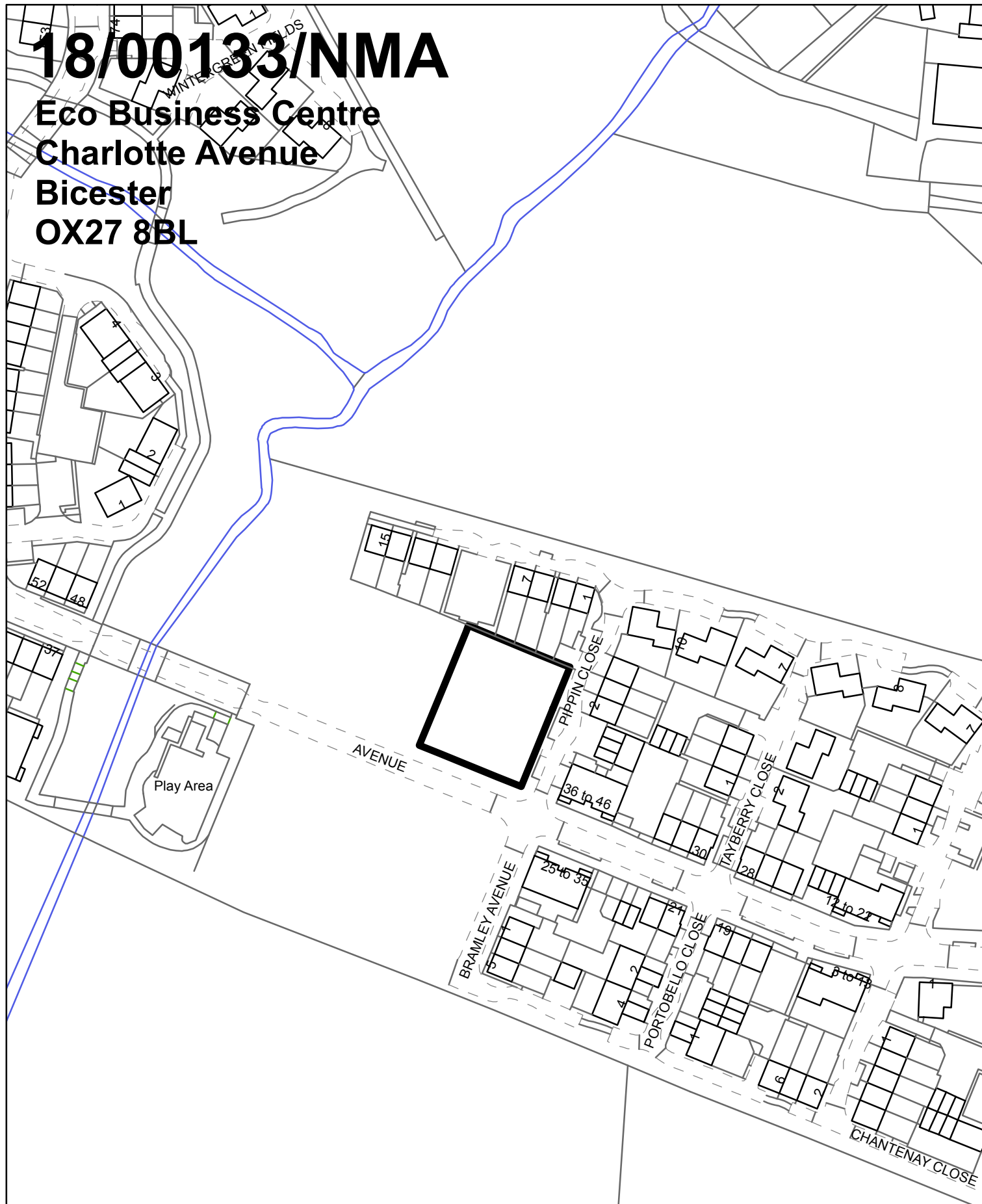
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**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

# 18/00133/NMA

Eco Business Centre  
Charlotte Avenue  
Bicester  
OX27 8BL



1:1,500

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

**18/00133/NMA**

**Applicant:** Cherwell District Council

**Proposal:** Non-material amendment to 17/00573/CDC - minor changes to the elevations at the roof perimeter where cladding has been omitted and the galvanised structure is now visible as elsewhere on the façade i.e. balcony area/horizontal brise soleil

**Ward:** Bicester North And Caversfield

**Councillors:** Cllr Nicholas Mawer  
Cllr Lynn Pratt  
Cllr Jason Slaymaker

**Reason for Referral:** Cherwell District Council is the applicant

**Expiry Date:** 20 November 2018      **Committee Date:** 22 November 2018

**Recommendation:** Approve

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### **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

#### **Proposal**

The proposal seeks agreement for a minor change to the approved elevational plans for the Eco Business Centre. The change is to omit the cladding at the roof perimeter leaving the galvanised structure visible.

#### **Consultations**

No consultations have been undertaken with regard to this proposal.

#### **Conclusion**

The key issue arising from this proposal is whether the change proposed amounts to a non-material amendment to the elevational details of the approved building.

The report concludes that the change can be accepted as a non-material change and would not cause a materially harmful impact to visual amenity.

#### **RECOMMENDATION - GRANT APPROVAL FOR THE NON MATERIAL AMENDMENT**

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.**

#### **MAIN REPORT**

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

- 1.1. The application site sits within Elmsbrook to the North West of Bicester within the site allocated by Policy Bicester 1. The site has planning permission for a three storey business centre constructed to zero carbon standards as required at North West Bicester and is being delivered by Cherwell District Council having been secured for this use through the legal agreement for 10/01780/HYBRID.

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

- 2.1. The application proposes a change to the elevations of the building as will be explained. These are proposed as non-material changes to the approved plans due to them being minor in nature.

## **3. RELEVANT PLANNING HISTORY**

- 3.1. As referred to above, the land for an eco-business centre was secured as part of the planning permission for the Exemplar site (10/01780/HYBRID). Planning permission was granted for the Eco Business Centre for office use (within Class B1) within the local centre at Elmsbrook – 17/00573/CDC. There have also been applications to discharge planning conditions and for another NMA for some other minor changes to the elevations of the building all of which have been approved.

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

- 4.1. No formal pre-application discussions have taken place with regard to the proposed amendments but the change was seen informally by Officers and an application for a non-material amendment to formally agree the change was invited.

## **5. RESPONSE TO PUBLICITY**

- 5.1. The Planning Practice Guidance makes the following comments with regard to consultation in relation to NMA's:

*As an application to make a non-material amendment is not an application for planning permission, the existing Town and Country Planning (Development Management Procedure) (England) Order 2015 provisions relating to statutory consultation and publicity do not apply. Therefore local planning authorities have discretion in whether and how they choose to inform other interested parties or seek their views. As by definition the changes sought will be non-material, consultation or publicity is unlikely to be necessary, and there are unlikely to be effects which would need to be addressed under the Environmental Impact Assessment Regulations 2017.*

## **6. APPRAISAL**

- 6.1 The change proposed through this non-material amendment application relates to the roof perimeter of the building where the cladding originally shown on the drawing has been omitted leaving the galvanised structure visible. This has been omitted due to variations to the construction detail of the roof build up, which has meant the cladding is not required. The galvanised structure detail is visible elsewhere on the building (for example the balcony area) and given that the cladding to be omitted is at the roof perimeter, and the timber fins extend higher than the main building, it is not considered that the proposed change would have a materially harmful impact to visual amenities. The change is considered to be very minor in nature and therefore non-material.
- 6.2 Given the above assessment, this non-material amendment application is considered to be acceptable and is recommended for approval.

## **7. RECOMMENDATION**

That the proposed Non Material Amendment be granted in accordance with the following wording:

Cherwell District Council, as Local Planning Authority, hereby approves the non-material amendment described to 17/00573/CDC in accordance with the application form and drawing numbers 08930 AT-XX-XX-DR-A PL610 Rev G (North Elevations), 08930 AT-XX-XX-DR-A PL620 Rev G (South Elevations), 08930 AT-XX-XX-DR-A PL630 Rev H (East Elevations) and 08930 AT-XX-XX-DR-A PL640 Rev G (West Elevations). The non-material amendment application, hereby approved, does not nullify the conditions imposed in respect of planning permission 17/00573/CDC. These conditions must be adhered to so as to ensure that the development is lawful.

CASE OFFICER: Caroline Ford

TEL: 01295 221823

## Cherwell District Council

### Planning Committee

22 November 2018

#### Appeals Progress Report

#### Report of Assistant Director – Planning Policy and Development

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 **18/00278/F Land Adj To West Cottages, Bicester Road, Stratton Audley.** Appeal by Stonebridge Investments against the refusal of Planning Permission for erection of detached dwelling house including demolition of existing single garage.

##### Appeals in progress

Written Representations

- 2.2 **17/02011/F The Stables, The Courtyard, Milton, Banbury, OX15 4SX** Appeal by Mr Martin Smethurst against the refusal of Planning Permission for the Erection of 1 No. three bedroom, 1.5 storey dwelling to land south of the existing house and associated landscaping. Demolition of existing stone boundary wall.

**Start Date:** 31.07.2018    **Statement Due:** 04.09.2018    **Decision:** Awaited

**17/02203/F 17 The Camellias, Banbury, OX16 1YT**

Appeal by Mr Tony Partridge against the refusal of Planning Permission for the Erection of 2 bedroom, 2 storey dwelling and division of existing double garage to provide a single garage and parking for the new dwelling

**Start Date:** 09.08.2018 **Statement Due:** 13.09.2018 **Decision:** Awaited

**17/02292/F Byeways, East End, Hook Norton, Banbury, OX15 5LG**

Appeal by Mrs Debbie Lewis against the refusal of Planning Permission for the Erection of a new dwellinghouse.

**Start Date:** 09.08.2018 **Statement Due:** 13.09.2018 **Decision:** Awaited

**17/02366/F Portway Cottage, Ardley Road, Somerton, Bicester, OX25**

**6NN** Appeal by Mr Marvyn Harris against the refusal of Planning Permission for the Change of use from garage/workshop to two bed cottage - Re-submission of 17/00492/F

**Start Date:** 09.08.2018 **Statement Due:** 13.09.2018 **Decision:** Awaited

**17/02014/F South Barn, Street From Wigginton To Swerford, Wigginton, Banbury, OX15 4LG**

Appeal by Mr Chris Benians against the refusal of Planning Permission for the Extension to existing dwelling, landscaping, formation of an additional access from the road and change of use of land from agricultural to residential purpose.

**Start Date:** 15.08.2018 **Statement Due:** 19.09.2018 **Decision:** Awaited

**17/01962/F OS Parcel 9635 North East Of HM Bullingdon Prison, Widnell Lane, Piddington Appeal by Mr H.L Foster**

against the refusal of Planning Permission for the Material change of use of land to use as a residential caravan site for 6 gypsy families, each with two caravans, including improvement of access and laying of hardstanding.

**Start Date:** 04.09.2018 **Statement Due:** 16.10.2018 **Decision:** Awaited

**18/00249/OUT Fringford Cottage, Main Street, Fringford, Bicester, OX27 8DP**

Appeal by Mr Stuart Wright against the refusal of Planning Permission for Residential development of up to 10 dwellings

**Start Date:** 05.09.2018 **Statement Due:** 10.10.2018 **Decision:** Awaited

**18/00956/TPO The Corporate Innovations Co Ltd, 21 Horse Fair, Banbury, OX16 0AH.**

Appeal by Tanya Hudson, Corporate Innovations Co Ltd against the refusal of permission to fell to the ground 1 no horse chestnut tree subject to Tree Preservation Order 017/1999.

**Start Date:** 14.08.2018 **Statement Due:** N/A **Decision:** Awaited

**17/01919/F - 30 Arbury Close, Banbury, OX16 9TE** – Appeal by Mrs Fiaz - Change of use of open space to residential and two storey side and part rear extension (revised scheme of 17/00460/F).

**Start Date:** 17.09.2018 **Statement Due:** 22.10.2018 **Decision:** Awaited

**17/02561/F - Land On The North Side Of Water Lane, Fewcott** – Appeal by Mr and Mrs Douglas - Erection of new two-storey dwelling and associated ancillary buildings

**Start Date:** 04.10.2018 **Statement Due:** 11.10.2018 **Decision:** Awaited



**18/00439/F - 49A Castle Street, Banbury, OX16 5NX** – Appeal by Teesbourne Properties Limited - Change of Use from Offices to Residential apartments (revised scheme of application 17/00681/F).

**Start Date:** 10.10.2018    **Statement Due:** 09.11.2018    **Decision:** Awaited

2.3 Forthcoming Public Inquires and Hearings between 23 November and the 13 December 2018:

None

## 2.4 Results

Inspectors appointed by the Secretary of State have:

**1. Dismissed the appeal by Mr T Catling for the Demolition of existing chapel and erection of 1 dwelling. St Georges Catholic Church, Round Close Road, Adderbury – 17/02131/F (Delegated)**

Appeal dismissed – The application sought permission for a new dwelling on the site of a church.

The inspector agreed that the design of the proposal would fail to preserve the character or appearance of the Conservation Area. In particular the Inspector noted the predominance of gable end onto the street and found that the hipped roof design to one end of the proposed building was out of character. The Inspector also agreed that the east facing projection was insufficiently subordinate.

The proposal was also considered to fail to provide a good standard of amenity for the neighbouring properties or the future occupants of the property as the existing properties have habitable window directly on the boundary with the proposed garden areas.

Finally whilst the site was not in a flood risk area (as identified by the Environment Agency) there is a partly culverted watercourse that runs through the site and the inspector agreed with the Council that in the absence of a Flood Risk Assessment it was not possible to reach an informed opinion on whether the proposed dwelling would be at risk of flooding or whether the proposed development would increase the risk of flooding elsewhere.

**2. Allowed the appeal by Mr and Mrs Maxted for Certificate of Lawfulness of Existing Use for the use of the identified land as residential garden. Keepers Cover, Church Lane, Weston On The Green, Bicester, OX25 3QU – 18/01463/CLUE (Delegated)**

See summary below

- 3. Dismissed the appeal by Mr and Mrs Maxted for Modification of Section 106 - Application 97/02148/F. Keepers Cover. Church Lane, Weston On The Green OX25 3QU – 17/01675/M106 (Delegated)**

See summary below

- 4. Allowed the appeal by Mr and Mrs Maxted for RETROSPECTIVE - Change of Use of site edged in red on enclosed OS Extract as private amenity space - Re-submission of 17/00458/F. Keepers Cover. Church Lane, Weston On The Green OX25 3QU – 17/02277/F (Delegated)**

See summary below

- 5. Dismissed the appeal by Mr and Mrs Maxted for Erection of 1.5 storey extension, with internal remodelling. Keepers Cover. Church Lane, Weston On The Green OX25 3QU – 17/02315/F (Delegated)**

(Summary for items 2-5)

The four applications which were being appealed simultaneously at this site sought approval to extend the property and a change of use of the surrounding land to garden land. In addition to a planning application to extend the property, the appellant sought to vary an existing legal agreement which prevented any additions to the property. A certificate of lawfulness sought to establish that the extension to the garden land was lawful as it had been used as such for more than 10 years.

These appeals are framed by a 1997 planning permission which allowed for an extension to the footprint to the dwelling on the proviso that there were no subsequent additions, given that the property was located in the Green Belt. Control over further development was secured by a legal agreement.

The Inspector argued that the area to the rear of the property was not included in the aforementioned legal agreement, as it only identified the area immediately around the dwelling. The Inspector then found the appellant's evidence – 2 letters, and a number of pictures of the site – to be compelling enough to allow the appeal. They did however note that 'this does not necessarily mean that the appeal site should be considered as being land within the curtilage of a dwellinghouse for permitted development purposes as that is not a matter before me'. The Inspector also allowed a change of use of the land – citing his own decision which created the 'very special circumstances required to justify the proposal'.

Turning to the enlargement of the dwelling, the Inspector found that 'there has been no fundamental change in Green Belt policy, either locally or nationally, since the obligation was entered into' and that the original legal agreement therefore 'continues to serve a useful purpose in limiting extensions to the dwelling in an area of Green Belt'. Both the appeal to extend the property and the one to vary the legal agreement were therefore dismissed on this basis.

### **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 & 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 & 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

## Document Information

Appendix No	Title
None	
Background Papers	
None	
Report Author	Paul Seckington, Senior Manager of Development Management
Contact Information	01327 322341 <a href="mailto:paul.seckington@cherwellandsouthnorthants.gov.uk">paul.seckington@cherwellandsouthnorthants.gov.uk</a>