

**Committee:** Planning Committee  
**Date:** Thursday 20 June 2019  
**Time:** 4.00 pm  
**Venue** Bodicote House, Bodicote, Banbury, OX15 4AA

## Membership

### **Councillor James Macnamara (Chairman)**

Councillor Andrew Beere  
Councillor Hugo Brown  
Councillor Colin Clarke  
Councillor Chris Heath  
Councillor David Hughes  
Councillor Cassi Perry  
Councillor G A Reynolds  
Councillor Les Sibley

### **Councillor Maurice Billington (Vice- Chairman)**

Councillor John Broad  
Councillor Phil Chapman  
Councillor Ian Corkin  
Councillor Simon Holland  
Councillor Mike Kerford-Byrnes  
Councillor Lynn Pratt  
Councillor Barry Richards  
Councillor Katherine Tyson

## Substitutes

Councillor Mike Bishop  
Councillor John Donaldson  
Councillor Tony Ilott  
Councillor Ian Middleton  
Councillor Fraser Webster  
Councillor Barry Wood

Councillor Surinder Dhesi  
Councillor Timothy Hallchurch MBE  
Councillor Tony Mephram  
Councillor Douglas Webb  
Councillor Bryn Williams  
Councillor Sean Woodcock

## AGENDA

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

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

**3. Requests to Address the Meeting**

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

**4. Minutes** (Pages 1 - 32)

To confirm as a correct record the Minutes of the meeting of the Committee held on 30 May 2019.

**5. Chairman's Announcements**

To receive communications from the Chairman.

**6. Urgent Business**

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

**7. Proposed Pre-Committee Site Visits (if any)**

Report of Assistant Director - Planning and Economy

This will be circulated at the meeting.

**Planning Applications**

- 8. Land At Network Railway Embankment Between Piddington And Blackthorn, Marsh Gibbon Road, Piddington** (Pages 35 - 57) **18/00211/F**

- 9. Dewey Sports Centre, Barley Close, Bloxham, Banbury, OX15 4NJ**  
(Pages 58 - 74) **18/01852/F**

- 10. Land For Proposed Development At Drayton Lodge Farmhouse, Warwick Road, Banbury** (Pages 75 - 105) **18/01882/OUT**

- 11. Meadow Barn, Merton Road, Ambrosden, Bicester, OX25 2LZ**  
(Pages 106 - 126) **19/00055/F**

- 12. Land North Of Southfield Farm, North Lane, Weston On The Green**  
(Pages 127 - 149) **19/00596/OUT**

## **Review and Monitoring Reports**

### **13. Appeals Progress Report (Pages 150 - 157)**

Report of Assistant Director Planning and Economy

#### **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 12 June 2019

## **Cherwell District Council**

### **Planning Committee**

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 30 May 2019 at 4.00 pm

Present: Councillor James Macnamara (Chairman)  
Councillor Maurice Billington (Vice-Chairman)

Councillor Andrew Beere  
Councillor John Broad  
Councillor Hugo Brown  
Councillor Phil Chapman  
Councillor Ian Corkin  
Councillor Chris Heath  
Councillor Mike Kerford-Byrnes  
Councillor Cassi Perry  
Councillor Lynn Pratt  
Councillor G A Reynolds  
Councillor Barry Richards  
Councillor Les Sibley  
Councillor Katherine Tyson

Substitute Members: Councillor Mike Bishop (In place of Councillor Simon Holland)  
Councillor Tony Ilott (In place of Councillor Colin Clarke)

Also Present: Councillor Barry Wood – local ward member speaking on item 11

Apologies for absence: Councillor Colin Clarke  
Councillor Simon Holland  
Councillor David Hughes

Officers: Robert Jolley, Assistant Director: Planning & Economy  
Bob Duxbury, Joint Majors Manager  
James Kirkham, Principal Planning Officer  
Andrew Lewis, Principal Planning Officer  
Nat Stock, Minors Team Leader  
David Mytton - Solicitor  
Lesley Farrell, Democratic and Elections Officer

The Chairman opened the meeting and immediately adjourned for 10 minutes.

### **Declarations of Interest**

#### **9. Ban 15 Land Adj M40 J11 And West Of Daventry Road, Banbury.**

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

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

Councillor Tony Ilott, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application

#### **10. Meadow Barn, Merton Road, Ambrosden, Bicester, OX25 2LZ.**

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

#### **12. Broken Furrow, Warwick Road, Banbury, OX17 1HJ.**

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

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

Councillor Tony Ilott, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application

#### **13. Stone Pits, Hempton Road, Deddington, Banbury, OX15 0QH.**

Councillor Mike Bishop, Declaration, as it was a family member's application and would therefore leave the Chamber for the duration of the item.

#### **14. Heyford Park, Camp Road, Upper Heyford, Bicester, OX25 5HD.**

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

#### **15. Premier Aggregates, Finmere Quarry, Banbury Road, Finmere, Buckingham, MK18 4AJ.**

Councillor G A Reynolds, Declaration, as a member of Oxfordshire County Council Planning Committee and would therefore not vote on this application.

Councillor Mike Kerford-Byrnes, Declaration, as he lives by the application and would therefore leave the Chamber for the duration of the item..

#### **16. Land To The Rear Of The Methodist Church, The Fairway, Banbury.**

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

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

Councillor Tony Ilott, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application

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

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

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

#### **17. 36 - 37 Castle Quay, Banbury, OX16 5UN.**

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

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

Councillor Tony Ilott, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application

Councillor Ian Corkin, Declaration, as a member of the Executive and would leave the chamber for the duration of the item

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

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

#### **4 Requests to Address the Meeting**

There were no requests to address the Committee. / The Chairman advised that requests to address the meeting would be dealt with at each item.

#### **5 Urgent Business**

There were no items of urgent business.

#### **6 Minutes**

The Minutes of the meetings held on 18 April 2019 and 14 May 2019 were agreed as a correct record and signed by the Chairman.

#### **7 Chairman's Announcements**

The Chairman made the following announcements:

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.
2. There will also be a session on Universal Credit, with representatives attending from the DWP. The session will be held on Wednesday 17 July, further details will be sent out in due course.
3. The Chairman handed over to the Assistant Director Planning and Economy who informed the Committee of a Members workshop on the Cherwell Industrial Strategy which would be held on Tuesday 11 June in the Council Chamber. The workshop would run from 6pm to 9pm and buffet style refreshments would be available from 5:30pm.

## 8 **Proposed Pre-Committee Site Visits (if any)**

The Assistant Director of Planning and Economy submitted a report, which recommended that Planning Committee agree to hold a pre-Committee site visit for the following application. It was anticipated that this application would be brought before the Committee for determination at its next meeting

**Application No.:** 18/00904/F

**Proposal:** Formation of inland waterways marina with ancillary facilities building, car parking, access and associated landscaping including the construction of a new lake.

**Location:** Glebe Farm, Boddington Road, Claydon

**Reason for the visit:** Major development which has received many objections from the local community. It would be helpful for members of the Committee to see the application site and its environs first hand.

### **Resolved**

- (1) That a site visit be arranged for application 18/00904/F on Thursday 20 June 2019.

## 9 **Ban 15 Land Adj M40 J11 And West Of Daventry Road, Banbury**

The Committee considered application 19/00128/HYBRID which consisted of two parts:

Part A was a full planning application for the development of a new priority junction to the A361, internal roads and associated landscaping with two commercial buildings having a maximum floorspace of 33,110m<sup>2</sup> and with a flexible use [to enable changes in accordance with Part 3 Class V of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)] within Class B2 or B8 of the Town and Country Planning (Use Classes) Order 1987 as amended, and ancillary Class B1 offices; and

Part B an outline planning application for the development of up to two commercial buildings having a maximum floorspace of 16,890m<sup>2</sup> and having a flexible use [to enable changes in accordance with Part 3 Class V of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)] within Class B2 or B8



of the Town and Country Planning (Use Classes) Order 1987 as amended, and ancillary Class B1 offices, with all other matters reserved for future approval at Ban 15 Land Adj M40 J11 and west of Daventry Road, Banbury for Monte Blackburn Limited.

The Committee heard from two public speakers Malcolm Patterson from Wardington Parish Council in objection to the application and Matthew Wyatt the Agent in support of the application.

In reaching its decision the Committee considered the officer's report and presentation, the written update and the comments of the public speakers.

### **Resolved**

- (1) That authority be delegated to the Assistant Director for Planning and Economy to grant permission for application 19/00128/HYBRID subject to the satisfactory resolution of the comments and objections of Oxfordshire County Council in respect of drainage and the following conditions (and any additional conditions or amendments to conditions as deemed necessary):

#### **TIME LIMITS AND GENERAL IMPLEMENTATION CONDITIONS**

##### **Description of Development**

1. The development hereby permitted shall comprise Part A – a maximum floorspace of 33,110 sqm in 2no. buildings and Part B – a maximum floorspace of 16,890 sqm in up to 2no. buildings, to be utilised only for the purposes falling within Class B2 and B8 (with ancillary B1) of the Town and Country Planning (Use Classes) Order 1987 (as amended) and in accordance with Part 3 Class V of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

Reason – For the avoidance of doubt and to secure appropriate uses in accordance with Policy Banbury 15 of the Cherwell Local Plan 2011 – 2031 (Part 1). The application was submitted and considered on this basis, as were all significant environmental effects.

##### **Statutory Time Limit (Part A - Full)**

2. The development to which the detailed 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.

##### **Statutory Time Limit (Part B - Outline and Reserved Matters)**

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

Reason : To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country

Planning (General Development Procedure) Order 2015 (as amended).

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

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

**Compliance with plans**

5. 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: 16.145019O; 3568 11 C; 3568 12 C; 3568 13 C; 3568 14 C; 3568 15 C; 3568 16 C; 3568 MP C; 16.145 030 C; 16.145 020 C; 16.145 024 G; 16.145 029 C; 69717-CUR-00-XX-DR-TP-75001-P05;

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.

**Prohibition of Outside Storage**

6. No goods, materials, plant or machinery shall be stored, repaired, operated or displayed outside the buildings hereby approved unless otherwise approved in writing by the Local Planning Authority.

Reason: In order to safeguard the visual amenities of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996.

**Commercial (no mezzanine)**

7. Notwithstanding the provisions of section 55 (2A) of the Town and Country Planning Act 1990 (as amended by Section 49 of the 2004 Act), Part 10 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) and Part 7, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), no internal operations increasing the floor space available within the building hereby permitted shall be carried out without the prior planning permission of the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain planning control over the provision of additional floorspace in order to maintain a satisfactory layout and sustain an adequate overall level of parking provision and servicing on the site and the impact on the surrounding road network in accordance with Policy SLE4 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.

**BREEAM**

8. The development hereby permitted shall be constructed to at least a BREEAM 'Very Good' standard

Reason - To ensure energy and resource efficiency practices are incorporated into the development in accordance with the Government's aim to achieve sustainable development as set out within the National Planning Policy Framework.

**Site Clearance (nesting season)**

9. All site clearance (including the removal of any vegetation or works to hedgerows) should be timed so as to avoid the bird nesting season, this being during the months of March until July inclusive unless alternative provisions have been previously agreed in writing by the Local Planning Authority

Reason: To ensure that the development will conserve and enhance the natural environment and will not cause significant harm to any protected species or its habitat in accordance with the Government's aim to achieve sustainable development as set out in Section 15 of the National Planning Policy Framework.

**Maintenance of planting**

10. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development (whichever is the sooner) and shall be maintained for a period of 5 years from the completion of the development. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

Reason: To ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity and to accord with 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.

**Finished Floor Levels**

11. The development shall be carried out in accordance with the submitted flood risk assessment (Junction 11 M40, Banbury, Oxfordshire compiled by Curtins Consulting Ltd dated 17<sup>th</sup> January 2019 ref 070077-CUR-00-XX-RP-C-001) and the following mitigation measures it details;

- Finished floor levels shall be set no lower than 97.50 metres above Ordnance Datum (AOD)

These mitigation measure shall be fully implemented prior to the occupation and subsequently in accordance with the timing/phasing arrangements for the scheme. The measures detailed above shall be retained and maintained throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

**Arboricultural Method Statement**

12. The development shall be carried out in accordance with the submitted Arboricultural Impact Assessment & Preliminary Method Statement (Land to the north-east of Junction 11 of the M40, Banbury, Oxfordshire compiled by PJC Consultancy dated 21<sup>st</sup> January 2019 ref 5092/19/01).

Reason: 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.

## PRE COMMENCEMENT CONDITIONS

### **Site roads, parking and turning areas**

13. Prior to the commencement of each phase of the development hereby permitted, full specification details of the site roads, parking and turning areas including bus turning area to serve the development, which shall include swept path analysis, construction, layout, surfacing, lighting and drainage, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of each phase of the development, the site roads and turning areas shall be constructed in accordance with the approved details.

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

### **Pedestrian/cycle connection**

14. Prior to the commencement of the development hereby approved, full details of the pedestrian/cycle connections from the north western corner of the site to the public footpath 120/7 shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the connection will be provided in accordance with the agreed details prior to occupation of the development.

Reason: To ensure safe and suitable access to the development for all people.

### **Site Access and Bus Stops**

15. Prior to the commencement of the development hereby approved, full details of the means of access between the land and the A361 and bus and pedestrian facilities on the A361, including position, layout, drainage, lighting, visibility splays, refuge crossing, bus laybys, footways and hardstanding shall be submitted to and approved in writing by the Local Planning Authority. There shall be no obstruction of the visibility splays above 0.6m high. Thereafter and prior to the first occupation of any development, the means of access and bus stops shall be constructed and retained in accordance with the approved details.

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

### **Construction Traffic Management Plan (CTMP)**

16. Prior to the commencement of the development of any phase of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. The CTMP shall have been developed in consultation with the High Speed Rail 2 project and include a commitment to deliveries only arriving at or leaving the site outside peak traffic periods. Thereafter the approved CTMP 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.

**Construction Environmental Management Plan (CEMP) for Biodiversity**

17. No development shall take place within any phase of the development (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan for that phase (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:
- a) Risk assessment of potentially damaging construction activities;
  - b) Identification of 'Biodiversity Protection Zones';
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
  - d) The location and timing of sensitive works to avoid harm to biodiversity features;
  - e) The times during construction when specialist ecologists need to be present on site to oversee works;
  - f) Responsible persons and lines of communication;
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
  - h) Use of protective fences, exclusion barriers and warning signs

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

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 Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

**Construction Environmental Management Plan (CEMP)**

18. No development shall take place on any phase of the development hereby approved, including any works of demolition until a Construction Method Statement for that phase 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 routeing 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;

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

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

**Impact Study – Existing Water Supply**

19. No development shall take place within any phase until impact studies of the existing water supply infrastructure, which shall determine the magnitude and

timing of any new additional capacity required in the system and a suitable connection point, shall be submitted to, and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: To ensure the water supply infrastructure has sufficient capacity to accommodate the additional demand in accordance with Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

**Strategic Water Main**

20. No development shall take place until a scheme for the treatment of the strategic water main has been submitted to and approved in writing by the Local Planning Authority (in consultation with Thames Water). The scheme shall include details of measures to ensure that the potential for damage to subsurface potable water infrastructure can be prevented. Thereafter, the development shall be carried out in accordance with the approved details.

Reason: The proposed works will be within close proximity to an underground strategic water main utility infrastructure and the works has the potential to impact on local underground water utility infrastructure.

**Noise: Acoustic Enclosure**

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

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

**Land Contamination: Desk Study/Site Walk Over**

22. Prior to the commencement of the development of any phase 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.

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.

**Land contamination: Intrusive Investigation**

23. If a potential risk from contamination is identified as a result of the work

carried out under condition 20, 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.

**Land Contamination: Remediation Scheme**

24. If contamination is found by undertaking the work carried out under condition 21, 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.

**Land Contamination: Carry out Remediation**

25. If remedial works have been identified in condition 22, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 22. 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.

**Archaeology**

26. Prior to the commencement of development or any demolition, a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation relating to the

whole application site area, which shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the recording or archaeological matters within the site in accordance with the NPPF.

27. Following the approval of the Written Scheme of Investigation referred to in condition 26 and prior to the commencement of development or any demolition, 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 work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

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

#### CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE OCCUPATION

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

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

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework.

##### **Delivery and Servicing Plan**

29. Prior to occupation of each phase of the development hereby permitted, a delivery and servicing plan for that phase shall be submitted to and approved in writing by the Local Planning Authority. Site deliveries and servicing shall thereafter be carried out in accordance with the approved plan.

Reason: In the interests of highway safety and to comply with Government guidance within the NPPF.

##### **Cycle Parking**

30. Prior to the first occupation of any phase of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The covered cycle parking facilities so provided shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.

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

##### **Framework Travel Plan**

31. Prior to occupation of any building, a Framework Travel Plan meeting the requirements set out in the Oxfordshire County Council guidance document,



'Transport for New Developments: Transport Assessments and Travel Plans' for that building/occupier shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and to comply with Government guidance within the NPPF.

**Traffic Signal Control**

32. Prior to the first occupation of the development hereby approved MOVA (Microprocessor optimised vehicle actuation) within the traffic signal control at Junction 11 of the M40 shall be in full operation, incorporating measures specifically to reduce the risk of traffic queues reaching the main carriageway of the M40.

Reason: In the interests of highway safety and to mitigate the impact of the development in accordance with policies Banbury 15 and SLE4 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance within the NPPF.

**CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE SPECIFIC CONSTRUCTION WORKS TAKE PLACE**

**Schedule of Materials**

33. A schedule of materials and finishes to be used in the external walls and roof of the buildings 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.

**Piling Method Statement**

34. No piling shall take place until a Piling Method Statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling shall be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme for the works) has been submitted to and approved in writing by the Local Planning Authority (in consultation with Thames Water). Any piling must be undertaken in accordance with the terms of the approved Piling Method Statement.

Reason: The proposed works will be in close proximity to underground water utility infrastructure. Piling has the potential to impact on local underground water utility infrastructure.

**Boundary Enclosures**

35. 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 prior to the commencement of those works. Such approved means of enclosure shall be erected prior to the first occupation of the buildings.

Reason: To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan

1996 and Government guidance contained within the National Planning Policy Framework.

**Details of Lighting**

36. Details of the external lighting including the design, position, orientation and any screening of the lighting shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The lighting shall be installed and operated in accordance with the approved scheme at all times thereafter.

Reason: In order to safeguard the visual amenities of the area and to achieve a suitable lighting scheme which would minimise the impact to ecology and biodiversity in accordance with Policy ESD10 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government advice in The National Planning Policy Framework.

**Entrance details**

37. Full details of the design/treatment/features of the main entrance to the site including the location of signage and enclosures shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of those works. Such approved details shall be implemented prior to the first occupation of the buildings.

Reason: To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

**Land Contamination not Previously Found**

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

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

- (2) The 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, as set out in the Committee report (and any amendments as deemed necessary).

- a) Payment of a financial contribution towards a highway improvement scheme to relieve congestion on Hennef Way of £752,081 (index linked);
- b) Payment of a financial contribution towards the enhancement of bus services on the A361 route of £100,000 (index linked);
- c) Payment of a financial contribution towards public transport infrastructure to include bus stop flag poles and bus shelters of £18,470 (index linked);

- d) Payment of the County Council's cost of monitoring the Travel Plan for a 5 year period of £2,040 (index linked);
- e) Delivery of a scheme of improvements to footpaths and cycleways at the M40 underpass and Wildmere Road;
- f) A scheme of Air Quality mitigation measures in accordance with the environmental cost calculation of £386,647;
- g) Delivery of improvements works to the site access; bus laybys and refuge crossing on A361 and any other off site direct highway mitigation required;
- h) Payment of the Council's monitoring costs

10      **Meadow Barn, Merton Road, Ambrosden, Bicester, OX25 2LZ**

The Committee considered application 19/00055/F for two new semi-detached dwellings and 1 detached dwelling with associated parking and gardens at Meadow Barn, Merton Road, Ambrosden, Bicester, OX25 2LX for Mr Rhys Oliver.

It was proposed by Councillor Macnamara and seconded by Councillor Billington that consideration of the application be deferred as the change of date of the meeting had restricted representation of interested parties to the application.

**Resolved**

That consideration of application 19/00055/F be deferred as the change of date of this planning committee meeting had restricted representation of interested parties to the application.

11      **Middle Farm, Featherbed Lane, Mixbury, Brackley, NN13 5RN**

The Committee considered application 19/00423/F for the erection of six poultry rearing buildings and associated infrastructure at Middle Farm, Featherbed Lane, Mixbury, Brackley, NN13 5RN for PR and IC Rymer Limited.

Local Ward Member Councillor Barry Wood addressed the Committee in opposition to the application.

The Committee heard from two public speakers Peter Ryman the applicant and Ian Pick the Agent in support of the application.

It was proposed by Councillor Corkin and seconded by Councillor Heath that application 19/00423/F be refused contrary to the officers recommendation as the benefits did not outweigh harm and the application was contrary to the Local Plan.

In reaching its decision the Committee considered the officer's report and presentation, the written update and the addresses of the Ward Member and the public speakers.

**Resolved**

That application 19/00423/F be refused for the following reasons:

1. By virtue of its scale and siting, the proposal would result in significant and demonstrable harm to the character and appearance of the area, and harm to the landscape character of the area, the enjoyment of users of the nearby Public Right of Way and to the tranquillity of the area, and this harm significantly and demonstrably outweighs the need for the proposal and the benefits arising from the proposal, including the production of affordable

food. Diversification of the farm has already taken place and it has not been satisfactorily demonstrated that this scale of further diversification is needed in order to keep the farm business viable. The proposal is therefore contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policies AG2, C8 and C28 of the Cherwell Local Plan 1996 and government guidance in the National Planning Policy Framework.

2. By virtue of its scale and siting, the proposal would result in harm to the setting of the listed buildings at Middle Farm. This harm which would be 'less than substantial' is not outweighed by public benefits arising from the proposal. The proposal is therefore contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance in the National Planning Policy Framework, including paragraph 196.

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### **Broken Furrow, Warwick Road, Banbury, OX17 1HJ**

The Committee considered application 18/01206/OUT an outline application for the development of up to 46 dwellings including the demolition of existing buildings, structures and associated infrastructure (all matters reserved except the means of access onto Warwick Road) at Broken Furrow, Warwick Road, Banbury, OX17 1HJ for MK1 Developments LLP.

In reaching its decision the Committee considered the officer's report, presentation and the written update.

#### **Resolved**

- (1) That authority be delegated to the Assistant Director for Planning and Economy to grant permission for application 18/01206/OUT subject to the following conditions (and any amendments to those conditions as deemed necessary) and the 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, to secure the following (and any amendments as deemed necessary):
  - a) Provision of at least 30% affordable housing on site
  - b) Provision of and commuted sum for maintenance of open space including open space, hedgerows, trees and attenuation features
  - c) Provision of and commuted sum for maintenance of equipped Local Area of Play
  - d) Off-site outdoor sports facilities provision – £92,782
  - e) Off-site indoor sports facilities – £38,497,55
  - f) Community hall facilities - £49,023.12
  - g) £106 per dwelling for bins
  - h) Provision of 2 new pedestrian accesses up to the boundary of the site and allow public access through these points
  - i) £1,428.57 per dwelling to sustain and enhance the local bus service
  - j) £1,869 per dwelling towards 'east west strategic movements – Warwick Road corridor'
  - k) Obligation to enter into a S278 agreement to secure the new access and improvements.
  - l) £22,873 contribution towards nursery provision
  - m) £364,587 contribution towards the primary school provision
  - n) £338,650 contribution towards secondary (incl. sixth form) provision

## CONDITIONS

### **Time Limits**

1. No development shall commence until full details of the layout (including the layout of the internal access roads and footpaths), scale, appearance, and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

2. In the case of the reserved matters, the final application for approval shall be made not later than the expiration of three years beginning with the date of this permission.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

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

Reason : To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

### **Plans**

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out in broad accordance with the following plans and documents: Flood Risk Assessment; Arboricultural Impact Assessment; Ecological Appraisal; Archaeological Desk-Based Assessment; Flood Risk Assessment and drainage Strategy.

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.

### **Finished floor levels**

5. No development shall take place until details of all finished floor levels in relation to existing and proposed site levels and to the adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be constructed strictly in accordance with the approved levels.

Reason: To secure an acceptable standard of development that safeguards the visual amenities of the area and the living conditions of existing and future occupiers and to ensure compliance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance within Section 12 of the National Planning Policy Framework. This information is

required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

**Land Contamination Desk Study / Site Walkover**

6. No part of the development hereby permitted shall take place until a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model has been 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 has been 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.

Reason: To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

**Land Contamination Intrusive Investigation**

7. If a potential risk from contamination is identified as a result of the work carried out under condition 6, 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 any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

**Land Contamination Remediation Scheme**

8. If contamination is found by undertaking the work carried out under condition 7, 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 any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to

ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

#### **Land Contamination Remediation Works**

9. If remedial works have been identified in condition 8, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 8. 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 any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

#### **Drainage**

10. 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 not be implemented other than in accordance with the approved details and shall be implemented before the development is completed. The scheme shall also include:

- Discharge Rates
- Discharge Volumes
- SUDS (Permeable Paving, Soakaway Tanks)
- Maintenance and management of SUDS features (To include provision of a SuDS Management and Maintenance Plan)
- Infiltration in accordance with BRE365
- 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)

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community and to ensure compliance with Policy ESD 7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

#### **Access**

11. Prior to the commencement of the development hereby approved, full details of the means of access between the land and the highway on Warwick Road 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. Agreed vision splays shall be kept clear of obstructions higher than 0.6m at all times.

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

**Construction Traffic Management Plan**

12. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved CTMP.

Reason: In the interests of highway safety and the residential amenities of neighbouring occupiers and to comply with Government guidance contained within the National Planning Policy Framework.

**Archaeology**

13. 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.

Reason - To safeguard the recording of archaeological matters within the site in accordance with the NPPF (2018).

14. Following the approval of the Written Scheme of Investigation referred to in condition 13, 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 and approved in writing.

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

**Energy Statement**

15. 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 (unless a different standard is agreed with the local planning authority) 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 shall be 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 and government guidance in the National Planning Policy Framework.



**Biodiversity enhancement**

16. Prior to the commencement of the development hereby approved including any demolition, and any works of site clearance, and as part of any reserved matters application for layout and landscaping, a method statement and scheme for enhancing biodiversity on site such that an overall net gain for biodiversity is achieved, to include details of enhancement features and habitats both within green spaces and integrated within the built environment, shall be submitted to and approved in writing by the Local Planning Authority. This shall also include a timetable for provision. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

Reason: To ensure the development provides a net gain in biodiversity in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

NOTE: It is advised that this condition include a Biodiversity Impact Assessment metric to show how a clear net gain for biodiversity will be achieved.

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

17. Prior to the commencement of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved LEMP.

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.

**Lighting strategy**

18. Prior to the installation of any external lighting a full lighting strategy to include illustration of proposed light spill and which adheres to best practice guidance, 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 document.

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.

**Water system upgrade**

19. No properties shall be occupied until approval has been given in writing by the Local Planning Authority that either:
- all water network upgrades required to accommodate the additional flows from the development have been completed; or
  - a housing and infrastructure phasing plan has been agreed with Thames Water and the Local Planning Authority in writing to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

Reason - The development may lead to no / low water pressure and

network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional demand anticipated from the new development

**Travel information packs**

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

Reason: To ensure all residents and employees are aware from the outset of the travel choices available to them, and to comply with Government guidance contained within the National Planning Policy Framework.

**Water usage**

21. 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 and Government guidance contained within the National Planning Policy Framework.

**Compliance with ecological appraisal**

22. The development hereby approved shall be carried out strictly in accordance with the recommendations set out in sections MM1-MM8 and MM11-MM14 of the Ecological Appraisal carried out by Aspect Ecology dated March 2018 unless otherwise agreed in writing by the Local Planning Authority.

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.

**Electrical Vehicle Infrastructure**

23. 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.

- (2) As the statutory determination period for application 18/01206/OUT expires on 30 June 2019, if the section 106 agreement/undertaking is not completed and the permission is not able to be issued by this date and no extension of time has been agreed between the parties, that authority be delegated to the Assistant Director for Planning and Economy to refuse the application 18/01206/OUT for the following reason:

1. In the absence of the completion of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, the Local Planning Authority is not satisfied that the necessary infrastructure directly required both on and off site as a result of this development, in the interests of: safeguarding public infrastructure, education provision, community facilities and indoor and outdoor sports/recreation facilities; mitigating highway

safety concerns; encouraging use of sustainable modes of transportation; delivering mixed and balanced communities by the provision of affordable housing; and securing on site future maintenance arrangements will be provided. This would be contrary to Policy INF1, PSD1, SLE4, BSC3, BSC4, BSC9, BSC10, BSC11, BSC12, Banbury 5, ESD1 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

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### **Stone Pits, Hempton Road, Deddington, Banbury, OX15 0QH**

The Committee considered application 18/02147/OUT an outline planning application for up to 21 dwellings comprising of 1, 2, 3 and 4 bedroom dwellings together with access, garaging and landscaping (all matters reserved except the principal means of access from Hempton Road) at Stone Pits, Hempton Road, Deddington, Banbury, OX15 0QH for Pembury Estates Limited.

The Committee heard from one public speaker, Mervin Dobson the applicant.

In reaching its decision the Committee considered the officer's report and presentation, the written update and the address of the public speaker.

#### **Resolved**

That authority be delegated to the Assistant Director for Planning and Economy to grant permission for application 18/02147/OUT subject to the following conditions (and any amendments to those conditions as deemed necessary) and the 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, to secure the following (and any amendments as deemed necessary):

- (1)
  - a) Provision of 35% affordable housing on site
  - b) Provision of and commuted sum for maintenance of open space
  - c) Provision of a commuted sum of £52,533.18 to the upgrading of local play equipment in the vicinity of the site
  - d) Contribution of £42,357.63 toward off-site outdoor sports facilities provision
  - 
  - e) Contribution of £17,433 toward off-site indoor sports facilities
  - f) Contribution of £22,230.12 towards extension/enhancement of community hall facilities
  - g) £106 per dwelling for bins
  - h) Affordable housing provision – 35%
  - i) £6,263 Deddington library contribution
  - j) £21,000 – Public transport to upgrading of bus frequency to Oxford and Banbury
  - k) £3,400 – Traffic regulation order for relocation of speed limited and traffic calming build out.
  - l) S278 Agreement will be required to secure mitigation/improvement works.

#### **CONDITIONS**

##### **Time Limits**

1. No development shall commence until full details of the layout (including the layout of the internal access roads and footpaths), scale, appearance, and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

2. In the case of the reserved matters, the final application for approval shall be made not later than the expiration of three years beginning with the date of this permission.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

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

Reason : To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

#### **Plans**

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out in broad accordance with the following plans and documents: Application form, Ecological Appraisal, Landscape and Visual Impact Assessment and drawing number A\_1807 EX100 Rev A.

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

NOTE: The illustrative layout and Design and Access Statement accompanying the application are not considered to create an appropriate, locally distinctive or high quality development for the site. The applicant is advised to have regard to the Council's New Residential Development Design Guide and engage in pre-application discussions with the Council regarding the 'reserved matters'.

#### **Finished floor levels**

5. No development shall take place until details of all finished floor levels in relation to existing and proposed site levels and to the adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be constructed strictly in accordance with the approved levels.

Reason: To secure an acceptable standard of development that safeguards the visual amenities of the area and the living conditions of existing and future occupiers and to ensure compliance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance within Section 12 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to

the acceptability of the scheme.

**Land Contamination Desk Study / Site Walkover**

6. Prior to the submission of any reserved matters and prior to the commencement of development a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model has been 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 has been 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.

Reason: To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

**Land Contamination Intrusive Investigation**

7. If a potential risk from contamination is identified as a result of the work carried out under condition 6, 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 any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

**Land Contamination Remediation Scheme**

8. If contamination is found by undertaking the work carried out under condition 7, 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 any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to

ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

#### **Land Contamination Remediation Works**

9. If remedial works have been identified in condition 8, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 8. 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 any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

#### **Drainage**

10. 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
- SUDS (Permeable Paving, Soakaway Tanks)
- Maintenance and management of SUDS features (To include provision of a SuDS Management and Maintenance Plan)
- Infiltration in accordance with BRE365
- 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)

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community and to ensure compliance with Policy ESD 7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

#### **Access**

11. 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, 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. Agreed vision splays shall be kept clear of obstructions higher than 0.6m at all times.

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

**Construction Traffic Management Plan**

12. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved CTMP.

Reason: In the interests of highway safety and the residential amenities of neighbouring occupiers and to comply with Government guidance contained within the National Planning Policy Framework.

**Energy Statement**

13. 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 (unless a different standard is agreed with the local planning authority) 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 shall be 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 and government guidance in the National Planning Policy Framework.

**Biodiversity enhancement**

14. Prior to the commencement of the development hereby approved including any demolition, and any works of site clearance, and as part of any reserved matters for layout and landscaping, a method statement and scheme for enhancing biodiversity on site such that an overall net gain for biodiversity is achieved, to include details of enhancement features and habitats both within green spaces and integrated within the built environment, shall be submitted to and approved in writing by the Local Planning Authority. This shall also include a timetable for provision. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

Reason -To ensure the development provides a net gain in biodiversity in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

NOTE: It is advised that this condition include a Biodiversity Impact Assessment to show how a clear net gain for biodiversity will be achieved.

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

15. Prior to the commencement of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved LEMP.

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.

**Lighting strategy**

16. Prior to the installation of any external lighting a full lighting strategy to include illustration of proposed light spill and which adheres to the recommendations set out in section MM10 of the Ecological Appraisal carried out by Aspect Ecology dated March 2018, 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 document.

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.

**Travel information packs**

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

Reason: To ensure all residents and employees are aware from the outset of the travel choices available to them, and to comply with Government guidance contained within the National Planning Policy Framework.

**Water usage**

18. 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 and Government guidance contained within the National Planning Policy Framework.

**Compliance with ecological appraisal**

19. The development hereby approved shall be carried out strictly in accordance with the recommendations set out in section MM1 – MM5 inclusive of the Ecological Appraisal carried out by Aspect Ecology dated June 2018.

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.

**Electrical Vehicle Infrastructure**

20. 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.

- (2) It was further resolved that as the statutory determination period for application 18/02147/OUT expired on 30 May 2019, if the section 106 agreement/undertaking was not completed and the permission was not able to be issued by this date and no extension of time had been agreed between the parties, authority be delegated to the Assistant Director for Planning and Economy to refuse the application 18/02147/OUT for the following reason:
1. In the absence of the completion of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, the Local Planning Authority is not satisfied that the necessary infrastructure directly required both on and off site as a result of this development, in the interests of: safeguarding public infrastructure, education provision, community facilities and indoor and outdoor sports/recreation facilities; mitigating highway safety concerns; encouraging use of sustainable modes of transportation; delivering mixed and balanced communities by the provision of affordable housing; and securing on site future maintenance arrangements will be provided. This would be contrary to Policy INF1, PSD1, SLE4, BSC3, BSC4, BSC9, BSC10, BSC11, BSC12, VILLAGES 2, ESD1 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

14

**Heyford Park, Camp Road, Upper Heyford, Bicester, OX25 5HD**

The Committee considered application 18/02169/F for the temporary change of use of the eastern part of southern taxi way for use in connection with established and lawful car processing operations at Heyford Park, Camp Road, Upper Heyford, Bicester, OX25 5HD for Paragon Fleet Solutions Limited.

It was proposed by Councillor Corkin and seconded by Councillor Richards that permission be granted subject to a routing agreement and travel plan.

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

**Resolved**

That authority be delegated to the Assistant Director for Planning and Economy to grant permission for application 18/02169/F subject to the following conditions with the addition of a routing agreement and travel plan (and any amendments to those conditions as deemed necessary):

- 1 The permission hereby granted shall be temporary until 31st December 2021 and the use hereby permitted shall be discontinued and the land shall be restored to its former condition on or before that date.

Reason - To enable the Council to review the position at the expiration of the stated period, in order not to prejudice the consideration of future proposals for the land and/or in view of the special/personal circumstances of the case which are such as to override basic planning objections to the development in accordance with Policy Villages 5 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

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

- Site Location Plan P18-1596
- Areas Plan P18-1596\_02A
- Existing Security Arrangements P18-1596\_03A

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

- 3 The area of the application site comprising open hardstanding identified for car processing (defined so as to comprise the inspection, valeting, washing, repairing, tyre replacement, processing and delivery of cars and other car processing activities as may be required from time to time) shall only be used for activity which is related to car processing, and specifically shall not be used for the parking of any other vehicle associated with any other use or activity present on the application site.

Reason - In order to safeguard the visual amenities, character and appearance of the conservation area in accordance with Policy C23 and C28 of the adopted Cherwell Local Plan and Policy Villages 5 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 4 No car rental or related activities for use by members of the public shall be permitted from within the identified car processing area.

Reason: Such use would be inappropriate on the flying field, generate an inappropriate level of traffic and be contrary to Policy Villages 5 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

5. Within three months of the date of this decision a travel plan and draft routeing agreement shall be submitted to and agreed in writing by the Local Planning Authority. This agreed plan and agreement shall be adhered to for the lifetime of the development thereafter.

Reason: To ensure the effective control of HGVs entering and leaving the site, to comply with Policy SLE4 and Villages 5 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

15

**Premier Aggregates, Finmere Quarry, Banbury Road, Finmere, Buckingham, MK18 4AJ**

The Committee considered applications 19/00583/CM, 19/00585/CM, 19/00584/CM, 19/00586/CM, 19/00595/CM, and 19/00736/CM for the continued use of a clean water lagoon and silt pond in phase 1 of the area approved for the extraction of sand and gravel and clay, for the use in landfill engineering under planning permission 17/02083/CM (MW.0083/17); an application for secondary aggregate recycling; the extension to an area approved for sand and gravel extraction and retention of processing and concrete batching plants (OCC Ref MW.0030/19); the extension to

the area for non-hazardous waste landfill (OCC Ref MW.0027/19); Section 73 application to planning permission 15/02059/CM to allow for the operation of the Material Recovery Facility (MRF) until January 2026; and the extension of an area approved for clay extraction (OCC Ref MW.0026/19) at Premier Aggregates, Finmere Quarry, Banbury Road, Finmere, Buckingham, MK18 4AJ for AT Contracting and Plant Hire Limited.

Cherwell District Council was a consultee on the application which would be determined by Oxfordshire County Council.

In reaching its decision the Committee considered the officer's report.

### **Resolved**

That Oxfordshire County Council be advised that Cherwell District Council objects to the following applications 19/00583/CM, 19/00585/CM, 19/00584/CM, 19/00586/CM, 19/00595/CM, and 19/00736/CM and submits the following comments and recommended conditions if the application were approved:

1. Cherwell District Council objects to further intensification of works at the site and the increase in HGV movements that would occur in the period that is currently supposed to see a reduction in intensity leading up to 2032 when the final restoration is scheduled to end.
2. Strict controls are put in place should the County be minded to approve the applications, for the potential impacts on air quality and noise for the protection of the health and amenity of local residents.
3. The hours of operation for vehicles entering the site be kept at the previously agreed times of 7:00 and 18:00.
4. Measures to be put in place to secure jobs created for local people – either by a proportion of the work force or an agreement to take on local apprentices by condition.

## **16 Land To The Rear Of The Methodist Church, The Fairway, Banbury**

The Committee considered application 19/00136/DISC for the discharge of condition 14 (cycle parking) of application 16/00313/CDC at land to the rear of The Methodist Church, the Fairway Banbury for Cherwell District Council.

In reaching its decision the Committee considered the officer's report.

### **Resolved**

That authority be delegated to the Assistant Director for Planning and Economy to grant permission for application 19/00136/DISC

## **17 36 - 37 Castle Quay, Banbury, OX16 5UN**

The Committee considered application 19/00535/CLUP for a Certificate of Lawfulness for Proposed Development - Internal works for the relocation of public toilet provision to a new location within the existing shopping centre and external alterations to install 2 louvres to external north eastern elevation facing the existing service yard for Cherwell District Council.

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

**Resolved**

That permission be granted for application 19/00535/CLUP to enable the Assistant Director for Planning and Economy to grant a Certificate of Lawful Development as follows:

Schedule 1

Internal works for the removal of the existing public toilet provision and to relocate the public toilet provision into part of unit 36/37 within the existing shopping centre. The new toilet provision will include male and female toilets, an accessible toilet, a changing place facility providing a fully accessible facility, and a parent room, providing 2 changing units, 2 privacy booths for nursing parents and a parent and child WC. A water fountain and a bottle refill station will be provided and a customer welcome desk.

External works to provide two ventilation louvres to the north east elevation of the building facing the service yard.

Schedule 2

36-37 Castle Quay  
Banbury  
OX16 5UN

Schedule 3

The proposed internal works are not operational development, within the meaning set out at Section 55 of The Town and Country Planning Act 1990. The proposed internal works do not require planning permission and are therefore lawful.

The proposed external works are permitted development under Schedule 2, Part 7, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

18 **Appeals Progress Report**

The Assistant Director for Planning and Economy submitted a report which aimed to keep members informed upon applications which had been determined by the Council, where new appeals had been lodged, Public Inquiries/hearings scheduled or appeal results achieved.

**Resolved**

- (1) That the position statement be accepted.

The meeting ended at 7.25 pm

Chairman:

Date:

## CHERWELL DISTRICT COUNCIL

### PLANNING COMMITTEE

20 June 2019

#### 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.

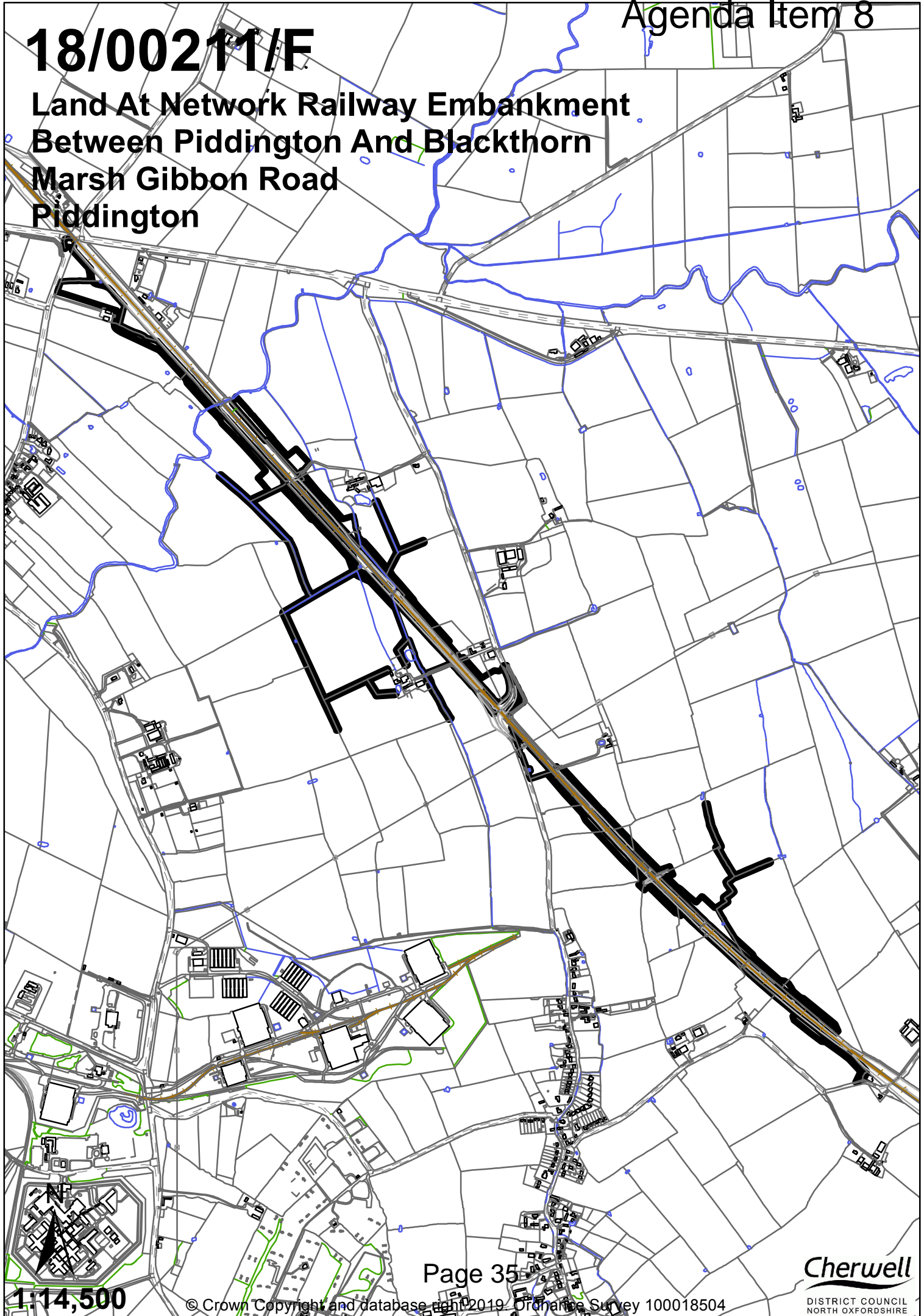
#### **Background Papers**

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>
8	Land At Network Railway Embankment Between Piddington And Blackthorn Marsh Gibbon Road Piddington	18/00211/F	Launton And Otmoor	Approval	Linda Griffiths
9	Dewey Sports Centre Barley Close Bloxham Banbury OX15 4NJ	18/01852/F	Adderbury, Bloxham And Bodicote	Refusal	James Kirkham
10	Land For Proposed Development At Drayton Lodge Farmhouse Warwick Road Banbury	18/01882/OUT	Cropredy, Sibfords And Wroxton	Approval	Linda Griffiths
11	Meadow Barn Merton Road Ambrosden Bicester OX25 2LZ	19/00055/F	Bicester South And Ambrosden	Approval	Michael Sackey
12	Land North Of Southfield Farm North Lane Weston On The Green	19/00596/OUT	Launton And Otmoor	Refusal	Matthew Chadwick

**18/00211/F**

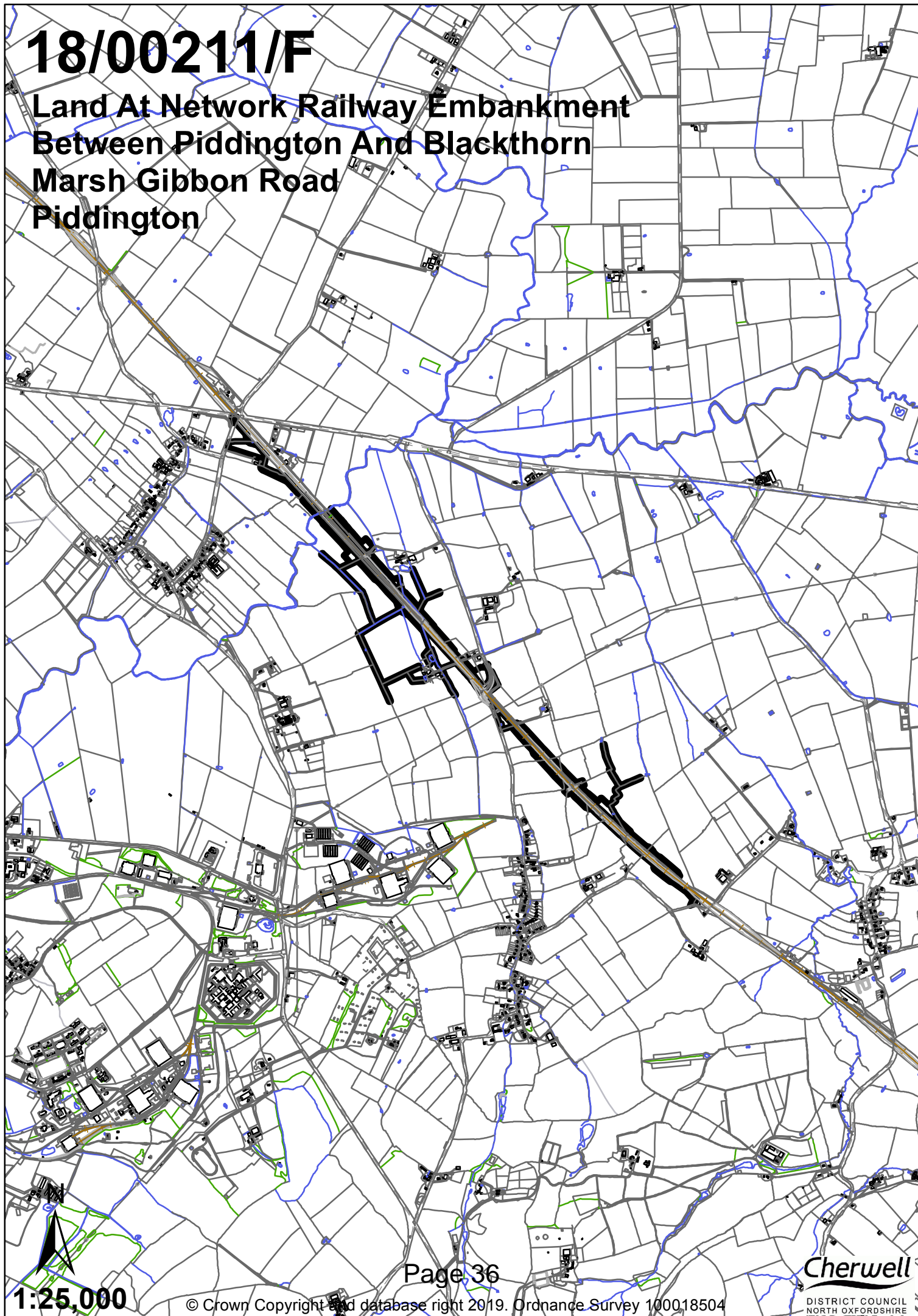
**Land At Network Railway Embankment  
Between Piddington And Blackthorn  
Marsh Gibbon Road  
Piddington**





**18/00211/F**

**Land At Network Railway Embankment  
Between Piddington And Blackthorn  
Marsh Gibbon Road  
Piddington**





**Case Officer:** Linda Griffiths

**Applicant:** Network Rail Infrastructure Ltd

**Proposal:** Railway embankment stabilisation scheme, including earthwork re-grading, construction of access route and ecological mitigation measures (resubmission of 13/01805/F)

**Ward:** Launton And Otmoor

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

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

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

#### **Proposal**

This application seeks consent for re-stabilising works to the section of the railway embankment that runs between Blackthorn and Piddington. The embankment in question has a history of instability problems that have resulted in emergency repairs, speed restrictions and maintenance problems over recent years. The embankment to which this scheme relates is approximately 2km in length and also includes the construction of a permanent 4m wide access route alongside the track for future inspections and maintenance.

#### **Consultations**

The following consultees have raised **objections** to the application:

- OCC Highways objected initially but have now removed their objection following amended proposals, OCC Drainage objected initially but the objection has now been removed following additional information, Environment Agency objected initially but objections have since been removed

The following consultees have raised **no objections** to the application:

- Blackthorn Parish Council, Piddington Parish Council, OCC Countryside Access Officer, CDC Ecology Officer, CDC Environmental Health, Natural England

1 letter of representation has been received.

#### **Planning Policy and Constraints**

The site is within 20m of a main river and located within Flood Zones 2 and 3. The site is also close to Meadow Farm, Blackthorn, a Local Wildlife Site and there are a number of Protected and Notable Species within a 250m buffer of the site. The site is also within 2km of Arncott Bridge Meadows, Rushbeds Wood and Railway Cutting and Long Herdon Meadow SSSIs. Blackthorn Public Footpath 1 (131/1) passes under the railway embankment where the proposed work will be taking place.

The application has also been assessed against the relevant policies in the NPPF, the

adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

## **Conclusion**

The key issues arising from the application details are:

- Environmental Statement
- Planning and Need for the Development
- Noise and Vibration
- Flooding and drainage
- Ecology and net biodiversity gain
- Transport and highway safety
- Archaeology
- Landscape and visual impact

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable 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, Blackthorn embankment is located approximately 3 miles south east of Bicester and was constructed in 1909 as part of the Great Western Railway. The railway is not electrified in this location and comprises two tracks on an embankment. The embankment was necessary to cross an area of low lying agricultural land in the flood plain of the River Ray. It now carries the Chiltern Line between Birmingham and London Marylebone. This is a modern, two track, high speed (100mph) passenger railway which forms a main commuter and intercity link through Oxfordshire
- 1.2. Earthworks re-grading is required along various sections of the embankment along a 3.7km length between Blackthorn and Piddington. This section of embankment is within open countryside although there are a number of agricultural holding and residential properties within close proximity to the proposed works.

### **2. CONSTRAINTS**

- 2.1. The application site is within 20m of a main river and located within Flood Zones 2 and 3. The site is also close to Meadow farm, Blackthorn and Local Wildlife Site and there are a significant number of Protected and Notable Species within a 250m buffer of the site. The site is also within 2km of Sites of Scientific Interest (SSSI), these being Arcott Bridge Meadows, Rushbeds Wood and Railway Cutting and Long Herdon Meadow. Blackthorn Public Footpath 1 (131/1) passes under the railway embankment where the proposed work will be taking place.
- 2.2. The embankments are vegetated with rough grassland, blackthorn scrub and scattered trees including oak, hawthorn, blackthorn, sycamore and ash. The River Ray and one of its tributaries, Piddington Brook, cross beneath the railway in the northern half of the site. There are a number of flood alleviation 'through pipes' that pass through the railway embankment within the flood plain area. A minor road

linking the A41 to Piddington and three farm roads cross over the railway. There are numerous ditches across the surrounding landscape and several ponds close by.

### **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The application seeks consent for re-stabilising works to the section of the railway embankment that runs between Blackthorn and Piddington. The embankment in question has a history of instability problems that have resulted in emergency repairs, speed restrictions and maintenance problems over recent years. Network rail are seeking a long-term solution to these problems and in doing so improve the safety and reliability of the train services using the line, which provide an important link between London and the Midlands. This application is a re-submission of an application which was granted consent in 2014 but was never implemented (13/01805/OUT) refers.
- 3.2. The Scheme for which the application is made will affect approximately 2km of earthworks in total. As well as the earthworks re-grading, the Scheme involves the provision of a 4m wide permanent access route to allow further inspection and maintenance of the works over their design life. The access track will cross the Piddington Brook on both sides of the railway and a small stream near the south-eastern end of the Scheme. At these locations it is proposed that the watercourses will be culverted. Where the remedial works to the embankment are identified, the existing vegetation will need to be removed in order to construct the scheme.
- 3.3. Part of the Scheme will be delivered on operational railway land. Permitted Development Rights will be utilised to deliver these elements of the Scheme within the current operational boundary.

### **4. RELEVANT PLANNING HISTORY**

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
13/01805/F	Railway embankment stabilisation scheme, including earthwork re-grading, construction of access route and ecological mitigation measures	Application Permitted
18/00016/SO	Screening Opinion to 18/00211F - Railway embankment stabilisation scheme, including earthwork re-grading, construction of access route and ecological mitigation measures (resubmission of 13/01805/F)	Pending Consideration
12/00033/SO	Screening Opinion - proposed embankment stabilisation works	Screening Opinion requesting EIA

### **5. PRE-APPLICATION DISCUSSIONS**

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

## **6. RESPONSE TO PUBLICITY**

6.1. 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 16.08.2018, although comments received after this date and before finalising this report have also been taken into account.

6.2. The comments raised by a third party are summarised as follows:

- Golden opportunity to alleviate the flood risk to Blackthorn Village
- Drainage ditch along the south side has not been maintained and has been mostly blocked for a very long time
- Blackthorn is on a plain and a small rise in water level therefore floods a wide area as the River Ray has not been dredged for years and a number of village properties are flooded as a result
- About 50m west of the River is a grassy bank which should keep the river within its winter limits, but the bank is by-passed by the existing railway ditch, most of which has been blocked for years, but here it flows the wrong way, carrying vast amounts of water towards the village. This water has eroded the embankment
- The new track must go over the bank. Not through it
- The maintenance access track should be alongside the bottom of the railway embankment
- New ditch should be on the south side of the track to connect with existing field drains
- As recommended by the County Engineer, the A41 water should be pumped into this new ditch, away from the village
- Noted that the Railway has failed to maintain the ditches in Station Road as promised

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

## **7. RESPONSE TO CONSULTATION**

7.1. 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

7.2. BLACKTHORN PARISH COUNCIL: does not object in general but does object to the proposal to relocate the footpath that runs from Blackthorn to Mrsh Gibbon, it is unclear whether this is on a temporary basis whilst works are carried out or a permanent one; the relocation under the bridge would mean that the footpath would run alongside the A41; given previous concerns with A41, i.e. visibility from the junctions and accidents, the relocation is considered unsuitable for pedestrians.

- 7.3. In addition Blackthorn Parish Council would like a condition imposed requiring Network Rail to address the flooding issues by ensuring that water from A41 pumps discharge into the natural ditch flowing north west to south west into the River Ray.
- 7.4. PIDDINGTON PARISH COUNCIL: no objection but would look to the planning authority to minimise disruption both on local roads and through the village for the duration of the works.
- 7.5. Further comments from Piddington Parish Council raise concerns that the proposal will greatly increase the number of vehicles passing through the village and requests that the applicant submits detailed traffic management proposals. The council also requests traffic calming works to ameliorate the effect of increased traffic on the village and suggests entry gates into the village to clarify the built up nature of the area and a vehicle activated speed sign on Lower End to monitor the numbers and speed of traffic passing along the road. The village would also support the request for confirmation that there will be adequate provisions for flood management, both during construction and once completed.

#### CONSULTEES

- 7.6. OCC HIGHWAYS: A Construction Traffic Management Plan will be required. Access Point 1 off Station road at Blackthorn looks too close to the A41 junction and needs to be moved southwards. Access Point 2 to the north east of the overbridge will need to ensure visibility splays are achieved. Access Point 3 to the south west of the overbridge looks to be using a private access but the tie-in point here will need re-constructing prior to works starting in order to take all the additional heavy turning movements.
- 7.7. The haul route to Access Points 2 and 3 from A41 is a very narrow and relatively weak road, with a 7.5T weight limit. Passing places may be required and some re-construction of the existing road prior to works starting.
- 7.8. A number of conditions are recommended.
- 7.9. **Update 28.07.2018:** following the amended access proposals, an objection is raised on the grounds that the applicant has not submitted any proposed visibility splays so unable to say whether safe and suitable access to this development is achievable.
- 7.10. **Update 25.04.2019:** following the amended access proposals and CTMP, no objections are raised subject to conditions
- 7.11. OCC LEAD FLOOD AUTHORITY: no objection in principle but has some concerns regarding the drainage proposals. These comments can be read in full on the application file and are discussed in more detail in the appraisal below.
- 7.12. **Update:** following the amended proposal, there is a lack of information concerning the management of surface water run-off rates and volumes.
- 7.13. **Update 25.04.2019:** objection removed following the updated Flood Risk Assessment and the imposition of a condition.
- 7.14. OCC ARCHAEOLOGY: No objection subject to the imposition of conditions requiring a Written Scheme of investigation to be submitted and carried out.
- 7.15. OCC COUNTRYSIDE ACCESS OFFICER: Blackthorn Public Footpath 1 (131/1) crosses the railway where the proposed work will be taking place. There must be no permanent alteration to the definitive line of the footpath without prior consultation

and written permission from OCC. It is unclear whether this is a temporary or permanent diversion. As a permanent diversion this would not be accepted. Also unable to find details regarding the construction of the footpath crossing over the railway and would not recommend that planning permission is granted until these issues are addressed.

- 7.16. Public using the footpath must not be in any danger while the works take place. It may be necessary to close the footpath and an application for a Temporary Traffic Regulation Order (TTRO) would need to be made at least 12 weeks in advance of requiring the closure. Access should be improved for all footpath users replacing the stiles beside the rail crossing. A condition is suggested relating to the provision of gates.
- 7.17. ENVIRONMENT AGENCY: Object and recommend refusal. The Environmental Statement/Flood Risk Assessment does not comply with the requirements set out in paragraph 30 part 7 of the Planning Practice guidance to the NPPF and does not provide a suitable basis for assessment to be made of the flood risk arising from the development.
- 7.18. **Update:** following the receipt of additional information, objection maintained with regard to inadequate assessment and mitigation risks to nature conservation. Also object to the proposed development as submitted because the assessment and mitigation of the risks to nature conservation and fisheries are inadequate. The comments can be read in full on the application file and are discussed in more detail in the appraisal below.
- 7.19. **Update 09.05.2019:** objection removed following the memo from Atkins dated 4<sup>th</sup> April 2019, which provides clarification on the submitted FRA Revision 2.1 prepared by Atkins and dated March 2019, subject to the imposition of a number of conditions.
- 7.20. NATURAL ENGLAND: No objection. Based on the plans submitted, it is considered that the proposed development will not have significant adverse impacts on designated sites.
- 7.21. BBOWT: No comments received
- 7.22. CDC ENVIRONMENTAL HEALTH: recommend the re-imposition of condition 9 of application number 13/01805/F relating to acoustic screening. No other comments relating to contaminated land, air quality, odour or light.
- 7.23. **Update:** the proposals are satisfactory in respect of the additional acoustic report received October 2018.
- 7.24. CDC LANDSCAPE SERVICES: No comments received.
- 7.25. CDC ARBORICULTURAL OFFICER: No comments received.
- 7.26. CDC ECOLOGY OFFICER: concurs with the comments of Aylesbury Vale District Council's Ecologist. Since these comments however, a CEMP and Biodiversity Monitoring and Maintenance Schedule have been submitted in response to some of the recommended conditions. The Biodiversity Monitoring and Maintenance Schedule is also thorough with appropriate monitoring and reporting and a baseline for butterflies having now been established in a submitted report (December 2018). Only query is whether there will be inconsistency with the overall ongoing management strategy produced at five years and the stated reversion at 5 years to

habitats being maintained to Network Rail's vegetation management standards for passenger safety.

7.27. The only outstanding ecological issue is regarding hydrology and the potential impacts on Meadow farm Local Wildlife Site A pre-commencement condition is suggested to resolve this issue with a specific report and including monitoring ongoing is still required.

7.28. AYLESBURYVALE ECOLOGIST: raises no objections subject to the imposition of conditions

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

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

8.2. 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
- ESD7 – Sustainable Drainage Systems
- ESD8 – Water Resource
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local landscape Protection and Enhancement
- SLE4 – Improved Transport Connections

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

- C28 – Layout, design and external appearance of new development
- TR7 – development attracting traffic on minor roads
- TR10 – Heavy Goods Vehicles
- C5 – Protection of Ecological Value and Rural Character

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 ("HRA")
- Equalities Act 2010 ("EA")

#### 8.4. Council Corporate Priorities

Cherwell District Council's Business Plan for 2019-20 sets out the Council's three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is "Clean, Green and Safe", that it supports "Thriving Communities & Wellbeing", and is a District of "Opportunity & Growth". All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) deliver the Growth Deal; (9) delivery innovative and effective housing schemes; and (10) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals depending on the issues raised.

The above corporate priorities are considered to be fully compliant with the policy and guidance contained within the National Planning Policy Framework and National Planning Practice Guidance.

### 9. APPRAISAL

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

- Environmental Statement
- Planning and the Need for the development
- Noise and vibration
- Flooding and Drainage
- Ecology and Net Biodiversity Gain
- Transport and Highway safety
- Archaeology
- Landscape and Visual Impact

#### Environmental Statement

9.2. The application is accompanied by an Environmental Statement (ES). Under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, where an ES has been submitted with an application, the Local Planning Authority must have regard to it when determining the application, and can only approve the application if it is satisfied that the ES provides adequate information.

9.3. An ES was submitted with the application because of the likely significant effects on the environment as a result of the nature of the proposal and the length of track involved, having regard to matters such as ecology and flood risk because the site lies in Flood Zones 2 and 3 and also in terms of traffic generated during the construction works. The Local Planning Authority has considered the contents of the ES accompanying the application and is of the view that it successfully addresses all the relevant matters. The submitted ES can be viewed with the application documents via the Council's website.



## Planning Policy and the Need for the Development

- 9.4. The Development Plan for Cherwell comprises the adopted Cherwell Local Plan part 1 2011-2031 and saved policies in the adopted Cherwell Local Plan 1996. Section 70 (2) of the Town and Country Planning Act 1990 provides that in dealing with applications for planning permission, the Local Planning Authority shall have regard to the provisions of the development plan so far as is material to the application, and to any material considerations. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that regard is to be had to the development plan for the purpose of any determination to be made in accordance with the development plan unless material considerations indicate otherwise. This is also reflected in the National Planning Policy Framework (NPPF) at paragraph 12 which makes it clear that the starting point for decision making is the development plan.
- 9.5. The embankment between Piddington and Blackthorn has a history of landslip movements due to its age and the original construction methods. As recently as 2007 these have led to the need for stringent speed restrictions and emergency repair work in order to manage the risk to railway safety. These proposals are part of the planned programme of works to provide a cost-effective safe and reliable railway infrastructure.
- 9.6. The section of embankment at Blackthorn has been monitored since 2003 on both sides using devices to detect movement in the soil and ground water levels. Movements in clay embankments of this kind develop slowly and gradual '*creep*' movements are precursors to sudden landslips which can occur without warning, usually over the winter when the ground is wet and water levels in the ground are high. The movements identified suggest that works are urgently required to stabilise the slopes. The solution requires the placing of earthworks fill along approximately 1km of the embankment to 'buttress' the slope and cut off the failure surfaces at depth beneath it. The works will also include substantial repair of the drainage infrastructure originally installed when the railway was built.
- 9.7. The Piddington section of the embankment is thought to be made up of re-worked Oxford Clay and ash shoulders and also has a long standing history of instability which has led to the need for speed restrictions and increased maintenance. At Piddington the design consists of a regrading of the embankment slopes and improving drainage at the toe of the banks.
- 9.8. In each of the areas of stabilisation works along the embankment the existing vegetation will need to be removed. Where through pipes or culverts are located within these sections, the culverts will be extended at 17 locations to take the watercourse through the widened embankment profile.
- 9.9. Central to the benefits of this proposal is that the scheme will safeguard the operation of the line and the reduced occurrence of temporary speed restrictions which in turn should make the railway a more attractive transportation option thereby encouraging the use of the railway. As such the proposal therefore accords with the NPPF in seeking to ensure sufficient provision of transport infrastructure in achieving sustainable development. Policy SLE4 'Improved Transport connections' seeks to promote a modal shift away from an over reliance on the car to more sustainable forms of transport.

## Noise and Vibration

- 9.10. The issue of vibration has not been explored in detail within the Environmental Statement as the applicant has indicated that the proposed works will not involve the use of equipment and techniques which would involve piling or tunnelling.

- 9.11. With regard to noise, the ES notes that on the basis of the data provided and the noise survey undertaken there will be temporary, moderate adverse noise effects at the most sensitive receptor, Lower Cowleys Farm. The ES states that these effects can be mitigated by the erection of temporary acoustic screens and other techniques during the construction works. A condition relating to acoustic screens is recommended.
- 9.12. An additional Construction Noise Assessment was received in October 2018 and has been assessed by CDC Environmental Health as acceptable. This report provides more detailed noise predictions following on from the ES during the construction of the embankment works and sets out the best practicable means of reducing the noise levels for Lower Cowleys Farm.
- 9.13. It is considered therefore that the proposal is considered acceptable in this respect and that the proposed mitigation measures are sufficient to overcome the noise issues.

#### Flooding and Drainage

- 9.14. The Scheme could affect the local water environment, including groundwater and surface water courses. The proposed works will result in changes to local water features which include the diversion of a watercourse that crosses under the railway track, and the reduction of flood plain volume between the most northerly extent of the embankment stabilisation scheme and Upper Cowleys Farm.
- 9.15. Policies ESD6 and ESD7 of the adopted Cherwell Local Plan relate to Sustainable Flood Risk management and Sustainable Drainage Systems. Policy ESD7 requires that all development will be required to use SuDS for the management of surface water run-off. This policy also requires ground water quality to be protected, flood risk to be reduced where possible, reduce pollution and provide landscape and wildlife benefits. Section 14 of the NPPF- Meeting the challenge of climate change, flooding and coastal change echoes the above mentioned policies and is also relevant to the consideration of this application.
- 9.16. The site lies within the River Ray floodplain and also crosses the Piddington Brook. A Flood Risk assessment was required as part of the submission to ensure that the proposed scheme does not adversely affect the existing floodplain and flood conveyance routes. The Blackthorn section of the line is predominantly within the floodplain associated with the River Ray, which flows south-west through the northern part of the site and passes beneath the railway. It is classified as a 'main river' and is managed by the Environment Agency. The Piddington Brook flows northwards from Piddington and crosses beneath the railway line at Piddington Cow Leys before its confluence with the River Ray. The surrounding landscape is predominantly agricultural land, divided into fields that are drained by a network of drainage ditches which flow towards the River Ray. There are also numerous ponds, particularly within the Blackthorn section. The Piddington section of the embankment works lies within Flood Zone 1, but the Blackthorn embankment works are entirely within Flood Zone 3.
- 9.17. Where through-pipes or culverts are located within stabilisation works, the culverts will be extended at 17 locations to take the watercourse through widened embankment profile. Where the railway crosses the River Ray and Piddington Brook, the bridges will not be widened but the new earthwork profile will be tied into the existing bridge wing walls which will be strengthened.
- 9.18. The proposed works within the floodplain of the River Ray will result in the loss of floodplain storage volume. In order to address the potential impacts on flooding

relating from the proposed earthworks, additional drainage ditches have been included in the Scheme as compensatory storage within this floodplain. The ditches are located on the outside of permanent maintenance access route and are parallel to it.

- 9.19. The Environmental Statement and Flood Risk Assessment submitted with the application were assessed by the Environment Agency and OCC as Lead Flood Authority. Objections have been raised by both. In order to overcome the objection, the Environment Agency have advised that the FRA must include an explanation of how the reduction in the amount of loss of flood plain storage volume will impact flood risk on and off the site and an assessment of the impact of climate change on the site. Specifically, the FRA must demonstrate that if there is a loss of flood plain storage on the site, how will this be mitigated for and that climate change has been assessed above the 1% annual probability (1 in 100) flood level with appropriate allowance for climate change. OCC objected on the basis of insufficient consideration of increased runoff and volumes of surface water generated by the proposals, in particular, by the proposed maintenance access track, which would lead to an increase in flood risk downstream.
- 9.20. Following the above, the applicant submitted a Technical Memo and additional information in relation to flood risk dated February 2019, but EA advised that this did not overcome their objection as the FRA failed to demonstrate the loss of flood plain storage within 1% annual probability (1 in 100) flood extent with an appropriate allowance for climate change caused by the proposed development, will be mitigated for. OCC as Lead Flood Authority also maintained their objection.
- 9.21. The proposed new maintenance access track is proposed to be constructed of an improved subgrade layer using a soil stabilisation method with granular finish. However, OCC (drainage) considers that by the compaction of the sub-grade, the use of geo-stabilisation technique and the use of granular material surfacing, that the natural green-field characteristics will be altered. The proposed access road surfacing will be a relatively impermeable surface which will produce increased runoff and volume compared with the greenfield situation. These effects can be mitigated by providing attenuation storage which could take the form of new ditches.
- 9.22. In order to confirm that the ditch system will provide a sufficient volume of attenuation, a calculation of the existing greenfield and proposed runoff rates and volumes is required to demonstrate the size of the attenuation system required. The calculation also must include an allowance on Climate change in the developed scenario as required by the NPPF.
- 9.23. Following the receipt of a further Technical Memo dated 4<sup>th</sup> April 2019, which provides clarification on the submitted Flood Risk Assessment 2.1 prepared by Atkins and dated March 2019, the EA have withdrawn their objection in respect of flood risk subject to the imposition of a number of conditions.
- 9.24. Having regard to the above, in the light that technical objections have now been overcome, and subject to appropriate conditions securing an acceptable Flood Risk Assessment and surface water drainage scheme for the site, the proposals are considered acceptable in terms of flood risk and drainage and therefore in accordance with the development plan and Government guidance within the NPPF.

#### Transport and Highway Safety

- 9.25. Saved Policies TR7 and TR10 of the adopted Cherwell Local Plan 1996 consider traffic generated by a proposed development and its impact on the local highway infrastructure. Whilst consideration of these policies is relevant to the Scheme, the

traffic generated by the proposal in terms of construction traffic is only short term and once the embankment stabilisation scheme has been completed, except for infrequent inspections and future maintenance, this traffic will cease.

- 9.26. Section 9 of the NPPF 'Promoting Sustainable Transport' advises at paragraph 109 that *'development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'*.
- 9.27. The submitted Environmental Statement states some 40 x 20Tonne HGVs per day for 6 months during the earth movement phase. This is significant extra traffic for such rural roads which is likely to cause significant damage to the edges and verges in particular. The applicant will be expected to enter into a Sec278 agreement with OCC.
- 9.28. The application proposes a simple priority junction from the eastern side of Station Road. This stretch of road has a derestricted speed limit, has no footways and no centre line markings on the mainline carriageway. The submitted drawing however failed to show vision splays informed by the 85<sup>th</sup> percentile wet weather speed surveys to ascertain whether a safe and suitable access could be achieved. Tracking plans also needed to demonstrate that the largest vehicle likely to be used can enter, turn and exit the site safely in a forward direction.
- 9.29. In response to the above, the applicant submitted a Construction Traffic Management Plan which presented some of the information on the access arrangement, particularly, visibility splays and vehicle tracking. However, this did not address matters such as a commitment to use road sweeping mechanisms to ensure the highway is kept clear of debris and the commitment to strengthen grass verges where they are proposed to be used as passing places. Complete swept path drawings were also awaited. In terms of visibility splays, these were now considered acceptable given that vehicles would be travelling at low speeds after emerging onto Station Road from A41. Following the submission of a further amended CTMP, OCC removed their objection on 25<sup>th</sup> April 2019.
- 9.30. Having regard to the above, it is considered that the proposed development accords with the policies within the development plan and Government guidance within the NPPF and is therefore acceptable in this respect.

#### Archaeology

- 9.31. Section 16 of the NPPF sets out the planning guidance concerning archaeological remains and the historic environment. Paragraph 185 emphasises the need for local planning authorities to set out a clear strategy for the conservation and enjoyment of the historic environment. Heritage assets are recognised as an irreplaceable resource which should be preserved in a manner appropriate to its significance.
- 9.32. The Cultural Heritage Assessment submitted as part of the ES has identified the presence of a number of listed buildings within Blackthorn Village, together with the Old Farmhouse at Middle Cow Leys Farm. Listed buildings within Ludgershall and Piddington are all over 500m from the rail line. The site is not within a conservation Area.
- 9.33. The line of the Roman Road, Akeman Street, is located at the northern end of the Scheme, broadly equating with the A41. The road originally extended between the Roman settlements at Alchester to the west and Virulanium in Hertfordshire. Ridge and furrow is also evident between the site and the River Ray. The County Archaeologist has assessed the submission, he advises that the site is located in an

area of archaeological potential and advises that Roman pottery has been recovered along the line of the Roman Road. Probable Bronze Age ring ditches have also been recovered in this area. Little formal archaeological investigation has been undertaken within the site area itself and therefore there is potential for further archaeological deposits related to this period to be disturbed by this proposal. Having regard to the above however, the county Archaeologist raises no objection subject to the imposition of conditions.

- 9.34. The submitted ES concludes that the development will not physically impact on any designated heritage assets or impact upon their setting. In terms of mitigation, to address the potential impacts on currently unidentified archaeological remains within the construction boundary, a programme of archaeological works will be agreed with Oxfordshire and Buckinghamshire County Councils which can be dealt with by condition.
- 9.35. Having regard to the above, it is considered that the proposed development accord with the policies within the development plan and Government guidance within the NPPF and is therefore acceptable in this respect.

#### Ecology Impact

##### *Legislative context*

- 9.36. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
- 9.37. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.38. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.
- 9.39. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?

(2) That there is no satisfactory alternative.

(3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

9.40. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

#### *Policy Context*

9.41. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

9.42. Paragraph 175 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

9.43. Paragraph 180 of the NPPF states that planning 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 (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

9.44. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.

9.45. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.

9.46. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.

9.47. The Planning Practice Guidance dated 2014 post dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

#### *Assessment*

9.48. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:

- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPA's can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

9.49. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site contains dense scrub throughout the site, with this being the dominant habitat type along both sides of the railway embankment. Species recorded include co-dominant blackthorn and hawthorn with occasional wild cherry and grey willow. A number of mature scattered trees are also present within the application site. The site also contains areas of poor semi-improved neutral grassland, semi-improved neutral grassland and improved grassland. A number of ponds are also present within 500m of the site, running water within the site includes the River Ray, Piddington Brook and a field ditch. Many of the hedgerows have been neglected. The constraints for the site have identified that there are potentially a significant number of protected and notable species within 250m of the site.

9.50. In order for the local planning authority to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.

9.51. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.

9.52. There are several areas of Priority Habitat along this section of the route which will be impacted by the proposed works. It is important therefore that the environmental mitigation works take into account any impacts and provide compensation for any losses. The ecological impact assessment submitted as part of the ES is based on

ecological surveys undertaken in 2009, 2013 and 2017. This assessment includes the results of a desk study, ecological surveys including extended Phase 1 habitat survey, river habitat survey, great crested newt survey, reptile survey, bat roost inspections, water vole surveys, and badger surveys. In particular it considers the key the potential key impacts of the Scheme on habitats and protected and notable species. In terms of designated sites, the closest is Meadow Farm Meadows; Local Wildlife Site (LWS) which is one of the finest examples of MG4 grassland habitat in the UK, which may be impacted by the hydrological changes resulting from the proposed works. There was insufficient detail submitted initially to confirm that the proposed works would not adversely impact on the LWS and therefore a pre-commencement condition, to include ongoing monitoring is recommended. The Environment Agency also objected to the original submission because the assessment and mitigation of the risks to nature conservation and fisheries are adequate. Following the objection the applicant submitted 2 number Technical memos to specifically address the issues raised by the EA, these being in respect of ecology and flood compensation. Following the receipt of further information the EA removed their objection in respect of ecology and biodiversity on 7<sup>th</sup> February 2019.

- 9.53. Further to the above, a Construction and Environmental Management Plan (CEMP) and Biodiversity Monitoring and Maintenance Schedule have been submitted to avoid the imposition of pre-commencement conditions. These have been assessed by the Ecology Officer who considers them acceptable.
- 9.54. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

#### Landscape and Visual Impact

- 9.55. The main impacts of the proposed scheme will result from the construction phase, including the removal of vegetation such as hedgerows, trees and scrub, construction of the works on several sections of the embankment and the construction of the new access/maintenance route. The ES includes a landscape and visual impact assessment which extends to 2km either side of the rail corridor.
- 9.56. The landscape immediately around the railway is flat, becoming gently undulating towards the south leading to the prominent Muswell Hill and Arncott Hills. It is primarily of a rural character with smaller scale settlements such as Blackthorn, Piddington, Brill and Ludgershall.
- 9.57. The main hydrological elements of the River Ray which flows in a north easterly direction to the south of Blackthorn, running underneath the existing railway. Across the wider field network there are numerous ditches, adding a layer of definition to the landscape structure.
- 9.58. Policy ESD10 of the adopted Cherwell local Plan refers to the protection and enhancement of ecology and the natural environment. It requires the protection of trees amongst other requirements. Policy ESD13 also encourages the protection of trees and landscape features.
- 9.59. The existing railway line also forms a strong element within the landscape as it runs on an embankment for the majority of its length through the application site. In places the rail corridor contains limited line side vegetation, this takes the form of



areas of self-set and planted (particularly around bridge abutments), woody vegetation, such as oak, hawthorn, blackthorn, sycamore and ash. Where this vegetation exists it helps screen the existing railway from many viewpoints in the surrounding area. Where there is a lack of screening, the railway running along the embankment forms a prominent feature.

- 9.60. During construction, the introduction of temporary access roads, site compounds, lighting and associated machinery will have a temporary adverse effect upon visual amenity. This will be particularly evident to adjacent and nearby residential properties. The loss of mature trees, hedgerows and line side vegetation in relation to the construction of the proposed access track will result in the removal of strong visual elements within the landscape and where these are not replaced will have a permanent visual impact. Landscape mitigation measures are proposed as part of the scheme which will seek to reinstate much of the vegetation lost through the construction works. It is recommended that conditions are imposed which will seek to ensure that appropriate replacement planting occurs and within a reasonable timescale. Accordingly it is considered that the stabilisation works proposed accord with Policy ESD13 of the adopted Cherwell Local Plan 2011-2031 and will not cause demonstrable harm to the character of the landscape.

## **10. PLANNING BALANCE AND CONCLUSION**

- 10.1. The overall purpose of the planning system is to seek to achieve sustainable development as set out in the NPPF. The three dimensions of sustainable development must be considered in order to balance the benefits against harm and come to a decision on the acceptability of the scheme. Section 38(6) of the planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise.
- 10.2. In terms of economic benefit, the proposals will generate some economic benefit during the construction works by providing construction employment and in the long term benefit the economy through the increased use of public transport.
- 10.3. In terms of social benefit, the scheme will ensure the long term future of the railway network and increased use of public transport to the benefit of the local population.
- 10.4. In terms of environmental, the scheme through proposed mitigation measures will seek to ensure the protection of ecology and net biodiversity gain through additional planting and the implementation of a Construction and Environmental Management Plan together with a biodiversity Monitoring and Maintenance Schedule. The improvement to the public transport system will also help to reduce the reliance on the use of private vehicles.
- 10.5. The proposed embankment stabilisation scheme is necessary to ensure that the existing embankment does not collapse, in the interests of passenger safety and the provision of sustainable public transport. Therefore, provided acceptable mitigation measures are agreed in terms of ecology, flood risk and landscaping, it is considered that the proposed embankment stabilisation works are in accordance with the development plan and the NPPF and should therefore be approved.

## **11. RECOMMENDATION**

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR

PLANNING AND ECONOMY TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)

CONDITIONS

**Time Limits**

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.

**Compliance with 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: [to be confirmed at the planning committee]

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.

**Noise Mitigation**

3. Prior to the commencement of the development, full details of the proposed acoustic barriers, including their position and materials of construction, required as part of the noise mitigation identified in the ES and the Construction Noise Assessment Report dated July 2018 shall be submitted to and approved in writing by the Local Planning Authority. The acoustic barriers shall be installed as approved prior to the works commencing and retained in situ until construction works are complete. Upon completion of the works hereby approved the acoustic barrier shall be removed from the site.

Reason – To safeguard the amenities of adjacent residential properties from intrusive levels of noise and to comply with Government advice within the national Planning Policy Framework.

**Temporary Obstructions**

4. No materials, plant, temporary structures or excavations of any kind should be deposited/undertaken on or adjacent to the Public Right of Way that obstructs the public right of way whilst development takes place.

Reason – To ensure the public right of way remains available and convenient for public use.

**Route Alterations/Public Right of Way**

5. The development should be designed and implemented to fit in with the existing public rights of way network. No changes to the public right of way's legally recorded direction or width must be made without first securing appropriate temporary or permanent diversion through separate legal process. Alterations to surface, signing or structures shall not be made without prior permission by

Oxfordshire County Council.

Reason – To ensure the legal public right of way remains available and convenient for public use.

6. No construction/demolition vehicle access may be taken along or across a public right of way without prior written permission and appropriate safety/mitigation measures approved by Oxfordshire county Council

Reason - To ensure the public right of way remains available and convenient for public use.

7. No vehicle access may be taken along or across the public right of way to residential or commercial sites without prior written permission and appropriate safety and surfacing measures approved by Oxfordshire county Council.

Reason – To ensure the public right of way remains available and convenient for public use.

8. Any gates provided in association with the development shall be set back from the public right of way or shall not open outwards from the site across the public right of way.

Reason – To ensure that gates are opened or closed in the interests of public right of way safety.

### **Archaeology**

9. 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.

Reason – To safeguard the recording of archaeological matters within the site in accordance with Government guidance within the NPPF.

10. Following the approval of the Written Scheme of Investigation referred to in condition 6, and prior to any demolition on the site and the commencement of the development (other than in accordance with the 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.

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

### **Drainage**

11. Development shall not begin until a revised surface water drainage scheme, based on the drainage principles listed below have 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 drainage must include but not be limited to:

- Evidence that the proposed flows from the site will be restricted to greenfield run-off rates for all events up to and including the 1 in 100 year event+ allowance for climate change (currently 40%)
- Evidence that the proposed run-off volume will not increase the existing

greenfield volume for the corresponding event

- Details of how the drainage scheme has been designed to incorporate SuDS techniques to manage water quantity and maintain water quality in accordance with best practice guidance including the latest SuDS manual C753
- Detailed drainage plan showing the location of the proposed SuDS and drainage network with exceedance flow routes clearly identified
- Detailed drainage calculations for all rainfall events up to and including the 1 in 100 year plus climate change event to demonstrate that all SuDS features and the drainage network can cater for the critical storm event for its lifetime
- Details of how the scheme shall be maintained and managed after completion
- Construction phase surface water management plan including details of how water quality shall be maintained during and after construction
- The submission of evidence relating to accepted outfalls from the site, particularly from any third party riparian or network owners

Reason – To comply with Government guidance within the NPPF.

12. The development shall be implemented in accordance with the approved Habitat Creation and Restoration Scheme (NLG Ecology 24<sup>th</sup> May 2018) and illustrated on drawing numbers 151661-NWR-DRG-ECV-HCR.1-3 inclusive. Any variation to the approved plan shall be agreed in writing with the Local Planning Authority before such change is made.

Reason –

13. Prior to the commencement of the development hereby approved, a report on the hydrological impact of the drainage works on Meadow farm Local Wildlife Site shall be submitted to and approved in writing by the Local Planning Authority. The report is to detail appropriate mitigation measures should they be considered necessary, including any amendments to the approved scheme. Thereafter the development shall be carried out in accordance with the approved details.

Reason –

14. The development shall be carried out in accordance with the FRA (Blackthorn and Piddington Rail Embankment Stabilisation, Revision 2.1, Atkins March 2019) and the following mitigation measures detailed within the FRA

- A minimum of 1,909m<sup>3</sup> of compensatory flood plain storage is provided as shown in Table 5-2, section 5.1.4 of the FRA
- Where the access track is located within the floodplain, it will be set at existing ground level as per section 5.1.2 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 be subsequently agreed in writing by the local planning authority.

Reason – to prevent obstruction to the flow and storage of flood water, with a consequent increased risk of flooding and to prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.

15. No development shall take place until the Blackthorn and Piddington Railway Embankment Stabilisation Habitat Creation and Restoration Scheme and Blackthorn and Piddington Biodiversity Monitoring and Maintenance Scheme documents are updated to reflect the changes to the scheme as detailed in the Technical Memo 100454-NWR-MEM-ECV-000005 dated 18/12/18. The updates should include details of the location and number of coir rolls being installed,

species list for any new planting or seeding and monitoring and management prescriptions for the new features being created.

Reason – In the interests of protecting wildlife and supporting habitat and creating ecological enhancements in accordance with Government guidance within the NPPF.

16. Contamination report

17. Verification of contamination report

18. Contamination not previously identified

19. Prior to the commencement of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping shall include details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass/turfed areas, details of the existing trees 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 and the details of hard surfaced areas, reduced dig areas, crossing points etc

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 of the Cherwell Local Plan 2011-2031 and Government guidance in the NPPF.

20. 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 British Standard, in the first planting and seeding seasons following the line being first brought back into use, or completion of the development, whichever is 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.

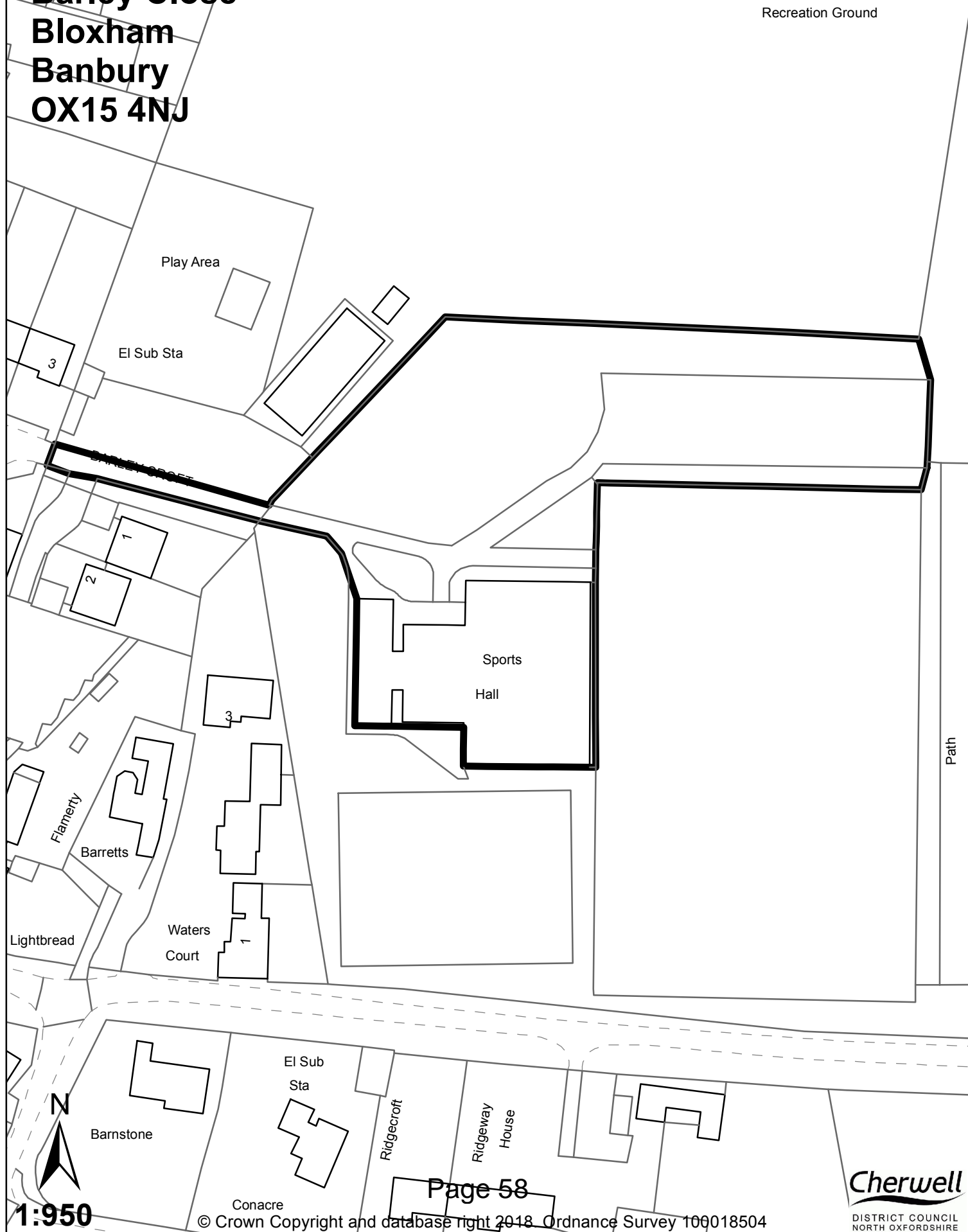
Reason – In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with policy of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

CASE OFFICER: Linda Griffiths

TEL: 01295 227998

Agenda Item 9  
**18/01852/F**

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



18/01852/F

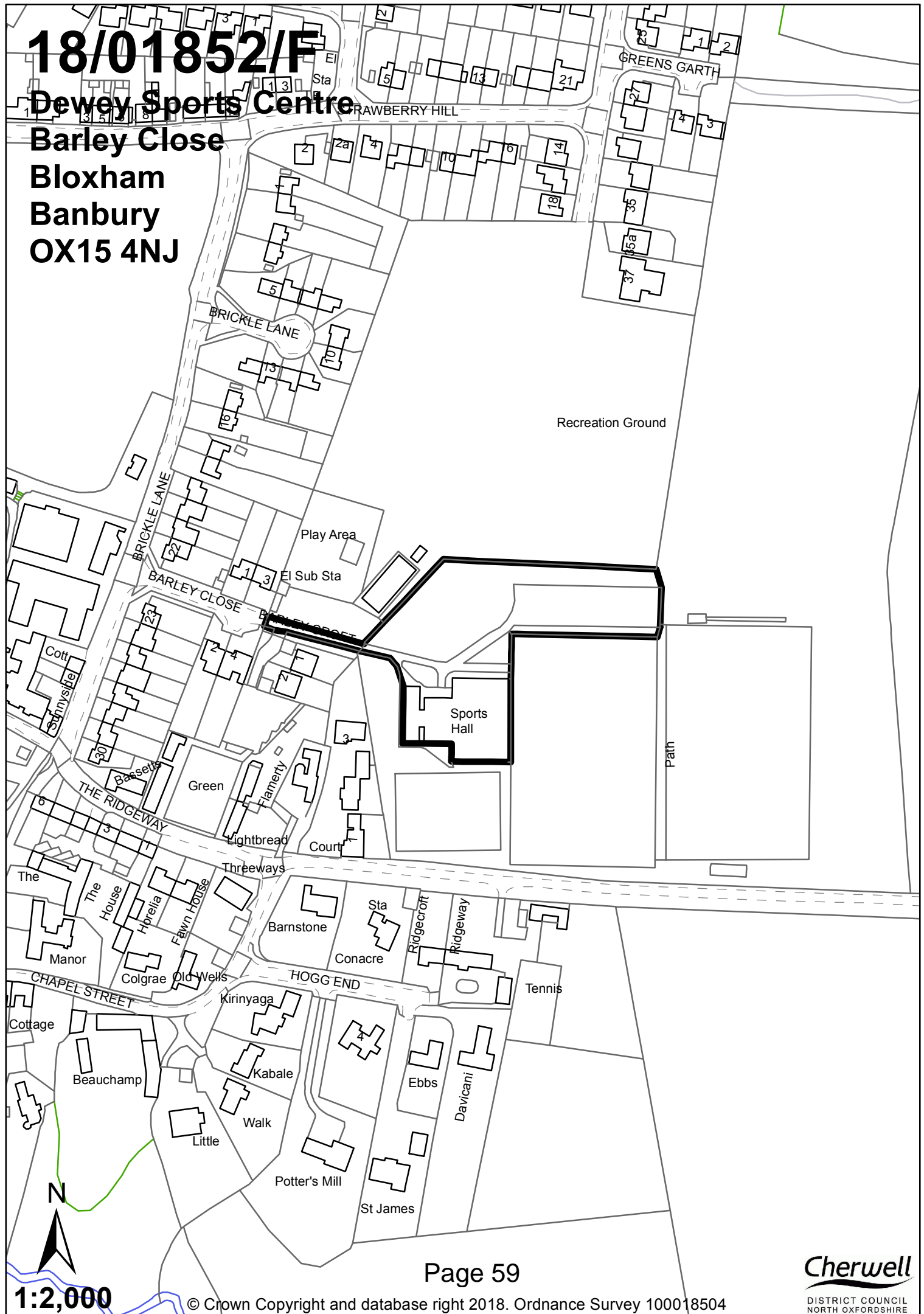
Dewey Sports Centre

Barley Close

Bloxham

Banbury

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

**18/01852/F**

**Case Officer:** James Kirkham

**Applicant:** Bloxham School

**Proposal:** External security lights to the car park and building at The Dewey Sports Centre, Bloxham School, Barley Close, Bloxham, Banbury, OX15 4NJ.

**Ward:** Adderbury, Bloxham And Bodicote

**Councillors:** Cllr Mike Bishop  
Cllr Chris Heath  
Cllr Andrew Mchugh

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

### **RECOMMENDATION: REFUSE PERMISSION**

#### **Proposal**

The current proposal seeks permission to erect a number of lights to the car park and building at the Dewey Sport Centre in Bloxham. This would consist of 5 x 4.6m high column lights in the car park, 7 bollard lights to the access way and 24 lights attached to the building.

#### **Consultations**

The following consultees have raised **objections** to the application:

- CDC Appointed Lighting Designer, CDC Ecology, Bloxham Parish Council

The following consultees have raised **no objections** to the application:

- CDC Environmental Protection, OCC Highways, OCC Archaeology

8 letters of objection have been received and 36 letters of support have been received.

#### **Planning Policy and Constraints**

The site is located within the Bloxham Neighbourhood Plan area. The Bloxham Conservation Area lies to the west of the site.

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

#### **Conclusion**

The key issues arising from the application details are:

- Principle of development
- Landscape and visual impact including heritage
- Residential amenity
- Ecology impact

The report looks into the key planning issues in detail, and Officers conclude that the proposal is unacceptable for the following reasons.



1. The lighting would be excessive for the site and would cause harm to the character and appearance of the area.
2. Based on the limited information provided the impact of the development on bats using the site would be unacceptable.
3. Inadequate information has been provided to demonstrate there would be not significant adverse effect to neighbouring properties.

**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 Dewey Sport Centre located to the eastern side of Bloxham. The site consists of a sports centre with sports hall, squash courts, climbing wall and gym and has astroturf pitches and multiuse games areas to the south and east of the building. Further to the east is open countryside. The Jubilee Park and hall exist to the north of the site and residential properties exist to the south and west of the site.

### **2. CONSTRAINTS**

- 2.1. The application site is within Bloxham Neighbourhood Plan Area and the Conservation Area exists approximately 60 metres to the west of the site.

### **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The current application seeks permission to provide lighting to the car park and external areas of the building on the site.
- 3.2. The access to the car park exists to the west of the site through the Jubilee Centre parking area with the car park being situated to the north east of the existing building. It is proposed to light the access to the car parking with bollard lights along the northern part of the access this includes the removal of an existing lighting column adjacent to the entrance to the site. The parking area would be illuminated with 5 x 4.6 metre tall car parking columns.
- 3.3. It is also proposed to provide lighting to the external elevations of the buildings. This includes lighting to all the elevations and includes the retention of existing flood lights on the northern and eastern elevation of the building. In total 24 external lights would be placed on the building. Whilst much of these would replace existing lighting, much of the existing wall lighting that exists on the building at the current time does not appear to benefit from consent including the lighting on the more modern extension to the west of the site.
- 3.4. The lighting is proposed to be switched off when the building is not in use and would be switched off at 22:15hrs at the latest.

### **4. RELEVANT PLANNING HISTORY**

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
CHN 366/84	Erection of new sports facility	Appeal Allowed
93/00530/N	Installation of 14 metre high floodlighting to existing all-weather hockey pitch	Application Refused
94/00617/N	Installation of 14 metre high floodlighting to existing all-weather hockey pitch	Application Refused
05/02289/F	Construction of 2 new squash Courts (as amended by plans received 12.01.06)	Application Permitted

The above included a condition requiring the submission and approval of any external lighting.

06/00334/F	Provision of floodlights to the playing surface	Appeal Dismissed
06/00932/F	Single storey extension to provide secure equipment store.	Application Permitted
07/02628/F	21 No. Lowland Luminaires to car park perimeter.	Application Permitted
10/00726/F	Single storey lean-to to form secure storage for sports equipment	Application Permitted
13/00194/F	Repair/replacement of roof to sports hall; new visitor lavatory accommodation; new single storey structure to provide storage; new gallery	Application Permitted
18/01252/F	Erection of 12 floodlights, extension of existing car park, relocation of long jump, and associated landscaping	Application Refused

- 4.2. The flood lighting application was recently determined by the planning committee and refused for the following reason;

*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.*

- 4.3. A 2006 application, for 8 x 15m floodlight masts serving just the further pitch from the main gymnasium building, was also refused – and the decision upheld at appeal. The Inspector concluded that the floodlights would have, *‘a visually intrusive impact, harmful to the intrinsic character of the surrounding area, including the unlit countryside’ and that when not illuminated.....would appear as a tall incongruous feature beyond existing built development..... detracting from the setting of the village as a whole’*. The Inspector concluded that the setting of the conservation area would not be affected as the lights would be separated from that by other development. With regards resident amenity and traffic issues, the Inspector did not have concerns in this regard.

## **5. PRE-APPLICATION DISCUSSIONS**

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

## **6. RESPONSE TO PUBLICITY**

- 6.1. 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 26.03.2019, although comments received after this date and before finalising this report have also been taken into account.

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

### In support – 36 comments

- Lighting is required to ensure safe use of the site.
- Improvement to personal safety from the lighting
- Lighting of the site is required for health and safety of the site. It is dangerous without lights.
- Enhancement to the site should be encouraged to promote health and wellbeing. The building is used by many groups and the school.
- Since the lights have been turned off the car park is dangerous.
- Other sites in the area have much higher levels of illumination.
- Reduction in Crime and Disorder.

### In objection – 8 comments

- Harm to rural character and appearance of area.
- Sensitive edge of village site.
- The current level of lighting is excessive
- Detrimental impact on residential amenity
- Detrimental impact on wildlife
- Existing lighting is unauthorised.

- Lighting left on all the time and not switched off as stated by the applicant.
- Lighting not necessary particularly around the side of the site.
- The low level bollard lighting should be reintroduced which was appropriate for the site.

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

## 7. RESPONSE TO CONSULTATION

7.1. 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.

### COUNCILLOR

7.2. COUNCILLOR HEATH: Requests application be called to committee in light of the parish councils comments.

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.3. BLOXHAM PARISH COUNCIL: **Objects.** This application is contrary to the following policies in the Bloxham Neighbourhood Plan: BL9 and BL11 and Cherwell District Council's Part 1 Adopted Local Plan July 2015. In addition:

- the lighting which is proposed is far in excess of what is needed to light this car park;
- the 5 columns showing levels of 25 lux, appears to be contrary to the recommendations of EZ2 (rural) of 15 lux;
- the proposal affects the visual amenity of an intrinsically dark area; and
- the proposed lighting will have negative impact of the amenity of residents of 1, 2, 3 Waters Court

### CONSULTEES

7.4. INDEPENDENT LIGHTING CONSULTANT ON BEHALF OF CDC: **Objects.**

#### *Car parking lighting*

7.5. In general, the proposed luminaire and mounting height and proposed 0 degree tilt angle are acceptable in principle, along with the selected colour temperature of 3000K. The proposed illuminated bollards should also be of a warm white colour temperature (3000K) as per the column mounted luminaires.

7.6. The applicant lighting report (28/02/19) states "For any UK Car Park a minimum of 15lux @ 0.25 Uniformity is required". There appears to be no justification for this statement, furthermore lighting recommendations for Car Parking areas are outlined in British Standards document BS 5489 – 1 :2013 Table 5. Within the guidance, there are examples given for type of area and usage relevant to the car park. These are:

- Light Traffic, e.g. parking areas of shops, terraced and apartment houses; cycle parks.

- Medium Traffic, e.g parking areas of department stores, office buildings, plants, sports and multipurpose building complexes.
- Heavy traffic, e.g. parking areas of schools, churches, major sports and multipurpose sports and building complexes.

7.7. The guidance states:

7.8. “The appropriate lighting level should be selected from Table 5, taking into account the type and location of the car park, and should be provided and maintained through all the night-time hours of use.

7.9. *NOTE 1: A different level may be selected at periods of night when the usage is significantly different to normal usage.”*

7.10. Whilst the applicant’s lighting assessment report takes into consideration the car park in the context of the facility, it fails to recognise the setting of the relatively small car park in a rural setting. The car park is also significantly smaller than would be associated with a multipurpose sports and building complex, so is unlikely to attract a heavy traffic flow.

7.11. Therefore, it is recommended that the proposed average illuminance is revised in accordance with the criteria for ‘light traffic’ car parks. (5.0 Lux average / 0.25 Uniformity) because the proposed illuminance levels for the car parking area are significantly higher than those required for a small car park.

7.12. Given the rural setting of the application site, it is also expected that the car park lighting would be dimmed or switched off when the sports facility is closed as the background levels of luminance in the area are low, due to the infrequent locations of the public lighting.

7.13. The lighting proposals include the use of illuminated bollards to provide lighting to the access road serving the car park, this is an acceptable approach on the basis that the building mounted floodlights (type D shown on drawing 118211-211) are not being used to provide light for the access road / track.

#### *Proposed Wall Lighting*

7.14. Merit is given to the proposed luminaire to replace the existing wall mounted bulkheads, as the light will be focussed directly downwards, reducing the potential for significant light spill towards adjacent residential dwellings. However, the proposed lighting levels are excessive with no justification for the lighting design rationale. The Halliday Lighting report states: “Each footpath will also be lit to 5lux Minimum”, but this does not appear to have been achieved as the minimum stated illuminance.

7.15. Whilst the vertical illuminance levels as presented appear acceptable, there are no details relating to the reference height of the calculation. This vertical illuminance calculation should be provided for the rear face of the adjacent residentially dwellings to provide evidence that the light spill levels are within limits at the dwelling windows. For the avoidance of doubt, ILP - Guidance Notes for the Reduction of Obtrusive Light (GN01-2011) provides limits on light spill into windows. The guidance states for E2 Environmental Zones, light spill into windows should not exceed 5.0 lux (pre-curfew) and 1.0 lux (post curfew).

7.16. It is recommended that the proposed lighting levels in this area are reduced in line with BS EN 12464-2 : 2014 (Lighting of outdoor work Places) – Table 5.1: General

requirements for areas and for cleaning at outdoor work places (Ref no. 5.1.1-Walkways exclusively for pedestrians. This would see the light levels reduced to an average of 5.0 Lux 0.25 Uniformity.

- 7.17. Given the low level of ambient luminance in the environment, this would significantly reduce the potential for the luminance of the façade to dominate the landscape.

*Existing luminaires (Type C and D)*

- 7.18. The inclusion of the existing flood light noted as type C on drawing 118211-211 is not likely to have affected the proposed light levels for the car park, access road and perimeter footpath. Therefore there is no requirement for the applicant to include these in the assessment.
- 7.19. It is expected that the flood lighting luminaires attached to the building (denoted 'D' on drawing 118211-211) has a symmetrical light distribution that is unlikely to provide useful light levels onto the car park access road / track. These luminaires should be tilted to 0 degrees to support this assessment.

*Summary*

- 7.20. In summary, the proposed lighting design specifies equipment that would minimise obtrusive light in the environment. Unfortunately, the proposed light levels in the car park and for the pedestrian walkway are excessive, with no justification given for the rationale behind the lighting design. Therefore, there is potential for the lighting to be significantly more dominant in the landscape than is necessary an area of low district brightness / low ambient luminance.
- 7.21. Recommend that the application for lighting is refused due to excessive light levels in the car park and on the perimeter pedestrian walkway with no justification provided.
- 7.22. CDC ENVIRONMENTAL PROTECTION: **No objections.** The lighting impact survey report makes little mention of light intrusion however the accompanying diagrams show that the plans achieve the requirement for light intrusion to be below the minimum of 5 lux at the nearest sensitive receptor. The 15 lux guideline that the Parish Council is referring to is to ensure a car park is safe to use. As such, the lighting scheme is compliant with this requirement and appears to have an average of 21 lux across the total area.
- 7.23. CDC ECOLOGY: **Objecta.** The lighting does not seem to have been specific consideration of bats in the assessments or timings of use. The earlier application did identify both the 'rarest' bats (Barbastelles) using vegetation within 50m of this site (and they can of course choose to use different flying routes over time) and a good range of other more common species of bat using vegetation in the immediate area of this application. This included slow flying myotis species which are particularly sensitive to light and classed as 'rarer' species of which most were recorded at the Northern monitoring location (next to this car park). The Bat Conservation Trust/ILP guidance note 08/18 does recommend there is no illumination of features used by highly light-averse species. We have a duty to consider their conservation. The amended lighting plan here does include UV filters and aims to reduce upward glare however the plans show five tall column lights around the carpark, two of which are within the vegetation to the North and show a lux spill into the vegetation which is the equivalent of typical road side lighting. Raises no issues with the bollard lighting but currently feel the carpark lighting would have a detrimental effect on bats foraging in the area and could be much reduced particularly to the North. Would expect an assessment of impacts on bats for this

application to be submitted to check how they might be impacted by the proposed lighting as they have not been addressed specifically in the documentation. Should there be impacts and if impacts cannot be avoided then mitigation may be required.

7.24. OCC HIGHWAYS: **No objections.**

7.25. OCC ARCHEAOLGY: **No objections.**

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

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

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

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

- PSD1 - Presumption in Favour of Sustainable Development
- ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 - Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- BSC7 - Meeting Educational Needs
- BSC10 - Open Space, Outdoor Sport and Recreation Provision
- Policy Villages 4 - Meeting the Need for Open Space, Sport and Recreation

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

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

### BLOXHAM NEIGHBOURHOOD DEVELOPMENT PLAN (2015-2031)

- Policy BL9 - Policy on regard for the amenity of existing residents
- Policy BL11 - Policy on contributing to the rural character of the village
- Policy BL12 - Policy on the importance of space and key street scenes

### Other Material Planning Considerations

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

8.3. Council Corporate Priorities

Cherwell District Council’s Business Plan for 2019-20 sets out the Council’s three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future

taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is “Clean, Green and Safe”, that it supports “Thriving Communities & Wellbeing”, and is a District of “Opportunity & Growth”. All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) deliver the Growth Deal; (9) delivery innovative and effective housing schemes; and (10) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals depending on the issues raised.

The above corporate priorities are considered to be fully compliant with the policy and guidance contained within the National Planning Policy Framework and National Planning Practice Guidance.

## **9. APPRAISAL**

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

- Principle of development
- Landscape and visual impact including heritage
- Residential amenity
- Ecology impact

### Principle of Development

#### *Policy Context*

9.2. Policy BSC10 of the Cherwell Local Plan (CLP) 2015 states ‘*The Council will encourage partnership working to ensure that sufficient quantity and quality of, and convenient access to open space, sport and recreation provision*’. Amongst other measure this will be achieved through qualitative enhancement to existing sporting provision.

9.3. The NPPF seeks to ensure that places are safe and accessible and support healthy lifestyles through the provision of safe and accessible sports facilities (para 91). Paragraph 92 states that planning decisions should support the development of established facilities in developing and modernising.

#### *Assessment*

9.4. The current application has come about as the previously approved bollard lighting that served the car park was removed and replaced with pole mounted lighting. The current application therefore seeks to provide a new lighting scheme to the car park and building.

9.5. Officer are of the view that there is a need to lighting within the car park to improve the user experience of the site and allow safe and accessible access to the car park and building to serve the existing recreational use of the site which serves both the school and the wider community. It is clear from a number of comments received that the site is used and the provision of lighting aids their use of the site and



improve the safety and accessibility of the site. It is also noted that the principle of providing lighting on the site within the car park has previously been approved and the proposal to provide lighting on the site is therefore considered by officers to be acceptable subject to the other considerations outlined below.

#### Landscape and visual impacts including heritage

##### *Policy context*

- 9.6. Policy ESD13 states that development will be expected to respect and enhance local landscape character and will not be permitted if they cause an undue visual intrusion into the open countryside, be inconsistent with local character or harm the setting of settlements. *Policy ESD15* of the CLP 2031 Part 1 also states that development should complement and enhance the character of its context through sensitive siting, layout and high quality design and conserve, sustain and enhance heritage assets. It goes on to state that the proposals should limit the impact of light pollution from artificial lighting on local amenity.
- 9.7. Policy BL11 of the Bloxham Neighbourhood Plan states that development should *'Use smart, energy efficient lighting of public areas that accords with the recommendations of the Institute of Lighting Engineers recommendations on reduction of obtrusive light (or its successors) so as to convey a rural feel and avoid light pollution wherever possible'*
- 9.8. Paragraph 180 of the NPPF states that planning decisions should ensure new development is appropriate for its location taking into account the likely effects of pollution. In doing so planning decisions should limit the impact of light pollution from artificial light on local amenity and nature conservation.

##### *Assessment*

- 9.9. The application site is located on the edge of the village adjoining the surrounding open countryside. The building itself has a closer relationship with the built form of the village than the car parking which is somewhat more detached from the buildings and surrounded by sports pitches. The open countryside is relatively flat stretching to the east, but falls away to the north and south. There are a number of public footpaths along the ridge to the east which appear to be in regular use. As is demonstrated from the previous planning applications on the site it is sensitive to artificial light.
- 9.10. The proposed lighting columns within the car park themselves are not considered to have a significant visual or landscape impact given the overall height of these and the relationship with the surroundings they are experienced. They could be considered to be coloured to further reduce this impact. Given the scale of the proposal and the intervening buildings the proposals are also not considered to have a detrimental impact on the setting of the Conservation Area situated to the west of the site.
- 9.11. There are, however, significant concerns regarding the lighting levels that are proposed and the impacts of this on the visual amenity of the area at an edge of village location. Given the rural environment of the site, the ambient light environment in the area is low and this increases the sensitivity of the site. It is clear that planning policy requires proposals to limit the impact of light pollution from artificial light.
- 9.12. The Council has instructed a lighting consultant to provide advice on the proposed lighting levels for the site having regard to best practice, standards and the local

context. The site is located in a rural area, which is considered to be classified as environmental Zone E2 considered against the guidance within ILP 'Guidance notes for the reduction of obtrusive light'. This guidance also provides guidance on light spill and glare.

- 9.13. The applicant's lighting report argues that, in accordance with the relevant British Standard, the proposed car park should have minimum lighting level of 15 lux at 0.25 Uniformity. The submitted plans appear to show the lighting would provide an average illuminance levels over the car park area of 21 lux with a uniformity of 0.35.
- 9.14. The Council's lighting consultant has considered the proposals against the relevant guidance and standards. This is a judgement based on professional expertise, taking into account the size of the car park, the scale of the facility and the rural context of the site. Based on the information provided they consider the site is likely to be considered to be a 'lightly traffic' area for which the British Standards indicate 5.0lux average with 0.25 uniformity. Based on the lighting proposals provided they therefore conclude that the level of lighting in the car park would be excessive for the requirements of the site and would result in unjustified harm to the environment in this respect, which would be viewed from the surrounding land.
- 9.15. In relation to the building lighting this is designed to angle the lights downwards to reduce glare and provide directional lighting. The Council's lighting consultant has, however, stated that the wall lighting appears to be excessive with little justification for the lighting design rationale.
- 9.16. The Council's lighting consultant is generally satisfied with the other aspects of the scheme such as the colour temperature, height and angle tilt.
- 9.17. The flood lights which are situated on the northern and eastern elevations of building of the building are not included within the lighting assessments. The Council's lighting consultant has indicated that the flood lights located on the northern and east elevation of the building are unlikely to provide useful light levels into the car park or access ways. Clearly, however, these lights add to the overall levels of lighting at the site. This adds to officers overall concerns that the levels of lighting at the site would be excessive for the requirements of providing safe access around the car park and to the building.

### *Conclusion*

- 9.18. Whilst officers accept the principle of providing lighting at the site to aid the use of the site, officers are of the opinion that the current proposal would be excessive and not would limit the impact of light pollution from artificial lighting on the local environment and the lighting to be significantly more dominant in the landscape than is necessary or justified in an area with relatively low levels of lighting. It would be contrary to Policy ESD13 and Policy ESD15, Policy BL11 of the BNP and advice in the NPPF.

### Residential Amenity

#### *Policy context*

- 9.19. Policy ESD15 of the CLP 2031 states that new development should consider the amenity of both existing and future development and should limit the impact of light pollution on local amenity. Saved Policy C28 of the CLP 1996 echoes this guidance.

- 9.20. Saved Policy C31 of the CLP 1996 states that in existing residential areas, any development which is not compatible with the residential character of the area or would cause an unacceptable level of nuisance will not normally be permitted.
- 9.21. Policy BL9 of the BNP 2031 states that all development shall ensure that the living conditions of neighbouring residents are not materially harmed.
- 9.22. Paragraph 170 of the NPPF states that planning decisions should prevent new and existing development from contributing to unacceptable levels of pollution.

#### *Assessment*

- 9.23. The properties which would be most significantly impacted upon by the lighting would be the properties immediately to the west of the site in Waters Court and Barley Croft. The application site is separated by this site by planting on the western boundary.
- 9.24. The column lighting proposed in the car park lighting is located some distance from the neighbouring properties and would be angled downwards to regard light spill and glare. The Council's Environmental Protection Officer is generally satisfied with the proposal and has raised no objection to the proposal in regard to the impact on the amenity of the neighbouring properties. It appears that some of the concerns relates to the lights being left on throughout the night and a planning condition could be imposed on any consent to ensure the lights were switched off at 22:15 as stated by the applicant.
- 9.25. In regard to the lighting on the western elevation of the building the Council's lighting engineer has stated whilst the vertical illuminance levels as shown on the submission acceptable there are no details relating to the reference height of the calculation and they have advised that the vertical illuminance calculation should be provided for the rear face of the adjacent residentially dwellings to provide evidence that the light spill levels are within limits at the dwelling windows. To date this is unclear and it has not therefore been demonstrated that the proposal would be acceptable in this regard.

#### *Conclusion*

- 9.26. Generally the impact on the neighbouring properties is considered to be acceptable in regard to light spill and glare. That said, the lighting could be required by condition to be switched off at 22:15 to further reduce the impact. There are, however, some concerns regarding the proposed wall lighting on the western elevation of the building and it has not been demonstrated within the submission that the light spill levels to these property would be acceptable.

#### Ecology Impact

#### *Legislative context*

- 9.1. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.

- 9.2. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.3. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.
- 9.4. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
  - (2) That there is no satisfactory alternative.
  - (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
- 9.5. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

#### *Policy Context*

- 9.6. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.7. Paragraph 175 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

- 9.8. Paragraph 180 of the NPPF states that planning 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 (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 9.9. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.10. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.11. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

#### *Assessment*

- 9.12. During the course of the previous application on the site for the flood lights on the sports pitches a number of bat surveys were undertaken with monitoring locations to the northern boundary of the site (adjacent to the car park) and southern boundary adjacent to Ridgeway. This identified bat foraging and commuting activity at the site including some bats classified as the 'rarest' (Barbastelle) and rare species (Nathusius pipistrelle), which were identified on the southern boundary away from the car park. It also identified common and more widespread species on the northern boundary. This included slow flying myotis species which are particularly sensitive to light and classed as 'rarer' species of which most were recorded at the Northern monitoring location (next to this car park).
- 9.13. The Council's Ecologist (CE) has been consulted and has raised concerns regarding the proposals and the potential impact on bats. The amended lighting plan does include UV filters and aims to reduce upward glare however the plans show five tall column lights around the carpark, two of which are within the vegetation to the North and show a lux spill into the vegetation which is the equivalent of typical road side lighting. Given the findings of the earlier bat surveys the CE is concerned regarding the impact on bats and the application documentation does not make an adequate assessment of this. It is noted the Bat Conservation Trust/ILP guidance note 08/18 does recommend there is no illumination of features used by highly light-averse species.
- 9.14. Overall the CE is of the view that the application documentation does not make a sufficient assessment of the impacts of the proposals on bats to fully understand how they might be impacted by the proposed lighting or to suggest any mitigation.
- 9.15. Having regard to the Local Planning Authority's duty under the Conservation of Habitats and Species Regulations 2017, the lack of a suitable ecological information

and proposed mitigation strategy means that it has not been demonstrated that the proposal will not cause harm to any protected species or its habitat which is reasonably likely to be present and affected by the development. The proposal is therefore contrary to Policy ESD10 of the CLP 2031 Part 1, advice contained in the PPG and Natural England's Standing Advice, and section 15 of the National Planning Policy Framework.

## **10. PLANNING BALANCE AND CONCLUSION**

- 10.1. The proposed development would result in some benefits associated with the safe use of the existing building and uses on the site and this would support the schools and wider community use of the sports facility. Whilst it is considered that the principle of lighting the site is acceptable, it is considered that the proposal would be excessive and would result in unjustified harm to the local amenity, ecology and would not limit the impacts of artificial light pollution in accordance with local and national planning policy. The proposal has also failed to adequately demonstrate that the light spill to the neighbouring properties would be to an acceptable level.
- 10.2. Overall the benefits of the proposal are considered to be outweighed by the harm when viewed as a whole against the policies in the Development Plan and the NPPF. It is therefore recommended that planning permission be refused.

## **11. RECOMMENDATION**

### **RECOMMENDATION - REFUSAL FOR THE REASONS SET OUT BELOW**

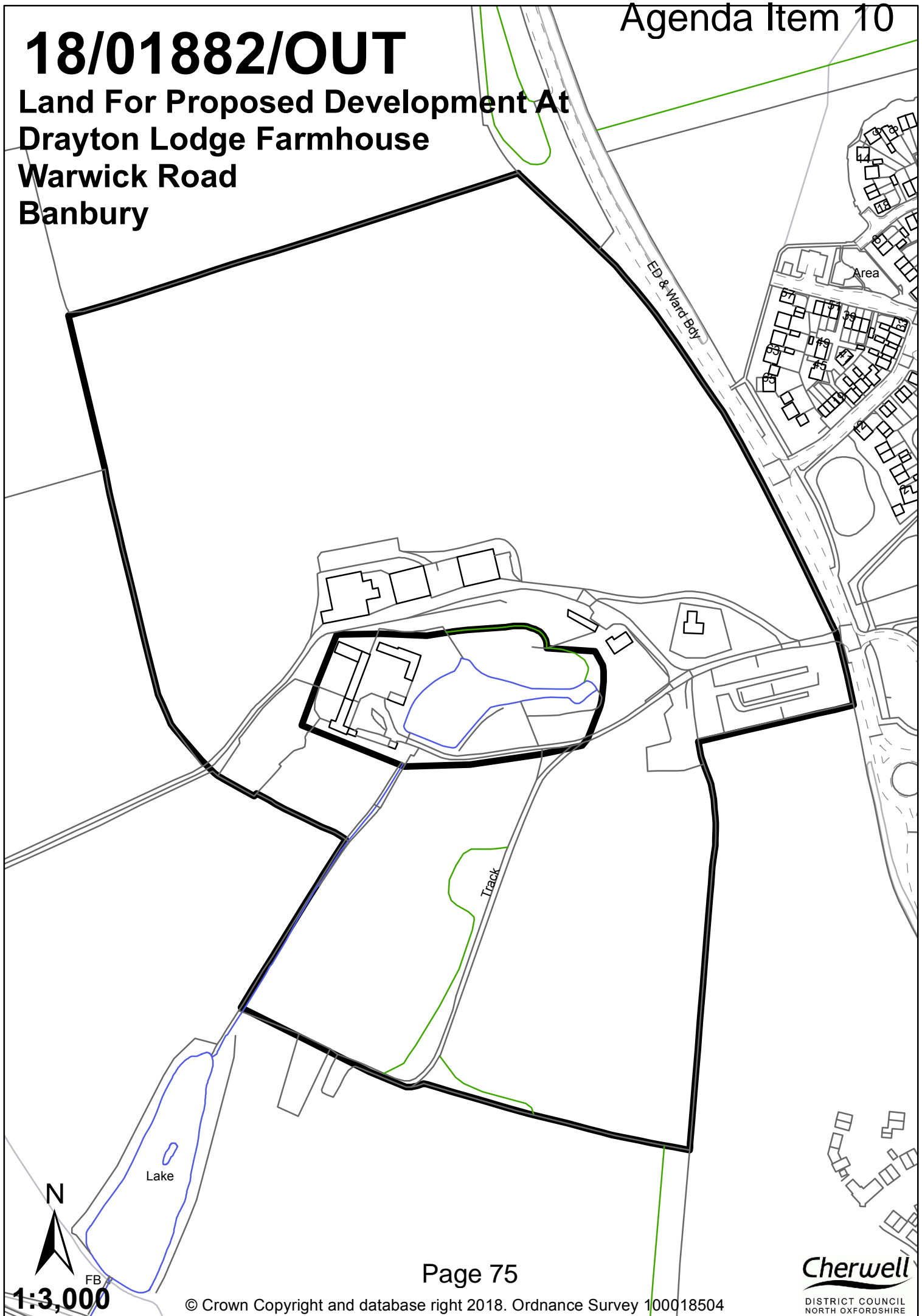
1. The proposed lighting, due its excessive illuminance, has an unjustified urbanising and harmful impact on the rural character and appearance of the area. Therefore, the development is contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1, Policy BL11 of the Bloxham Neighbourhood Plan 2015-2031 and Government guidance contained in the National Planning Policy Framework.
2. Having regard to the Local Planning Authority's duty under the Conservation of Habitats and Species Regulations 2017, the lack of a suitable ecological information and proposed mitigation strategy means that it has not been demonstrated that the proposal will not cause harm to any protected species or its habitat which is reasonably likely to be present and affected by the development. The proposal is therefore contrary to Policy ESD10 of the CLP 2031 Part 1, advice contained in the PPG and the National Planning Policy Framework.
3. The application fails to adequately demonstrate that the wall lighting to the building would not have a detrimental impact on the amenity of the properties to the west of the site. Therefore, the development is contrary to Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1, saved Policies C28 and C31 of the Cherwell Local Plan 1996, Policy BL9 of the Bloxham Neighbourhood Plan 2015-2031 and Government guidance contained in the National Planning Policy Framework.

CASE OFFICER: James Kirkham

TEL: 01295 221896

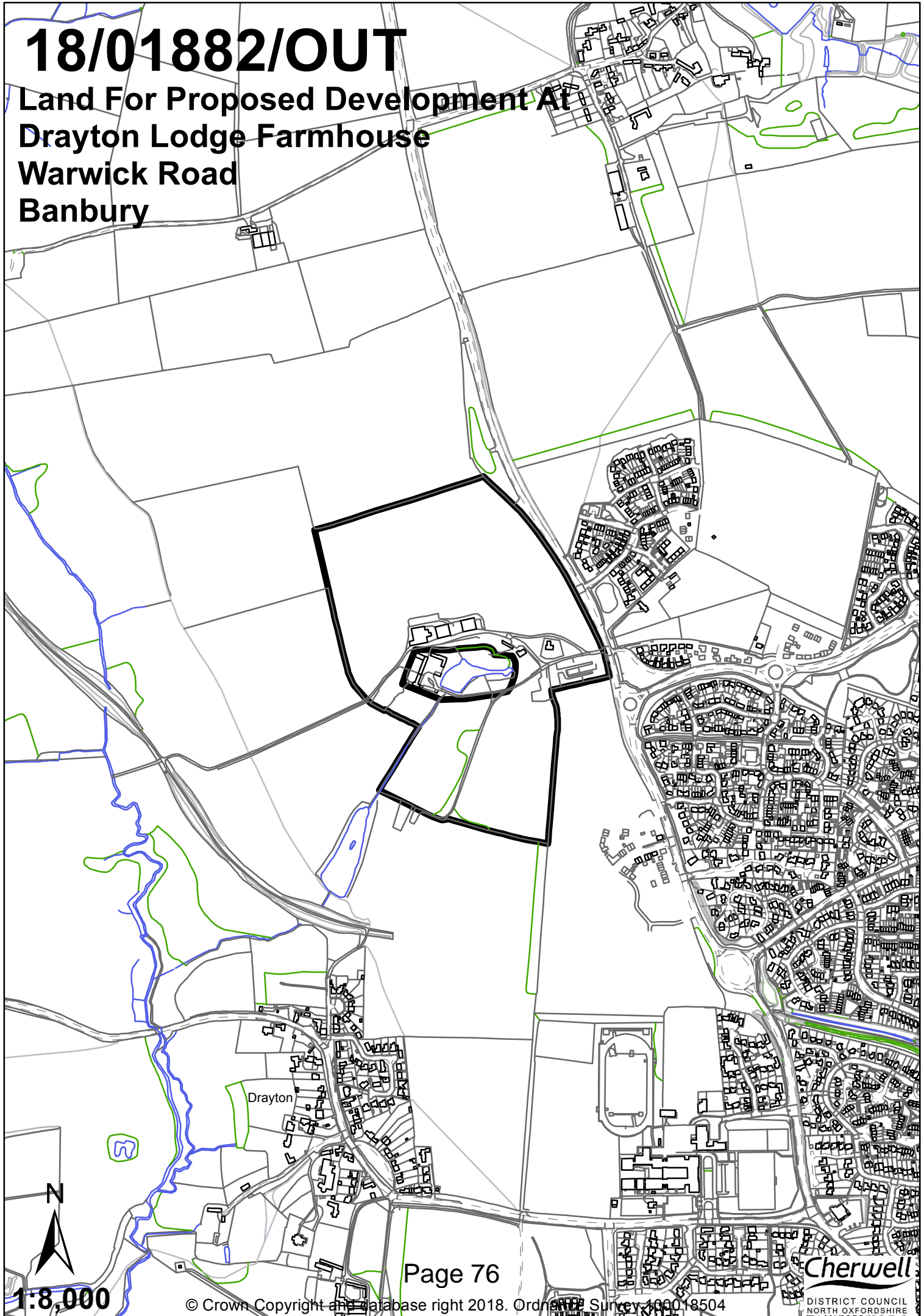
**18/01882/OUT**

**Land For Proposed Development At  
Drayton Lodge Farmhouse  
Warwick Road  
Banbury**



# 18/01882/OUT

Land For Proposed Development At  
Drayton Lodge Farmhouse  
Warwick Road  
Banbury



Drayton



**Case Officer:** Linda Griffiths

**Applicant:** Trinity College (Bursar)

**Proposal:** OUTLINE: Residential development, comprising the erection of up to 320 dwellings including affordable housing, together with a local centre of 0.5ha (providing retail and community facilities), landscaping, public open space, playing fields, allotments, access and associated infrastructure.

**Ward:** Cropredy, Sibfords And Wroxton

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

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

### **RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS/AND SUBJECT TO A S106 LEGAL AGREEMENT**

#### **Proposal**

The application seeks outline planning permission on 18.7ha for up to 320 dwellings, including affordable housing, a local centre of up to 0.5ha which could include local retail and a community building, playing fields, play areas and allotments. The site is allocated for development under Policy Banbury 18. The proposed development however incorporates additional areas of land that are not within the allocation, close to the existing site entrance which was used as a touring caravan site and a larger area along the existing valley within the south west part of the site and proposes up to an additional 70 dwellings.

#### **Consultations**

The following consultees have raised **objections** to the application:

- OCC Highways raised objections to the initial submission but these have subsequently been removed, CDC planning policy, CDC landscape officer

The following consultees have raised **no objections** to the application:

- CDC Design and conservation, CDC Public Rights of way, CDC Environmental health, Thames Water, Environment Agency, OCC Drainage, OCC Education, OCC Archaeology, OCC Waste Management, , Banbury Town Council

The following consultees are **in support** of the application:

- CDC Strategic Housing, Drayton Parish Council

1 letter of support has been received.

#### **Planning Policy and Constraints**

The application site is within an archaeological constraint priority area. Landscape evidence has also recognised that consideration should be given to the protection of the Drayton Conservation area to the south of the site and care should also be taken to avoid

visual prominence of the development from within the Sor Brook Valley. The central part of the site which contains an existing copse, farmhouse and traditional farm buildings is excluded from the application site but must be protected during the development. There are bats roosting within buildings to be demolished and potentially in the trees and there are badger setts both on and off the site. Grass snakes are also present in low numbers and there are a range of birds including red listed species. A public right of way exists through the site, with footpath 191/6 entering the site to the north east across the Warwick road and forming a bridleway (191/2) within the site which then extends on to Drayton Village, located approximately 0.5km to the south west.

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

## **Conclusion**

The key issues arising from the application details are:

- Principle of Development
- Access and transport impacts
- Flood risk and drainage
- Landscape, visual impact and settlement character
- Design and impact on the character of the area
- Heritage and archaeology
- Housing mix and affordable housing
- Ecology and biodiversity
- Open space and outdoor recreation
- Noise impact assessment
- Air quality assessment
- Planning obligations

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable 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 to the north west of Banbury, adjoining the new urban edge created by the new residential development adjacent currently being delivered by Miller Homes and Taylor Wimpey. The site extends to 18.7 hectares and comprises mainly agricultural land and associated buildings, centred on Drayton Lodge Farm. The site currently includes modern agricultural buildings (three portal frame sheds) and two dwellings comprising a two storey cottage and a bungalow. The development site area does not include Drayton Lodge farmhouse or its traditional outbuildings and the adjacent pond. Historically the site also contained a golf driving range, a par three 9-hole golf course and small touring caravan site but these uses have now ceased.
- 1.2. The site is bounded to the east by Warwick Road (B4100) and by the approved Miller Homes development, now known as Warwick Chase which comprises 300 residential units and local facilities. To the north east, on the opposite side of

Warwick Road, lies the Hanwell Fields residential development. Further to the north east lies the village of Hanwell.

- 1.3. Land to the south, west and north of the application site comprises arable fields, with the land sloping down to the south and west, into the Sor Brook Valley, which was formerly occupied by a railway line. The tributary valley, immediately adjoining the southern side of the site contains a large pond and brook. Footpath 191/30 passes along the southern edge of the pond, and runs along the lower slope of the main valley side, towards the north east. A public right of way exists through the site, with footpath 191/6 entering the site to the north east, across the Warwick Road, and forming a bridleway (191/2) within the site, which then extends on to Drayton village located 0.5km to the south west.

## **2. CONSTRAINTS**

- 2.1. The application site is within an archaeological constraint priority area. Landscape evidence has also recognised that consideration should be given to the protection of the Drayton Conservation Area and that care should be taken to avoid visual prominence of development from within the Sor Brook Valley. The central part of the site where the existing buildings and dwellings are located is surrounded by a copse which must be protected from development. This area is excluded from the application site. The key site specific design and place shaping principles of Policy Banbury 18 seeks to address the above mentioned constraints.
- 2.2. A public right of way exists through the site, with footpath 191/6 entering the site to the north east, across the Warwick Road and forming a bridleway (191/2) within the site, which then extends on to Drayton Village, located approximately 0.5km to the south west.
- 2.3. Drayton village lies within a Conservation Area and the boundary of the conservation area includes part of the open countryside to the east of the village. A tree at the existing entrance into the site from Warwick Road is protected by a Tree Preservation Order (TPO 14/91).
- 2.4. The site constraints have also identified that the site could be potentially contaminated with naturally elevated levels of arsenic. The site is also within 2km of Neithrop Fields Cutting SSSI and there are a number of Protected and Notable Species within a 250m buffer of the site.

## **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The application site is allocated for residential development under Policy Banbury 18 of the adopted Cherwell Local Plan Part 1 2011-2031 comprising 15ha and a development of approximately 250 dwellings. The submission therefore exceeds the allocated area in both site area and the proposed number of dwellings. The application seeks outline planning permission on 18.7ha for up to 320 residential units, including affordable housing, a local centre of up to 0.5ha, including local level retail provision and a community hall, playing fields, play areas and allotments. The proposed development incorporates an additional area of land that is not within the allocation close to the existing entrance which was used as a touring caravan site as well as an area along the existing valley, within the south west part of the site.
- 3.2. All matters, apart from access are reserved for later approval although a series of parameter plans and Design and Access Statement have been submitted as part of this application, the principles of which will be carried through to the reserved matters. The application proposes one new vehicular access point directly to the Warwick Road with additional vehicular access points into the site from the adjacent

Miller Homes/Taylor Wimpey site. The existing access to Drayton Lodge farm will provide pedestrian and cycle access into the site and to the proposed community facility.

- 3.3. *Timescales for Delivery:* At the time of writing this report there is no definite timescale for delivering the site as there is currently no appointed partner in place.

#### 4. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
15/00105/SO	SCREENING OPINION - 350 dwellings	Screening Opinion requesting EIA  Screening Direction issued by Secretary of State advising not EIA development
16/00001/SCOP	Proposed development of up to 350 dwellings	Scoping Opinion Issued
18/00086/SO	Residential development, comprising the erection of up to 320 dwellings including affordable housing, together with a local centre of 0.5ha (providing retail and community facilities), landscaping, public open space, playing fields, allotments, access and associated infrastructure.	Screening Opinion not requesting EIA
16/00839/TPO	Pruning of four branches in order to facilitate the machinery movement required to install new gravity sewer. - Subject to TPO 14/91.	Application Permitted

#### 5. PRE-APPLICATION DISCUSSIONS

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

<u>Application Ref.</u>	<u>Proposal</u>
15/00262/PREAPP	Pre-Application Advice - 320 new dwellings
18/00048/PREAPP	Follow up Pre-application Advice to 15/00262/PREAPP - 320 new dwellings

- 5.2. Whilst the additional land and increased number of dwellings would represent a departure from the development plan, it may be acceptable provided it can be shown that the site can be delivered early on in the plan period and without causing harm, but that this must be demonstrated and justified through the planning submission. The pre-app was also subject to Design Review and whilst the Panel found much to commend the scheme, they were keen to raise the standard of design for this development compared to those adjacent and advised that careful design of the height and extent of the built development to minimise adverse visual impact on the setting of Drayton village and its Conservation Area needed careful consideration.

## 6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a number of site notices displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 06.12.2018, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. The comments raised by third parties are summarised as follows:
- Stagecoach lends its qualified support to bring forward this allocated site.
- 6.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

## 7. RESPONSE TO CONSULTATION

- 7.1. 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

- 7.2. DRAYTON PARISH COUNCIL: **comment** as follows.
- Southern boundary should be screened with additional trees as there is concern how few trees are planned along this boundary. A well-defined border is very important to keep the village identity.
  - Parish boundary should change so that development is within Banbury, not Drayton Parish
  - Clarity needed on who will be responsible for the lake and wildlife corridor once complete
  - In the absence of increased planting, concern that future development might extend towards the old railway track, impinging on the Drayton Conservation Area and impacting on the distinctiveness of the village
  - Mixed feelings about a hard surface path from the end of Queens Crescent to the new development.
- 7.3. BANBURY TOWN COUNCIL: **No objection** but some concern about the efficiency of the proposed access and traffic build up around the proposed access nearest to Nickling Road.

## CONSULTEES

- 7.4. OCC HIGHWAYS: **objections**. The methodology used in the traffic impact assessment is not robust and requests that outputs from the Banbury Strategic Model are used to inform the study area and inputs for future year junction impact assessments. In the interest of road safety, the length of visibility splay at the site access junction needs to be informed by the actual 85<sup>th</sup> percentile wet weather speed in that location, rather than the signed speed restriction. The accident history analysis must be based on up to date information from the Highway Authority. The study area for the analysis needs to be determined by robust assumptions of the development's traffic distribution. A plan is required to demonstrate that the required bus stop with hardstanding and shelter, footway/cycleway and a toucan crossing can be accommodated on the B4100 near to the pedestrian and cycle access into the site. In the absence of this, the county council cannot be satisfied that the development provides safe and suitable access for all. A number of conditions are also recommended.
- 7.5. **Update 16<sup>th</sup> May 2019:** Following the receipt of additional and amended information OCC's transport objection has been withdrawn (subject to conditions and legal agreement). All other points raised in OCC's previous response continue to apply other than where addressed through this response which can be read in full on the application file.
- 7.6. OCC DRAINAGE: **No objection** subject to a pre-commencement condition as the drainage information provided at this stage is insufficient to ensure a satisfactory drainage scheme will be secured for the site.
- 7.7. OCC EDUCATION: **No objection** subject to sec 106 contributions towards nursery, primary, secondary and SEN education in Banbury.
- 7.8. OCC ARCHAEOLOGY: **no objection** subject to the imposition of planning conditions relating to a Written Scheme of Investigation.
- 7.9. OCC WASTE MANAGEMENT: **No objection**.
- 7.10. CDC PLANNING POLICY: **Objection** unless it can be demonstrated that the requirements of Policy Banbury 18 are met to the satisfaction of the council and the land to the south and west of the allocation included with the application is kept permanently free from development.
- 7.11. CDC DESIGN AND CONSERVATION: **No objection**. The development will be visible from within the Drayton Conservation area but not the historic core of the settlement. The development does not impact on the setting of Wroxton Conservation Area or Wroxton Abbey Registered Park. The non-designated heritage asset of Drayton Lodge Farm is in close proximity to the site, but there is a clear separation between the buildings and the proposed development. The key concern is that careful attention is given to the design of the edges of the settlement, particularly in relation to building height, massing and spacing between buildings as well as tree planting to ensure that the visual impact on Drayton Conservation Area is minimised.
- 7.12. CDC LANDSCAPE OFFICER: Initial comments advised that the site is generally well contained within the surrounding landscape from the north and west, but is most visible from the adjoining built up area to the east and where it is in close proximity to Drayton Village. There are partial/glimpsed views from a distance to the west and to the north the topography and intervening hedgerows largely screen the site. The LVA appears to have assessed the site and not the development on the

site and the wireframes are missing. There may be a little under estimation of the impact from VPs 3, 4 and 8 all of which are on the southern side. Bungalows would be of benefit along the southern boundary to reduce the impact from Drayton as the results of the LVA suggest that the visibility of the site is greater from the south than the west. A deeper set back from the boundary would also help allowing more space for planting and improved screening. I would like to see a landscape concept plan at an early stage. D & A statement is poor and doesn't explain and justify proposals. LAPs and LEAPs should be overlooked. Details of SUDs drainage should be submitted.

**Update 03.06.2019** following revised LVIA. The development has not been re-assessed in written form and therefore remains a comment on visibility of the site and not the proposed development from each viewpoint. The LVA states in 6.1.2 that the site will contain mainly 2-2.5 storey houses with some up to 2 storeys on the NW and S boundaries. 7.1.1 states that 2.5 storey houses will be 10.25m high and 2 storey 9.5m This still seems excessive. To reduce the impact, 2 story dwellings could have rooms partially within the roofspace as local character dictates and therefore 7.5m high. There do not appear to be any low dwellings as was discussed and suggested to reduce the impact on sensitive boundaries. In section 7.3.5 it is suggested that the effects of the development after mitigation will be at worse minor adverse. The same conclusion is reached for VPs 2, 3, 4, 6, 7 and 8. This does not concur with my findings. There doesn't appear to be any indication how the results of the LVA will inform the layout and building heights. The illustrative framework DWG SK09 doesn't bear much relation to the wire lines. The framework shows a widely spaced built form. In reality the wirelines show something which is actually very dense and continuous in form.

I cannot support this application in its current form. Retaining the number of dwellings at 250 will permit sufficient land for lower dwellings on sensitive boundaries and a proposal in line with the planning policy aspirations for the site.

7.13. CDC ARBORICULTURAL OFFICER: comments awaited

7.14. CDC ECOLOGY OFFICER: There are bats, including rarer Barbastelle species on site both roosting and in a building to be demolished, potentially in trees and foraging across the site. Badger Setts are also present on and off the site. Grass snakes are present, as are a range of birds including red listed species. An updated protected species survey will be required prior to any works commencing on site, particularly if more than two years have lapsed from the date of these surveys. Some of the recommendations involve significant areas of green space, ecotones to wooded areas and buffer zones to badger Setts and retained vegetation with areas where public access is prevented and it is not clear if this can all be accommodated within the scheme. A metric based biodiversity impact assessment should be included for a development of this size to ensure that a net gain can be achieved with the housing proposed. A number of conditions are recommended.

7.15. CDC PUBLIC RIGHTS OF WAY OFFICER: **No objection**, the application does not appear to require the diversion of a public right of way. The footpath must not be impacted and will need to remain clear and accessible at all times. If a temporary diversion is necessary during construction, an application will need to be made to OCC accordingly.

7.16. CDC ENVIRONMENTAL HEALTH: Suggests conditions relating to a more detailed noise strategy and contamination. The submitted Air Quality Assessment is acceptable and no comments are made in respect of odour and light.

- 7.17. CDC INVESTMENT AND GROWTH REGENERATION AND HOUSING: Policy BSC3 requires 30% of the housing to be affordable, this equates to 96 subject to the required split and tenure as identified.
- 7.18. THAMES WATER: has identified an inability of the existing foul water, surface water and existing water network infrastructure to accommodate the needs of this development. Conditions are therefore recommended accordingly.
- 7.19. ENVIRONMENT AGENCY: wish to make no comments.
- 7.20. NATURAL ENGLAND: wish to make no comments.
- 7.21. THAMES VALLEY POLICE: Increases in local population do not directly lead to an increase in central government grant and therefore it is necessary to secure Section 106 contributions for infrastructure, due to the direct link between the demand for policing services. In order to mitigate against the impact of growth, TVP have calculated that the cost of policing the new growth equates to £35,402.80.

In terms of the development proposed, it is considered that the Design and Access Statement does not adequately address crime and disorder. The DAS should demonstrate how development can create accessible and safe environments, including addressing crime and disorder and the fear of crime.

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

- 7.22. OCCG: Primary medical care in North Oxfordshire is mostly at capacity and further housing growth will require additional or expanded infrastructure in place. Appropriate infrastructure contributions are therefore requested of £276,480 to support improvement of local primary care infrastructure.
- 7.23. CDC FINANCE: It is estimated that this development has the potential to attract New Homes Bonus of £1,374,078 over 4 years under the current arrangements for the Council. This estimate includes a sum payable per affordable home.
- 7.24. Officer comment:- 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. Section 70(4) of the 1990 Act (as amended) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.
- 7.25. In this particular instance, the above financial payments are not considered to be material to the decision as they would not make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority and hence the above response from the Council's Finance department is therefore provided on an information basis only.

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

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



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

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

- PSD1 – Presumption in Favour of Sustainable Development
- SLE4 – Improved Transport and Connections
- BSC1 – District Wide Housing Distribution
- BSC2 – The Effective and Efficient Use of Land – Brownfield land and Housing Density
- BSC3 – Affordable Housing
- BSC4 – Housing Mix
- BSC7 – Meeting Education Needs
- BSC8 – Securing Health and Well-Being
- BSC9 – Public Services and Utilities
- BSC10 – Open Space, Outdoor Sport and Recreation Provision
- BSC11 – Local Standards of Provision – Outdoor Recreation
- BSC12 – Indoor Sport and Recreation and Community Facilities
- ESD1 – Mitigating and Adapting to Climate change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems
- 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
- ESD17 – Green Infrastructure
- Policy Banbury 18 – Land at Drayton Lodge Farm
- INF 1 - Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8 – Sporadic development in the open countryside
- C28 – Layout, design and external appearance
- C30 – Design control
- H18 – New dwellings in the countryside
- ENV12 – Potentially contaminated land
- TR1 – Transportation Funding

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)

- Residential Design Guide SPD July 2018
- Annual Monitoring Report (AMR) December 2018
- OCC Fourth Local transport Plan 2015-2031

#### 8.4. Council Corporate Priorities

Cherwell District Council's Business Plan for 2019-20 sets out the Council's three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is "Clean, Green and Safe", that it supports "Thriving Communities & Wellbeing", and is a District of "Opportunity & Growth". All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) deliver the Growth Deal; (9) delivery innovative and effective housing schemes; and (10) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals depending on the issues raised.

The above corporate priorities are considered to be fully compliant with the policy and guidance contained within the National Planning Policy Framework and National Planning Practice Guidance.

## 9. APPRAISAL

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

- Principle of development
- Access and Transport impacts
- Flood Risk and Drainage
- Landscape, Visual Impact and Settlement Character
- Design, and impact on the character of the area
- Heritage and Archaeology
- Housing mix and Affordable Housing
- Ecology and Biodiversity
- Open Space and Outdoor Recreation
- Noise Impact Assessment
- Air Quality Assessment
- Planning Obligations

#### Principle of Development

#### *Policy Context*

### 9.2. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 also provides that in dealing with

applications for planning permission that the local planning authority shall have regards to the provisions of the development plan so far as is material to the application and to any material considerations. The Development Plan for Cherwell District comprises the adopted Cherwell Local Plan 2011-2031 and the saved policies of the adopted Cherwell local Plan 1996.

- 9.3. The National Planning Policy Framework (NPPF) states 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. Paragraph 7 of the NPPF sets out what is sustainable development, the three strands being economic, social and environmental. It is clear from this that as well as proximity to facilities, sustainability also relates to ensuring the physical and natural environment is conserved and enhanced as well as contributing to building a strong economy through the provision of new housing of the right type in the right location at the right time.
- 9.4. The NPPF does not change the status of the development plan as the starting point for decision making. Proposed development that conflicts with the development plan should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan that was adopted following Examination in July 2015 and can demonstrate a 5 year housing land supply.
- 9.5. Policy PSD1 of the Cherwell local Plan 2011-2031 accords with the NPPFs requirement for 'sustainable development' and that planning applications that accord with the policies in the statutory Development Plan will be approved without delay unless material considerations indicate otherwise.
- 9.6. The Cherwell Local Plan 2011-2031 seeks to allocate sufficient land to meet District Wide Housing needs. The overall housing strategy is to focus strategic housing growth at the towns of Bicester and Banbury and a small number of strategic sites outside these towns.
- 9.7. The application site is identified as a strategic residential development site under Cherwell Local Plan Policy Banbury 18. This policy is therefore fundamental to the consideration of the application as the majority of the site is an allocated and identified site. The policy sets out a number of parameters which need to be considered and addressed as part of any application. The site allocation description is *'this residential strategic development site will provide approximately 250 dwellings with associated facilities and infrastructure in a scheme that demonstrates a sensitive response to this urban fringe location'*. The policy further specifies that the dwelling mix shall be informed by Policy BSC4, provide 30% affordable housing together with on-site infrastructure needs to include open space, outdoor recreation, community building/retail, primary school and new access to Warwick Road.
- 9.8. The plan also includes a number of other relevant policies to this application, including those related to sustainable development, transport, flood risk, ecology, landscape and visual impact, environment and design. These policies are all considered in more detail in the appraisal below.
- 9.9. The adopted Cherwell Local Plan 1996 includes a number of policies saved by the adopted Cherwell local plan 2011-2031, most of which relate to detailed matters such as layout and design. The policies of the adopted Cherwell Local Plan 1996 are also considered in more detail below.

*Assessment*

- 9.10. The Council's current position on housing land supply is published in the 2018 AMR which shows that the district has a 5.0 year housing land supply for the period 2018-2013 and a 5.2 year supply for the next year period (2019-2024). Cherwell District Council can therefore demonstrate a five year housing land supply. In addition to this, the Written Ministerial Statement of 12<sup>th</sup> September 2018 provides for a temporary change to housing land supply policies as they apply in Oxfordshire. Until the adoption of the Joint Statutory Spatial Plan, the Oxfordshire Authorities are required to demonstrate only a 3 year supply of deliverable housing sites (as well as meeting their requirements in respect of the Housing Delivery Test). As such, policies for determining the application are only to be considered out of date where a 3 year supply of deliverable sites cannot be demonstrated.
- 9.11. Given the proposed development is allocated for residential development under Policy Banbury 18, the principle of developing the site for residential purposes is established. Whilst the proposed allocation refers to approximately 250 dwellings, this application seeks consent for up to 320 dwellings and is therefore a departure from the development plan. Policy BSC2 of the Cherwell Local Plan seeks to ensure the effective and efficient use of land and it is considered that the increase in housing numbers may be acceptable provided it can be shown that the site can be delivered early on in the plan period and without causing harm and subject to complying with other policies in the development plan and other material considerations. This should be demonstrated through the submission and will be discussed further in the appraisal below.

#### *Conclusion*

- 9.12. The proposed development site is allocated for residential development through the local plan where the principle of residential development is acceptable. Whilst the approximate number of dwellings specified in the local plan allocation will be exceeded, it is not considered that the proposed increased number will result in any significant harm and is therefore considered acceptable and compliant with Policy PSD1 relating to the presumption in favour of sustainable development and the requirements of Policy Banbury 18.

#### Heritage Impact and Archaeology

#### *Legislative and policy context*

- 9.13. The site is close to the Drayton Conservation Area which lies to the south of the site and one of the requirements of Policy Banbury 18 is that care must be exercised to minimise adverse visual impact on the setting of Drayton village and Drayton Conservation Area. There are no listed buildings within the vicinity of the site and the site is not visible from listed buildings within the central core of the Conservation Area.
- 9.14. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.15. Conservation Areas are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (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.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.

- 9.16. The application is accompanied by a Heritage Setting Assessment which has been reviewed by the Design and Conservation team and found to be acceptable. The development lies within the setting of Drayton Conservation Area. The boundary of the conservation area is unusual in that it encompasses a wide area around the setting of the historic village. The proposed development would be visible from within the boundary of the conservation area, but not from the historic core of the settlement. The key issue is that careful attention must be given to the design of the edges of the settlement, particularly in relation to building heights, massing and spacing between buildings as well as tree planting to ensure the visual impact on Drayton is minimised.
- 9.17. It is agreed that the development will not impact on the setting of Wroxton Conservation Area or Wroxton Abbey registered Park. The non-designated heritage asset of Drayton Lodge Farm is in close proximity to the site, but there is a clear separation between these buildings and the proposed built development.
- 9.18. The application is also accompanied by an Archaeological Assessment which has been assessed by the County Archaeologist and found to be acceptable. The site is located in an area of archaeological interest, immediately west of an area of Iron Age and Roman settlement identified through archaeological evaluation and excavation. The site consists of a series of Iron Age pits and enclosure ditches and Roman enclosures and stone corn driers. A metalled trackway and an area of hardstanding was also recorded. A Bronze Age barrow was also recorded adjacent to this proposed site. Further barrows have been recorded in the area. A Roman villa is located 900m north of the proposed site and further evidence of Roman buildings has been identified 800m south of the proposal.
- 9.19. An archaeological geophysical survey and trenched evaluation has been undertaken on the site which recorded a range of archaeological features across the proposed site. The evaluation recorded a large ditched enclosure of possible defensive function, as well as Iron Age roundhouses, pit clusters, stock enclosures and field systems.
- 9.20. A programme of archaeological mitigation will need to be undertaken on the site ahead of any development. Conditions are therefore recommended accordingly.
- 9.21. Having regard to the above, it is considered that the development proposed is therefore in accordance with the policies within the development plan and Government advice within the NPPF and is therefore acceptable in this respect.

### Ecology and Biodiversity

#### *Legislative context*

- 9.22. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
- 9.23. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.

- 9.24. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.
- 9.25. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
  - (2) That there is no satisfactory alternative.
  - (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
- 9.26. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

#### *Policy Context*

- 9.27. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.28. Paragraph 175 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.29. Paragraph 180 of the NPPF states that planning 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 (amongst

others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

- 9.30. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.31. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.32. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.33. The Planning Practice Guidance dated 2014 post dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

#### *Assessment*

- 9.34. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:

- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPA's can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

- 9.35. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site contains buildings of traditional construction as well as more modern farm buildings, is close to Sor Brook, has ponds within and adjacent to the site and there are a number of mature trees, including a small copse and hedgerows within and adjacent to the site, and therefore has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles, great crested newts, water voles and invertebrates.
- 9.36. In order for the local planning authority to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence

under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.

- 9.37. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.
- 9.38. The application is supported by an Ecological Assessment and a series of species and habitat surveys which concluded that the habitats of highest nature conservation interest associated with this site are the off-site pond and associated stream and the off-site woodland and connecting mature treeline. Measures to protect the integrity of these habitats include the provision of appropriate buffer habitats along with measures to avoid adverse effects of lighting, pollution, invasive species and changes to hydrology together with recommendations for the enhancement of woodland edge and stream habitats.
- 9.39. The ecological assessments and the species surveys included within the appendices have been assessed by the Council's ecologist. The application site is a mix of arable and pasture with some interesting features such as off-site waterbodies, a small water course, woodland strips and scattered shrubs and boundary hedgerows.
- 9.40. The surveys have revealed that there are bats on site, including rarer Barbastelle species, listed as a species of principle importance under Section 41 of the 2006 NERC Act, both roosting within a building to be demolished, potentially in trees and foraging across the site. Therefore the effects of development on foraging and commuting habitat are a material consideration. The mitigation plan outlined in the Bat survey report is acceptable to CDC's ecologist although exact details will depend on any updated surveys and licence requirements. A bat licence will be required for works to proceed however and lighting strategies will need to take into account impacts on foraging bats on site. There are also Badger setts present both on and off the site and again the recommendations in the Badger report are considered acceptable although the details of the mitigation required for badgers will depend on the final scheme and whether the Setts on site can be retained with sufficient buffers. Grass snakes are also present in low numbers on the site and it is considered that the details outlined within the reptile survey are also appropriate for the population found but a detailed mitigation and method statement will be needed when layouts are finalised. The working methods will need to be included in a Construction Ecological Management Plan.
- 9.41. The Ecological Assessment provides a range of recommendations for enhancements on site and the plans suggest there will be an ecological park and 100m buffer to the stream. The recommendations for landscaping within the document are all broadly appropriate in terms of ecological value but features integrated into the buildings for bats and birds would also be expected as enhancements on site. Some of the recommendations involve significant areas of green space – ecotones to wooded areas and buffer zones to badger setts and retained vegetation where public access is prevented and officers are not clear whether all this can be accommodated within the scheme.
- 9.42. There is no metric based biodiversity impact assessment included in the appraisal which we would currently expect as part of the submission from a development of this size. Whilst layouts are not yet confirmed at this stage, it should be considered



as part of the site as a whole and therefore at outline stage to ensure that an overall biodiversity net gain which is required through policy is achievable on site having regard to the increased number of dwellings proposed and when designing the final layouts. Currently, whilst the recommended measures may achieve a net gain if they are all incorporated, it is not clear whether this can be accommodated with the housing proposed.

- 9.43. Subject to further clarification regarding the above, officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

#### Access and Transport Impacts

- 9.44. A Transport Assessment (TA) and Travel plan were submitted as part of this application which have been assessed by OCC as local highway authority. A new vehicular access into the site is proposed to the B4100 Warwick Road to the north of the existing access which will be closed and utilised as a pedestrian/cycle access into the site only. This new access is to be considered as part of this outline application.
- 9.45. Policy SLE4 of the Cherwell Local Plan relates to improved transport and connections and outlines the approach required to improve transport connections and outlines the overarching principle for new development to be complied with. This includes ensuring the development facilitates the use of sustainable modes of transport and walking and cycling. It also states that development which is not suitable for the roads that serve the development and which have a severe impact will not be supported.
- 9.46. Policy Banbury 18 identifies a number of key site specific design and place shaping principles, those relevant to transport and accessibility are as follows:
- A linked network of cycle and footways to provide access into Banbury
  - New footpaths and cycleways should be provided that link with existing networks, the wider urban area and community facilities with a legible hierarchy of routes to encourage sustainable modes of travel
  - Good accessibility to public transport services should be provided for with effective footpaths and cycle routes to bus stops on the Warwick Road
  - Provision of transport assessment and travel plan including to maximise connectivity with existing development, including linkages with and improvements to existing public transport

- 9.47. The initial Transport Assessment was not considered acceptable by OCC for a number of reasons.

#### *Transport Strategy*

- 9.48. Concerns were raised that the use of TEMPRO and census data as the basis to measure growth rates and distribution could lead to an inaccurate forecast of traffic growth and distribution in this area as it does not apply growth to the correct areas.

OCC therefore requested that the Banbury Strategic Model is used for informing anticipated growth rates, distribution and recording.

- 9.49. An amended note has been submitted by the Transport Consultants and OCC have confirmed that the development has now been run through the Banbury Strategic Model and that they are satisfied with the results of the junction assessments that have been identified. In terms of the additional impact of the development on the local highway network, congestion on Hennef Way is a major constraint on the town's highway network and according a contribution is requested towards a scheme to relieve congestion along Hennef way and mitigate the cumulative impact of traffic growth in the town. In the absence of improvement to infrastructure, the detrimental impacts of the development would not be appropriately mitigated.

#### *Road Safety/Accident History*

- 9.50. The original road safety/accident history analysis was undertaken using data from the Crashmap.co.uk, but there are limitations on this data available as it is not completely up to date (the most recent data from 2017), and no narratives were available for the cause of the accidents to indicate whether potential road safety issues were a factor. OCC therefore requested that the most recent data is obtained from the Road safety team and that the extent of the study area be informed by assumptions on traffic distribution from the site. Given that a large proportion of trips from the site are forecast to route Southam Road and Hennef Way, the study area should also include the length of Dukes Meadow Drive up to and including the Southam Road junction and the junction of Southam Road/Ruscote Avenue/Hennef Way.
- 9.51. OCC are now satisfied with the junction assessments that have been done and successfully demonstrated in the additional briefing note and the objection above has now been removed.

#### *Access/Highway Works*

- 9.52. Approval is sought as part of this application submission for the proposed new vehicular access onto Warwick Road to the north of the existing Drayton Lodge entrance, the general arrangement of which is acceptable. The submitted visibility splays as shown on the site access layout drawing is in accordance with the DRMB standards wet weather speed, however, OCC raised concerns that no speed survey had been carried out to determine the actual speed along this section of road. The applicant proposes to extend the 40mph speed restriction to a point approximately 140m north on Warwick Road.
- 9.53. The results of the speed survey have since been submitted and OCC has confirmed that it is satisfied that the visibility splays at the site access accord with the relevant standards. However, a swept path analysis is still required to demonstrate that the largest vehicles anticipated to require access to the site can safely and easily enter and exit from all directions at the site access from Warwick Road. Therefore a condition is recommended requesting full details of the site access, including a swept path analysis for a 11.6m refuse vehicle.
- 9.54. In terms of pedestrian crossings, a toucan crossing has now been included within the scope of the proposed highway works, as previously requested. A 3m wide shared footway/cycleway is to connect the toucan crossing with both the main site access to the north and the pedestrian/cycle access just to the south. Given the scale of the development and the need for all pedestrians and cyclists to cross the eastern side of the B4100 to access primary schools and local facilities that will not be on site, a toucan crossing located at the point where demand is likely to be

highest was considered essential. This will provide for a safe pedestrian and cycle connection towards other local facilities and for onwards connections to the town centre. The width of the pedestrian refuge island at the informal tactile crossing just south of the main access has also been increased as requested to 2.4m. This will provide sufficient width for those crossing with a bicycle to safely wait within the refuge island.

- 9.55. The location of the bus stop, shelter and adjacent cycle parking is acceptable in principle. However, OCC requests a planning condition to ensure that prior to the submission of the first reserved matters that a Stage 1 Road Safety Audit is carried out on the proposed layout to ensure the location of the bus stop is acceptable in road safety terms. This will prevent any costly re-design and/or delay in providing the bus stop.

#### *Pedestrian and Cycle Connectivity*

- 9.56. The illustrative masterplan for the site appears to offer a good degree of pedestrian and cycle connectivity between the site and the adjacent residential development at the southern end of the site and also between the residential parcels at the northern end of Warwick Road. Within the site OCC would expect to see high quality and direct pedestrian and cycle links throughout the site, particularly towards the proposed local centre, in order to encourage walking and cycling over car use for internal journeys.

#### *Public Rights of Way*

- 9.57. There are two public rights of way that cross this site, bridleway 191/2 and footpath 191/6. The size of the development will make this area more urban so the paths need to remain as green corridors but should be improved to make them more suitable and convenient for year-round recreational use. The continuation of the bridleway (off-site) towards Drayton Village will become more heavily used and the development should provide the means to improve this part of the bridleway too.

#### *Travel Plan*

- 9.58. A Travel Plan was submitted in support of the application and a number of concerns were raised by OCC in terms of its content. The revised Travel Plan dated April 2019 has addressed many of the comments raised but still requires some further amendments/clarification, therefore OCC have requested a condition to ensure that the travel plan is revised to meet their requirements.
- 9.59. Having regard to the above, it is considered that the proposed development accords with the requirements of Policy Banbury 18 as specified above, the policies within the Development Plan and the National Planning Policy Framework and is therefore acceptable in this respect.

#### Open Space and Outdoor Recreation

- 9.60. The application proposes a range of leisure and recreation facilities, including sports pitches and allotments within the site. The proposed master plan shows the playing pitches located to the north eastern part of the site adjacent to B4100 Warwick Road, although Policy Banbury 18 envisaged that these would be provided at the southern part of the site. The applicant has advised that these have been located in this position as this area of the site is reasonably level, compared to other parts of the site and it will benefit from an interrelationship with the pitch on the Persimmon development on the opposite side of the B4100. No objections have been raised to the position of the proposed sports pitches by the Sport and Recreation Officer.

There will need to be parking provision to serve these pitches together with a changing facility.

- 9.61. The allotments are indicated on the north western edge in order to provide a softer edge to the development adjacent to the open countryside. It is considered that the location of the allotments as proposed is acceptable in principle although some parking provision will need to be made and siting will need to be carefully considered to ensure that none of the allotments are overshadowed by existing trees and vegetation.
- 9.62. Formal play areas are proposed adjacent to the sports pitches, the Local Centre and within the centre of the development. The Landscape Officer however has raised concerns regarding the location of these play areas as they are not readily overlooked by dwellings. Areas of public open space for informal recreation are proposed to the periphery of the site and to the south western part of the site. The concerns raised in respect of the children's play areas has been raised with the applicant's agent, an update will be given at the meeting.

#### Flood Risk and Drainage

- 9.63. Policies ESD6 and ESD7 of the adopted Cherwell Local Plan relate to Sustainable Flood Risk management and Sustainable Drainage Systems. Policy ESD6 requires that developments are assessed according to the sequential approach and where necessary the exceptions test as set out in the NPPF and NPPG. Policy ESD7 Sustainable Drainage Systems (SuDS) requires that all development will be required to use SuDS for the management of surface water run-off. This policy also requires ground water quality to be protected, flood risk to be reduced where possible, reduce pollution and provide landscape and wildlife benefits.
- 9.64. A Flood Risk Assessment and Drainage Strategy has been submitted with the application. The FRA confirms that the site is located in Flood Zone 1 and that there is a low probability for fluvial flooding based on Environment Agency mapping. Flood Risk to the site from overland, groundwater, sewers or artificial water bodies is also reported to be low. The Environment Agency raises no objections. This has also been assessed by OCC as Lead Flood Authority who advises that a pre-commencement condition will be required as the information provided at this stage is insufficient to ensure a satisfactory drainage scheme will be secured for the site.
- 9.65. The drainage strategy proposes to utilise a range of SuDS across the site, which includes Soakaways, Permeable Paving and an Attenuation Pond. Swales and rainwater harvesting should also be considered as part of the mix, but are omitted from the strategy. The strategy is conceptual and further detailed design work is required to explore and clarify the full scope of SuDS. (The submission includes a drawing showing the location of an attenuation pond only, without consideration of infiltration at this stage). Therefore a planning condition is required to ensure that use of SuDS is maximised at this site and further detailed design is undertaken to complete the proposals.
- 9.66. It is reported that some soakaway testing has already been undertaken at the site, which indicate positive results for infiltration, in areas except for the south-western corner where the proposed attenuation pond is located, where infiltration is considered to be unsuitable. Further comprehensive soakage testing across the site will be required to inform the detailed design.
- 9.67. The strategy presented was adequate in terms of surface water control of rates and volumes to comply with the Non-Statutory Technical Standards, which will manage

surface water to reflect the existing greenfield conditions to avoid increased floodrisk downstream.

- 9.68. The submission does not include a SuDS Management and Maintenance Plan and the attenuation pond is within an area of public open space, therefore an easement could be required depending on the ownership of the open space.
- 9.69. The flood exceedance strategy of utilising the pond situated at the low point of the site, will require further updating as the detailed design develops. As well as the consideration of the modelled events, there should also be a qualitative examination of what would happen if any part of the SuDS drainage system fails, to demonstrate that flood water will have flow routes through the site without endangering property and where possible maintaining emergency access/egress routes. This would need to be supported by a flood exceedance route plan.
- 9.70. Thames Water has advised that the existing potable water supply network does not currently have sufficient capacity to accommodate the full development proposals and therefore additional modelling works are required to determine the impact on the network and the necessary upgrade works to supply the site. Thames Water has also confirmed that the existing foul network does not have sufficient capacity and that modelling is also required in this respect. It is proposed to deal with these issues by condition.
- 9.71. Having regard to the above, in the light of there being no technical objections raised, and subject to appropriate conditions securing an acceptable surface water drainage scheme for the site based on sustainable drainage principles and an acceptable sewage drainage strategy, the proposals are considered acceptable in terms of flood risk and drainage.

#### Landscape, Visual Impact and Settlement Character

- 9.72. Policy ESD13 of the adopted Cherwell Local Plan 2011-2031 relates to local landscape protection and enhancement and therefore seeks to conserve and enhance the distinctive and highly valued local character of the entire District. The site in question was previously identified in the adopted Cherwell Local Plan 1996 as an Area of High Landscape value, although the formal designation relating to the Area of High Landscape Value has been removed, this does not mean that the quality of the landscape is any less important. Policy ESD13 states that: *development will be expected to respect and enhance local landscape character.....and proposals will not be permitted if they would.... cause undue visual intrusion into the open countryside, cause undue harm to important natural landscape features and topography, be inconsistent with local character...harm the setting of settlements, buildings, structures or other landmark features, or, harm the historic value of the landscape.*
- 9.73. Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 states that new development proposals, amongst other things should: *contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views, in particular within designated landscapes, within Cherwell Valley and within conservation areas and their setting; 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.*

9.74. Policy Banbury 18 identifies a number of key site specific design and place shaping principles, those relevant to landscape and visual impact are as follows:

- Careful design of the height and extent of built development to minimise adverse visual impact on the setting of Drayton Village and Drayton Conservation Area
- Development proposals should be accompanied and influenced by a landscape/visual and heritage impact assessments
- Existing natural features and additional structural planting will reinforce the landscape framework upon which to structure development parcels
- Public open space to form a well connected network of green areas within the site, suitable for formal and informal recreation. Formal recreation should be located and phased to come forward as part of development at the southern part of the site
- A high quality residential area that is designed with consideration to the landscape setting
- Retention of dwellings and the copse at the centre of the site with no new development in close proximity
- The provision of a green buffer surrounding the existing dwellings and along the western boundaries of the site
- Retention and enhancement of existing hedgerows and trees
- Provision of green infrastructure links beyond the development site to the wider town and open countryside
- Detailed consideration of ecological impacts, wildlife mitigation and the creation, restoration and enhancement of wildlife corridors to preserve and enhance biodiversity

9.75. Paragraph 170 of the NPP advises that planning policies and decisions should contribute and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value, recognising the intrinsic character and beauty of the countryside and minimising impacts on and providing net gains for biodiversity. There is an existing Tree Preservation on the site adjacent to the existing entrance to Drayton Lodge onto the Warwick Road. An existing copse which surrounds the existing farmhouse and farm buildings is excluded from the application area.

9.76. The application was accompanied by an initial Landscape and Visual Impact Assessment which considered the potential impacts on the landscape character and amenity of the site and surrounding area, and concluded that *'the development would not be out of keeping, in context with the existing edge of Banbury and would not unduly harm the character of the wider landscape'*. *A combination of the local topography and vegetation result in a site which is relatively well contained from the wider landscape. The southern portion of the site is smaller in scale and contained to a greater degree than the field to the north, by vegetation and the existing edge of Banbury. There would not be views of the development site from vast majority of buildings within the conservation area. However, the southern edge of the development would be visible in the middle distance from the northern edge of Drayton village and the fields within the Conservation Area, and would be seen in*

*context with glimpses or partial views of the permitted Warwick Chase development. Initially, the development would have a substantial adverse effect on views from the northern edge of Drayton and nearby footpaths. Over time, proposed planting would help reduce views of built form, and assimilate the development into the landscape. It is judged that the effect on views from the northern edge of Drayton would reduce to Minor Adverse after 10 years'.*

- 9.77. This LVA however was incomplete in that it did not include wire frames to demonstrate the visual impacts of the development and furthermore was potentially inaccurate as it had assessed development of 2 storeys in height with ridge heights of 8m and on the outer north western edge, single story dwellings up to 5.5m in height. This did not reflect the submitted parameter plans that sought heights of 11-15m across the site.
- 9.78. The revised LVA dated March 2019 has assessed a development where the majority of dwellings would be 2-2.5 storeys high with lower density areas of housing up to 2 storeys, located along the more sensitive edges of the site to the north-west and south. A local centre, including retail and community facilities, up to 3 storeys high, would be located near the existing site access adjacent to Warwick Road. The LVA advises that dwelling heights would be between 9.5m-10.25m to ridge with the 3 storey development up to 11m in height. The LVA does not assess any single storey development to the more visually sensitive edges which was discussed during pre-application. The conclusion to the revised LVA is identical to the original LVA above which did not accurately assess the proposed development.
- 9.79. The submitted LVAs have been assessed by the Council's Landscape Officer who has raised concerns about the estimated impact of the development visually and therefore disagrees with the conclusion above. Furthermore she is also critical that the original Design and Access Statement did not substantially address landscape treatment, advising that landscape concept plans should be considered at an early stage. The Landscape Officer advises that the revised LVA has not re-assessed the development in written form and it therefore remains a comment on visibility of the site and not the proposed development from each viewpoint. There doesn't appear to be any indication how the results of the LVA will inform the layout and building heights. The illustrative framework DWG SK09 does not bear much relationship with the wire lines which appear to show a very dense and continuous built form.
- 9.80. Having regard to the above therefore, it is considered that the proposed development would have an adverse impact on the amenity value of the landscape, in particular in respect of the southern part of the site and its relationship with Drayton. Officers are of the view that development along this edge should be reduced in height with more significant planting along this boundary. This matter has also been raised by Drayton Parish Council. This matter has been raised with the applicant's agent and an update will be given at committee.
- 9.81. A tree survey report and Arboricultural Impact Assessment have been submitted with the application. This is however, a very high level report and the planning statement advises that the overall approach is to protect existing trees and hedgerows and to limit the loss of trees from the site as much as possible. This approach is commended, however, the statement goes on to say that the evolving scheme design will inform the Arboricultural Method Statement and Tree Protection Plan. Unfortunately the landscape strategy currently lacks detail and it is not possible to properly assess where trees and hedgerows might be lost as a result of the development.
- 9.82. Having regard to the above it is considered that subject to the above issues being successfully resolved that whilst the proposals would result in the loss of a

greenfield site and the new development will be clearly visible from Warwick road, that provided appropriate buffer planting is provided and the scale of the development respects the sensitive edges, such as the southern boundary, that the proposed development will not cause undue harm to the character and appearance of the locality and the open countryside and is therefore in accordance with the development plan and the NPPF.

#### Noise Impact Assessment

- 9.83. Due to its proximity to the B4100 Warwick Road which is the dominant noise source impacting on the proposed development; Policy Banbury 18 requires the consideration of noise mitigation along it. As a consequence the application is accompanied by a Noise Impact Assessment. The Assessment has determined that acceptable internal noise levels can be achieved through appropriate glazing and ventilation for all dwellings but that external noise levels for those immediately adjacent to Warwick Road, depending on orientation and layout may be exposed to noise levels that exceed 55dBA. The assessment concludes that noise levels could generally be reduced by using close-boarded fencing at a height of 2.5-3m in height to surround proposed gardens. Exposed close board fencing to Warwick Road or the public domain would not be considered acceptable in terms of visual amenity and it is considered therefore that this issue should be appropriately addressed through design, orientation and the placing of buildings on the site at reserved matters stage.
- 9.84. The noise assessment has been assessed by Environmental Health who have suggested a condition requiring a more detailed noise strategy. Having regard to this the proposal is considered acceptable in principle in respect of the outline application.

#### Design and Impact upon the Character of the Area

- 9.85. Section 12 of the NPPF – Achieving well-designed places advises that the creation of high quality buildings and places is fundamental to what planning and the development process should achieve. At paragraph 127 it further advises that planning decisions should ensure that ‘developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping’. The housing Ministers speech at the Design Quality Conference 2018 also highlighted the importance of good design and creating attractive, thriving places to live where quality can help drive up the quantity of new homes being delivered.
- 9.86. Policy ESD15 of the adopted Cherwell local plan 2011-2031 advises that design standards for new development, whether housing or commercial development are equally important, and seeks to provide a framework for considering the quality of the built development which reflects and respects the urban or rural context within which it sits. The adopted Cherwell local Plan 1996 contains saved Policy C28 which states that ‘control will be exercised over all new development to ensure the standard of layout, design and external appearance, including choice of materials, are sympathetic to the character of the urban or rural context of that development. Policy C30 states that ‘design control will be exercised to ensure...(i) that new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity and (iii) that new housing development provides standards of amenity and privacy acceptable to the Local Planning Authority.
- 9.87. The Cherwell Design Guide SPD July 2018 seeks to ensure that the quality of design across the district is raised, ensuring a legacy of successful places for future generations to enjoy. The submission makes no reference to the Design Guide.



- 9.88. The application is accompanied by a Design and Access Statement (DAS) which includes an assessment of adjacent developments and other developments within the Cherwell District but it is not clear how this has been translated into the development proposed. Whilst the DAS advises that the character of the development will be based on elements found in surrounding villages, with village greens and community facilities at the heart of the proposals, these are not clearly explained or identified through the use of graphics and how these will be delivered in terms of character areas, landscaping and streetscape. Neither is any detail provided in terms of the size, function or appearance of the green spaces and this is important at this stage in understanding how they will relate to the adjacent development parcels and how they will be successfully delivered to achieve the aspirations of the development. The DAS should also include a basic structure of landscape proposals and movement across the site and beyond to ensure successful integration. The DAS should also include details of appropriate materials and their distribution across the site. It is expected that natural ironstone will be used along sensitive edges and within the centre of the site to reflect local traditional vernacular and building materials.
- 9.89. Following discussions with the applicant and agent, a revised Design and Access Statement which seeks to address the concerns raised is still awaited at the time of writing this report.
- 9.90. Policy Banbury 18 reflects many of the requirements of Policy ESD15 which in turn is reflective of national policy in the NPPF which emphasises the importance of high quality design in achieving sustainable development. Policy Banbury 18 requires a high quality development that ‘demonstrates sensitive response to this urban fringe location’, that is locally distinctive and includes careful design of building heights and the extent of the built development to minimise its adverse visual impact on the setting of Drayton village and its Conservation Area. The building height parameter plan accompanying the application indicates 2, 2.3 and 3 storey built development across the site with built height ranging between 11-15 metres. It is considered that these ridge heights are excessive and not appropriate for this sensitive edge of town site and furthermore are totally out of keeping with the new and existing developments adjacent and opposite. Two storey dwellings are normally approximately 7.5-8.5m in height and 3 storey dwellings are normally a maximum of 11m in height. Whilst page 43 of the DAS states that bungalows might be incorporated along more sensitive edges, the parameter plans do not reflect this. This matter has been discussed with the applicant and agent and revised parameter plans are expected but have not been received at the time of writing this report.
- 9.91. The pre-application submission relating to this development was subject to a Design Review by the BOBMK Design Review Panel in July 2018. A comprehensive report was produced as a result. Whilst the ‘Panel’ felt there was much to commend the scheme, they were keen to raise the standard of design for the development compared to those adjacent and advised that careful design of the height and extent of the built development to minimise adverse visual impact on the setting of Drayton village and Conservation Area needed careful consideration and advised that the development which is predominantly 2.5 – 3 storeys and 13-15m in height did not address this issue.
- 9.92. The above has been discussed with the applicant and agent and revised parameter plans and submission which addresses these points is expected but have not been received at the time of writing this report. These matters must be successfully addressed to accord with the above mentioned policies and the NPPF accordingly.

Housing Mix and Affordable Housing

- 9.93. Policy Banbury 18 requires that 30% of the new dwellings provided on the site to be affordable in the interests of supporting the creation of mixed and balanced communities in accordance with both local and national planning policy objectives. Policy BSC3 is also material and specifies that the council seeks at least 70% of the affordable homes to be affordable rented units with the remainder intermediate housing (such as shared ownership).. The applicant has indicated a commitment to provide such affordable housing but would also like to include housing for those in education, but this requires further discussion with the housing officer and applicant to ascertain how these might be delivered and retained in perpetuity. The affordable housing will need to be secured through a section 106 agreement.
- 9.94. Policy BSC4 relating to housing mix also aims to encourage a mix of housing to suit the needs of the population and enable movement through the market from one house type to another as the needs of households change. The Oxfordshire Strategic Housing Market assessment provides conclusions on a strategic mix of housing for Oxfordshire to 2031. It is expected that this development will provide a mix of housing as required by this policy and it is recommended that a condition be included which reflects this.

#### Planning Obligations

- 9.95. Due to the scale and residential nature of the proposed development, it is considered that the proposal is likely to place additional demand on existing facilities and services and local infrastructure, including schools, community halls, public transport, public rights of way, sports provision, play provision and public open space. Requests for contributions in respect of these have been made as part of the consideration of this application and would need to be secured via a section 106 agreement, to mitigate the impacts of the development in this respect.
- 9.96. Policy INF1 of the Cherwell Local Plan 2011-2031 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*. Contributions can be secured via a section 106 agreement provided they meet the tests of Regulation 122 of the Community Infrastructure Regulations 2010.
- 9.97. Having regard to the above, in the event that Members were to resolve to grant planning permission, the following matters would need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts:

#### 9.98. Cherwell District Council

- 30% affordable housing
- Provision of on site public open space and future maintenance arrangements
- Provision of on-site outdoor sports pitches, car parking and changing facility and financial contribution for future maintenance arrangements
- Provision of on-site community building and local retail facility and future maintenance arrangements and marketing of retail unit
- Financial contribution towards community development officer
- Financial contribution to indoor sports improvements at Spiceball

- Provision of on-site children's play provision and financial contribution for future maintenance
- Financial contribution for future maintenance of trees and hedgerows
- Provision of on-site allotments and car parking and future maintenance
- Provision of on-site SuDS drainage and financial contribution for its future maintenance
- Public open space to south west to be kept permanently free of development
- Public art provision on site
- Financial contribution towards police infrastructure
- Financial contribution towards health

#### 9.99. Oxfordshire County Council

- Strategic transport contribution
- Public transport – bus services contribution
- Public transport infrastructure – bus stops
- Traffic regulation order to reduce the speed limit to 40mph
- Travel plan monitoring contribution
- Section 278 highway works
- Nursery and primary education contribution
- Secondary education contribution
- Special education Needs contribution

## **10. PLANNING BALANCE AND CONCLUSION**

10.1. The application site relates to the allocation under Policy Banbury 18 together with additional areas of land as explained above and up to an additional 70 dwellings across the site. For the reasons set out in the report, subject to conditions, satisfactory amended Design and Access statement and parameter plans and a satisfactory section 106 agreement, the proposals are considered to be in general accordance with Policy Banbury 17 in the manner required by the policy as well as the other relevant policies in the development plan. Whilst up to 70 additional dwellings are proposed, officers have sufficient confidence that this amount of development can be acceptably accommodated on the site although it will probably require the provision of a greater number of smaller dwellings and more compact unit typologies, delivering small to medium sized dwellings that are recognised as the greatest need within the District. This approach also makes efficient use of land in a sustainable location and will seek to ensure the ongoing delivery of housing in the district on an allocated site which has been identified within the AMR as a deliverable site in the five year housing land supply calculations.

- 10.2. In coming to this conclusion, officers have had regard to the development plan, Government guidance and statutory and other representation and comments made in respect of the application. Officers are satisfied that the adverse impacts of the development will not be significant subject to the mitigation measures identified and secured through conditions and legal agreement.

## **11. RECOMMENDATION**

**RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY TO GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY), THE RECEIPT OF A SATISFACTORY AMENDED DESIGN AND ACCESS STATEMENT AND PARAMETER PLANS AND THE 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, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):**

- a) Provision of 30% affordable housing on site
- b) Provision of and commuted sum for open space/habitat management  
provision of and commuted sum for on-site sports pitches
- c) Provision of and commuted sum for on-site allotments  
commuted sum for maintenance of existing trees and hedgerows on site  
commuted sum for SuDS maintenance  
provision of and commuted sum for on-site play areas and equipment  
contribution of £267,182.98 toward off-site indoor sports facilities  
provision of on-site community building/retail facility and commuted sum for maintenance  
contribution towards community worker on site  
provision of on-site public art  
financial contribution to TVP  
financial contribution of £276,480 to support local primary care infrastructure  
additional land to south west to be kept clear of built development
- d) Payment of a financial contribution of £3,552,751 towards educational infrastructure serving the development
- e) Payment of £16,942 public transport infrastructure
- f) Payment of £2,600 traffic regulation order
- g) Payment of a financial contribution towards public transport service of £457,142.57fire  
payment of £113,409 strategic transport contribution
- h) Payment of the Council's monitoring costs of £1,240.  
Section 278 Agreement to secure highway works

### CONDITIONS (DRAFT)

(To be provided in detail at Committee)

#### **Time Limit**

1. Time limit relating to outline

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.

#### **Compliance with 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: to be inserted]

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

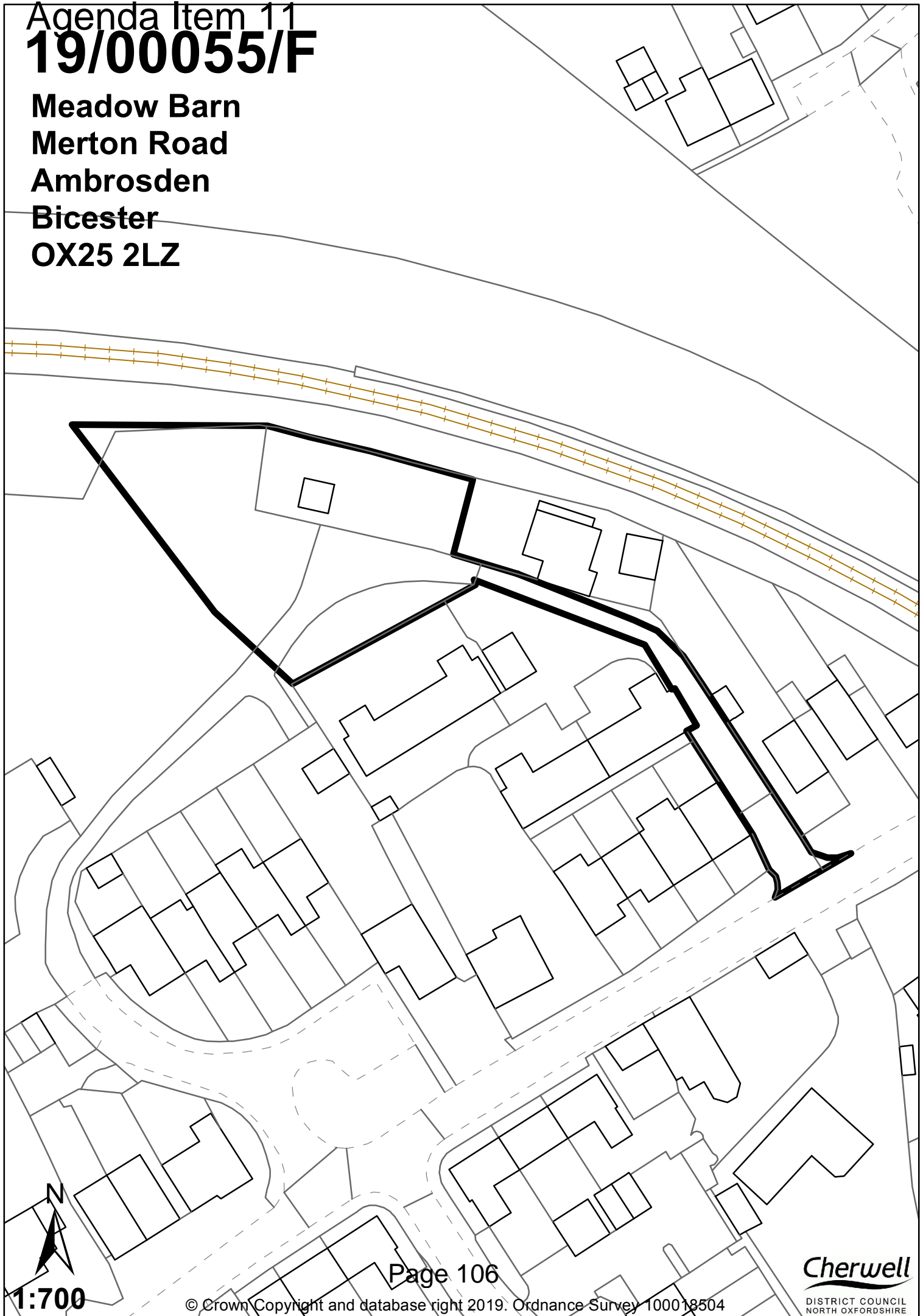
3. Standard condition 1.9
4. Standard condition 3.7 tree survey
5. Standard condition 3.8 protection of trees
6. Standard condition 3.10 soil levels around trees
7. Thames Water recommended conditions
8. Standard contamination conditions
9. Archaeological conditions re Written Scheme of Investigation
10. OCC transport and drainage conditions as recommended
11. Ecological conditions as recommended by ecologist
12. Design code
13. Levels
14. Soil management plan
15. Management/storage and disposal of spoil
16. Lighting details
17. Scheme for public art
18. Provision of waste and recycling bins
19. Energy efficiency at 19% above building regulations
20. Water efficiency limit of 110 litres per dwelling
21. All utilities to be provided underground
22. Protection of existing trees and hedges except where new access to Warwick road
23. Non-residential buildings to meet BREAM very good
24. Housing mix in accordance with Policy BSC4
25. Noise mitigation measures in respect of Warwick Road
26. Not more than 320 dwellings

CASE OFFICER: Linda Griffiths

TEL: 01295 227998

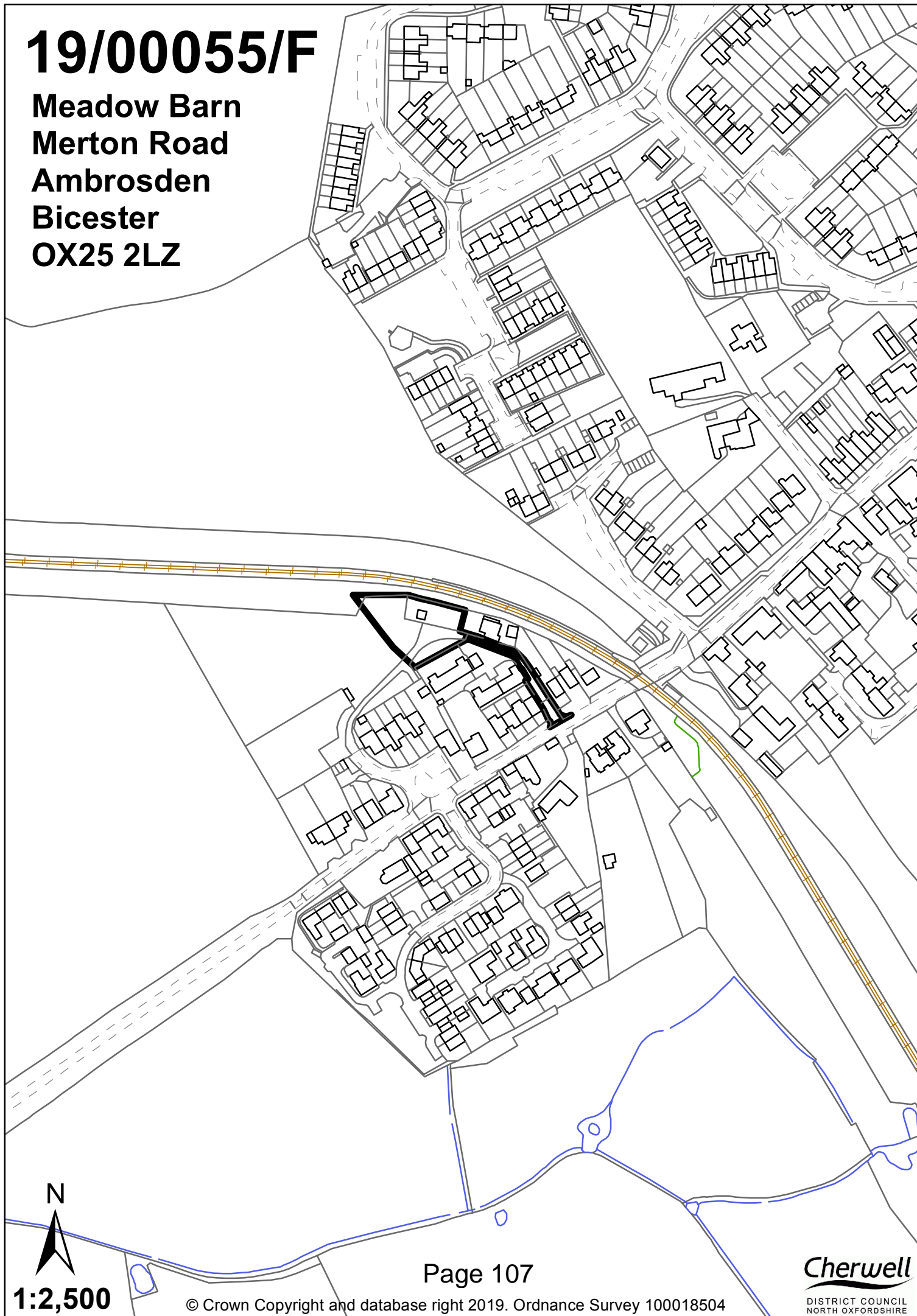
Agenda Item 11  
**19/00055/F**

**Meadow Barn  
Merton Road  
Ambrosden  
Bicester  
OX25 2LZ**



# 19/00055/F

Meadow Barn  
Merton Road  
Ambrosden  
Bicester  
OX25 2LZ



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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Meadow Barn  
Merton Road  
Ambrosden  
Bicester  
OX25 2LZ**

**19/00055/F**

**Officer:** Michael Sackey

**Applicant:** Mr Rhys Oliver

**Proposal:** 2 new semi-detached dwellings and 1 detached dwelling with associated parking and gardens

**Ward:** Bicester South And Ambrosden

**Councillors:** Cllr Nick Cotter  
Cllr Dan Sames  
Cllr Lucinda Wing

**Reason for Referral:** Called in by Councillor Sames for the following reasons: (Overdevelopment, over use of a private road, less than substantial harm to the setting of listed building, unsustainable development and not in accordance with the local plan) Application submitted by an officer in Development Management

**Expiry Date:** 14 March 2019

**Committee Date:** 20 June 2019

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## **BACKGROUND**

Subsequent to the March Planning Committee it became clear that, contrary to the Council's advertised procedure, no interested parties had been notified of applications going to that Planning Committee. This includes applicants, agents and those commenting on applications, and affected all 10 applications at that Committee.

Have taken advice from the Council's legal team as to how to respond to this issue, DM team leaders sent out letters to all interested parties advising them of the error, offering our apologies, and inviting them to contact the Council if they would have attended and/or registered to speak at Committee if they had been given the opportunity.

The outcome of this mail out was that in the case of several applications we did not receive any response; in the case of others we did receive responses; and in the case of this planning application the applicant and agent responded to say that they would have attended and registered to speak at Committee.

As a result, the advice from the Council's legal team was to bring this application back to Planning Committee.

It had been planned for the application to be placed on the agenda for the April Planning Committee but the item did not make the published agenda.

The application was deferred from the 30<sup>th</sup> May 2019 Planning Committee because an objector to the application was unable to attend and the Council was advised by the legal team to provide another opportunity for the objector to present his case.



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

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

#### **Proposal**

Planning permission is sought for the erection of 1 detached dwelling and 2 semi-detached dwellings with associated parking and amenity space.

#### **Consultations**

The following consultee has raised **objections** to the application:

- Ambrosden Parish Council

The following consultees have raised **no objections** to the application:

- OCC Highways, CDC Ecology, CDC Building Control, CDC Environmental Protection Officer, CDC Environmental Health, CDC Waste and Recycling, Archaeology and Thames Water.

3 letters of objection have been received from the same neighbour

#### **Planning Policy and Constraints**

The site is within close proximity to the Grade II listed building of Holly Tree Cottage to the south east of the site. The site is an area of medium archaeological potential and is on potentially contaminated land and. The site has some ecological potential as it is located within 2km of the Arncott Bridge Meadows SSSI and the protected species of the House Sparrow and Common Toad have been recorded in the vicinity

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 development
- Design, and impact on the character of the area
- Impact upon the historic environment
- Residential amenity
- Highway safety
- Ecological impact
- Other matters

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

**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 extends to 0.16 hectares and is presently laid as rough grassland. The site lies immediately to the north of a residential development known

as Home Farm Close and to the rear of the Paddocks and previously converted Barn of Meadow Barn with access taken from an extension to the access road which serves this existing dwellings mentioned above.

- 1.2. The application site is relatively level, is open to the wider countryside to the west and in close proximity of approximately 5.6 from a railway embankment with overgrown vegetation at the bottom railway tracks to the North. The site forms part of a larger field which extends further to the west and south. There is no physical boundary to the application site to identify it from the larger field. The southern boundary is formed by residential properties in the village. The site lies beyond the established built-up limits of the village of Ambrosden.

## **2. CONSTRAINTS**

- 2.1. The site is within close proximity to the Grade II listed building of Holly Tree Cottage to the south east of the site. The site is on potentially contaminated land and an area of medium archaeological potential. The site has some ecological potential as it is located within 2 KM of the Arncott Bridge Meadows SSSI and the protected species of the House Sparrow and Common Toad have been recorded in the vicinity.

## **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The application seeks full planning permission for two new semi-detached dwellings and one detached dwelling with associated garages. The proposed dwellings would be constructed of red stock brick, with plain tiles to the roof and solid timber traditional casements for the windows.
- 3.2. The site benefits from extant outline planning permission for residential development (14/01981/OUT) and a subsequent reserved matters approval application reference (17/00999/REM). The site also benefits from an approval for two new detached dwellings with associated detached garage application reference (18/01076/F). These consents were subject to a number of conditions.
- 3.3. The proposed larger L shaped building extends further to the southeast in comparison to the previous approval. The proposed building incorporating a four bedroom and a three bedroom semi-detached dwellings to west of the site, would in part measure approximately 6.5m depth, 17.8m width and 6m depth 12m width to finish the L shape. It would have an overall roof height of 7.2m sloping down to an eaves height of 3.6m. The proposed four bedroom semi-detached dwelling would incorporate four dormer windows to the rear elevation and one dormer window to the front elevation. The proposed three bedroom semi-detached dwelling would incorporate four rooflights to the rear elevation and three dormer windows to the front elevation.
- 3.4. The three bedroom semi-detached dwelling is proposed to be served by a garage measuring approximately 6m depth, 6m width with an overall roof height of 6.1m sloping down to an eaves height of 2.6m.
- 3.5. The proposed smaller L shaped building which would be relatively the same as the previous approval. The proposed building incorporating a four bedroom dwelling to the north-east of the site would measure approximately 6.6m depth, 14m width and 2.8m depth 6.8m width to finish the L shape. It would have an overall roof height of 7.2m sloping down to an eaves height of 3.6m. The proposed dwelling would incorporate a dormer window and roof lights to the front elevation and five dormer windows to the rear. The dwelling is proposed to be served by a garage measuring approximately 6m depth, 6m width with an overall roof height of 6m sloping down to an eaves height of 2.5m.

- 3.6. Access is proposed as an extension of the access serving the existing properties of Willow Barn, Oak Barn, Meadow Barn and The Paddocks and parking is proposed with the provision of one integral garage and two detached garages.

#### **4. RELEVANT PLANNING HISTORY**

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
01/02166/CLUE	Certificate of Lawfulness existing to allow continuous use of land and buildings as a general builders yard	Application Refused
03/01921/F	Conversion of barn to form dwelling with detached garage/workshop, pool and pool house, Demolish existing garage/stable block, create new access and erection of two 2.1 metre high walls (as amended by plans received 26.11.03)	Application Permitted
05/00102/F	Conversion of barn to residential use. Demolition of existing garage/stables and construction of new garage, workshop and store. Construction of pool house and plant room. Erection of two 2.1m boundary walls with alteration to highway access. Resubmission of permission 03/01921/F.	Application Permitted
05/01990/CLUE	Certificate of Lawfulness existing to allow continuous use of land for storage of building materials	Application Refused
07/00983/CLUE	Certificate of Lawfulness existing to allow continuous use of land for storage purposes (B8)	Application Permitted
10/00506/F	Conversion of barn to residential use. Demolition of existing garage/stables and construction of new garage, workshop and store. Construction of pool house and plant room. Erection of two 2.1m boundary walls with alteration to highway access. Resubmission of permission 05/00102/F (as amended by plans received 01/06/10).	Application Permitted
10/00421/DISC	Discharge of Planning Conditions 2, 3, 12, 14, 15 and 19 of 10/00506/F	Application Permitted
10/01887/F	Change of use of barn to a dwelling and erection of a new dwelling and shared	Application Permitted

garage

11/00520/F	Change of use of barn to form two dwellings and erection of a shared garage	Application Permitted
11/00118/DISC	Clearance of conditions 3, 15, 17, 20 and 21 of 10/01887/F	Application Permitted
12/00108/F	Variation of condition 22 of 10/01887/F	Application Permitted
12/00263/F	Variation of condition 2 of 11/00520/F	Application Permitted
12/01234/F	Removal of condition 7 of 12/00263/F (retrospective)	Application Permitted
13/00901/F	Insertion of 2no rooflights. New dormer and front porch.	Application Permitted
18/01076/F	Erection of two new detached dwellings with associated detached garages	Application Permitted
19/00070/DISC	Discharge of Conditions 5 (doors, windows, lights) and 7 (Archaeological Written Scheme of Investigation) of 18/01076/F	Pending Consideration

## **5. PRE-APPLICATION DISCUSSIONS**

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

## **6. RESPONSE TO PUBLICITY**

6.1. This application has been publicised by way of a site notice displayed near the site and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 25.02.2019, although comments received after this date and before finalising this report have also been taken into account.

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

- Three letters of objection received from two neighbours at the same address raising the following issues:
- Impact on highway safety
- Impact on parking and turning within the site; concerns over the number of vehicles using the gated, private driveway - the number of dwellings served by the private drive would be 7, higher than the national highways policy of 5; the width of the driveway is unsuitable for additional vehicles; there is no passing point; there is no turning circle for a delivery lorry
- Overdevelopment of the site

- Impact on amenity; noise, dust bins
- Other matters raised which are not material consideration: Damage to property

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

## 7. RESPONSE TO CONSULTATION

7.1. 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.

NOTE: Responses are to be recorded in the example format given for the Parish Council below. Responses should be summarised and should not be copied and pasted in full. If it is necessary to quote from a response *include the quote in italics*

### AMBROSDEN PARISH COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. AMBROSDEN PARISH COUNCIL: **Objects** on the grounds of insufficient access to serve additional traffic, existing access is not wide enough for additional traffic, noise and too close to the wall of the neighbouring house, too much traffic emerging on to the highway, it is unlikely that emergency vehicles could access the furthest dwelling, insufficient space for standing refuse bins for collection, overdevelopment of a small area, it will not resemble a farm yard, the plans do not show Ambrosden Court development opposite, it still shows one property there not 44, there are only four parking spaces shown for three houses, Parking is totally inadequate with very tight turning circle and Gated access means deliveries will not be able to get in, or find the properties.

### CONSULTEES

7.3. OCC HIGHWAYS: **No objections**.

7.4. Building Control – No comments to make

7.5. Environmental Health – **No objections**

7.6. Environmental Protection – No comments on noise, air quality, odour and light. But recommend the full contaminated land conditions J12-J16 are placed on any permission granted.

7.7. Waste and Recycling – **Comments** received neither objecting to or supporting the Planning application

7.8. Ecology – Consulted on the 29.01.2019; no comments received to date

7.9. Housing Standards – Consulted on the 29.01.2019; no comments received to date

7.10. Archaeology – Comments received neither objecting to nor supporting the Planning application but recommends conditions if the application was to be approved.

7.11. Thames Water – Comments received neither objecting to nor supporting the Planning application; recommends conditions if the application was to be approved.

## 8. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

- PSD1: Presumption in Favour of Sustainable Development
- BSC1: District Wide Housing Distribution
- BSC2: The Effective and Efficient Use of Land
- ESD1: Mitigating and Adapting to Climate Change
- ESD7: Sustainable Drainage Systems (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment
- Policy Villages 1: Village Categorisation

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

8.3. Other Material Planning Considerations

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

8.4. Council Corporate Priorities

Cherwell District Council and South Northamptonshire District Council’s Joint Corporate Strategy for 2018-19 sets out the councils three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2018–19. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the districts.

The three corporate priorities are to ensure the Districts are “Protected, Green & Clean”, are places which support “Thriving Communities & Wellbeing”, and are Districts of “Opportunity & Growth”. All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plans for CDC & SNC; (2) increase tourism; (3) protect the built heritage; (4) reduce our carbon footprint & protect the natural environment; (5) mitigate the impact of High Speed 2; and (6) deliver affordable housing.

The remaining key actions are also of significance to the determination of planning applications and appeals in particular delivering the Bicester, Banbury, Kidlington, Brackley, Towcester and Silverstone Masterplans.

The above corporate priorities are considered to be fully compliant with the policy and guidance contained within the National Planning Policy Framework and National Planning Practice Guidance.

## **9. APPRAISAL**

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

- Principle of development
- Design, and impact on the character of the area
- Impact upon the historic environment
- Residential amenity
- Highway safety
- Ecological impact
- Other matters

### Principle of Development

9.2. The principle of residential development in this location has been considered acceptable under an outline planning permission (ref. 14/01981/OUT) and under a recent planning permission (ref. 18/01076/F) for two detached dwellings. The scale and layout of the proposed development would be similar to that previously approved; the changes proposed do not change the officers' conclusion on the principle of development, which is considered acceptable. Overall acceptability is subject to other material considerations further deliberated below.

### Impact upon the Character and Appearance of the Area

9.3. *Paragraph 124 of the National Planning Policy Framework (NPPF) states the creation of high quality building and places is fundamental to what the planning and development process should achieve. 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. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.*

9.4. *Policy ESD13 of the Cherwell Local Plan Part 1 states that: "Development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not be permitted if they would:*

- *Cause undue visual intrusion into the open countryside;*
- *Be inconsistent with local character;*
- *Harm the setting of settlements, buildings, structures or other landmark features."*

9.5. *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."*

- 9.6. *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, and the nature, size and prominence of the development proposed.*
- 9.7. The layout of the proposed development would be substantially the same as that approved under planning permission ref. 18/01076/F. The main change is that the larger L shaped building would extend slightly further in a south-east direction, would form two dwellings rather than one and one of those would be served by a newly proposed double garage.
- 9.8. These changes do not affect the proposal's impact on its surroundings. The proposed layout is considered to sympathetically integrate with the existing development in the area, in creating an organic, rural form of development, which is appropriate to this sensitive edge of village location. In addition, the scale and character of the proposed dwellings, which includes dormer windows and conservation style rooflights, is considered appropriate to this location.
- 9.9. The proposal's design is considered to be simple in form, with the design cues of the development similar to that of Meadow barn and would therefore be in keeping with the scale and massing of the existing built development within the vicinity of the site. Externally facing materials are proposed to be a red stock brick and a plain clay tile; they would need to be of high quality and reflect that seen in the historic core of Ambrosden. An appropriately worded condition would be imposed in this regard.
- 9.10. It is noted that there are some trees to the rear of the site, but they are not protected and are considered not to be of high amenity value; therefore a tree survey is not considered necessary. Appropriate details of landscaping can be secured by condition, including details of any existing trees to be retained.
- 9.11. For these reasons, it is considered that the proposal would not cause harm to the character and appearance of the area and would be in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1 and saved Policies C28 and C30 of the Cherwell Local Plan 1996.

#### Impact upon the Historic Environment

- 9.12. *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.*
- 9.13. *Paragraph 132 of the NPPF states that: "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification."*
- 9.14. *Policy ESD15 of the Cherwell Local Plan states that new development proposals should: "Conserve, sustain and enhance designated 'heritage assets' (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG."*
- 9.15. The development would be relatively close to the Grade II listed building to the south, Holly Tree Cottage. However, the site is not associated with the listed



building, whose setting is relatively confined, and given the intervening buildings between the listed building and this site, it is considered that the proposal would not materially affect the significance of the Grade II listed building.

- 9.16. In relation to the Grade II\* listed St Marys Church to the north west of the site, relatively modern housing is situated to the south west of the church, along with an existing rail track which separates the existing site and the Listed Church. The Listed Church is appreciated or viewed from Merton Road with these dwellings to the front. The proposal would not affect views of the church tower when approaching the village.
- 9.17. In this context, and having regard to the scale of development proposed, it is considered that the proposed development would not cause harm to the significance and the setting of the nearby listed buildings.
- 9.18. The Oxfordshire County Council Archaeologist (CA) has stated that the site lies within an area of some archaeological interest located 180m to the north-west of the site of a medieval Manor House. The CA notes that the exact location of the Manor House is unknown and could be disturbed by this development. In addition, the CA states that the site of a second large house, Ambrosden Hall, is located 110m north of the proposal site and this Hall was constructed after 1673 and pulled down in 1768. Furthermore, the CA notes that the site is also located 120m south of a series of undated features that were recorded, along with Neolithic and Bronze Age flint tools, during a pipeline excavation. Recent archaeological work 650m to the north-west of the site has recorded a series of Iron Age roundhouses and Roman and Saxon ditches.
- 9.19. Given the above, the CA recommends a condition be imposed on any permission given, to require the applicant to be responsible for ensuring the implementation of a staged programme of archaeological investigation to be maintained during the period of construction. Given the site's context as set out in the CA's comments, it is considered reasonable to request this information and therefore a condition attached to previous approval would therefore be re-imposed on any permission given here.

#### Residential Amenity

- 9.20. *Both local and national planning policy and guidance seek to ensure new development provides a satisfactory standard of living for existing and future occupiers of land and buildings.*
- 9.21. The proposed development would be set to the rear of The Paddocks and Meadow Barn and, given the changes proposed to the approved scheme, these are the neighbours that may be impacted on by the proposals.
- 9.22. The proposed development would be 26 metres away from the rear wall of Meadow Barn and the side wall of the proposed dwelling directly to the rear of The Paddocks would be over 21 metres away.
- 9.23. The respective minimum separation distances in the Cherwell Householder guidance are 22 metres and 14 metres. The proposal meets and exceeds these minimum distances.
- 9.24. Having regard to its layout, scale and massing, the proposal would not adversely affect the living conditions of these neighbouring occupiers either through loss of light, loss of privacy or overlooking, nor would it result in an overbearing development. Any objection on residential amenity grounds could not be successfully substantiated at appeal.

- 9.25. The proposed openings on the first floor of the three bedroomed semi-detached dwelling were considered to potentially overlook the (master bedroom of the) four bedroomed detached dwelling. Overall, however, given the spatial relationship of the two proposed dwellings, one angling away from the other, and that future occupiers would move into the houses aware of the other, the proposal is considered to result in an impact so significant to warrant the refusal of the application.
- 9.26. There are no other neighbours who would be materially affected by the proposed development. Dwellings at Home Farm Close, for example, are approx. 41 metres to the south of the site.
- 9.27. Overall, the proposed development is considered not cause to demonstrable harm to residential amenity, and therefore accords with Policy ESD15 of the CLP 2031 in this regard.

#### Highway Safety

- 9.28. The proposed development would utilise the existing access which serves the properties adjacent to the application site, Willow Barn, Oak Barn, Meadow Barn and The Paddocks.
- 9.29. A neighbouring resident has raised concerns in relation to the proposal's impact on the immediate road network. However, the Local Highway Authority (LHA) has raised no objections to the proposal. The proposal is considered to be acceptable in highway safety terms and would not have a significant (let alone severe) impact on the local road network. There would be sufficient space within the site for turning and manoeuvring so that cars would leave the site in a forward gear.
- 9.30. The neighbour has also raised concerns with regard to the increased use of the existing, private access. One more dwelling would mean increased use of the access – there are currently four houses served by it; there are approved to be six; the proposal would mean seven houses using the access. The neighbour expresses concern regarding the width of the access. Close to the highway, i.e. in front of the gates, and for a little way behind the gates, it is wide enough for two cars to pass. It narrows by Willow Barn, but widens after that, though the red line site area remains narrow until just past The Paddocks to the north-east and Meadow Barn to the south-west. It is not clear that there is anything on the ground physically restricting the width of the access at this point.
- 9.31. The proposal would result in additional movements along this access, but again one notes that the LHA has no objections to the proposal, subject to conditions being imposed to require details for parking and manoeuvring. It is thus not considered reasonable to raise objections on highway safety grounds.
- 9.32. Officers have sought the views of the LHA on the concerns of the neighbour and the parish. After reviewing these objections, the LHA confirmed its view that the proposal would be acceptable in terms of highway safety, access and parking. The LHA also maintains its stance, has no objections, and reaffirms that the proposal would not have a significant detrimental impact in terms of highway safety and convenience on the adjacent highway network.
- 9.33. Subject to the said conditions, it is considered that the proposal would not have a detrimental impact upon highway safety in accordance with Policy ESD15 of the Cherwell Local Plan and Government guidance contained within the NPPF.

#### Ecological Impact

- 9.34. *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.*
- 9.35. Paragraph 170 of the NPPF states that: *“Planning policies and decisions should contribute to and enhance the natural and local environment by: minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures”*
- 9.36. The Council's Ecology officer was consulted but no comments have been received from the consultation. At the time of the outline application at the site the ecology officer had requested additional ecological information before the determination of that application to provide a greater understanding of any ecological constraints that may exist on site.
- 9.37. Although noting those concerns, it is also noted that conditions were imposed on the outline permission as opposed to the information being submitted up front. In this context, it is considered that ecological matters at this site can be appropriately handled by condition of any permission given, that is, requiring necessary surveys to be undertaken and mitigation. Subject to the said condition, the proposal is considered acceptable in ecological terms.

#### Other Matters

- 9.38. *Cherwell District Council's Planning and Waste Management Design Guide (2009) states that the Council will not collect waste or recycling if this involves driving over a private road. Residents will be required to wheel their refuse and recycling to the nearest public highway and a waste collection storage unit is something that will have to be considered by the applicant, details of which would be requested as a condition if the application were to be recommended for approval.*
- 9.39. Concerns have been raised both by the neighbour and the parish that the proposal would have an adverse impact in terms of noise, that the proposal would result in an excessive distance for the wheelie bins to travel and that there is a lack of space at the front for the bins. In each case, it is considered that one additional dwelling in this location would not have significant or adverse impacts.

#### Human Rights and Equalities

- 9.40. The Human Rights Act 1998 (“HRA”) sets out fundamental freedoms which have been laid out by the European Convention on Human Rights (“ECHR”). In making any decisions, Cherwell District Council (“the Council”) should have due regard to and take into account any implications that may arise under the HRA. As a public authority, it is unlawful for the Council to act in a manner which is incompatible with the ECHR.
- 9.41. The rights under the ECHR which the Council views as being the most likely to affect planning matters are: Article 6 (the right to a fair trial); Article 8 (right to respect for private and family life); Article 14 (prohibition of discrimination); and Article 1 of the First Protocol (protection of property).

## *Article 6*

- 9.42. Officers have considered these matters and have resolved that, whilst there are potential rights in play, these will not be affected by the application due to the application being publicised by way of giving affected third parties the opportunity to comment on the application and their views taken into account when considering the application. In this case any comments/concerns raised by third parties are listed above and have been taken into account in assessing the application. Furthermore should a third party be concerned about the way the application was decided they could complain to the Local Government Ombudsman or if they question the lawfulness of a decision can appeal to the Courts for Judicial Review of the application.

## *Article 8 and Article 1 of the First Protocol*

- 9.43. Officers have considered the duties under both Article 8 and Article 1 of the First Protocol and have resolved that the application does respect the private and family life of neighbours and does not fail to protect the neighbours' property.

## *Duty under The Equalities Act 2010*

- 9.44. S149 of the Equalities Act 2010 ("EA") sets out what is known as the Public Sector Equality Duty ("PSED"). Under the PSED, the Council, as a public authority, must have due regard to the need to, inter alia, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and has to foster good relations between persons who share a relevant protected characteristic and persons who so not share it. The protected characteristics to which the PSED refers are: (a) age; (b) disability; (c) gender reassignment; (d) pregnancy and maternity; (e) race; (f) religion or belief; (g) sex; (h) sexual orientation.
- 9.45. Officers have considered the application and resolved that none of the protected characteristics is affected or potentially affected by the application.

## **10. PLANNING BALANCE AND CONCLUSION**

- 10.1. The proposal complies with the relevant Development Plan policies and guidance listed at section 8 of this report, and so is considered to be sustainable development. In accordance with Paragraph 11 of the NPPF, permission should therefore be granted
- 10.2. It is considered that the proposed dwellings would not result in any significant detriment to the character or appearance of the area, the setting of heritage assets, the living conditions of neighbouring residents, or on highway safety.

## **11. RECOMMENDATION**

DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY  
TO **GRANT PERMISSION, SUBJECT TO:**

### **1. THE CONDITIONS SET OUT BELOW**

#### CONDITIONS

##### **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.

#### **Compliance with 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;
  - Design and Access Statement by Richard Court Designs submitted with the application;
  - Drawing Numbers: 974-5A; 974-6A; 974-7A; 974-8B; 974-9B and 974-10A submitted with the application;
3. 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**

4. Prior to the commencement of the development above slab level, 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 shown on the approved plans to be brick shall be constructed in strict accordance with the approved brick sample panel and shall be retained as such thereafter.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Material Samples**

5. Prior to the commencement of the development above slab level, the tiles to be used in the construction of the roofs of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in strict accordance with the samples so approved and shall be retained as such thereafter.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Windows, Doors and Rooflights**

6. Prior to their installation, full details of the doors, windows and roof lights 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 and windows and their surrounds shall be installed within the buildings in accordance with the approved details and shall be retained as such thereafter.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Parking and Manoeuvring Areas**

7. Prior to the first use of the development hereby approved, full specification details (including construction, layout, surface finish and drainage) of the turning and manoeuvring area which shall be provided within the curtilage of the site so that motor vehicles may enter, turn around and leave in a forward direction, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first use of the development, the turning and manoeuvring area shall be constructed in accordance with the approved details and shall be retained for the manoeuvring of motor vehicles at all times thereafter.

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

#### **Archaeology (Written Scheme of Investigation)**

8. 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 first have been submitted to and approved in writing by the Local Planning Authority.

Reason - To safeguard the recording of archaeological matters within the site in accordance with the NPPF (2012).

#### **Archaeology (Staged Programme Of Archaeological Evaluation And Mitigation)**

9. Following the approval of the Written Scheme of Investigation referred to in condition 8, 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.

Reason – To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the NPPF (2012).

#### **Landscape Scheme**

10. Prior to the first occupation of the development hereby approved, a hard landscape scheme for the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details prior to the first occupation of the

development hereby approved and 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 ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Permitted Development Rights (Restrictions)**

11. 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 dwellings shall not be extended or enlarged, nor shall any structures be erected within the curtilage of the said dwelling, without the grant of further specific planning permission from the Local Planning Authority.

Reason - To ensure and retain the satisfactory appearance of the completed development and to ensure a satisfactory amenity for the future occupants of the dwelling, 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.

#### **Waste Water Network Upgrades/Housing And Infrastructure Phasing Plan**

12. No properties shall be occupied until confirmation has been provided that either:- all surface water network upgrades required to accommodate the additional flows from the development have been completed; or - a housing and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

Reason - The development may lead to flooding and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional flows anticipated from the new development. Any necessary reinforcement works will be necessary in order to avoid sewer flooding and/or potential pollution incidents.

#### **Land Contamination: Desk Study/Site Walk Over**

13. 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.

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

**Land Contamination: Intrusive Investigation**

14. If a potential risk from contamination is identified as a result of the work carried out under condition (13), 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 Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

**Land Contamination: Remediation Scheme**

15. If Contamination is found by undertaking the work carried out under condition (13), 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 1, 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 Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

**Land Contamination: Carry out Remediation**

16. If remedial works have been identified in condition (13), the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition (13). 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 Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

**Land Contamination not Previously Found**

17. If, during development, contamination not previously identified is found to be



present at the site, no further development shall be out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

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

#### **Waste storage and collection**

18. Prior to the first use or occupation of the development hereby permitted, details of the waste storage and collection location for the site shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the waste storage and collection facilities shall be permanently retained and maintained in connection with the development.

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

#### **Obscure glazing**

19. Before the respective dwelling is first occupied the first floor openings on the south-western elevation of the southern-most of the three dwellings shall be glazed with obscure glass (at least Level 3) only and, unless fixed shut, fixed with a ventilation stay restricting the opening of the window to no more than 30 degrees from the elevation in question, and must be permanently maintained as such at all times thereafter.

Reason - To safeguard the living conditions of neighbouring residents and future occupiers of the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

### **PLANNING NOTES**

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

finds do occur during development, the applicant is requested to notify the County Archaeologist in order that he may make a site visit or otherwise advise as necessary. Please contact: County Archaeologist, Historic and Natural Environment Team, Infrastructure Planning, Speedwell House, Speedwell Street, Oxford, OX1 1NE (Telephone 01865 328944).

3. 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.

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.

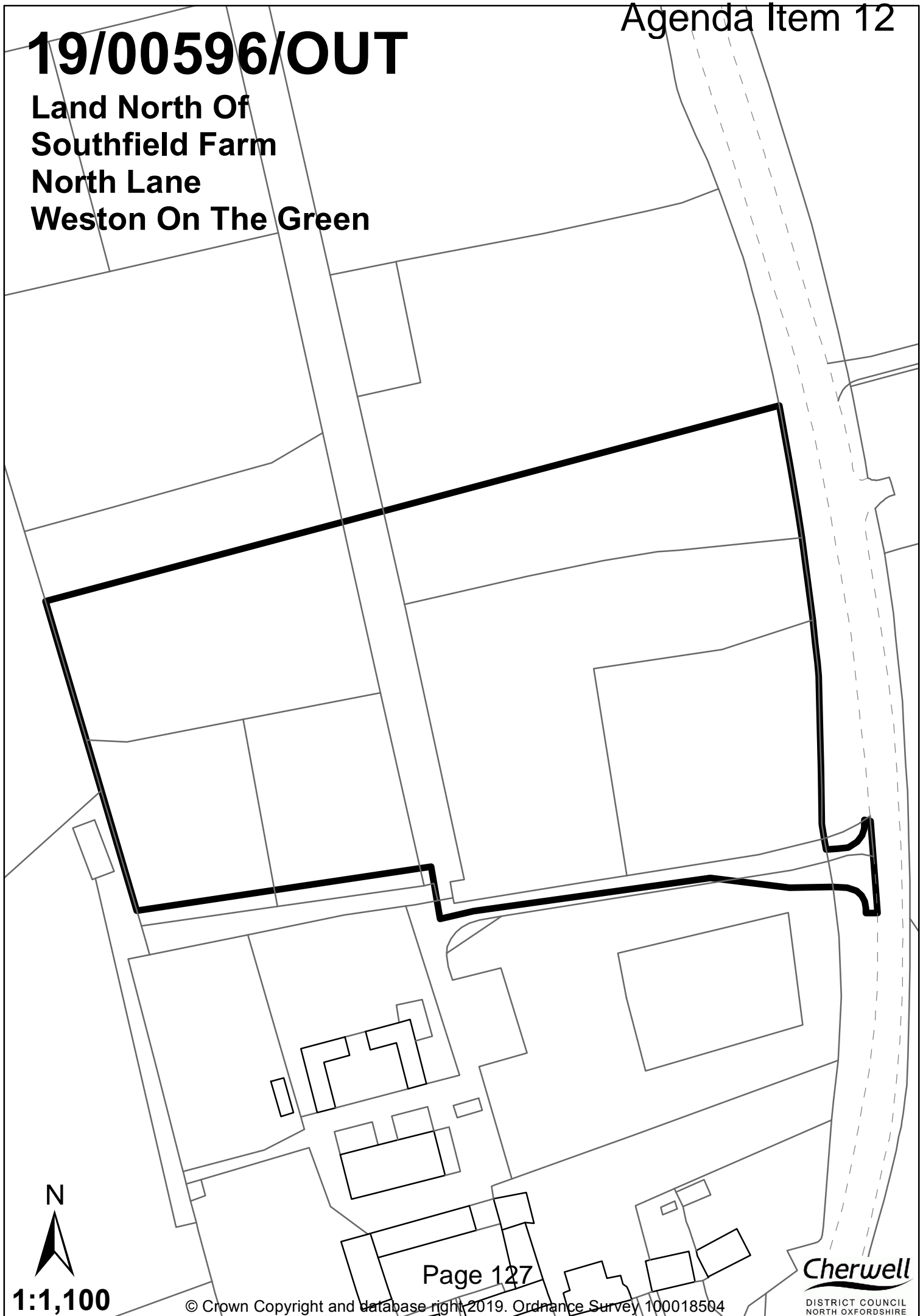
4. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
5. Any necessary reinforcement works will be necessary in order to avoid sewer flooding and/or potential pollution incidents." The developer can request information to support the discharge of this condition by visiting the Thames Water website at [thameswater.co.uk/preplanning](http://thameswater.co.uk/preplanning).
6. Thames Water advise that a drainage strategy should be provided with the details of pre and post development surface water run off rates and the proposed methods of surface water flow management e.g. attenuation, soakaways etc. The drainage strategy should also contain the points of connection to the public sewerage system as well as the anticipated size of the proposed sewer connection/s (including flow calculation method and whether the flow will be discharged by gravity or pumped) into the proposed connection points. If the drainage strategy is not acceptable an impact study will need to be undertaken.

CASE OFFICER: Michael Sackey

TEL: 01295 221820

**19/00596/OUT**

**Land North Of  
Southfield Farm  
North Lane  
Weston On The Green**



# 19/00596/OUT

Land North Of  
Southfield Farm  
North Lane  
Weston On The Green



1:3,500

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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Case Officer:** Matthew Chadwick

**Applicant:** Greystoke Land Limited

**Proposal:** Residential development of up to 18 dwellings with associated access, internal roads, car parking, public open space, landscaping, drainage and other associated infrastructure.

**Ward:** Launton And Otmoor

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

**Reason for Referral:** Major development

**Expiry Date:** 2 July 2019

**Committee Date:** 20 June 2019

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

### **RECOMMENDATION: REFUSE PERMISSION**

#### **Proposal**

Outline planning consent with all matters reserved is sought for the erection of up to 18 dwellings on the site

#### **Consultations**

The following consultees have raised **objections** to the application:

- OCC Drainage, OCC Highways, CDC Planning Policy, Weston on the Green Parish Council

The following consultees have raised **no objections** to the application:

- OCC Archaeology, CDC Building Control, OCC Education, CDC Landscape Services, CDC Strategic Housing, Thames Valley Police Design Advisor, Thames Water

16 letters of objection have been received and 0 letters of support have been received.

#### **Planning Policy and Constraints**

The application site sites approximately 50m to the north of the Weston on the Green Conservation Area and there are a number of listed buildings on North Lane to the south of the site. Two public footpaths run away from the site to the east and west.

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

#### **Conclusion**

The key issues arising from the application details are:

- Principle of Development

- Landscape and visual impact
- Site layout and design principles
- Highways
- Residential amenity
- Affordable housing
- Flood Risk and drainage
- Ecology
- Infrastructure
- Other matters

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

1. Unnecessary housing development beyond the built up area contrary to the development plan
2. Unsustainable form of development poorly related to the services and facilities within the existing village
3. Insufficient drainage scheme
4. Lack of a Section 106 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 site lies on the northern edge of the village of Weston on the Green and to the western side of the B430 that runs north from the A34. The site is an area of land of 1.65 hectares which sits to the north of an existing gated access off the B430. The land is currently used as open paddock land for the grazing of horses; there are no buildings currently on the site. Immediately to the south of the site there is currently an equestrian use with an existing vehicle access, two L-shaped stable buildings and grazing land. This area is within the applicant's ownership. Beyond the equestrian use to the south there are residential properties which front onto North Lane. The site and the surrounding landscape are relatively flat.

### **2. CONSTRAINTS**

- 2.1. The Weston on the Green Conservation Area lies approximately 50 metres to the south of the site and there are three listed buildings and two locally listed buildings to the south of the site on North Lane. There are public footpaths in the vicinity of the site, one running from North Lane to the west of the site and one which joins the B430 to the east of the site. There are no footpaths which run through the site. A number of protected species have been found in close proximity of the site.

### **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The application seeks outline planning permission for up to 18 dwellings on the site. All matters are reserved for future consideration. An indicative layout has been submitted with the application. The development is shown to take access from the development to the south, which ultimately would lead onto the B430 to the east.

#### **4. RELEVANT PLANNING HISTORY**

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
13/01796/OUT	OUTLINE - Residential development of up to 20 dwellings	Application Permitted
15/01953/OUT	Erection of up to 26 dwellings including creation of a new access, associated landscaping, open space and drainage infrastructure	Application Refused
16/00574/REM	Reserved matters to 13/01796/OUT - Residential development of up to 20 dwellings	Application Permitted

4.2. Application 15/01953/OUT relates to the current application site. This application was taken to planning committee in February 2016 with a recommendation of approval by officers. This recommendation was overturned by members and was refused for three reasons. These reasons were that the development would constitute unnecessary housing development beyond the built up area contrary to the development plan, unsustainable form of development poorly related to the services and facilities within the existing village and there was a lack of a Section 106 agreement.

4.3. This decision was appealed and this appeal was dismissed by the Planning Inspectorate (APP/C3105/W/16/3158925). The Inspector found that the principle of development was unacceptable given the unsustainability of the site and that the development would unacceptably harm the character and setting of Weston on the Green.

4.4. Application references 13/01796/OUT and 16/00574/REM relate to land immediately to the south of the application site. These dwellings have yet to be constructed but the consent has been implemented through the demolition of a building on the site.

#### **5. PRE-APPLICATION DISCUSSIONS**

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

<u>Application Ref.</u>	<u>Proposal</u>
15/00175/PREAPP	Pre-App enquiry - Erection of up to 25 dwellings together with public open space and play space
17/00362/PREAPP	Development of either 10, 24, 32 houses

5.2. Both of these pre-application enquiries were negative in their response with regard to the principle of development.

#### **6. RESPONSE TO PUBLICITY**

6.1. 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 23.05.2019, although comments received after this date and before finalising this report have also been taken into account.

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

- The access to the site would be unsafe.
- There would be no footpath link to the village.
- The development would cause harm to the setting of the conservation area.
- The development would cause harm to the rural character of the countryside.
- The development is under the flight path of the Weston on the Green airfield to the north of the site.
- Safeguarding of the airfield may impose restrictions on the proposed pond to ensure that the risk of bird strike is minimised at a critical point in aircraft flights.
- The use of cranes for the construction phase may also be restricted due to safeguarding issues being within the vicinity of an airfield
- The development would cause noise and light pollution.
- There is no public transport serving the village.
- The site is in an unsustainable location.
- The construction traffic would cause harm to the existing village.
- Nothing has changed since the previous appeal on the site.
- The development is not in accordance with the neighbourhood plan.
- The development constitutes piecemeal development.
- There is no need for development under Villages 2.
- Weston on the Green is not a sustainable village.

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

## **7. RESPONSE TO CONSULTATION**

7.1. 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 COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. WESTON ON THE GREEN PARISH COUNCIL: **Objects** on the grounds of the scale of the development with regards to the development plan and the location of the site in relation to services and facilities, the effect of the proposal on the



character and setting of the village and the scheme constitutes an unsustainable form of development.

#### CONSULTEES

- 7.3. OCC ARCHAEOLOGY: **No objections**, subject to conditions relating to a written scheme of investigation and staged programme of evaluation.
- 7.4. CDC BUILDING CONTROL: Fire brigade access to be in accordance with Approved Document B Volume 1 Section B5.
- 7.5. OCC DRAINAGE: **Objects**. The drainage proposals are not in line with local and national standards. The site is based upon pipe to pond design and is lacking a significant amount of information.
- 7.6. CDC ECOLOGY: No comments received.
- 7.7. OCC EDUCATION: **No objections**, subject to a primary school contribution of £102,141 towards the expansion of primary capacity at Chesterton Primary School.
- 7.8. CDC FINANCE (NEW HOMES BONUS): 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. Section 70(4) of the 1990 Act (as amended) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

In this particular instance, the above financial payments are not considered to be material to the decision as they would not make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority and hence the above response from the Council's Finance department is therefore provided on an information basis only.

- 7.9. OCC HIGHWAYS: **Objects**. The site is considered to be unsustainable. It has very limited opportunity for sustainable travel, and due to the lack of a bus service, it fails to provide safe and suitable access for all people, contrary to the NPPF.
- 7.10. CDC HOUSING STANDARDS: No comments received.
- 7.11. CDC LANDSCAPE SERVICES: **No objections**. There would be a negligible level of harm (combining the approved development with the proposed development) from visual receptors. The roadside hedgerow (B430) should be retained and maintained at its mature height to ensure a degree of visual containment.
- 7.12. CDC PLANNING POLICY: **Objects**. The reasons the inspector cited for refusing the earlier appeal on this site remain valid. The draft policies in the Weston on the Green Neighbourhood Plan do not materially change this planning policy context. Furthermore, the reduction in housing numbers proposed would result in a very low density development contrary to Policy BSC2.
- 7.13. CDC PUBLIC ART: No comments received.
- 7.14. CDC RECREATION AND LEISURE: No comments received.

- 7.15. CDC STRATEGIC HOUSING: **No objections**. The development would provide 6 affordable units in line with Policy BSC3 of the Cherwell Local Plan 2011 – 2031 Part 1. The mix should be 2 x 2b4pH 2 x 3b5pH for the rented units and 2 x 2b4pH for the shared ownership units. Each affordable unit should have a minimum of 2 parking spaces.
- 7.16. THAMES VALLEY POLICE DESIGN ADVISER: **No objections**. However, there are some elements of the indicative layout that may be problematic in crime prevention terms.
- 7.17. THAMES WATER: **No objections**, subject to conditions.
- 7.18. CDC WASTE AND RECYCLING: No comments received.

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

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

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

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

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

- H18 – New dwellings in the countryside
- C8 – Sporadic development in the open countryside

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

8.3. Under Section 38 of the Planning and Compulsory Purchase Act 2004, a Neighbourhood Plan that has been approved at referendum also forms part of the statutory development plan for the area. In this case, the application site falls within the , and the following Policies of the Neighbourhood Plan are considered relevant:

#### Other Material Planning Considerations

8.4. Weston on the Green Neighbourhood Plan is currently being developed. Consultation on the draft (submission) plan ended on the 11<sup>th</sup> January 2019 and the plan has now been submitted to the independent examiner to consider. This plan and its policies therefore hold limited weight in decision making at the current time as it will need to be subject to examination by the independent inspector and then subject to a referendum. The most relevant policies are:

- E1 – Development providing a positive contribution to the character of the village
- E2 – Green infrastructure and the natural environment
- E3 – Previously developed land
- H2 – New residential development
- H3 – Housing mix
- H4 – Housing design
- H5 – Design code
- H6 – Safe access to village facilities
- H8 – Developer contributions
- C5 – Protection of the character of the village and heritage assets
- T2 – Sustainable transport connectivity
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Annual Monitoring Report (AMR) 2018
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)

8.5. Council Corporate Priorities

Cherwell District Council's Business Plan for 2019-20 sets out the Council's three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is “Clean, Green and Safe”, that it supports “Thriving Communities & Wellbeing”, and is a District of “Opportunity & Growth”. All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) deliver

the Growth Deal; (9) delivery innovative and effective housing schemes; and (10) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals depending on the issues raised.

The above corporate priorities are considered to be fully compliant with the policy and guidance contained within the National Planning Policy Framework and National Planning Practice Guidance.

## **9. APPRAISAL**

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

- Principle of development
- Landscape and visual impact
- Site layout and design principles
- Affordable housing
- Flood Risk and drainage
- Highways
- Residential amenity
- Ecology
- Infrastructure
- Other matters

### Principle of Development

#### *Policy Context*

- 9.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 and the saved policies of the Cherwell Local Plan 1996.
- 9.2. 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. Paragraph 7 of the NPPF sets out the Government's view of what sustainable development means in practice for the planning system – the three strands being the economic, social and environmental roles. It is clear from this that as well as proximity to facilities, sustainability also relates to ensuring the physical and natural environment is conserved and enhanced as well as contributing to building a strong economy through the provision of new housing of the right type in the right location at the right time.
- 9.3. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that conflicts with the Local Plan should be refused unless other material considerations indicate otherwise (Para. 12). Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015 and can demonstrate a 5 year housing land supply.
- 9.4. The Written Ministerial Statement of 12 September 2018 now considers important policies for determining the application to be out of date only where a 3 year supply of deliverable sites cannot be demonstrated.

- 9.5. The Cherwell Local Plan 2011-2031 seeks to allocate sufficient land to meet District Wide Housing needs. The overall housing strategy is to focus strategic housing growth at the towns of Banbury and Bicester and a small number of strategic sites outside of these towns. With regards to villages, the Local Plan notes that the intention is to protect and enhance the services, facilities, landscapes and natural and historic built environments of the villages and rural areas. It does, however, advise that there is a need within the rural areas to meet local and Cherwell-wide needs.
- 9.6. Policy Villages 1 of the CLP 2031 provides a framework for housing growth in the rural areas of the district and groups villages into three separate categories (A, B and C), with Category A villages being considered the most sustainable settlements in the District's rural areas which have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth. Weston on the Green is a Category A village.
- 9.7. In order to meet the areas housing needs Policy Villages 2 of the CLP 2015 states that: *"A total of 750 homes will be delivered at Category A villages. This will be in addition to the rural allowance for small site 'windfalls' and planning permissions for 10 or more dwellings as at 31 March 2014"*. This Policy notes that sites will be identified through the preparation of the Local Plan Part 2, through the preparation of the Neighbourhood Plan where applicable, and through the determination of applications for planning permission.
- 9.8. Policy Villages 2 then sets out that when identifying and considering sites, particular regard will be given to the following criteria:
- *"Whether the land has been previously developed land or is of less environmental value;*
  - *Whether significant adverse impact on heritage and wildlife assets could be avoided;*
  - *Whether development would contribute in enhancing the built environment;*
  - *Whether best and most versatile agricultural land could be avoided;*
  - *Whether significant adverse landscape impacts could be avoided;*
  - *Whether satisfactory vehicular and pedestrian access/egress could be provided;*
  - *Whether the site is well located to services and facilities;*
  - *Whether necessary infrastructure could be provided;*
  - *Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period;*
  - *Whether land the subject of an application for planning permission could be delivered within the next five years; and*
  - *Whether development would have an adverse impact on flood risk."*
- 9.9. The Weston on the Green Neighbourhood Plan has been submitted for examination so is only considered to carry limited weight in decision making at the current time. However, there are a number of policies relevant to the principle of the development. The calculated housing need in the emerging Neighbourhood Plan states that there should be an objective of 15% growth in new housing in the period 2017-2031 which equates to 38 new houses. The supporting text states that any new residential development should be well connected with the village.

#### *Assessment*

- 9.10. The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan and the site sits outside the built up limits of the village given its physical and visual relationship to the existing built form.
- 9.11. Of the 750 dwellings identified under Policy Villages 2 to be delivered at Category A Villages across the plan period until 2031, only 4 dwellings remain to be identified according to the Council's Annual Monitoring Report 2018. However, an outline application for up to 21 dwellings in Deddington (18/02147/OUT) has a resolution to approve from the May 2019 planning committee, which would take the number of dwellings identified to 767. Recent appeal decisions received by the Council, including the previous appeal on this site (15/01953/OUT) and one at Finmere (16/01209/OUT), confirm that an overprovision of the rural housing allocation at an early stage in the plan period could prejudice the sustainable growth strategy set out in the Development Plan and leave limited ability to respond to later changes in housing need in individual settlements without fundamentally compromising the overall sustainability strategy contained in the Local Plan. Furthermore, whilst 750 dwellings is not to be regarded as an upper limit, significant deviation from this may result in unconstrained growth in less sustainable locations which against would conflict with the Development Plans housing strategy. Therefore, significant progress has already been made on the housing allocation under Policy Villages 2 and there is no pressing need for housing.
- 9.12. Weston on the Green is identified in Policy Villages 1 as a Category A village. However, there is significant variation in the size of the villages covered by this policy, from Kidlington as the largest at one end (population 13,720 from the Census 2011) to Finmere as the smallest at the other (population 466 from the Census 2011). Weston-on-the Green is the second smallest of the Category A settlements set out in Policy Villages 1 with a population of 523 based on the Census 2011. The scale of the villages affects their overall ability to accommodate additional growth. It is therefore considered that not all Category A villages will be suitable for additional growth under Policy Villages 2. It is noted that the village has a general store and Post Office, village hall, church and two public houses. However, it does not have a school (Chesterton Primacy School being located 3 miles away), library or any healthcare facilities (the nearest GP's surgery is located in Islip 4 miles away) and employment opportunities are very limited in the village.
- 9.13. Furthermore, since the 2015 Local Plan was adopted the regular bus service which used to run through the village connecting the village to Bicester and Kidlington has been withdrawn (July 2016). Planning Inspectors for new residential development in Fringford, (18/00249/OUT), Finmere (16/01209/OUT) and the previous appeal on this site (15/01953/OUT refers) have all given weight to the fact that the reduced bus service has impacted on the relative sustainability of some Category A villages. In addition the site is remote from any other villages which contain further services or bus links which residents might access by cycle or on foot. Thus residents have no realistic choice of transport to access these services other than private car. The Inspector agreed with this view in the appeal decision on the site and there has been no material change in circumstances since this time. The Local Highways Authority has objected to the proposals based on the unsustainable nature of the village.
- 9.14. The applicant argues that the site does have sustainable transport options. The Oxfordshire Comet bus service is provided by Oxfordshire County Council and it is stated that this offers transport from home to and from any destination in Oxfordshire and is fully wheelchair and pushchair accessible. This is an off-peak service which operates from 10:15 – 14:30 Monday to Friday. This is a very limited service and does not substitute for a regular daily bus service that would provide access to vital facilities and services.

- 9.15. The planning statement states that school buses are available to secondary education. However, as the letter of objection from Stagecoach highlights, such links must be provided by law by the Local Education Authority to and from any residence which lies over 3 miles from the nearest state education provision. These links are also provided to isolated hamlets and therefore does not highlight the sustainability of the village.
- 9.16. The information put forward in the planning statement does not change officers' views on the unsustainability of the site. It is recognised that this scheme is for 18 dwellings, whereas the appeal scheme was for 26 dwellings. The number of dwellings has been reduced in order to attempt to satisfy the amount of the growth indicated in the Submission Neighbourhood Plan, but does not address the fact that, for the reasons set out above, the proposal would still constitute an unsustainable form of development.

### *Conclusion*

- 9.17. There has been no material change in circumstances regarding the sustainability of the village since the dismissed appeal. Given the above in relation to the limited services available in the village and the lack of alternative means of transport future residents of the proposed housing are likely to be highly reliant on the private car to access day to day services. In light of the Council's ability to demonstrate a 5 year land supply, the advanced position regarding the progress of identifying sites under Policy Villages 2, the poor access the residents would have to services and facilities, and the limited opportunities for travel other than by private car, the proposed development is considered to be unsustainable in this regard and would not manage growth in a pattern which reduces the need to travel. The proposal would therefore conflict with the Council's rural housing strategy contained with Policy ESD1 and Policy Villages 1 and 2 of the Cherwell Local Plan Part 1 and Saved Policy H18 of the 1996 Local Plan in this respect.

### Landscape and visual impact

#### *Policy context*

- 9.18. 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 NPPG 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.
- 9.19. Paragraph 127 of the NPPF states that planning decisions should ensure that developments:
- Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - 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;

- Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks;
- 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.

9.20. Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“New development proposals should:*

- *Contribute positively to an area’s character and identity by creating or reinforcing local distinctiveness and respecting local topography, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views.*
- *Respect the traditional pattern routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages.”*

9.21. Policy ESD13 of the Cherwell Local Plan Part 1 states that: *“Development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not be permitted if they would:*

- *Cause undue visual intrusion into the open countryside;*
- *Cause undue harm to important natural landscape features and topography;*
- *Be inconsistent with local character;*
- *Harm the setting of settlements, buildings, structures or other landmark features;*
- *Harm the historic value of the landscape.”*

9.22. Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context and Saved Policy C8 seeks to limit sporadic development beyond the built limits of settlements.

9.23. Policy E1 of the emerging Neighbourhood Plan states that development should provide a positive contribution to the locally distinctive character of Weston-on-the-Green and conserve the setting of the village. Policy C5 states that all development should protect the character of the village centre, conserve and enhance its heritage assets and respect the importance of space, key street scenes and views.

### *Assessment*

9.24. The application site is a greenfield site that has been in use as a paddock. It is part of the open countryside which contributes towards the rural character and setting of the village, particularly on the entrance to the village from the north via the B430. The historic settlement pattern of the village is fairly low density linear development along the Northampton Road, with further linear development on the roads that lead off to the west (Church Road and North Lane). The main modern development in the



village is Westlands Avenue which follows the linear form of the more historic roads leading to the west off Northampton Road, albeit in a more dense fashion.

- 9.25. The site is not previously developed land. The nature and use of the site as a paddock is in keeping with the wider arable farmland character of the surrounding landscape and supports the rural character of the village and therefore it cannot reasonably be considered to be of lesser environmental value.
- 9.26. The proposal seeks to erect modern housing on open agricultural countryside that contributes to the rural village character of Weston-on-the-Green. There is no evidence whatsoever that the final proposals would be of such architectural merit that they would enhance the built environment in a manner greater than the contribution that the existing site makes. The indicative masterplan shows a cul-de-sac development that would fail to relate well to the established character of the village. There is nothing within the proposals that therefore suggests that the proposals would enhance the character and quality of the built environment.
- 9.27. The proposal would result in a significant urbanisation of the application site and be very prominent in views from the public footpath to the west and south of the site. There would be high magnitude of visual effects to users of these rights of way as views of the site are relatively open particularly further to the south of the site. The submitted Landscape Visual Impact Assessment and Illustrative Masterplan include some mitigation planting to the boundaries of the site however this would merely attempt to screen the development, particularly when approaching from the north. The development would take access from the road leading through the estate to the south and would thus read as one single, large expansion to the village of 38 dwellings, the layout of which would not relate well to the historic pattern of development in the village. Furthermore, another application for four dwellings to the south of the 20 dwellings scheme is currently under consideration (18/02066/F) which, if approved, would increase the size of this single development to 42 dwellings.
- 9.28. The proposals would result in a clear northwards expansion of the village into open countryside. As a result of the relatively flat topography in the immediate area, it would be perceived as a direct linear encroachment into the surrounding natural landscape of the village both from the public realm as well as in sweeping open views from the landscape to the north. Whilst there are hedgerows to the western and eastern boundaries, the houses would inevitably be visible both above and through them, particularly in winter time. This would enable views of the village expansion both from Northampton Road and public footpath 404/22 that runs in a northwest direction from North Lane along Gallos Brook.

### *Conclusion*

- 9.29. Overall for a combination of the above reasons the proposal is considered to result in a poorly related form of development which would not respect the traditional pattern of development in the village and would be poorly integrated into the built and natural environment. It would result in a significant urbanisation of the site and would harm to the character and appearance of the locality and the setting of the village. Overall, therefore, the proposal would be contrary to Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan in this respect, Saved Policies C8 and C30 of the Cherwell Local Plan 1996 and advice in the NPPF.

### Site layout and design principles

#### *Policy context*

- 9.30. Policy ESD15 of the Cherwell Local Plan Part 1 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high quality design meeting high design standards and complementing any nearby heritage assets. The National Planning Policy Framework is clear that good design is a fundamental to what the planning and development process should achieve. BSC2 of the Cherwell Local Plan Part 1 states that new housing should be provided on net development areas at a density of at least 30 dwellings per hectare unless there are justifiable reasons to lower the density.
- 9.31. The Council's Design Guide seeks to ensure that new development responds to the traditional settlement pattern and character of a village. This includes the use of continuous building forms along principle routes and the use of traditional building materials and detailing and form that respond to the local vernacular.

#### *Assessment*

- 9.32. The application is made in outline with all matters reserved. Therefore the final access, layout, scale, appearance and landscaping would be for subsequent applications to determine.
- 9.33. The indicative masterplan shows a small road leading off from the road through the development to the south, with four smaller roads leading off to access the dwellings. A significant amount of open space is proposed due to the low density of the dwellings on the site. As stated in the previous section of this report, the cul-de-sac layout of the development would not relate well to the historic and established character of the village. It is considered that the scheme would fail to reinforce local distinctiveness.
- 9.34. The application site has an area of 1.65 hectares and 18 dwellings are proposed, which equates to a density of 10.9 dwellings per hectare, which is significantly below the target density of 30 dwellings per hectare set out in Policy BSC2 of the Cherwell Local Plan Part 1. In certain circumstances, it is recognised that it may be acceptable for schemes in the rural areas to have a density below 30dp/h; however, the proposals are very significantly below this. The area of the application site is larger than the appeal scheme (15/01953/OUT) but has 8 fewer dwellings proposed, with the amount of dwellings based on the housing figures set out within the emerging Neighbourhood Plan. The proposals would constitute an inefficient use of land that would fail to relate well to the development to the south and the wider village.
- 9.35. It is recognised that the application is submitted in outline with all matters reserved; however, given the constraints of the site it is difficult to envisage how a scheme could be achieved on the site that would relate well to the pattern of development in the area and reinforce local distinctiveness.

#### *Conclusion*

- 9.36. Overall, it is considered that the development would fail to relate well to existing development in the village through the incongruously low density and cul-de-sac layout of development.

#### Affordable housing

- 9.37. Policy BSC3 of the Cherwell Local Plan (2011-2031) states that development on the site should make provision for 35% affordable housing with 70% of the affordable

housing to be affordable rent and 30% as intermediate homes such as shared ownership. Policy BSC4 states that new development will be expected to provide a mix of home to meet current and expected future demand creating socially mixed and inclusive communities.

- 9.38. The emerging Neighbourhood Plan identifies 38 dwellings needed across the plan period and identifies a housing mix of 1-2 bed = 11 houses (30%); 2-3 bed = 15 houses (40%); 3-4 bed = 5 houses (25%); 4 bed or larger houses = 1 (5%). Of the 38 dwellings to be approved, 23 of these should be affordable housing which equates to 60% of the total. This is covered by Policy H3.
- 9.39. The applicant has committed to providing 35% affordable housing on the site in line with Policy BSC3. The housing officer has raised no objection to this and has provided a suggested mix. If the scheme were considered acceptable in all other regards then full details of the mix of the market and affordable housing could be determined at reserved matters stage.

#### Flood risk and drainage

##### *Policy context*

- 9.40. Policy ESD6 of the Cherwell Local Plan (2011-2031) essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding. Policy ESD7 of the Cherwell Local Plan (2011-2031) requires the use of Sustainable Urban Drainage Systems (SUDS) to manage surface water drainage. This is all with the aim to manage and reduce flood risk in the District.

##### *Assessment*

- 9.41. The current is situated wholly within Flood Zone 1 which is land which has a less than 1 in 1,000 annual probability of river flooding.
- 9.42. The County Drainage Engineer has objected to the drainage scheme submitted with the application, stating that the drainage proposals are not in line with local and national standards as the proposals are based upon a pipe to pond design. The Drainage Engineer states that the Oxfordshire Local Standards expects developments to move away from proposing a pipe and gully system to a site control solution, including a treatment and management train wherever possible. Runoff must be managed at source (i.e. close to where it falls) with residual flows then conveyed downstream to further storage or treatment components, where required, i.e. dispersed site storage to provide a treatment and management train and redundancy in the case of failure of an element of the system. The Drainage Engineer has listed a significant amount of further information that is required and factors that need to be addressed.

##### *Conclusion*

- 9.43. In the absence of an acceptable drainage scheme, it is considered that the development would fail to comply with the provisions of Policy ESD7 of the Cherwell Local Plan (2011-2031) and that the development is not acceptable in this regard.

#### Highways

##### *Policy context*

- 9.44. Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions.”* Policy SLE4 states that: *“All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported.”* The NPPF advises that development should provide safe and suitable access for all and development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe.
- 9.45. Policy T2 of the emerging Neighbourhood Plan states that developments of 10 or more dwellings will be expected to promote and improve lowcarbon transport connectivity by contributing to improvements in the local footway/ cycleway network to facilitate safe and energy efficient means of transport around and beyond the village limits and enhance links with neighbouring parishes.

#### *Assessment*

- 9.46. The Local Highway Authority (LHA) has objected to the general geographical sustainability of the site on the basis that Weston on the Green lacks sufficient facilities or an adequate bus service to reduce reliance on the private motor car and these matters are discussed in the “principle” section of this report above and officers agree with this assessment.
- 9.47. Access is a reserved matter; however the indicative masterplan shows that the scheme would take access off the internal road of the scheme to the south, which then exits on the B430. The LHA has offered no objections to the development utilising this access and this is deemed to be acceptable. The LHA advises that the Transport Statement has used data that is not completely up to date. This comment is noted, however the access to the site was deemed to be acceptable in the appeal scheme and the proposed development is of a smaller scale.
- 9.48. The LHA states that, in the event of an approval, no dwellings shall be occupied until the footpath link to the village is constructed. If the scheme were considered to be acceptable in all other regards, this could be secured by legal agreement to ensure that the scheme had a safe, sustainable access to the village.

#### *Conclusion*

- 9.49. On balance, the development is considered to be acceptable in regard to technical highway matters; however, there are serious concerns regarding the sustainability of the site as set out earlier in this report.

#### Residential amenity

- 9.50. Policy ESD 15 of the Cherwell Local Plan (2011-2031) requires new development to consider the amenity of both existing and future occupants, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space.
- 9.51. The proposed development would be located away from many of the surrounding residential properties. The properties which would be most impacted upon by the proposed development would be the approved dwellings to the south of the site or the existing dwelling to the east of the B430, Caerleon. Some of the separation distances between the proposed dwellings are insufficient; however, given the size of the site and that the application is made in outline with all matters reserved, it is

considered that a scheme could be achieved on the site that would not cause harm to the amenities of existing and future occupiers.

### Ecology Impact

#### *Legislative context*

- 9.52. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
- 9.53. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.54. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.
- 9.55. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
  - (2) That there is no satisfactory alternative.
  - (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
- 9.56. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

#### *Policy Context*

- 9.57. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.58. Paragraph 175 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.59. Paragraph 180 of the NPPF states that planning 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 (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 9.60. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.61. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.62. The Planning Practice Guidance dated 2014 post dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

### *Assessment*

- 9.63. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:
- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPAs can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all

- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

9.64. The Council's Ecology Officer has not commented on the proposals. The application is supported by a detailed protected species survey which concluded that the development proposal would result in the loss of a component of semi-improved grassland of low ecological value within the south of the survey area. All other habitat features of value (hedgerows, ditch) would be retained where possible. The ecological appraisal states that the habitat loss would not be significant, subject to recommendations within the report. Officers agree with this conclusion and if the scheme were considered acceptable then these recommendations could be conditioned.

#### *Conclusion*

9.65. Officers are satisfied that, subject to conditions, the welfare of any European Protected Species found to be present at the site and surrounding land would continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

#### Infrastructure

9.66. 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.*

9.67. 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."*

9.68. OCC Education has requested a contribution of £102,141 towards the expansion of Chesterton Primary School. The proposal would be required by the policy to provide general green space and a Local Area of Play, which would have a 100 sq m activity zone with a total area of 400 sq m. Given the low density of the development, it is considered that this could be accommodated on site; however, at the current time discussions with the applicant have not been advanced in this matter due to the principle objections that relate to the site. Therefore at the current time in the absence of a legal agreement that secure these matters the proposal conflicts with Policies, BSC7, BSC10 and BSC11 of the Cherwell Local as they do not make adequate provision for the education, open space and recreational demands imposed by the development.

#### Other matters

9.69. The site is located in an area of archaeological interest. The County Archaeologist has offered no objections to the scheme, subject to planning conditions and the development is considered to be acceptable in this regard.

## **10. PLANNING BALANCE AND CONCLUSION**

- 10.1. 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.
- 10.2. The proposed development would be located in a Category A settlement however the village does not benefit from a wide range of services to meet the day to day needs of the residents and residents would have very limited opportunities to reach these apart from through the use of the private car given the distance to other settlements with facilities and a lack of any regular public transport. The proposal would therefore conflict with Policy ESD1, Policy Villages 1 and 2 and advice in the NPPF which seeks to guide rural housing development to locations which reduce the need to travel and reduce the impact on climate change.
- 10.3. The proposal would result in a poorly related form of development which would not respect the traditional pattern of development in the village and would be poorly integrated into the built and natural environment. It would result in a significant urbanisation of the site and would harm to the character and appearance of the locality and the setting of the village. In these respects the proposal is contrary to Policies ESD10, ESD13 and ESD15 and Saved Policies C8 and C28.
- 10.4. The proposed drainage scheme is not considered to be acceptable and there is no legal agreement in place.
- 10.5. Whilst the proposal would lead to some economic and social benefits which stem from the construction and provision of 10 dwellings, these benefits are not considered to outweigh the significant environmental harm which would be caused by the proposal particularly in light of the Council's ability to demonstrate a 5 year land supply and the significant progress that has already been made regarding the rural housing allocation under Policy Villages 2.
- 10.6. It is therefore recommended that planning permission be refused for the reasons outlined below.

## **11. RECOMMENDATION**

### **RECOMMENDATION - REFUSAL FOR THE REASONS SET OUT BELOW**

1. The development proposed, by reason of its scale and siting beyond the built up limits of the village, encroachment into the open countryside, and taking account of the Council's ability to demonstrate an up-to-date five year housing land supply, is considered to be unnecessary, undesirable and unsustainable new development that would harm the rural character and setting of the village. The proposal is therefore unacceptable in principle and contrary to Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework.
2. The development proposed, by reason of its poor connectivity and links to the existing village and position adjacent to the busy Northampton Road, and the relative lack of facilities within the village, would represent an unsustainable form of development, that would not give future occupiers a realistic choice of travel means. The proposed development would therefore be contrary to Policies SLE4, ESD1 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.



Framework which seeks to ensure that new development facilitates sustainable modes of transport and provides opportunities for the use of public transport, walking and cycling.

3. The submitted Drainage Strategy is inadequate and does not provide sufficient information to demonstrate that a drainage strategy based on Sustainable Urban Drainage Systems has been explored for the site. The proposal is therefore contrary to Policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.
4. In the absence of the completion of a satisfactory Planning Obligation, the Local Planning Authority is not convinced that the necessary infrastructure directly required as a result of this development, in the interests of supporting the sustainability of the village and the development, and in the interests of safeguarding public infrastructure and securing on site future maintenance arrangements, will be provided. The proposal therefore conflicts with Policies BSC3 and INF1 of the adopted Cherwell Local Plan 2011-2031 Part 1 and Government advice within the National Planning Policy Framework.

CASE OFFICER: Matthew Chadwick

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# Agenda Item 13

## Cherwell District Council

### Planning Committee

20 June 2019

#### Appeals Progress Report

#### Report of Assistant Director Planning and Economy

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

##### 2.1 New Appeals

**18/02046/F – 2 Hudson Street, Bicester, OX26 2EP - 2 No one bed bungalows**

**18/02056/OUT – Land North of Merton Road, Ambrosden - OUTLINE -**  
Erection of up to 84no dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Merton Rd - All matters reserved except for means of access – To be decided by Public Inquiry

##### 2.2 New Enforcement Appeals

None

##### 2.3 Appeals in progress

**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.

**Method of determination:** Public Inquiry

**Key Dates**

**Start Date:** 04.09.2018     **Inquiry Date:** 29.07.2019     **Decision:** Awaited

**17/02394/OUT - OS Parcel 9100 Adjoining And East Of Last House, Adjoining And North Of Berry Hill Road, Adderbury** – Appeal by Hollins Strategic Land LLP against the refusal of Planning Permission for Outline planning permission for up to 55 dwellings with associated landscaping, open space and vehicular access off Berry Hill Road.

**Method of determination:** Public Inquiry

**Key Dates**

**Start Date:** 11.12.2018     **Inquiry Date:** 03.09.2019     **Decision:** Awaited

**18/00672/OUT - OS Parcel 8233 South Of Baynards Green Farm, Street To Horwell Farm, Baynards Green** - Outline development for up to 7,161 m2 of B2 and/or B8 industrial development with ancillary offices (B1a), access and landscaping.

**Method of determination:** Written Reps.

**Key Dates:**

**Start Date:** 08.05.2019     **Statement Due:** 12.06.2019     **Decision:** Awaited

**18/00848/F – Streamways, 8 Rectory Close, Wendlebury, OX25 2PG** – Appeal by Mr and Mrs Hooke against the refusal of Planning Permission for Erection of new detached dwelling with integral garage.

**Method of determination:** Written Reps.

**Key Dates:**

**Start Date:** 11.03.2019     **Statement Due:** 15.04.2019     **Decision:** Awaited

**18/01074/F - Stonelea, School Lane, Great Bourton, Banbury OX17 1QY.** Appeal by Mr and Mrs Martin against the refusal of Planning Permission for Two dwellings with new shared access from School Lane.

**Method of determination:** Written Reps.

**Key Dates:**

**Start Date:** 07.12.2018     **Statement Due:** 11.01.2019     **Decision:** Awaited

**18/01305/F – The Courtyard, South Side, Steeple Aston, OX25 4RU** - Shed to store bicycles and garden tools and a wood store - (Retrospective).

**Method of determination:** Householder (Fast Track)

**Key Dates:**

**Start Date:** 16.04.2019     **Decision:** Awaited

**18/01332/F - Land West Of M40 Adj To A4095, Kirtlington Road, Chesterton** – Appeal by Mr C Smith and Mr R Butcher - 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

**Method of determination:** Public Inquiry

**Key Dates:**

**Start Date:** 29.01.2019    **Inquiry date:** 15.10.2019    **Decision:** Awaited

**18/01436/F – Land Adjacent and West of Roba, Camp Road, Upper Heyford** – appeal by Sharon Haddy & Mandy Borton against the refusal of Planning Permission for Erection of three residential dwellings.

**Method of determination:** Written Reps.

**Key Dates:**

**Start Date:** 18.01.2019    **Statement Due:** 22.02.2019    **Decision:** Awaited

**18/01501/F – The Pheasant Pluckers Inn, Burdrop, Banbury, OX15 5RQ -** Change of use from Class A4 (ACV Listed) to Class C3 dwellinghouse.

**Method of determination:** Written Reps.

**Key Dates:**

**Start Date:** 17.05.2019    **Statement Due:** 21.06.2019    **Decision:** Awaited

**18/01734/F – 13 Longford Park Road, Banbury, OX15 4FU** – Appeal by Mr J Pickup against the refusal of Planning Permission for RETROSPECTIVE - Brick wall with pier caps.

**Method of determination:** Householder (Fast Track)

**Key Dates:**

**Start Date:** 14.03.2019    **Decision:** Awaited

**18/01891/F – 2 Grimsbury Drive, Banbury, OX16 3HL.** Appeal by Mrs H Beckett against the refusal of Planning Permission for first floor side extension.

**Method of determination:** Householder (Fast Track)

**Key Dates:**

**Start Date:** 12.02.2019    **Decision:** Awaited

**18/01926/F – Greene House, Brill Road, Horton Cum Studley, OX33 1BZ** – Appeal by Mr P Greenslade against the refusal of Planning Permission for Erection of timber garage and workshop (alternative scheme to development approved under application ref. 17/01894/f, comprising higher ridge line, increased length of building and eaves height to approved and insertion of 4no rooflights to east-facing roof elevation) (existing unauthorised)

**Method of determination:** Householder (Fast Track)

**Key Dates:**

**Start Date:** 02.04.2019    **Decision:** Awaited

**19/00163/F - Part Land East And Adj To Roundabout At Junction Of Bicester Road, Launton** - Erection of accommodation building and associated ancillary external works to accommodate gas fuelled demand response electric generation facility to support the National Grid.

**Method of determination:** Written Reps.

**Key Dates:**

**Start Date:** 30.04.2019    **Statement Due:** 04.06.2019    **Decision:** Awaited

### **Enforcement appeals**

None

2.3 Forthcoming Public Inquires and Hearings between 21 June and the 18 July.

None

## 2.4 Results

Inspectors appointed by the Secretary of State have:

**1. Dismissed the Appeal by Corporate Innovation for T1 Horse Chestnut - Fell to ground level - subject to TPO 017/1999. The Corporate Innovations Co, 21 Horse Fair, Banbury, OX16 0AH – 18/00956/TPO (Delegated)**

The appeal related to the refusal of a TPO application which sought to remove a chestnut tree from a site located inside the Banbury Conservation Area. The Inspector concluded that the main issue was the impact this would have on the amenity of area and whether the reasons given for the tree's removal were justified.

The Inspector agreed with the Council that the mature tree appeared to be in good health for its age and made an important contribution to the street scene. The grounds for the removing the tree was that it posed a risk to people visiting the site and that it was causing damage to a boundary wall and cars parked underneath the canopy which were subjected to falling debris. The Inspector discounted this assessment, observing that the damage to the wall was limited and that any risk to people and vehicles could be addressed through appropriate maintenance.

On the basis of the above, the Inspector dismissed the appeal.

**2. Dismissed the appeal by Mr David and James Aubrey Calcutt for Erection of building to replace existing outbuilding, the erection of a new glazed link, alterations to another existing building, and their conversion to form one single bedroom dwelling with private amenity area. Manor Farm Cottage, Church Lane, Charlton On Otmoor, Kidlington, OX5 2UA – 18/01490/F (Delegated)**

The Inspector considered the main issues to be (i) whether the proposal would be inappropriate development in the Green Belt; (ii) the effect of the development on the character and appearance of the area with particular regard to the Charlton on Otmoor Conservation Area ("the Conservation Area"); and (iii) the effect of the proposal on the living conditions of the occupiers of Manor Farm Cottage with particular regard to outlook.

The Inspector held that the proposal would be limited infilling within the village and would therefore not be inappropriate development in the Green Belt.

In relation to the Conservation Area Appraisal (CAA) for the Conservation Area, the Inspector held that whilst this document does not form part of the development plan, it had been subject to public consultation and was a useful and material document in the appraisal of the appeal proposal. The CAA

explained that Manor Farm Cottage, the barns and outbuildings are all important contributors to the Conservation Area, and noted that the appeal site forms part of a farmstead.

The Inspector found that the appeal proposal would go beyond restoration of the stone outbuildings, and would involve significant alterations, especially with the provision of the link between the two buildings, and that the simple and functional characteristics of the outbuildings would be fundamentally altered. The Inspector concluded that these proposed adaptations to the existing outbuildings would appear at odds with their context in association with Manor Farm Cottage and these alterations would be detrimental to the character and appearance of the Conservation Area. The Inspector also considered that the link between the outbuildings would be an unusual and uncharacteristic addition in the locality.

Furthermore, the Inspector stated that the loss of the green space to the front of the dwelling (identified as significant within the CAA), would exacerbate that harm. The Inspector found there to be no benefits which outweighed the harm identified.

The Inspector found that the appeal proposal would erode the usability and quality of the amenity area currently associated with Manor Farm Cottage to such an extent that the occupiers of dwelling would be left without an adequate standard of private amenity space. The Inspector concluded that the appeal should be dismissed.

**3. Dismissed the appeal by Riverhall Ltd for Erection of building to form 1-bed dwelling, on the siting of the previously demolished barn, with courtyard garden and dedicated parking space. Sycamore House, Shepherds Close, Weston On The Green, Bicester, OX25 3RF – 18/01644/F (Delegated)**

The Inspector considered the main issues were: whether the proposed development would afford adequate living conditions for its future occupants, with particular regard to the standard of the outdoor space provided; and whether the proposal would preserve or enhance the character or appearance of the Weston-on-the Green Conservation Area (CA).

The appeal site is essentially an open area, with two new dwellings in the process of being constructed to the south. Other residential properties lie close by to both the east and west.

The Inspector found that the ‘tall garage building’ immediately to the west would significantly overshadow much of the proposed garden space, and the proximity and scale of the dwelling being built immediately to the south would also have an overbearing effect on the outlook from the proposed garden, with the overall effect being an unpleasant garden environment that would not provide an acceptable standard of outdoor space. The Inspector also found that the upper floor windows of one of the dwellings currently under construction to the south would directly overlook the rear garden space for the proposed dwelling, and held that

there would essentially be no outside space with any real privacy during winter months when the proposed trees were not in leaf. She concluded that the degree of overlooking 'would not be characteristic of a usual residential environment' and would add to the sense of an unpleasant outside space.

The Inspector concluded that the presence of garden space for the proposed dwelling would adequately preserve the character of the Conservation Area, but that neither this nor the proposal's contribution towards the provision of a smaller dwelling in a Cat A village and to housing supply generally would outweigh the harm identified in respect of residential amenity, and accordingly dismissed the appeal.

**4. Allowed the appeal by Mrs M Stevenson for OUTLINE: The demolition of an existing bungalow and proposed development of 4no. apartments with external works and parking. Highlands, 48 Bucknell Road, Bicester, OX26 2DG – 18/01193/OUT (Delegated)**

The Inspector considered the main issue to be whether a building providing four apartments could be appropriately provided at the appeal site with regard to the character of the area and neighbouring amenity.

The Inspector found that the area had a mix of building sizes and styles and that in this context a building of the scale required could be accommodated without being cramped, and could afford space for vehicular access and footpath to both sides. The Inspector held that the matter of hardstanding could be adequately addressed at reserved matters stage but agreed it was important to avoid the appearance of 'traditional hard standing'.

In relation to amenity, the Inspector was satisfied that a suitable design could put forward which would achieve suitable separation distances and a satisfactory level of privacy. The Inspector found that the level of proposed parking provision was adequate, and that future occupiers would not be harmed in terms of noise nuisance. The Inspector concluded that the appeal should be allowed, subject to conditions.

**5. Allowed the appeal by Mr P Davenport for Change of use of barn to 1no dwelling house and associated operational development. Agricultural Barn, Oak Tree Farm, Tadmarton Road, Bloxham - 18/01432/Q56 (Delegated)**

The application was refused on the basis that the site was considered to not be solely in agricultural use given the equestrian uses which were evident at the site at the time of the site visit. The plans also showed an increase in external dimensions of the existing building and was therefore contrary to the provisions of Class Q.1 (a) and (h) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The appellant submitted amended plans during the appeal process which addressed the issue of external dimensions and the council accepted that this reason for refusal had been overcome.

The main issue remaining was whether the site was solely in agricultural use. The inspector noted the various equestrian paraphernalia which was located on land immediately surrounding the application barn, but determined that the barn was used to house sheep and the curtilage as drawn by the appellants did not include any equestrian uses, despite it being in shared use including equestrian purposes, and despite the acknowledged presence of horse boxes and horse walker in that general area. Weight was given to the statutory declarations which confirmed the agricultural use of the land.

The inspector found that the proposal was acceptable in all criteria under class Q.1 and the appeal was allowed.

### **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:

David Mytton, Solicitor, For and on behalf of Nick Graham, Director of Law and Governance and Monitoring Officer  
[David.Mytton@Oxfordshire.gov.uk](mailto:David.Mytton@Oxfordshire.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:

David Mytton, Solicitor, For and on behalf of Nick Graham, Director of Law and Governance and Monitoring Officer

[David.Mytton@Oxfordshire.gov.uk](mailto:David.Mytton@Oxfordshire.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	
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