

Committee: Planning Committee

Date: Thursday 19 September 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 Timothy Hallchurch MBE
Councillor Tony Mephram
Councillor Richard Mould
Councillor Fraser Webster
Councillor Barry Wood

Councillor Surinder Dhesi
Councillor Tony Ilott
Councillor Ian Middleton
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 - 13)

To confirm as a correct record the Minutes of the meeting of the Committee held on 15 August 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 Development

This will be circulated at the meeting.

Planning Applications

8. **Land To The East of The Warriner School, Bloxham Grove Road, Bloxham, Oxfordshire** (Pages 16 - 55) **19/00617/F**
9. **Glebe Farm, Boddington Road, Claydon, Banbury** (Pages 56 - 102) **18/00904/F**
10. **S Grundon Services Ltd, Merton Street, Banbury, OX16 4RN** (Pages 103 - 151) **16/00472/OUT**
11. **Land at Skimmingdish Lane and Land and Roundabout at Bicester Road, Launton** (Pages 152 - 173) **19/00607/F**
12. **Brickhouse Farm, Bloxham Road, Milton** (Pages 174 - 195) **19/00314/F**
13. **36 - 37 Castle Quay, Banbury, OX16 5UN** (Pages 196 - 207) **19/01478/CDC**
14. **36 - 37 Castle Quay, Banbury, OX16 5UN** (Pages 208 - 216) **19/01658CDC**

Review and Monitoring Reports

15. Appeals Progress Report (Pages 217 - 226)

Report of Assistant Director Planning and Development

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.

Recommendations

The meeting is recommended:

- 1.1 To accept the position statement.

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

Information about this Agenda

Apologies for Absence

Apologies for absence should be notified to democracy@cherwellandsouthnorthants.gov.uk or 01295 227956 / 01295 221591 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 / Lesley Farrell, Democratic and Elections
democracy@cherwellandsouthnorthants.gov.uk, 01295 227956 / 01295 221591

Yvonne Rees
Chief Executive

Published on Wednesday 11 September 2019

Cherwell District Council

Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 15 August 2019 at 4.00 pm

Present:	Councillor James Macnamara (Chairman) Councillor Maurice Billington (Vice-Chairman) Councillor Andrew Beere Councillor John Broad Councillor Phil Chapman Councillor Colin Clarke Councillor Ian Corkin Councillor Chris Heath Councillor David Hughes Councillor G A Reynolds Councillor Barry Richards Councillor Les Sibley Councillor Katherine Tyson
Substitute Members:	Councillor Surinder Dhesi (In place of Councillor Cassi Perry) Councillor Richard Mould (In place of Councillor Lynn Pratt) Councillor Barry Wood (In place of Councillor Mike Kerford-Byrnes)
Apologies for absence:	Councillor Hugo Brown Councillor Simon Holland Councillor Mike Kerford-Byrnes Councillor Cassi Perry Councillor Lynn Pratt
Officers:	Sarah Stevens, Interim Senior Manager – Development Management James Kirkham, Principal Planning Officer George Smith, Planning Officer Matthew Barrett, Solicitor Lesley Farrell, Democratic and Elections Officer

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Declarations of Interest

8. Appleyard Alchester Road, Chesterton, OX26 1UW.

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

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

9. Land at Skimmingdish Lane and Land and Roundabout at Bicester Road, Launton.

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

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

11. Land To Rear of No. 23 To 29 Crouch Street, 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 Colin Clarke, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application.

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

54 **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.

55 **Minutes**

The Minutes of the meeting held on 18 July 2019 were agreed as a correct record and signed by the Chairman.

56 **Chairman's Announcements**

The Chairman made the following announcement:

1. Under the Openness of Local Government Bodies Regulations 2014, members of the public were permitted to film, broadcast and report on the meeting, subject to the efficient running of the meeting not being affected.
2. Application 19/00644/F, OS Parcel 330 North of Railway line adjoining Palmer Avenue, Lower Arncott had been withdrawn from the planning process by the applicant and would therefore not be considered at the meeting.

57 **Urgent Business**

There were no items of urgent business.

58 **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.: 19/01160/F

Proposal: Change of use to Exham House from D1 to D1/A3 to allow public use of a café, and associated works

Location: Exham House, Bloxham School, Banbury Road, Bloxham.

Reason for the visit: Requested by the local Ward Member.

Resolved

- (1) That a site visit be arranged for application 19/01160/F prior to the relevant Planning Committee meeting.

59 **Land at Skimmingdish Lane and Land and Roundabout at Bicester Road Launton**

The Chairman referred to the written update and highlighted that the officer recommendation for application 19/00607/F had changed to deferral to enable the consideration of additional information and consultation responses and therefore proposed the amended recommendation which was duly seconded by Councillor Clarke. On being put to the vote, Members voted in favour of deferring consideration of the application.

60 **Appleyard Alchester Road Chesterton OX26 1UW**

The Committee considered application 19/00597/F for the Erection of 1no. dwelling at Appleyard, Alchester Road, Chesterton, OX26 1UW for Mr & Mrs G&S Ashdown.

Caroline Roche, the applicant's agent addressed the committee in support of the application

It was proposed by Councillor Corkin and seconded by Councillor Wood that application 19/00597/F be approved contrary to officer recommendations subject to suitable conditions (the exact wording to be delegated to officers) but they should include planting and the construction of the access track, as they believed the application would cause no significant harm.

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

Resolved

That authority be delegated to the Assistant Director of Planning and Economy to grant permission for application 19/00597/F, subject to conditions (the exact conditions and the wording of those conditions to be delegated to the Assistant Director for Planning and Economy).

61 **OS Parcel 3300 North of Railway Line Adjoining Palmer Avenue Lower Arncoff**

The Chairman reminded the Committee, as advised under the Chairman's Announcements, that application 19/00644F had been withdrawn from the planning process by the applicant.

62 **Land To Rear Of No. 23 To 29 Crouch Street Banbury**

The Committee considered application 19/00777/F for the erection of three new dwellings at land to the rear of No. 23 to 29 Crouch Street, Banbury for Jane Sands.

Clive Madeiros addressed the committee in objection to the application and Roger Cummings, the applicant's agent, addressed the committee in support of the application.

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

Resolved

That authority be delegated to the Assistant Director of Planning and Economy to grant permission for application 19/00777/F subject to the conditions set out below (and any amendments to those conditions as deemed necessary):

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 forms and drawing numbers 001 E, 002 E, 201 E, 212 D, 220 D, 210 D, 221 D, 222 Rev D and 226

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.

Levels

3. No development shall take place until details of all finished floor levels of the building and finished levels of the site in relation to existing site levels and levels of adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall not be constructed other than in strict accordance with the approved levels.

Reason: In order to safeguard the visual amenities of the area in accordance with advice 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.

Construction Traffic Management Plan

4. Prior to the commencement of development, a construction traffic management plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, construction shall not be carried out other than in accordance with the approved details.

Reason: In the interests of highway safety in accordance with the National Planning Policy Framework

Access

5. Prior to the commencement of the development hereby approved, details of the means of access between the land and the adopted 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 occupation of the development hereby approved, the means of access between the land and the adopted highway shall be constructed in accordance with the approved details and shall be retained thereafter for the use of the development hereby permitted 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 Parking provision

6. The proposed parking and turning areas shall be provided in accordance with the approved plans before first occupation of the development hereby permitted. The access, parking and turning facilities shall thereafter be retained for use in connection with the development for those purposes only.

Reason : In the interests of highway safety, to ensure the provision of adequate off-street car parking to comply with Government guidance in Section 12 of the National Planning Policy Framework.

Land Contamination Desk Study / Site Walkover

7. 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

8. If a potential risk from contamination is identified as a result of the work carried out under condition 7, 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

9. If contamination is found by undertaking the work carried out under condition 8, 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

10. If remedial works have been identified in condition 9, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 9. 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.

Landscape and Ecological Management Plan

11. Prior to the commencement of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. This shall demonstrate a net gain in biodiversity and shall include the provision of integrated swift nest bricks and a range of bat and bird boxes. Thereafter, the development shall not be carried out other than in accordance with the approved LEMP including the provision of the enhancements prior to the first occupation of any dwelling.

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.

Ecological Survey Compliance

12. The development hereby approved shall be carried out in accordance with the recommendations set out in Section 5 of the Ecological Impact Assessment carried out by Swift Ecology on 6th December 2017.

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.

Retained Trees

13. No retained tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works. If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority. In this condition a “retained tree” is an existing tree which shall be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) shall have effect until the expiration of five years from the date of the occupation of the first dwelling.

Reason: To protect the existing trees on and adjacent to the site in accordance with Policies BSC10 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Tree Survey

14. Prior to the commencement of the development and notwithstanding the submitted details, an arboricultural survey, undertaken in accordance with BS:5837:2012 (and all subsequent amendments and revisions) and a tree protection plan shall be submitted to and approved in writing by the Local Planning Authority. Therefore, the development shall not be carried out other than in strict accordance with the approved tree protection measures.

Reason: To protect the existing trees on and adjacent to the site in accordance with Policies BSC10 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Arboricultural Method Statement (AMS)

15. Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions to include a tree protection plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall not be carried out other than in strict accordance with the approved AMS.

Reason: To protect the existing trees on and adjacent to the site in accordance with Policies BSC10 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Hard landscaping

16. Unless an alternative time frame is agreed in writing by the developer and the Local Planning Authority, no development shall commence above slab level unless a scheme for the landscaping the site has been submitted to and approved in writing by the Local Planning Authority, which shall include details of the soft and hard landscaping including

planting, hard surface areas, pavements, pedestrian areas and steps. The approved scheme shall be implemented prior to the first occupation of the development and shall be retained as such thereafter.

Reason : To ensure that a satisfactory landscape scheme is provided in the interest of well planned development and visual amenity 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.

Bin store

17. Prior to the first occupation of the dwellings, the bin collection store as shown on the approved plans to the front of Plot 1 shall be provided for the use for all residents of the development hereby permitted. It shall thereafter be permanently retained as ancillary to development and used for no other purpose.

Reason : In the interest of well planned development and visual amenity 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 and Government guidance contained within the National Planning Policy Framework.

Architectural detailing

18. Notwithstanding the details shown on the approved plans, further details of the architectural detailing of the exterior of the development, including eaves and verge details/treatment and details of the timber boarding details shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the building above slab level. The development shall thereafter be carried out in accordance with the approved details and shall be retained as such thereafter.

Reason: In order to safeguard the visual amenities of the area and the significance of the heritage asset 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.

Brick Sample Panel

19. The external walls of the building shall be constructed in brickwork, of a type, colour, texture, face bond and pointing which is in accordance with sample panels (minimum 1 metre squared in size) which shall be constructed on site to be inspected and approved in writing by the Local Planning Authority before the commencement of the brickwork. The sample panels shall be constructed in a position that is protected and readily accessible for viewing in good natural daylight from a distance of 3 metres. The panel shall be retained on site for the duration of the construction contract.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development and to preserve the significance of the heritage

asset and 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.

Sample of roof materials

20. Samples of the slates to be used in the covering of the roof of the buildings shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the building above eaves level. The development shall be carried out in accordance with the samples so approved and shall be retained as such thereafter.

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.

Window and door details

21. Notwithstanding the details on the submitted plans, details of the construction, including cross sections, cill, headers, reveal and colour / finish of the proposed windows and doors to a scale of not less than 1:10 shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of that work. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter.

Reason: In order to safeguard the visual amenities of the area and the significance of the heritage asset 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.

Boundary treatments

22. Notwithstanding the details on the approved plan 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 any of the buildings and shall be retained as such thereafter.

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.

Roof lights

23. All rooflights shall be conservation grade rooflights and shall fit flush with the plane of the roof and shall not project forward of the roof slope into which they are inserted.

Reason: In order to safeguard the visual amenities of the area and the significance of the heritage asset 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.

Cycle Parking Provision

24. Notwithstanding the provisions of Classes A-E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order) no extension, alteration or outbuilding shall be provided without the grant of further specific planning permission from the Local Planning Authority with the exception of outbuilding/structures approved under condition 24 of this permission.

Reason: The protect the character and appearance of the Conservation Area in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996

Rainwater goods

25. All rainwater goods, including all rainwater gutters and downpipes, shall be cast iron or aluminium manufacture and painted black unless alternative details are otherwise first approved in writing by the Local Planning Authority.

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

PD withdrawal

26. Notwithstanding the provisions of Classes A-E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order) no extension, alteration or outbuilding shall be provided without the grant of further specific planning permission from the Local Planning Authority with the exception of outbuilding/structures approved under condition 24 of this permission

Reason: The protect the character and appearance of the Conservation Area 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.

The Committee considered application 19/00831/OUT, an outline application for a Residential development of up to 15 dwellings at Land South of Home Farm House, Clifton Road, Deddington for Harcourt Deddington Limited.

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

Resolved

That application 19/00831/OUT be refused for the following reasons:

1. By virtue of its poorly integrated relationship with existing built development, its extension beyond the built limits of the village and its scale and location, the proposed development would cause significant and demonstrable harm to the character and appearance of the area and the rural setting of the village and would fail to reinforce local distinctiveness. For the same reasons the proposal would also result in 'less than substantial' harm to the setting of the nearby Scheduled Ancient Monument and Conservation Area and the harm stemming from the proposals are not considered to be outweighed by any public benefits. The proposal is therefore contrary to Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, saved Policies C28 and C33 of the Cherwell Local Plan 1996, Cherwell Residential Design Guide SPD (2018) and Government guidance contained within the National Planning Policy Framework.
2. The development proposed, by reason of its relationship and poor pedestrian connections to the centre of the village and service and facilities (including bus stop) and taking into account Cherwell District Council's ability to demonstrate an up-to-date housing land supply, would not provide good access to services and facilities and public transport in the interests of reducing the need to travel and promoting sustainable transport options. Therefore, the proposal is contrary to Policies ESD1, SLE4 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, and Government guidance contained within the National Planning Policy Framework.
3. By reason of the site's location in an area of known archaeological interest with high potential for significant archaeological deposits to survive on site, and in the absence of a detailed and adequate archaeological field evaluation, the Local Planning Authority cannot be satisfied that the proposal would not result in unacceptable and unavoidable harm to archaeological assets. Thus, the proposal conflicts with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.
4. The application submission fails to demonstrate that suitable and safe access to the site can be provided in the interests of highway safety given the lack of information regarding the vehicle speeds near the site. The proposed development therefore conflicts with Policy SLE4 of the Cherwell Local Plan (2011-2031) Part 1 and advice in the National Planning Policy Framework.

5. The submitted Drainage Strategy is inadequate and does not provide sufficient information to demonstrate that a drainage strategy based on Sustainable Urban Drainage Systems has been explored for the site. The proposal is therefore contrary to Policy ESD7 of the Cherwell Local Plan and advice in the Written Ministerial Statement on Sustainable Drainage Systems (Dec 2014).
6. In the absence of the completion of a satisfactory Planning Obligation, the Local Planning Authority is not convinced that the necessary infrastructure (including education, open space, sports facilities, community facilities, highway infrastructure and affordable housing) directly required as a result of this development, in the interests of supporting the sustainability of the village and the development, mix and balanced communities, and in the interests of safeguarding public infrastructure and securing on site future maintenance arrangements, will be provided. This would be contrary to Policies INF1, PSD1, BSC3, BSC10 and BSC11 of the Cherwell Local Plan (2011-2031) Part 1, the Developer Contributions SPD (2018) and Government guidance contained within the National Planning Policy Framework.

64 **Appeals Progress Report**

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

Resolved

- (1) That the position statement be accepted.

The meeting ended at 5.20 pm

Chairman:

Date:

Agenda Annex

CHERWELL DISTRICT COUNCIL

PLANNING COMMITTEE

19 September 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

	Site	Application No.	Ward	Recommendation	Contact Officer
8	Land to The East of The Warriner School, Bloxham Grove Road, Bloxham, Oxfordshire	19/00617/F	Adderbury, Bloxham and Bodicote	Approval	James Kirkham
9	Glebe Farm, Boddington Road, Claydon, Banbury	18/00904/F	Cropredy, Sibfords and Wroxton	Approval	Clare O'Hanlon
10	S Grundon Services Ltd, Merton Street, Banbury, OX16 4RN	16/00472/OUT	Banbury Grimsbury and Hightown	Approval	Rebekah Morgan
11	Land at Skimmingdish Lane and Land and Roundabout at Bicester Road, Launton	19/00607/F	Launton and Otmoor	Approval	Linda Griffiths
12	Brickhouse Farm, Bloxham Road, Milton	19/00314/F	Adderbury, Bloxham and Bodicote	Refusal	Bob Neville
13	36 - 37 Castle Quay, Banbury, OX16 5UN	19/01478/CDC	Banbury Cross and Neithrop	Approval	Emily Shaw
14	36 - 37 Castle Quay, Banbury, OX16 5UN	19/01658/CDC	Banbury Cross and Neithrop	Approval	Emily Shaw

Agenda Item 8
19/00617/F

Land To The East Of The Warriner School
Bloxham Grove Road
Bloxham
Oxfordshire

119.4m

BLOXHAM GROVE ROAD

Games
Court

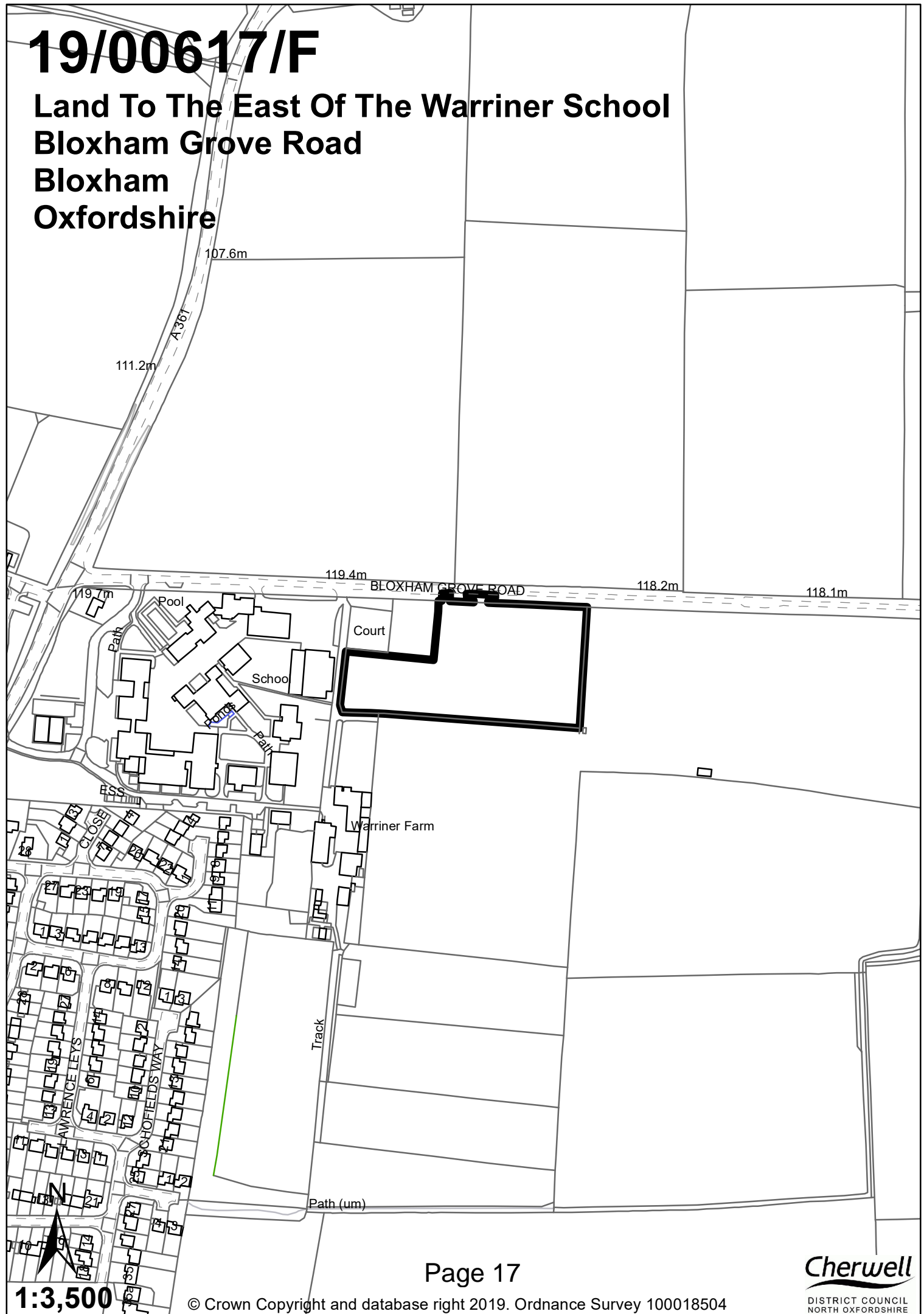
Warriner Farm

N

1:1,100

19/00617/F

Land To The East Of The Warriner School
Bloxham Grove Road
Bloxham
Oxfordshire



Case Officer: James Kirkham

Applicant: Department For Education

Proposal: Part 2-storey, part 1-storey Special Education Needs (SEN) school with new access from Bloxham Grove Road, associated outdoor play areas, multi-use games area, staff parking, pupil drop-off and landscaping

Ward: Adderbury, Bloxham And Bodicote

Councillors: Cllr Mike Bishop
Cllr Chris Heath
Cllr Andrew Mchugh

Reason for Referral: Major development

Expiry Date: 30 August 2019

Committee Date: 19th September 2019

The application was deferred from the 15th July Planning Committee to allow for a Committee Members site visit. The Site Visit took place on the week commencing 16th September.

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

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

Proposal

The current application seeks consent for a new Special Education Needs and Disabilities school (SEND) at the site. This would accommodate up to 100 pupils. It would be a predominately two-storey building constructed of a mix of ironstone and timber cladding.

Consultations

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

- Bloxham Parish Council, Councillor Mallon

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

- OCC Highways, OCC Archaeology, OCC Drainage, CDC Ecology, CDC Environmental Protection, Crime Prevention, Thames Water

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

- OCC Education

Letters of objection have been received from 3 residents.

Planning Policy and Constraints

The application site is within located within the Bloxham Neighbourhood Plan development area. It is also situated within a minerals consultation area, an area of high radon gas and is noted to be Grade 3 agricultural land. 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
- Highways
- Design, and impact on the character of the area
- Heritage impact
- Residential amenity
- Ecology impact
- Other matters

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

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

MAIN REPORT

1. UPDATE

- 1.1. The application was deferred from the July Planning Committee prior to any discussion taking place to allow for a Committee Members Site Visit to take place when the Warriner School was back from summer holidays. Councillor Heath also requested that further information be provided on the proposed alterations to the A361 particularly in relation to pedestrian crossing points. The report has been updated to reflect changes made during this period.

2. APPLICATION SITE AND LOCALITY

- 2.1. The application site is located on the northern edge of Bloxham and is accessed via Bloxham Grove Road which runs to the north of the site and is single carriageway in parts.
- 2.2. The site is approximately 1.3 ha in size and is relatively level but falls slightly to the south east corner. Hedgerows and trees exist around the northern, southern and western boundary of the site. The site is currently used as an agricultural field for grazing associated with Warriner School farm. The main buildings associated with the Warriner School are located to the west of the site along with a new flood light multi-use games areas (MUGA). Playing fields associated with the existing Warriner School bound the site to the south and west.

3. CONSTRAINTS

- 3.1. The application site is located within the Bloxham Neighbourhood Plan development area. It is also situated within a minerals consultation area, an area of high radon gas and is noted to be Grade 3 agricultural land.

4. DESCRIPTION OF PROPOSED DEVELOPMENT

- 4.1. The current application seeks consent for a new Special Education Needs and Disabilities school (SEND) at the site. The proposal would accommodate 100 students (from 7 years old – 18 years old) with complex special educational needs and disabilities and 60 members of staff. It would be operated by The Gallery Trust which also operates the Iffley Academy, a special academy for a similar age group with complex needs in Oxford and is judged as 'outstanding' by Ofsted.
- 4.2. The current application seeks permission to erect a predominantly two-storey building on the site. This building would be arranged in an L shape and would be located relatively central to the site. The building would have a contemporary appearance made up of a series of flat roofs. The forward projecting element of the building (accommodating the sport and dining hall) would be clad in ironstone as would the remainder of the ground floor element of the building. The upper floors of the main teaching block would be finished in timber cladding. A small single storey building accommodating a construction skills room for student would be located to the west of the site. This would be constructed of ironstone.
- 4.3. A car park accommodating 65 car parking spaces would be located to the front of the building and series of outdoor amenity including a new MUGA (with 3 metre high fence) would be located around the building.
- 4.4. As part of the proposal works would also be undertaken to Bloxham Grove Road. This would include widening the road, formalising the parking layby to the south of the road and providing a new footway from the entrance to the Warriner School to the entrance of the proposed school.
- 4.5. During the course of the application amended plans have also been submitted showing works to the staggered crossroad between the A361, Bloxham Grove Road and Ells Lane. This includes the widening of the A361 and the creation of new right turning lanes on the A361 into Bloxham Grove Road and Ells Lane. Since the July Planning Committee further details have been provided on the layout of this junction including details of a pedestrian refuge and the extension of the 30mph speed limit further north along the A361 away from the junction with Bloxham Grove Road. Further details of this is outlined in the 'Appraisal' section of this report.
- 4.6. *Timescales for Delivery:* The applicant/agent has advised that, in the event that planning permission is granted, they anticipate commencing on site as soon as possible with the school opening in December 2020.

5. RELEVANT PLANNING HISTORY

- 5.1. There is no planning history directly relevant for the current site. However, the following planning history is considered relevant to the current proposal:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
19/01094/OCC	Section 73 application to continue the development for the erection of a two-storey teaching building, extension of existing games court with floodlighting (replacement of District Council permission 15/00734/F) and associated external works (permitted by permission 18/01243/OCC (R3.0037/18)), without complying with condition 1 (approved plans and documents) and to vary condition 4 (tree protection), condition	Pending

7 (planting scheme) and 11 (protected species) in order to vary the approved plans and documents to allow for the i) introduction of mullions, ii) regularise the agreed provision for protected species; iii) remove two trees and provide replacement planting

18/01840/F	The renewal of consent and continued use of relocatable building units. These are already on site T4 and T5 (PR34 and PR35) for a further period of five years	Application permitted
18/01243/OCC	Erection of a two-storey teaching building, extension of existing games court with floodlighting (replacement of District Council permission 15/00734/F) and associated external works	Permission granted by the County Council

This permission enables to the school to increase for a 8 form of entry to a 10 form of entry. Pupil numbers are projected to increase to 1420 by 2024 with a further 160 in the sixth form.

18/00852/OCC	Installation of a relocatable building, comprising four classrooms, for a period of two years. Construction of a parking area for 20 cars (OCC ref. R3.0030/18)	Application Permitted by the County Council
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This indicated the school would have 20 additional parking spaces once the temporary building is removed leaving 20 additional permanent spaces. This is to help alleviate some of the on –street parking

17/01149/F	Extending the existing teaching block for new classrooms	
17/00873/OCC	Construction of a 76 space car park for a period of four years. The car park to be surrounded by weld mesh fence with control gates, and to include surface water drainage into a new petrol interceptor, and lighting. Also the construction of permanent lighting along the school roadway - ref: R3.0033/17	Application Permitted by the County Council

This allowed for a temporary car park to serve the school whilst building works were being undertaken and the existing car parks may not be available. The consent expires on 21st July 2021.

15/00734/F	Extend existing games court with floodlighting	Application Permitted
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6. PRE-APPLICATION DISCUSSIONS

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

<u>Application Ref.</u>	<u>Proposal</u>
17/00215/PREAPP	Proposed Special Educational Needs (SEN) school for 100 pupils (7-18 year olds)
18/00097/PREAPP	Proposed SEN School (D1 use, as defined in the UCO, 1987, as amended), parking, access, soft and hard sports and play space and ancillary works

- 6.2. Concerns were raised regarding the location of the site in a village in terms of sustainability and the applicant was advised that strong justification would be required for this. It was considered that the highway impacts of the development would need very careful consideration given the existing issues in the locality and that discussion would need to be had with the Highway Authority. It was considered that if the location of the school could be justified and the highway impacts of the development resolved then a 2 storey building may be capable of being accommodated on the site.

7. RESPONSE TO PUBLICITY

- 7.1. 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 (amend as appropriate). The final date for comments was 30.05.2019, although comments received after this date and before finalising this report have also been taken into account.

- 7.2. Three letters have been received by the public. The comments raised by third parties are summarised as follows:

- Access is not safe or suitable for development alongside the expansion of Warriner School.
- Junction with A361 and Bloxham Grove Road is at capacity.
- Insufficient parking to serve the needs of the school will lead to further issues along Bloxham Grove Road.
- Loss of parking to Bloxham Grove Road.
- The school should be located in Banbury.

- 6.1. Consultation was also undertaken on the revised plans for the A361 works with neighbours who had commented on the earlier scheme. These responses state the original concerns still remain.

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

8. RESPONSE TO CONSULTATION

- 8.1. 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 COMMENTS

- 8.2. COUNCILLOR K MALLON: **Objects.** Agrees with Bloxham Parish Council and Milcombe Parish Council for the planning reasons they lay out in accordance with the Bloxham Parish Plan and the CDC Local Plan.
- 8.3. As the Highway Authority Oxfordshire County Council MUST take into account the fact that the A361 is recognized nationally and regionally as having a very poor safety record. This proposal is on one of the major junctions (Bloxham Grove-A361-Ells Lane) that both the Dept. of Transport and Oxfordshire County Council recognize as having current safety issues without the addition of this proposal or the extra traffic movements and parking this proposal will generate.

PARISH COUNCILS

- 8.4. BLOXHAM PARISH COUNCIL: **Objects.** The primary reason for the objection is that the location selected on Bloxham Grove Road is completely unsuitable. The proposal is not plan led and as such is contrary to the NPPF (2019). The NPPF states that schools promoters, delivery partners and statutory bodies should identify and resolve key planning issues before applications are considered and that transport issues should be considered at the earliest stages of plan-making to ensure potential impacts can be addressed and opportunities to promote walking, cycling and public transport use are identified and pursued. The current proposal brings up serious issues around traffic and parking volumes to and from Bloxham Grove Road and the A361, while at the same time compromising a popular cycling and walking route
- 8.5. The proposal contravenes CDC Local Plan Part 1:
- The proposal is to build the new school in open countryside which is contrary to B.144, and ESD 13.
 - The proposal is not plan led and is not allocated in either in the making of the CDC Local Plan part 1 or the Bloxham Neighbourhood Development Plan (BNDP)
 - The proposal contravenes TR7 of Local Plan 1997 retained Policy because it will bring large numbers of cars onto what is clearly an unsuitable minor road often used for walking and cycling
- 8.6. The proposal specifically contravenes the BNDP:
- BL2 – The proposal is outside the built limit for the village
- BL 5 – The proposal will reduce the existing parking on Bloxham Grove Road used in particular for the Warriner School
- BL 9 (c) – The proposal will increase the traffic and air pollution on a junction already at capacity
- BL 11 – The proposal does not contribute to the rural character of the village, it will be built on green open space, building over a ridge and furrow field leading to the loss of a non-designated historic asset
- BL 12 – The proposal will result in the loss of open space and agricultural land
- BL 14 – The proposal will severely affect the local road network and as such will materially harm the living conditions of Bloxham residents

- 8.7. The proposal does not cover the issue of Air Quality at all.
- 8.8. Traffic and parking around the junction of Bloxham Grove Road and A361 is already an issue for residents and parents/carers of children attending the Warriner School. The proposal removes existing parking spaces while adding insufficient parking spaces to cover new staff needs. The increased demands of the proposal are likely to result in increased frustration and probability of accidents, illegal and inconsiderate parking and a greatly increased likelihood of incidents of public disorder, such as road rage. As such it would impact the safety and well-being of all users of the village.
- 8.9. There is also anecdotal evidence that residents who live near to the Warriner School have cars parked in their streets on a daily basis and are on occasions unable to access their own driveway. This would be exacerbated by the proposal.
- 8.10. The proposal appears to have been approved by Oxfordshire County Council Councillors, without any consultation with Bloxham Parish Council; and considered favourably by Cherwell District Planning Officers despite it not forming part of the Cherwell District Council Local Part 1 adopted in July 2015, following a Hearing held in December 2014. There was not a recommendation for additional school places put forward by OCC at this time. Also, during the consultation period for Bloxham Neighbourhood Development Plan “made” in December 2016 OCC did not put forward this proposal.
- 8.11. If the Planning Committee is minded to approve the application, the Parish Council would expect the necessary funds to be allocated, via a Section 106 agreement, to enable highway works to be completed on both the A361 and Bloxham Grove Road and at the junction where these two roads meet. In addition to the above, there should also be highways funds available that are not restrictive which enables them to be spent in other areas of the village, where there are unforeseen traffic impacts on the village and these need to be addressed at a later date.
- 8.12. Further to the proposal to include right-turn-only lanes on the A361 for turning into Bloxham Park Road and Ells Lane this does not address the major part of the traffic issues and does nothing to alleviate the parking issues. The right-turn-only lane would make the junction more dangerous for cars turning right out of Bloxham Grove Road and Ells Lane because the right-turn-only line can conceal traffic that is going straight across the junction on the A361. This issue of concealing the through traffic is worse for pedestrians such as children whose parents have parked in Ells Lane.
- 8.13. Bloxham Parish Council also provided extensive comments on the Site Options Appraisal. A full copy of this is available on the Councils website but can be briefly summarised as follows in addition to the above:
- The provision should have been included in the Local Plan. No representation of the need for a school were made during the Neighbourhood Plan formulation.
 - The selection criteria for a quiet rural site with good transport links and links to a farm appear to be bias towards the site.
 - No evidence why a rural location is required.
 - Site is partly ridge and furrow.
 - Issues with site access.

- Reasons for rejecting other sites such as Upper Heyford are weak.
- The applicant could compulsory purchase sites that weren't willing to sell.

8.14. ADDITIONAL COMMENTS ON AMENDED PLANS FOR A361 WORKS: Raise concerned that the traffic flow to and from Warriner School have been misunderstood. The Entrance to Warriner School is on Bloxham Grove Road. The Exit is on the A361. Note that there are serious issues regarding crossing this junction at School time. Parents park up Ells lane, down Bloxham Grove Road, on corners, on the A361 and anywhere they can, and children cross the road with many not using the existing crossing.

8.15. Specific points on the drawings including the modified ones:

-Consider We think moving the 30mph limit back will help to make the crossroads safer for pedestrians

- The option 2 where there is no crossing assistance at the crossroads is unacceptable for safety reasons

- It is unclear what is being provided in the 'proposed informal crossing' in Option 1, but if it is just the island as drawn (ie no zebra crossing or anything) then it is unacceptable. Children will drive across to the island overloading it and leading to dangerous situations. It is also ridiculous it is for cycles too – a cycle would have to be placed parallel to the traffic which would cause more issues

- In order to make the crossing a workable safety precaution, the PC had the following thoughts for consideration:

a. Moving the current Toucan crossing to the proposed informal crossing location would be a major safety benefit for the children. Many more will use it if it is closer.

b. Some other form of assisted crossing would help if a) is not possible, for example a zebra crossing

c. Railings running up to the crossing would help, funnelling children to cross together instead of a random darting over the road

d. Double yellow lines would make things safer at the junction too, up Bloxham Grove Road from the recycling bins, on the bottom of Ells Lane and around the bends for instance

8.16. MILCOMBE PARISH COUNCIL: **Observations.** No objections to the school building but raise concerns regarding construction traffic and operational traffic using the surrounding roads and the A361 junction and suggest works are required to this junction. Also request good pedestrian access and adequate parking for staff and visitors. Disable spaces and good wheelchair access.

8.17. ADDITIONAL COMMENTS ON AMENDED PLANS FOR A361 WORKS: Site visits should take place during school times. The road layout with the refuge island would appear to be preferred option for the safety of all concerned as the other option does not include refuge island. Both options include works to items such as potential skid hazards, etc. as these would all have to be addressed including moving back the 30mph, installation of safety railings, double yellow lines on all roads around the junction area. However, Parish Councillors are not highway safety experts and do not have the required technical knowledge. Therefore, they can only comment as to what they consider appears to be the safest option.

CONSULTEES

8.18. OCC HIGHWAYS: Originally objected due to the proposed development having a detrimental impact on the existing highway which had not been adequately mitigated.

This focused around the junction capacity and safety issues of the staggered crossroads on the A361 given the results of the existing modelling and data on accidents in the area.

- 8.19. Following receipt of amended plans showing the widening of the A361 and the provision of right turn lanes, an amended Transport Assessment with revised modelling based on the new road layout and a Road Safety Audit based on the new road layout, raises **No objections** subject to conditions on access, protection of footway, the submission of a travel plan and a Construction Traffic Management Plan. Also requests a legal agreement to secure contributions towards Traffic Regulation Order to move the 30mph limits, a monitoring travel plan fee and an obligation to enter into a S278 Agreement to secure the access and improvement to Bloxham Grove Road and the works to the A361.
- 8.20. The works to widen Bloxham Grove Road, move the 30mph limit to the east of the new access, provide a footway to the south and formalise the parking are aimed at improving both safety and passage of both vehicles and pedestrians are considered to be acceptable.
- 8.21. Consideration has been given to the data on accidents for a period between 2013 and October 2018 covering the adjacent highway. Although their severity is slight, data shows that four personal injury collisions have occurred at A361 junction during this period. Two of the reported collisions involved a vehicle colliding with another one slowing to turn right into Bloxham Grove Road. Another recorded accident is similar but the collision is to the rear of another vehicle stopped to turn right into Ell's Lane. All of these collisions were outside of the school peak periods. Nevertheless, increasing turning movements at this junction need to be considered. This has resulted in the creation of the revised right-hand turn lanes.
- 8.22. Following some clarification, the traffic generation in the peak hour is considered to be reasonable and the level of parking is acceptable. The junction has been assessed for performance using industry software with the proposed new layout and modelling results show improvements in all areas visa-vis queues, delays and RFC values. This shows that the proposed right turn arrangement improves the junction performance which will operate within capacity which OCC finds acceptable.
- 8.23. Requests a number of conditions including a revised Travel Plan to encourage sustainable forms of travel.
- 8.24. FURTHER COMMENTS received since the July Planning Committee on amended plans:
- 8.25. The application was deferred at planning committee due to concerns around highway safety on the A361/Bloxham Grove Road/ Ell's Lane junction at which the applicant had proposed a mitigation scheme which included provision of right turn lanes and a refuge island crossing to the north of the junction.
- 8.26. It should be mentioned that the A361 and this junction are part of a separate large safety improvement scheme to be undertaken by OCC that will include resurfacing, speed limit reductions, junction improvements with improved visibility; signage and markings, as well as upgrading of footway/cycleway facilities. This scheme is DfT funded and runs between Banbury to Chipping Norton. The proposed mitigation for the SEN school will align with this project and will consider the improvements that the scheme will provide as the baseline. Whilst the timing of both schemes could not be paralleled, measures have been undertaken by the SEN mitigation to ensure minimal changes are applied to improvements brought about by the A361 project.

- 8.27. Following deferral at committee, the applicant has engaged with OCC and has revised the A361 junction mitigation scheme in a bid to developing a much safer environment around this junction that seek to address issues raised at the planning committee. Two options have thus been developed which are summarised below:
- Localised carriageway widening of A361 Banbury Road to provide one lane of traffic in both directions with a designated right turn facility for both Bloxham Grove Road and Ell's Lane; (applicable to both Options 1 and 2) and
 - A proposed pedestrian and cycle crossing with refuge island across A361 Banbury Road located just south of Ell's Lane. (applicable to Option 2).
 - Associated vehicle swept path analyses in support of the proposals.
- 8.28. Both of these schemes have been subjected to Stage 1 Road Safety Audit (RSA) by an independent auditor.
- 8.29. Option 1 (without a crossing – PBA Drwg No. 45479/5501/006 Rev C) - This option therefore assumes pedestrians and cyclists shall continue to utilise the existing signalised crossing facilities about 130metres south of the junction. The RSA report identified two problems; one is associated with manhole covers located within the footway and the other problem being associated with poor continuity of the shared footway/cycleway across Ell's Lane. The applicant accepts the RSA's recommendation where the service covers will either be relocated into the verge or treated with a non-slip surface. Connectivity and upgrading of the shared footway/cycleway is proposed to be undertaken as part of the OCC scheme described above.
- 8.30. Other recommendations to this design are:
- Provision of traffic islands upon which the bollards can be installed either side of the junction within the hatched areas to protect right turners.
 - As part of the works, the whole junction needs resurfacing.
- 8.31. Again, the applicant has agreed to improve the highway as per the recommendations set out in the RSA report. However, this option does not provide an additional crossing.
- 8.32. Option 2 (crossing south of the junction – Drwg No. 45479/5501/010 Rev A) - This scheme may be described as Option 1 with the only difference being a provision of an uncontrolled pedestrian crossing with a refuge island to the south of the junction. The informal crossing facility is in addition to the already existing signalised crossing further south of the junction and is supported by OCC.
- 8.33. Informal pupil drop-off has been observed along Crab Tree Close and Ell's Lane, with children to walking across the A361 into/out of the school. Given the increase in traffic associated with this development, a refuge island created in this location is considered necessary and would correspond to the desire line serving pupils crossing the A361 between Ell's Lane and the Warriner School. It is worth mentioning that studies have shown that pedestrians are not prepared to walk beyond an average distance of 50m out of a desire line.
- 8.34. A pedestrian refuge allows pedestrians to cross one direction of vehicle traffic at a time more easily than if there was no crossing. This also provides some protection from traffic in the centre of the road, while pedestrians wait for a safe gap in the second direction of traffic. Without a refuge, pedestrians would need to judge a safe gap between both directions of traffic at the same time.

- 8.35. In addition, OCC previously advised that the 30mph speed limit should be extended approximately 40 metres further north, in order to allow approaching drivers from the north enough time to slow down to within safe speeds through the junction or stop if necessary. The applicant has now taken this on and has shown by revised drawing that the current speed limit signage shall be relocated about 40 metres north of the junction. This initiative is supported.
- 8.36. Option 2 is acceptable to OCC because it provides the refuge island crossing south of the junction.

Other junction considerations

- 8.37. Swept Path Analysis – Revisions to the vehicle tracking drawings at the junction for a 12m bus and 11.3m waste collection vehicle show improved swept paths of these vehicles. Alterations to the kerb radii has reduced the extent of these vehicles sweeping over the opposing and adjacent carriageway lanes. The revised plans are illustrated by Drwg No. 45479/5501/011 Rev A.
- 8.38. Guard Railing – OCC's view on guard railing is one shared with other regional groups and national policy that they (guard rails) should not be implemented as a safety improvement measure but a deterrence to inappropriate crossing and should only be used where there is a compelling need. It was also observed that drivers get a perception to increase speeds when going through sections of carriageway with guard railings. The effectiveness of guard railing on improving pedestrian safety may therefore be counterbalanced by an increase in vehicle with vehicle accident. HA officers therefore have reservations to the application of guard railing around this junction where an additional lane (right turners) is being created.

S106 obligations and their compliance with Regulation 122(2) Community Infrastructure Levy Regulations 2010 (as amended):

- 8.39. £5,400 (2x £2,700) Traffic Regulation Order Contribution indexed from May 2019 using RPI-x
- 8.40. Towards: The cost of administering two Traffic Regulation Orders (TRO) to increase the 30mph zone in the vicinity of the school access and junction. This will involve relocating the existing 30mph speed limit signs.
- 8.41. On the approach to the A361/Bloxham Grove Road/Ell's Lane junction the 30mph speed limit sign is currently approximately 10 metres before the junction. Along Bloxham Grove Road, the speed limit sign is to the west of the proposed site access. The current 30mph speed limit sign positions render the access to be within an unsafe speed zone for the proposed development.
- 8.42. Justification: Extending the 30mph zone would reduce traffic speeds to an acceptable level within the vicinity of the school. This is considered necessary to make the development acceptable in planning terms.
- 8.43. The current speed limit sign along the A361 is only a few metres from the junction and it is necessary to have the 30mph speed limit zone extended a further 40 metres north away from the junction to give approaching drivers sufficient distance to adjust to safe and appropriate speeds.
- 8.44. Relocating the speed limit to a point about 30m further east along Bloxham Grove Road will also reduce traffic speeds on this road in the vicinity of the proposed development, thereby reducing the likelihood of collisions brought about by excessive vehicle speeds.

- 8.45. Therefore, these TRO's are necessary to provide safe and suitable access to the development in accordance with the National Planning Policy Framework. The contributions are fair and reasonably related in scale and kind to the development. This is a fixed fee for administrative costs and does not include funding for any physical works (which are required as part of the S278 to be delivered by the developer).

S278 Highway Works:

- 8.46. An obligation to enter into a S278 Agreement will be required to secure mitigation/improvement works, including:
- The provision of a bell-mouth access with minimum radii of 5m within the highway boundary on Bloxham Grove Road to enable access to the development and to tie into the existing carriageway and footway on this road.
 - Improvement of highway works to upgrade Bloxham Grove Road as illustrated by PBA's proposed Bloxham Grove Road access Option 2 (under Drwg No. 45479/5501/004 Rev A), appended to the TA. These must include:
 - Widening Bloxham Grove Road to 4.8m from Warriner School entrance to the proposed site access to allow a 2-way movement along this section.
 - Provide a 1.5m wide footway along the southern front of the carriageway up into the site with suitable tactile paving at crossing points
 - To formalise the existing parking layby along Bloxham Grove Road which is currently echelon into parallel parking marked out bays.
 - Relocation of the 30/60mph speed limit markers further east of the site access, subject to a TRO consultation process.
 - Highway improvements on the A361 Banbury Road/ Bloxham Grove Road/ Ell's Lane junction to include:
 - Widening of the A361 to accommodate right turning lanes into both Bloxham Grove Road and Ell's Lane as illustrated by Drawing No. 45479/5501/010 Rev A. This shall include relocation of the 30mph speed limit sign about 40metres north of the current location.
 - Provision of a pedestrian refuge to the south of the junction.
- 8.47. This is secured by means of S106 restriction not to implement development (or occasionally other trigger point) until S278 agreement has been entered into. The trigger by which time S278 works are to be completed shall also be included in the S106 agreement.
- 8.48. OCC EDUCATION: **Supports.** See text in main report and Appendix 1.
- 8.49. OCC DRAINAGE: **No objection.** Requires conditions to be attached to require a full detailed design for approval and provision.
- 8.50. OCC ARCHEOLOGY: **No objection** subject to conditions requiring a staged programme of archaeological investigation. The site is located in an area of archaeological potential 250m east of the site of an Iron Age settlement. The site also contains the remains of medieval ridge and furrow which would be destroyed by this development. The assessment highlights that the site has archaeological potential related to prehistoric, medieval and post medieval archaeological remains. The assessment recommends that an archaeological evaluation would need to be undertaken to assess the impacts on previously unidentified archaeological deposits. This development would impact on any surviving archaeological deposits and a staged programme of archaeological investigation will need to be undertaken ahead of any development on the site.
- 8.51. CDC LANDSCAPE: **No objection.** The planting plans are acceptable

- 8.52. CDC ECOLOGY: **No objection.** The submitted ecological survey is acceptable. There are no particular protected pieces issues on site with the exception of consideration needed for nesting birds, the potential for bats to be roosting in some of the mature trees on site and wildlife using the hedgerows (including commuting bats). The revised plans are much improved and could lead to a gain for biodiversity and certainly avoid a net loss with the additional planting on site and enhancements included on buildings also. Requests the submission a Landscape and Ecological Management Plan should be conditioned to include other features such as integrated bird boxes within the buildings, bat boxes on mature trees, additional hedgehog boxes or log piles at the boundaries etc. Also raises concerns regarding the lighting scheme which appears to be excessive.
- 8.53. A CEMP for biodiversity would be needed to include measures for the protection of nesting birds, surveys for bats if relevant trees need removing and protection of all hedgerows and trees during construction.
- 8.54. CDC TREE OFFICER: Details of the tree protection plans and new tree planting should be provided.
- 8.55. CDC ENVIRONMENTAL PROTECTION OFFICER: **No objection.** The construction traffic management plan is acceptable. No objections regarding noise, air quality, contaminated land, odour and light.
- 8.56. CRIME PREVENTION DESIGN ADVISOR: **No objection.** Originally raise queries regarding the fencing, position of cycle shelter, security of bin store, use of CCTV and internal layout. Following clarification raises no objection.
- 8.57. THAMES WATER: **No objection** subject to conditions. There is an inability of the existing foul network infrastructure to accommodate the needs of the proposal. Recommend a pre-occupation condition in this respect. Surface water will not be discharged to the public network. Advises that water network and water treatment infrastructure has capacity for the proposal.
- 8.58. OCC MINERALS AND WASTE: **No objections.**

9. RELEVANT PLANNING POLICY AND GUIDANCE

- 9.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 9.2. 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
- BSC7 – Meeting Education Needs
- ESD1 – Mitigating Impacts of Climate Change

- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD4 – Decentralised Energy Systems
- ESD5 – Renewable Energy
- ESD7 – Sustainable Drainage Systems
- ESD10 – Protection of Natural Environment
- ESD13 – Local Landscape Protection and Environment
- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- TR7 – Development Attracting Traffic on Minor Roads
- C8 – Sporadic development in the open countryside
- C28 – Layout, design and external appearance of new development
- ENV1 – Development likely to cause detrimental levels of pollution

9.3. 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 Bloxham Neighbourhood Plan, and the following Policies of the Neighbourhood Plan are considered relevant:

- BL3 – Policy on connectivity
- BL7 – Flood risk
- BL9 – Amenity of existing residents
- BL11 – Contributing to the rural character of the village
- BL12 – The importance of space and key street scenes

9.4. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Policy Statement – Planning for schools development (2014)
- Equalities Act 2010 (“EA”)

9.5. 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.

10. APPRAISAL

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

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

Principle of Development

Policy Context

10.2. Policy ESD1 of the Cherwell Local Plan Part 1 (CLP 2031) seeks to distribute growth to the most sustainable locations and reduces the need to travel. Policy BSC7 of the CLP 2031 states that: *'The Council will work with partners to ensure the provision of pre-school, school, community learning and other facilities which provide for education and the development of skills. New schools buildings should be located in sustainable locations'*.

10.3. The NPPF advises that it is important that sufficient choice of school places is available to meet the needs of existing and new communities and that local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. In doing this they should:

a) give great weight to the need to create, expand or alter schools through decisions on applications; and

b) work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.

10.4. 'Planning for schools development: Policy statement' (2011) is also a relevant material consideration. This emphasises the government's commitment to meeting demand and providing choice and opportunity and raising standards in state-funded education (including Academies and free schools). It states the creation and development of state-funded schools is strongly in the national interest and that planning decision-makers should support that objective. It states that there should be a presumption in favour of the development of state-funded schools, as expressed in the National Planning Policy Framework and that full and thorough consideration to the importance of enabling the development of schools should be given. It notes that any refusal of any application for a state-funded school will have to be clearly justified.

Assessment

10.5. As outlined above there is very strong policy support for the creation of new state funded schools and this issue carries significant weight in favour of the current application. In this case an educational need for a new SEN school in North

Oxfordshire by Oxfordshire County Council. Currently there is no provision in North Oxfordshire for students with a SEN profile of social emotional and mental health needs, Autistic Spectrum Disorder and/or cognition and learning. Therefore, children are currently transported to Oxford, which incurs significant travel time and expense. With the growth in the district at Banbury and Bicester the need for places in the district is likely to increase over the coming years.

- 10.6. The Director of Children and Adult Services for Oxfordshire County Council has written in support of the application. Below is an extract from the letter explaining the need for the school:

In 2018 Oxfordshire County Council conducted an analysis of the sufficiency of places for children and young people with special educational needs and disabilities. This resulted in a Special Educational Needs and Disabilities Sufficiency of Places Strategy, which was adopted by the County Council Cabinet in December 2018.

This strategy identifies that Oxfordshire's school age population is growing, both because of the rise in births experienced between 2002-2011 and due to the large-scale housing growth planned for the county. In turn, the growth in demand for special school and resource base provision has increased rapidly, exacerbated by changes brought in by Children's and Families Act 2014. There has also been a specific rise in demand in children being identified as having social and emotional mental health (SEMH needs, and/or a diagnosis of Autism Spectrum Disorder (ASD).

The consequence of these changes is that Oxfordshire now has a severe shortage of special school places, particularly for children with SEMH/ASD needs. This is particularly affecting children in the north and the south of the county, as all provision for these needs is currently concentrated in and around Oxford.

The impact of children and families is that pupils are having to wait longer to be allocated a suitable special school place, and they have to travel further to attend a special school. This is inevitably causing distress for these very vulnerable children. Children living in the Banbury area are travelling into and out of Oxford daily to attend a suitable school. To supplement the county's special school provision, increasing numbers of places are being commissioned from the independent sector, at very high cost, which then reduces the funding available to support other children.

The County Council's strategy to address sufficiency of special education provision includes supporting mainstream schools to be more inclusive; making more and better use of resource bases within mainstream schools; and expanding existing schools. However, these approaches will not be sufficient to meet the scale of growth required. It is essential to open at least two new special schools: the one covered by this application to serve the north of the county, and another which is planned in Didcot to serve the south of the county.

The urgent need for this new school is already evidenced by the long distances being travelled by children living in the north of the county to attend special school and the rapid increase in the county's dependence on high cost independent sector school places. The need will continue to grow rapidly as a result of the housing growth included in Cherwell's Local Plan.

The Department for Education has accepted Oxfordshire's urgent need for additional special school places, as shown by its approval, and substantial capital funding commitments, for the new schools in Bloxham and Didcot.

- 10.7. A copy of the full Special Educational Needs and Disabilities Sufficiency of Places Strategy is available on the Council's website. A further letter outlining the need for the school is also included as Appendix 1 to this report.
- 10.8. Overall, therefore, it is considered there is a strong and immediate need for such school places and there are significant benefits to residents of the district in terms of widening the educational offer. These matters carry significant weight in determining the application.
- 10.9. As part of the pre-application discussion with the applicant, officers raised concerns over the site's geographical sustainability given its location in a village and suggested that the site would be better located within the urban areas of Banbury or Bicester where access to public transport and services would be stronger. One of the requirements of Policy BSC7 is that new educational facilities are sustainably located. In this regard the applicant has undertaken a site search which has been based on sites which are being marketed or which have been promoted by land agents. These have been assessed taking into account the school's intention of open in 2020 and the following criteria:
- Suitability – took into account size, shape, and sustainable settlement location, access to transport, environment and planning policy constraints
 - Availability – considered whether landowner was agreeable to sell and any time constraint to the sale.
 - Achievability – considered delivery issues of the site, costs, contamination, etc.
- 10.10. The search focused on quiet, rural or semi-rural settings which benefited from good transport links. Given the profile of the children who attend the school the proposed operators of the site have indicated a series of benefits for being located in such as location. These include:
- Rural location outside of town can help by transporting students from their local community where students would be less likely to try and leave the site due to the surroundings being unfamiliar. This also increases the feeling of safety provided by the school.
 - Many students would live in the urban areas such as Banbury and have negative prior and current experiences of interacting with their local community. By educating them outside of their home setting, the school would provide a fresh perspective on how to behave.
 - The quiet rural location includes less distractions and provides a more conducive learning environment for students.
 - A central Banbury location was considered unlikely by the school to be able to offer a suitable outside play space and the instances of distraction would be increased, which would be disruptive to the pupils attending the school particularly in light of their needs.
 - Benefits of having a school farm adjacent to the site to support opportunities for land-based studies with students.
- 10.11. Many of the sites the applicant has looked at are in rural areas and are more isolated and less geographically sustainable than the application site. The Council does not have any allocated sites for new specialist schools in the Local Plan, and the sites within the built limits of the towns the applicant has explored are limited and less preferable to the school given the requirements of the school. Furthermore,

those alternative sites within built limits of towns face potential viability issues with landowners expecting higher alternative use values. The report concludes that the proposed site is the most suitable for the proposed development and officers are not aware of other sites that are available which may be more preferable to the current site in broad terms.

10.12. A further site has been explored in Bloxham. However, this is located within the Conservation Area and is not likely to be viable for the application. It also has access constraints (previously explored in an application for residential development by Taylor Wimpey, application refs. 15/00369/OUT and 15/01528/OUT). The applicant was also requested to look at existing school sites to understand whether these could be used. However, given the relatively large size requirement to accommodate a new school, and taking into account the growth in the district, it has been concluded by the County Council that any surplus land on existing school sites is likely to be required to expand existing schools. Furthermore, many existing school sites would not offer the semi-rural or rural location that the operator of the school wishes to pursue to benefit the children. Also, it is noted that development of existing school fields is likely to raise other planning constraints such as conflict with the policy which seeks to protect existing playing fields.

10.13. The nature and operation of the school should also be considered. The proposed development is for a specialist school and therefore does not operate on a traditional catchment of pupils and pupils are likely to arrive by organised transport wherever the site is located given the larger area it serves. Therefore, the opportunities for children to cycle or walk to the facility are more limited. The opportunities to encourage sustainable means of travel more exists around staff and visitors to the site. Bloxham is a Category A village with an approximately hourly bus service to Banbury and the applicant is proposing to create a new footpath link between the proposed access to the site and the existing footpath network along the A361. Therefore, there is some opportunity for staff or visitors particularly from Banbury to access the site by means other than private car.

Conclusion

10.14. The proposed development would provide significant benefits from the provision of new specialist school places for which there is an identified and urgent need in the northern part of the County. The requirements of the operator of the school are based on providing pupils with the most appropriate environment to learn in their expert opinion and these favour a more rural location given the challenges the school faces. Other sites have been explored by the applicant. However, these have been discounted and Bloxham is the largest village in the north of the district with some availability of public transport for staff and visitors. Whilst it is acknowledged that provision of the school is not ideal in this village, given the strong policy support for the development alongside the need for the provision and benefits that come along with this, alongside the fact that the nature of the school means it is likely to serve a wide catchment, the principle of development in this location is considered to be acceptable subject to other material considerations.

Highways

Policy Context

10.15. Policy SLE4 of the Cherwell Local Plan Part 1 states that development which is not suitable for the roads that serve the development and which would have a severe traffic impact will not be supported and that new development should facilitate the use of sustainable modes of transport such as public transport, walking and cycling. It also requires that new development provide financial and/or in-kind contributions

to mitigate the transport impacts of development. Saved Policy TR7 states that development that would attract large numbers of cars onto unsuitable minor roads will not normally be permitted. This policy is more aged and therefore needs to be considered in the context of the policy in the NPPF which is outlined below.

- 10.16. Policy BL3 of the BNP states all development should provide and improve existing pedestrian paths and cycle routes. Policy BL9 states that all development should ensure that the impacts of any additional traffic likely to be generated by the development has been satisfactorily mitigated and will not adversely affect the highway network.
- 10.17. The NPPF has similar themes requiring opportunities to promote walking, cycling and public transport to be identified and pursued and ensuring that patterns of movement are integral to the design of schemes. It also requires that safe and suitable access to the site can be achieved for all users and that development should only be 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.

Assessment

- 10.18. The application site is proposed to be accessed from Bloxham Grove Road which currently serves the Warriner School and the farms to the east of the site. It is a minor road, which varies in width from approximately 4.2m to 3.5m meaning it is single width carriageway in many areas. A layby has been constructed to the south of Bloxham Grove Road in recent years, along the frontage of the existing school, which is approximately 100 metre long. This has not been constructed to standard parking dimensions and in practice cars are parking perpendicular to the road which result in many vehicles encroaching on to the carriageway and further reduces the width of the road and obstructs the flow of traffic. The existing footway along Bloxham Grove Road, which links to the A361, currently terminates at the most western entrance of Warriner School and does not extend to the position of the new school.
- 10.19. Vehicle access to the site would include the use of the staggered crossroad between the A361/Ells Land and Bloxham Grove Road. This junction is impacted upon at school times by the existing Warriner School and is a significant concern raised from the parish council regarding the capacity and safety of this junction.
- 10.20. The current proposals include a number of works to Bloxham Grove Road. This includes the widening of the carriageway to 4.8m wide from the western entrance of the Warriner School to the proposed entrance of the new school. It is also proposed to introduce a new 1.5m wide footway to the south of Bloxham Grove Road so a footpath would exist all the way between the A361 and the access to the proposed school. This would include reducing the depth of the existing layby (which is currently used for perpendicular parking) to 2.5 metres and formalise the parking adjacent to Bloxham Grove Road in a parallel arrangement. It is also proposed to extend the 30mph speed limit to the east of the new school access so the new school access falls within that speed restriction.
- 10.21. During the course of the application and further to an objection being received by the Local Highway Authority (LHA) on the impact on this junction, it is also now proposed to make alterations to the staggered crossroad on the A361. This would include the localised widening of the carriageway, the introduction of right hand turn lanes into both Ells Lane and Bloxham Grove Road from the A361; and the extension of the 30mph limit on the A361 further to the north away from the junction with Bloxham Grove Road.

- 10.22. The application is accompanied by a Transport Assessment, which includes an assessment of the traffic impacts of the development and a capacity assessment of the junction of Bloxham Grove Road, Ells Lane and the A361 using relevant industry software. This assesses the junction for the peak hours for the recorded 2019 flows and future 2020 and 2025 flows, both without and with the proposed development. This includes consideration of committed development in the area including the expansion of Warriner School to a 10 form of entry (which has been permitted by the County Council - from 1,320 to 1,600 pupils by 2024).
- 10.23. In order to assess the existing traffic conditions and to capture all vehicular movements at the A361/ Bloxham Grove / Ells Lane junction traffic surveys have been undertaken at the site. This included a manual classified count between 07:00-10:00 and 14:00-17:30 and a seven-day automatic traffic count (ATC). The ATC identified that the peak hours on the A361 was 08:00-09:00 and 15:00-16:00, which coincides with the Warriner School start and finish times. The manual count identified specific peaks within these hours between 08:00-08:30 and 15:00-15:15 where the arrivals and departures on Bloxham Grove Road were at the highest.
- 10.24. Accident data has been obtained from OCC for a period between 2013 and October 2018 and notes that whilst the severity is slight, 4 personal injury collisions occurred at this junction during this period. Two of the collisions involved a vehicle colliding with another one slowing to turn right into Bloxham Grove Road. Whilst these accidents occurred outside of school peak times the highway engineer has noted that increasing turning movements at this junction may increase the risk of such accidents occurring.
- 10.25. The proposed development would accommodate 60 members of staff who would arrive from 0700 onwards. It would also accommodate 100 students who, given the specialist nature of the school and wider catchment it would serve, would arrive by a mix of school operated vehicles with the remainder using either private vehicles or organised transport by the Oxfordshire Integrated Transport Team. Taking into account the operation of the school the development is predicted to generate 62 vehicles in the AM peak (08:00 – 09:00) and 39 vehicles in the PM Peak (15:00-16:00).
- 10.26. In order to reduce the impact of the development on congestion it is proposed to stagger the start and finish times at the proposed school with the adjacent Warriner School. Warriner School starts at 08:35 and finishes at 15:00. It is proposed the Bloxham Grove Academy would start at 08:45 and finish at 14:45. The school would also provide a Breakfast club (30min before school start) and an after-school club (45-60min after school finish) and they have estimated approximately half the pupils would attend these which would further reduce the peak traffic impact; however to ensure the traffic generation is robust the TA does not consider this.
- 10.27. The LHA originally objected to the application on the grounds that the development traffic would have an impact in the AM peak that would take it the A361 junction over its theoretical capacity and, when reviewing the forecast 2025 scenarios, both queuing and delays would go up be threefold and the proposal would result in the potential for increase in accidents from turning vehicles.
- 10.28. Further to this the applicant has revised the application to include the widening of the A361 around the junction and the introduction of right-hand turning lanes to both Bloxham Grove Road and Ells Lane from the A361.
- 10.29. This revised layout, with the right turn lane has been modelled and it has been demonstrated that the junction would operate within capacity for all scenarios and

the queue lengths are reduced. A Road Safety Audit of the junction has also been undertaken, the recommendations of which would be incorporated in the final design of the junction which would be subject to a legal agreement. The LHA now considers the traffic impacts of the development have been adequately mitigated so as to make the development acceptable in terms of traffic impact. In considering the traffic impacts of the development members should note that the NPPF states that development should only be refused on highways grounds where the residual cumulative impacts on the road network would be severe.

- 10.30. In addition to the above it must be noted that the peak traffic associated with the school is for a relatively short period of time in the morning and afternoon and is limited to school term time, which further reduces any impact associated with the development and the proposed school times have been staggered with the existing school to reduce the peak impact. Furthermore, given the nature of the school pupils are likely to arrive by organised transport rather than individual parents dropping them off and picking them up which would reduce the impact of drivers waiting on the highway.
- 10.31. Since the July Planning Committee, the plans for the A361 junction works have been amended. At the July Planning Committee, it was proposed to use planning conditions to secure details of pedestrian crossing point adjacent to this junction however concerns were raised that this should not be left to condition. In this respect the applicant has submitted two different schemes for the LHA's comment. One of these includes an uncontrolled pedestrian refuge island for crossing the A361 to the south of Ells Lane and the other does not include any additional crossing facility. It is also proposed to move the 30mph speed limit on the A361 further to the north so it is further from the Bloxham Grove Road turn at the entrance to the village.
- 10.32. The LHA has considered both set of plans (one with the pedestrian refuge and one without) and considers that both arrangements would be acceptable from a highway perspective.
- 10.33. However, it notes that, it has been observed that whilst not related to the proposed school, some parents of the existing Warriner School park in Ells Lane and on Crab Tree Close to drop off/pick up pupils. This results in some pedestrian seeking to cross the A361 near the junction with Bloxham Grove Road as this corresponds with the pedestrian desire between the Bloxham Grove Road and these areas.
- 10.34. Furthermore, the LHA has observed, outside of school hours, walkers along Bloxham Grove Road crossing the A361 near the junction. There is a signalised pedestrian crossing on the A361 approximately 150 metres to the south of Bloxham Grove Road which would remain and be available for pedestrians to use (albeit there is a consultation by OCC at the current time to turn this into a Toucan crossing (shared pedestrian and cycle crossing)).
- 10.35. However, given the distance (approx. 150 metres) between the signalised crossing and Bloxham Grove Road, some pedestrians leaving Bloxham Grove Road choose to take a more direct line to access Ells Lane and Crab Tree Close by crossing the A361 as this is the natural desire line. It is considered that a refuge island to the south of the proposed junction would correspond to the pedestrian desire lane and allow safer crossing at this point. A pedestrian refuge would allow pedestrians to cross one direction of vehicle traffic at a time more easily than if none were provided (which is currently the case) and would also provide some protection from traffic in the centre of the road, whilst pedestrians wait for a safe gap.

- 10.36. The applicant has indicated they would accept either scheme. However, the LHA favours the revised layout that does include a pedestrian refuge for the reasons outlined above and considers it would be acceptable in highway safety terms. Officers agree with this assessment. It must also be remembered that the proposed development is very unlikely to increase pedestrian movements across the A361 in this location given the nature of the school with a wider catchment and organised transport and it is not the role of the current application to remedy existing issues. In conclusion on this matter, the proposed junction arrangement and crossing is considered acceptable as put forward by the applicant.
- 10.37. Officers are engaged in dialogue with the LHA and the Parish Council to understand whether a different solution can be found which may better address the concerns of the Parish Council regarding pedestrians crossing the A361 at this point. This would be likely to include the provision of railings between the road and the pavement around the junction to prevent pedestrians crossing in this location. However, the LHA has previously raised concerns regarding the use of railings. The outcome of these discussions will be reported in the update to Committee.
- 10.38. The parish's suggestions to have the crossing as a signalised crossing or a zebra crossing have been discussed with the LHA but given the impact this would have on the operation of the junction this is not supported. Furthermore, officers do not consider it to be necessary, as the proposed arrangement is acceptable. The parish council has also suggested that the existing signalised crossing on the A361 could be relocated further to the north of its current position. However, this would be costly and is not considered necessary to make the development acceptable. Furthermore, it is noted that many of the children leaving the Warriner School walk into the village and re-siting the existing signalised crossing further to the north would be less convenient for them and is likely to discourage use.
- 10.39. The LHA also notes that the A361 and this junction are part of a separate large safety improvement scheme undertaken by OCC that will include resurfacing, speed limit reductions, junction improvements with improved visibility; signage and markings, as well as upgrading of footway/cycleway facilities. This scheme is DfT funded and runs between Banbury to Chipping Norton. The proposed mitigation for the SEN school will align with this project. Whilst the timing of both schemes could not be paralleled, measures have been undertaken by the SEN mitigation to ensure minimal changes are applied to improvements brought about by the A361 project.
- 10.40. In terms of construction traffic this is generally given less weight in planning decisions given the temporary nature of the impact. However, the Construction Traffic Management Plan (CTMP) suggested there would be no construction vehicles and deliveries at peak school times. Whilst generally satisfied with the CTMP the County Council has raised some concerns regarding the measures to prevent mud on the highway and requested that a revised CTMP through a condition. Officers agree that it could be satisfactorily amended by condition.
- 10.41. The proposed widening of Bloxham Grove Road to accommodate two-way traffic and provision of a footway is required to ensure the development operates safely and does not detrimentally impact on highway safety. As noted above it also links to the development to the existing footways into the village and provides safer opportunities for walking and public transport. The works would also provide a safer walking environment for existing users of Bloxham Grove Road, which is noted to be a popular walking route and cycle route.
- 10.42. The proposal would mean that the informal parking area which currently exists to the south of Bloxham Grove Road would be lost. This area is currently used informally as parking spaces perpendicular to the road. However, the depth of this

area is insufficient for many vehicles which overhang the carriageway reducing its width. This area would be altered to formalised parallel parking spaces. The LHA has raised no objection to this and it is questionable whether vehicles should be using the parking in the perpendicular fashion. There whilst it is acknowledged that there would be some loss of this informal parking the existing arrangement is far from ideal and from site visits appears to result in safety issues during peak times given the lack of footpath and narrowing of the carriageway.

- 10.43. In regard to parking provision for the proposed school, this shows the provision of 65 parking spaces including 46 specific staff bays, 5 disabled bays, 12 visitor bays, 2 bays for the schools MPVs and 2 school mini-bus bays. The TA notes that the parking has been based on the operational needs of the school to reduce the risk of off-site parking associated with the school. This has also been based on the model share of staff travelling to the site using the 2011 census data for the area where the application site is located which takes account of walking, car sharing and other means of arrival. As part of the proposal a School Travel Plan would be required by condition, a draft of which has been submitted, which particularly focuses on reducing the number of single occupancy car trips made by staff to the proposed site and reducing congestion at and near the school. 10 cycle parking spaces are also provided on the site to encourage the use of cycling. Furthermore, the public footpath, which is being provided along Bloxham Grove Road, would provide safe and convenient access to the bus stop on the A361 for any staff using the local bus service or walking to the site from the village. Overall the LHA is satisfied with this level of parking; officers have no reason to disagree; and it is therefore considered to be acceptable.

Conclusion

- 10.44. The NPPF advises that development should only be 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. The proposed development provides a number of highway improvements to local highway network including the junction to the A361 and Bloxham Grove Road and relocation of the 30mph speed limits which would all need to be secured through a legal agreement. These have been modelled and demonstrate the junction would operate within capacity and are considered to mitigate the traffic impacts of the proposed development. The proposal provides new pedestrian access to the village and improves some of the safety issues on Bloxham Grove Road and the layout of the new junction is considered safe by the Highway Authority. The level of parking is considered appropriate to serve the needs to the development. Overall, therefore, the highway impacts of the development are considered acceptable.

Impact on character and appearance of area

Policy Context

- 10.45. The NPPF advises that the creation of high-quality places is fundamental to what planning should achieve. It goes on to state that planning decisions should ensure development will function well and add to the overall quality of an area, be visually attractive as a result of good architecture, layout and landscaping; be sympathetic to local character including the building and landscape setting; establish a strong sense of place; and creating safe, inclusive and accessible development. These aims are also echoed and expanded upon within Policy ESD15 of the CLP 2031 and Policies BL11 and BL12 of the BNP 2031, which look to promote and support development of a high standard which contributes positively to an area's character and identity by creating or reinforcing local distinctiveness and protect the setting of the village.

- 10.46. Policy ESD 13 of the CLP 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. Furthermore, development that causes undue harm or visual intrusion into the open countryside will not be supported. Saved Policy C8 seeks to resist sporadic development in the open countryside.
- 10.47. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development.

Assessment

- 10.48. The proposed development would be located on Bloxham Grove Road which currently maintains a strong rural character and appearance beyond the extent of the buildings which consist of the Warriner School. The site itself is relatively flat as are the immediate surrounding fields. Further to the north the land falls into the valley associated with the Sor Brook.
- 10.49. The proposed development would lead to the loss of a grazed field, which includes some ridge and furrow and positively contributes to the rural character and appearance of the area and the setting of the village. That said, the site is surrounded by the playing fields associated with the existing school, which does alter the character of the area by having a more formalised appearance and provision of sporting paraphernalia. It is also located in proximity to the existing school building and new MUGA serving the Warriner School.
- 10.50. With the exception of the location of the access the applicant proposes to retain the existing field boundaries. During the course of the application further enhancement to the screening of the site including the provision of additional planting and trees has been provided by the applicant, which would aid with the screening and filtering they would provide of the proposed development. This is particularly important to the northern, southern and eastern boundaries where views are more sensitive. Furthermore, details of the tree protection plan for construction works would need to be conditioned to ensure the existing hedgerows and trees are adequately protected during construction. The works proposed to Bloxham Grove Road in relation to the widening and provision of a footway would also impact on the rural character of the area; however, this would be quite localised to the existing frontage of the Warriner School.
- 10.51. The proposed building would be located relatively central to the main part of the site and would be two-storey in height. During pre-application discussion it was advised that officers did not consider the proposed building needed to follow the form and appearance of the buildings at the Warriner School site which are of little architectural merit. The proposed building would be designed with a contemporary appearance with a series of flat roof elements at different heights to attempt to break up the mass and bulk of the building to some extent. The L shape arrangement of the building also means the building are relatively well grouped and set away from the boundaries of the site to allow the retention of screening. Officers have raised some concerns over the overall height of the building and requested it be reduced in height. However, the applicant states that the parapet wall is required for safety purposes and would have the additional benefit of screening the plant equipment and solar panels which would be located on the roof of the building. On balance this is considered acceptable.

10.52. The building would present an active frontage to the car park with the exception of the forward projecting element which accommodates the hall, kitchen and dining area and this part of the building would be clad in iron stone to provide a locally distinctive material. During the course of the application the applicant has also revised the plans so that the ground floor element of the building would also be constructed of ironstone with timber cladding above. The wider use of natural ironstone is considered to be positive as it helps root the building in the context of Bloxham where ironstone is used widely. The use of timber cladding has been introduced during the course of the application, as the originally proposed use of grey render which was not considered to be sympathetic to the rural context, and timber cladding was considered to give a softer more rural appearance to the site and is a material which is used in large agricultural buildings in rural settings.

10.53. Overall, whilst it is acknowledged that the proposed development would have some adverse landscape and visual impact given the rural character of the site, it is considered that there would be moderated by the fact that the site is surrounded by existing playing fields and the school buildings to the west of the site. Furthermore, the existing and proposed planting would help screen and filter the proposal and the proposal would appear as an extension to the existing Warriner School site. The design of the building is contemporary and the use of local materials help in providing for a more locally distinctive appearance to the development.

Flood risk and drainage

Policy Context

10.54. Policy ESD6 of the CLP 2015 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.

10.55. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District. Policy BL7 of the BNP echoes this.

Assessment

10.56. The site is located within Flood Zone 1 which is lowest risk of flooding. Infiltration tests have been carried out which indicate that the infiltration methods for surface water would not be feasible on the site.

10.57. The Lead Local Flood Authority (LLFA) originally objected to the scheme. Following this the drainage strategy has been revised. The proposed surface water drainage for the site has been designed so there will be no increase in flood risk on or off the site. This includes the use of a porous tanked sub base to the entire car park and the MUGA and hard play areas would be constructed of permeable Asphalt over a tanked porous sub base. These would discharge into a cellular tank which would discharge via a flow control chamber into an existing ditch. The drainage system has been designed to include all flood events up to and including the 100 year + 40% climate change. The LLFA raises no objection to this subject to condition.

10.58. In regard to foul water Thames Water have advised that there appears to be inadequate capacity in the existing foul network infrastructure to accommodate the needs of the development. It therefore requests a condition is imposed on any grant

of planning consent to require an appropriate scheme to be provided prior to the first occupation of the building. This is recommended as a condition.

Heritage Impact

Legislative and policy context

- 10.59. The site is not within and does not affect the setting of a Conservation Area. However, the site is located in a field which includes ridge and furrow which is considered to be a non-designated heritage asset. Policy ESD15 states that new development proposals should include information where archaeological potential is identified to allow an assessment of significance. Paragraph 189 of the NPPF echoes this advice.

Assessment

- 10.60. The site is identified as having archaeological potential and includes ridge and furrow. The application has been accompanied by a desk based archaeological assessment, which concludes that based on their finding the site has low to moderate potential for prehistoric activity with any material likely to be of low archaeological significance. The ridge and furrow demonstrate a high potential for later Medieval and early post medieval remains however any activity of this period would be likely to be of low significance.
- 10.61. The development would impact negatively on the ridge and furrow that currently exists at the site; however, this is only considered to be limited given the size and position of the site. The County Archaeologist has raised no objection to the application subject to a staged programme of archaeological investigation which can be controlled through a condition. Officers see no reason to disagree with this assessment or conclusion.

Sustainable Construction

- 10.62. Policy ESD3 of the CLP Part 1 states that all new non-residential development will be expected to meet at least BREEAM 'Very good'. Policy ESD4 requires that a feasibility assessment of the use of decentralised energy systems, providing either heating or heating and power for all non-domestic development above 1000sqm metres. Policy ESD5 requires a feasibility assessment in regard to on-site renewable energy.

Assessment

- 10.63. A Feasibility Report for BREEAM has been submitted with the application. This indicates the use of solar photovoltaic roof panels on the building would be feasible for the site and details of this can be controlled through condition. The achievement of the BREEAM 'Very good' standard is also a requirement of Policy ESD3 and could be controlled by condition.

Ecology Impact

Legislative context

- 10.64. 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.

10.65. 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.

10.66. 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.

Policy Context

10.67. 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.

10.68. 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.

10.69. 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.

10.70. 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.

10.71. 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

10.72. 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

10.73. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site is undeveloped and there are a number of mature trees and hedgerows within and adjacent the site, and therefore has the potential to be suitable habitat.

10.74. In order for the LPA 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.

10.75. In respect of planning applications and the Council's 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.

10.76. The application is supported by a detailed Ecological Survey. The main ecological constraint that this identifies is the fact several of the trees on the boundary have low to medium potential for roosting bats and the hedgerows around the site offers opportunities for nesting birds and foraging bats. Those trees are shown to be retained in the submitted layout. The Council's Ecologist (CE) is generally satisfied with the finding of the survey and notes that a Construction Environmental Management Plan should be conditioned including measures to protect nesting birds and bats.

10.77. Amended plans have been received which show additional new planting and enhancements on the site and the CE considers a net gain in biodiversity could be achieved with the additional planting and enhancements on the building. The CE requests that a Landscape and Ecological Management Plan (LEMP), which can show an overall net gain for biodiversity should be required by condition and should

include plans for other features on site – integrated bird boxes within the buildings, bat boxes on mature trees, hedgehog boxes or log piles at the boundaries.

10.78. Concerns have been raised by the CE that the lighting for the site appears rather excessive and the applicant has agreed that full details of the lighting could be controlled through planning conditions to ensure it was appropriate for its rural context, and also did not adversely impact on ecology, particularly the boundaries of the site.

10.79. Officers are satisfied, on the basis of the CE's advice and the absence of any objection from Natural England, and subject to conditions, that notwithstanding the proposed development the welfare of any European Protected Species found to be present at the site and surrounding land would continue and would be safeguarded, 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.

Other matters

10.80. Policy ESD15 of the Cherwell Local Plan Part 1 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. The NPPF also notes that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy BL9 seeks to ensure that the living conditions of neighbouring residents are not materially harmed by development proposals. The proposed development is some distance from the nearest residential property and is not considered to result in a significant amenity issues.

10.81. The Parish Council has made extensive comments on the application but some of their comments refer to policies in the Neighbourhood Plan which are not considered relevant to the proposal. For example, Policy BL2 of the BNP relates to housing as does Policy BL5. Policy BL14 relates to start up and small business expansion which is also not considered relevant to the proposal as the main function is as an educational facility.

10.82. The Parish Council has also raised concerns that the proposed development is not plan-led as it is not allocated within the Development Plan. However, Policy BSC7 does allow for the provision of new schools in sustainable locations and the supporting text to this policy notes; *'New school buildings should be located in sustainable locations on the edge or within the built up limits of settlements. New schools in the Green Belt and open countryside will be resisted'* (para B.144). In this context the site is considered to be located at the edge of an existing settlement and needs to be assessed in this context. This is discussed in detail above.

10.83. The Parish Council has also raised concerns regarding air quality as previously air monitoring in Bloxham has provided concerns regarding nitrogen dioxide (NO₂) levels. However, the Council's Environmental Protection Officer has raised no objections in this regard and has noted that the all three monitoring locations in the village are below the annual mean objective level, and the general trend has been downwards

11. PLANNING BALANCE AND CONCLUSION

11.1. Planning applications are required to be determined in accordance with the Development Plan unless material considerations indicate earlier. The NPPF states that the purpose of the planning system is to contribute to the achievement of

sustainable development and need to achieve the economic, social and environmental objectives in mutually supportive ways.

- 11.2. In this case the proposals would provide significant social benefits in providing additional specialist educational provision for which there is an urgent need for in the district. Whilst ideally the site would be located within or adjacent to the larger settlements of Banbury or Bicester the applicant has undertaken a site search and has not found any more suitable or viable sites. Notwithstanding this, the students who attend the school are unlikely to walk or cycle to the site as they would come from a wider catchment and arrive by organised transport. The site is located at the edge of one of the larger Category A villages in the district and some opportunities for walking and use of public transport exist for staff and visitors. It also has benefits in terms of the educational offer and environment the operators wish to provide.
- 11.3. There would be some harm to the rural character and appearance of Bloxham Grove Road; however, this would be moderated by the relationship of the site with the Warriner School and the landscaping proposals submitted with this application. The building uses a palette of materials that reflects the locality and the rural context.
- 11.4. The proposal seeks to provide improvement to Bloxham Grove Road and the junction with the A361 which are considered to mitigate the impacts of the development on the local highway network.
- 11.5. Overall, when considered as a whole, the social benefits of the scheme are considered to outweigh the modest harm to the character and appearance of the area. It is therefore considered to represent a sustainable form of development and it is recommended that planning permission be granted.

11.6.

12. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION SUBJECT TO THE CONDITIONS SET OUT BELOW (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) Contribution of £5,400 (index linked) towards administrative costs of Traffic Regulation Orders to move 30mph
- b) £1,240 towards monitoring and review of Travel Plan
- c) An obligation to enter into a Section 278 Agreement to secure highway works:
 - The provision of a bell-mouth access with minimum radii of 5m within the highway boundary on Bloxham Grove Road to enable access to the development and to tie into the existing carriageway and footway on this road.
 - Improvement of highway works to upgrade Bloxham Grove Road as illustrated by PBA's proposed Bloxham Grove Road access Option 2 (under Drawing No. 45479/5501/004 Rev A), appended to the TA. These must include:
 - Widening Bloxham Grove Road to 4.8m from Warriner School entrance to the proposed site access to allow a 2-way movement along this section.
 - Provide a 1.5m wide footway along the southern front of the carriageway up into the site with suitable tactile paving at crossing points
 - To formalise the existing parking layby along Bloxham Grove Road which is

currently echelon into parallel parking marked out bays.

- Relocation of the 30/60mph speed limit markers further east of the site access, subject to a TRO consultation process.

- Highway improvements on the A361 Banbury Road/ Bloxham Grove Road/ Ell's Lane junction to include:

- Widening of the A361 to accommodate right turning lanes into both Bloxham Grove Road and Ell's Lane as illustrated by Drawing No. 45479/5501/010 Rev B. This shall include relocation of the 30mph speed limit sign about 40metres north of the current location.

- Provision of a pedestrian refuge to the south of the junction.

CONDITIONS/REASONS FOR REFUSAL

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: TBC

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.

Accesses: Full Details

3. Prior to the first occupation of the development hereby approved, the means of access between the land and the highway on Bloxham Grove Road, including position, layout and vision splays shall be constructed and laid out in accordance with drawing number 45479/5501/03 Rev A and 45479/5501/005 unless otherwise agreed in writing by the Local Planning Authority. Thereafter the mains of access and visibility splays shall be 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.

Tree Protection

4. Prior to the commencement of any development an Arboricultural Impact Assessment, Tree Protection plan and Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in strict accordance with the approved details.

Reason - To ensure the continued health of retained tress/hedges and to ensure that they are not adversely affected by the construction works in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy ESD10, ESD13 and ESD15 of

the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Construction Traffic Management Plan

5. Prior to the 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. The development shall not proceed other than in strict accordance with the details contained in the approved CTMP.

Reason: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and local residents, particularly at morning and afternoon peak traffic times, to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Archaeology

6. 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 contained within the National Planning Policy Framework (2019).

7. 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 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 Government guidance contained within the National Planning Policy Framework (2019).

SuDS

8. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. The development shall not be implemented other than in strict accordance with the approved details and shall be fully implemented prior to the use of the building commencing.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal in accordance with ESD6 and ESD7 of the Cherwell Local

Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Completion and Maintenance of Sustainable Drainage – Shown on Approved Plans

9. Except where amended by the details approved pursuant to Condition 8 of this planning permission, no building or use hereby permitted shall be occupied or the use commenced until the sustainable drainage scheme for this site has been completed in accordance with the details submitted with this application. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and maintained thereafter in accordance with ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Landscape and Ecological Management Plan

10. 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. This shall demonstrate a net gain in biodiversity and shall include the provision of integrated swift nest bricks and a range of bat and bird boxes. It shall also include details of protection of retained features and ecology during construction. Thereafter, the development shall not be carried out other than in accordance with the approved LEMP including the provision of the enhancements prior to the first occupation of any dwelling.

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.

Landscaping

11. Prior to the first use of the building hereby approved the landscaping for the site shall be carried in full and in strict accordance with landscaping scheme shown on drawing numbers ADP-00-ZZ-DR-L-1920 Rev S3 P07, ADP-00-ZZ-DR-L-1900 Rev S3 P07, ADP-00-ZZ-DR-L-1901 Rev S3 P07, ADP-00-ZZ-DR-L-1940 Rev S2 P01, ADP-00-ZZ-DR-L-1941 Rev S2 P02 unless otherwise agreed in writing by the Local Planning Authority. The hard landscape elements of the scheme shall be retained as such thereafter. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

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

Architectural detailing

12. Notwithstanding the details shown on the approved plans, further details of the architectural detailing of the exterior of the development hereby approved including details of the parapet, window details (including colour and recesses), junction between timber and stone, and details of any coping or other detailing shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the building above slab level. The development shall thereafter be carried out in accordance with the approved details and shall be retained as such thereafter.

Reason: In order to safeguard the visual amenities of the area and the significance of the heritage asset 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.

Stone Sample Panel

13. No development shall commence above slab level until a stone sample panel (minimum 1 metre squared in size) has been constructed on site and has been inspected and approved in writing by the Local Planning Authority. The sample panels shall be constructed in a position that is protected and readily accessible for viewing in good natural daylight from a distance of 3 metres. The panel shall be retained on site for the duration of the construction contract. The stone elements of the external walls of the building, as shown in the drawings referred to in Condition 2 of this permission, shall not be constructed other than in strict accordance with the approved stone sample panel, including in type, colour, texture, coursing and pointing, and shall be retained as such thereafter.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development and to preserve the significance of the heritage asset and 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.

Timber boarding

14. No development shall commence above slab level until a sample panel of timber boarding has been constructed on site and has been inspected and approved in writing by the Local Planning Authority. The sample panel shall show the type, finish and arrangement in which the timber boarding will be placed on the building. Details shall also be submitted in relation to the durability and weathering of the timber boarding. The sample panel shall be constructed on site to be inspected and approved in writing by the Local Planning Authority. The sample panel shall be constructed in a position that is protected and readily accessible for viewing in good natural daylight from a distance of 3 metres. The panel shall be retained on site for the duration of the construction contract. The timber elements of the external walls of the building, as shown in the drawings referred to in Condition 2 of this permission, shall not be constructed other than in strict accordance with the approved sample panel, and shall be retained as such thereafter.

Reason: To ensure that the materials are appropriate to the appearance of the

locality and to ensure the satisfactory appearance of the completed development and to preserve the significance of the heritage asset and 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.

Renewable Energy

15. Prior to any works above slab level, full details of the siting, design and amount of renewable energy to be provided on the site shall be submitted and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details prior to the first occupation of the building and shall be retained as such thereafter.

Reason - To ensure that the feasibility of significant on-site renewable energy is considered in accordance with the requirements of Policy ESD5 of the Cherwell Local Plan 2011-2031 Part 1.

Protection of Pedestrian Footway

16. Prior to the first use of the building, the measures to physically protect the section of walkway running between the car parking spaces to the front of the site shall be carried out in accordance with drawing number ADP-00-ZZ-DR-L-1900 Rev S3 P07. Thereafter, the footpath(s) shall remain protected and available for use throughout the development in accordance with the approved details.

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

External Lighting and Management Plan

17. Notwithstanding the details on the submitted plan and prior to the installation of any external lighting, full details of the external lighting and a management plan to control the lighting shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the lighting shall be installed and managed in accordance with the approved details and shall be retained as such thereafter.

Reason - To ensure the satisfactory appearance of the completed development, protect amenity of the local area, protect biodiversity and to comply with Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Parking and Manoeuvring

18. Prior to the first occupation of the development the parking and manoeuvring areas shall be constructed, laid out, surfaced, and completed in accordance with the plans hereby approved, and shall thereafter be retained unobstructed at all times except for the parking and manoeuvring of vehicles in connection with the development.

Reason: In the interests of highway safety in accordance with Policies SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Wastewater network

19. The development hereby permitted shall not be occupied until details and confirmation of one of the following has been submitted and approved in writing by the local planning authority:

- all wastewater network upgrades required to accommodate the additional flows from the development have been completed; or
- an infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied. Where an infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed infrastructure phasing plan.

Reason - The development may lead to sewage 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.

BREEAM

20. The building hereby granted planning permission shall be constructed to achieve BREEAM 'Very Good' standard based on the BREEAM criteria applicable at the time of this decision for a proposed building use of this type.

Reason - In the interests of encouraging sustainable building design in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1.

Travel Plan

21. Within 3 months of the first use of the development hereby permitted a revised travel plan shall be submitted and approved in writing by the Local Planning Authority. Thereafter, the approved Travel Plan shall be implemented and operated in accordance with the approved details.

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

CASE OFFICER: James Kirkham

TEL: 01295 221896

Appendix 1

Official Sensitive



County Hall
New Road
Oxford
OX1 1ND

Lucy Butler
Director for Children, Education
& Families

5th September 2019

Mr David Peckford
Bodicote House,
White Post Rd,
Bodicote,
Banbury
OX15 4AA

Dear Mr Peckford,

Proposed new Special School – Bloxham Grove – Due to be built on the land East of The Warriner School.

Further to the application and the upcoming planning meeting due to be held on the 19th September 2019, I thought it would be helpful to your council if I summarised the current position in Oxfordshire for specialist school placements.

Oxfordshire has historically had enough provision to support the majority of its children with Special Educational Needs (SEN) with only children with the highest needs being supported in the independent sector. This changed during 2017 when a significant increase in demand for places was becoming evident and many more children were accessing specialist placements outside the Local Authority.

In December 2018 the Local Authority published its Sufficiency Strategy, following approval by its Cabinet, which stated that additional resource base and special school provision would be required. The proposed school at Bloxham Grove is one strand of this strategy.

The need for this school is partly a result of the large-scale housing growth planned by Oxfordshire's councils. As an indication of the numbers of houses predicted, 7,000 new homes are proposed for Banbury alone. This is highlighted in Cherwell's adopted Local Plan.

This increase in population is expected to include around 40 more pupils needing the expert support and education provided by a special school. At the same time, the previous rise in births has increased pupil numbers further. These pupils are now reaching an age where a greater percentage may require special school placements.

This is in the wider context of a national growth in demand for special school and resource base provision, following changes brought in by Children and Families Act 2014.

There has been a specific rise in demand in children being identified as having Social, Emotional and Mental Health (SEMH) needs, and/or a diagnosis of Autism Spectrum Disorder (ASD), which now accounts for nearly half of the Education, Health and Care plans maintained by Oxfordshire. The shortage of places has been felt more acutely in the north and south of the county as all specialist schools for children with SEMH/ASD are based in and around Oxford.



Bloxham Grove School, if approved, will provide additional special school places for children who have SEMH/ASD, with challenging behaviour in the north of the county. The majority of children who are currently diagnosed with these conditions who require a more specialist placement are transported into Oxford daily. This is not ideal for many children, who end up having a very long school day, which can then impact on their ability to learn due to the anxieties that the long journey may cause.

A new school in Bloxham will therefore:

- Reduce the distance travelled by pupils to access suitable education – for pupils already travelling to attend schools in Oxford, this could be an immediate benefit, as they could switch to the new school;
- Speed up the process of allocating a special school place, as currently no special school places are available
- Reduce the need for out-of-county or high-cost independent school placements, allowing more effective use of funding to benefit more children and young people;
- Reduce pressure on existing maintained special schools in north Oxfordshire, freeing up local spaces for pupils;
- Provide the increase in special school capacity necessary to meet the needs of the housing growth included in Cherwell's Local Plan.

Based on the needs highlighted above, I would ask the council to take these points into consideration and look favourably on the reasons for the new school, when making the decision to approve the planning request for Bloxham Grove school.

Yours sincerely

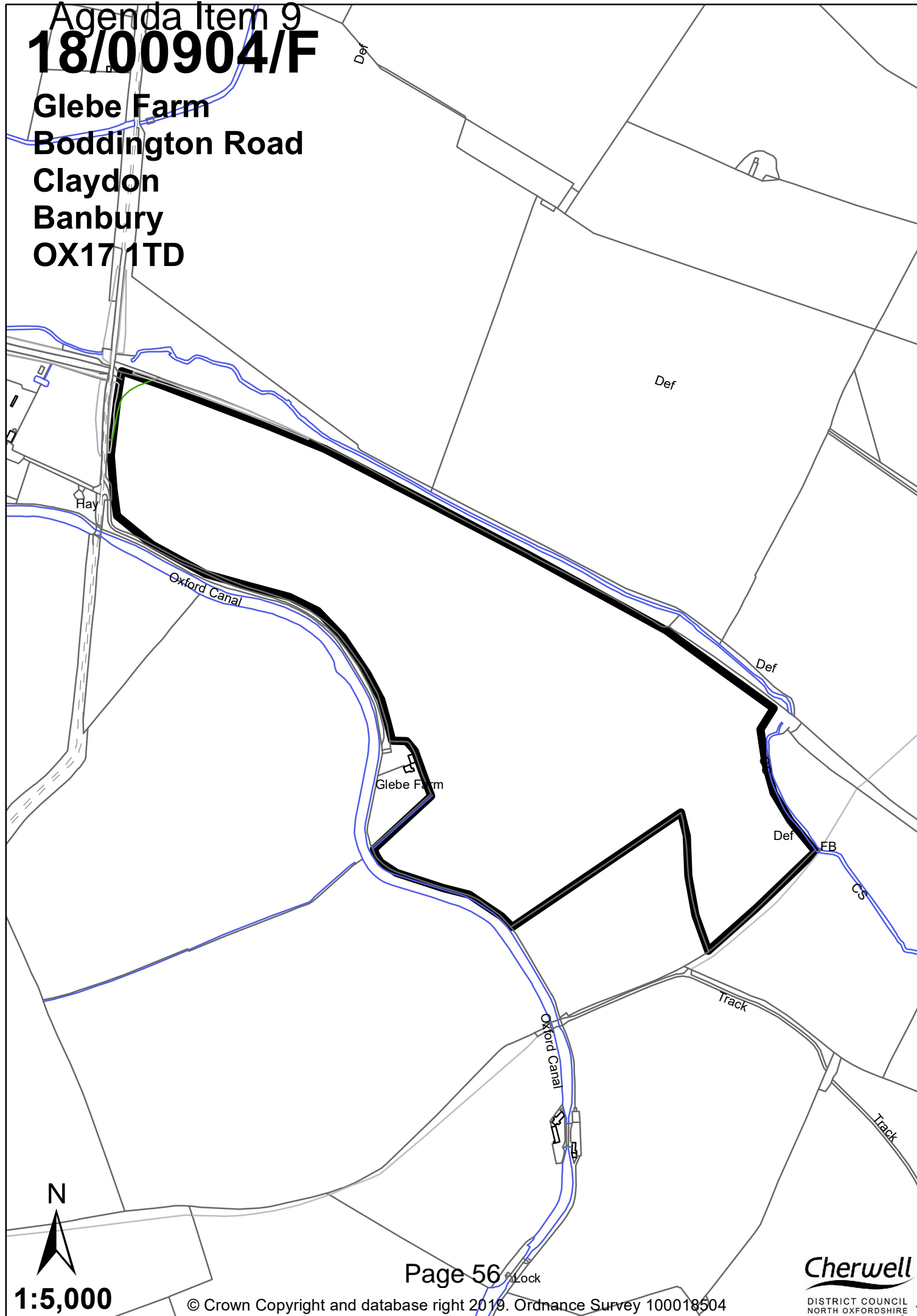


Lucy Butler
Director of Children's Services

Direct line: 01865 815122
Email: Lucy.Butler@oxfordshire.gov.uk
www.oxfordshire.gov.uk

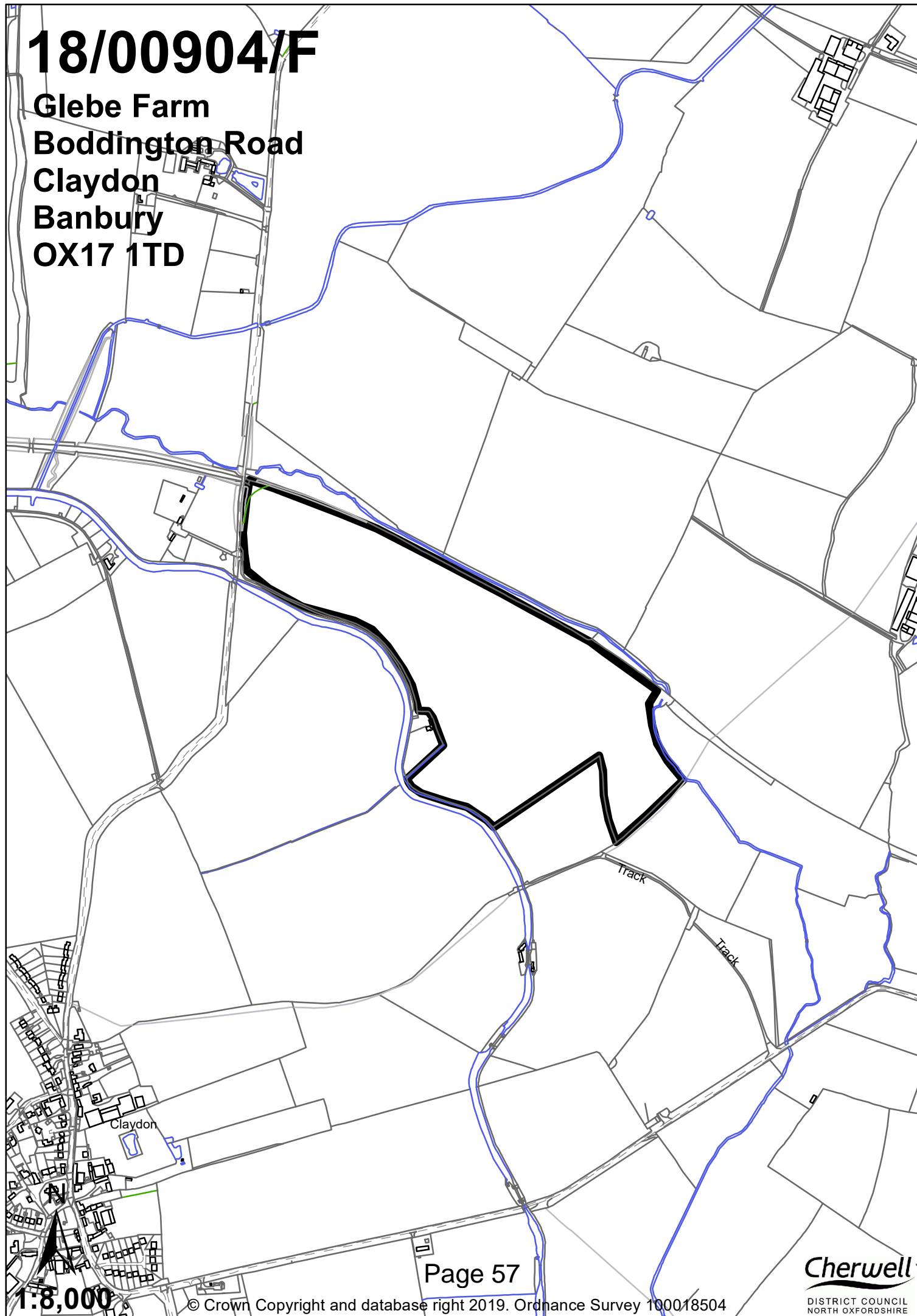
Agenda Item 9
18/00904/F

**Glebe Farm
Boddington Road
Claydon
Banbury
OX17 1TD**



18/00904/F

**Glebe Farm
Boddington Road
Claydon
Banbury
OX17 1TD**



Case Officer: Clare O'Hanlon

Applicant: W A Adams Partnership

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

Ward: Cropredy, Sibfords And Wroxton

Councillors: Cllr Chapman, Cllr Reynolds, Cllr Webb

Reason for Referral: Major development

Expiry Date: 20 September 2019

Committee Date: 19 September 2019

This application was subject to a Committee Members Site Visit, which took place on 19th September 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS and subject to no objections being raised by the Environment Agency and OCC Drainage.

Proposal

The proposal is to create a marina with associated facilities and earthworks. There is an adjacent lake proposed to be used as an irrigation reservoir. The marina provides mooring for 192 boats for recreational purposes and no residential moorings are proposed.

Consultations

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

- Claydon with Clattercote Parish Council, CDC Conservation.

The following consultees have **not raised objections** to the application:

- CDC Landscape Services, CDC Ecology, CDC Environmental Protection, CDC Economic Growth, Natural England, OCC Highways, Northants County Council Highways, South Northants Council, Canal and River Trust, HS2, CDC Arboriculture, OCC Archaeology, Thames Valley Police.

Consultation responses are awaited from OCC Drainage and the Environment Agency.

Over 70 letters of objection and no letters of support have been received.

Planning Policy and Constraints

The application site lies within the open countryside and within the setting of the Oxford Canal Conservation Area. A small part of the site along its northern boundary lies within Flood Zones 2 and 3. To the north of the site lies the North Claydon Disused Railway Local Wildlife Site (LWS). The application has been assessed against the relevant policies in the NPPF, the adopted Local Plan(s) and other relevant guidance.

Conclusion

The key issues arising from the application details are:

- Principle of development

- Need/Demand for a marina
- Highways/Access
- Visual and landscape impact
- Heritage impact
- Impact on the Canal as a tourist and leisure asset and green transport route
- Ecology and biodiversity Impact
- Drainage and flooding
- Economic and social implications
- Impact on residential amenity
- Other relevant planning matters

The report looks into the key planning issues in detail, and Officers conclude that (subject to the comments of OCC Drainage and the Environment Agency) the proposal is acceptable for the following reasons; it would contribute to a more diverse, sustainable, rural economy, would contribute to tourism growth, would promote use of the canal for sustainable leisure opportunities, would provide rural employment opportunities that encourage the viability of agricultural enterprises and would preserve the local environment.

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 within open countryside to the north of Claydon and to the north of the Oxford Canal. Its northern boundary runs along a dismantled railway, its western boundary along Boddington Road, from where vehicular access will be taken, and its southern boundary alongside the Oxford Canal. A watercourse runs parallel with the northern site boundary. The extent of the application site area amounts to just under 18 hectares (17.79ha).
- 1.2. The land forms part of a larger mixed-use farming operation of around 580ha (grass and arable) which is farmed by the applicants. The application site is currently in arable use and sits in a 'bowl' which is slightly lower than the canal.
- 1.3. The line of HS2 is proposed to run to the north east of the site; approximately 1-1.5km away. At its eastern corner the site lies adjacent to the district boundary with South Northamptonshire.
- 1.4. There is an existing house adjacent to the canal and owned by the applicants (excluded from the application site) and neighbouring sporadic residential properties further north and west of Boddington Road. There are also residential moorings further west along the canal.

2. CONSTRAINTS

- 2.1 The dismantled railway to the north is a Local Wildlife Site (LWS). A public right of way (PROW) lies to the east of the site. The canal towpath is also a PROW. The Canal is a designated Conservation Area and part of the northern extent of the site lies within Flood Zone 2/3. A watercourse (known as Wormleighton Brook) runs parallel to the site's northern boundary.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. The proposal is to create a marina with associated facilities and earthworks. There is an adjacent lake proposed to be used as an irrigation reservoir. The marina would provide mooring for 192 boats for recreational purposes and there will be no residential moorings. In addition to the basin, moorings and lake the proposals include;

- A facilities building providing office and chandlery, clubhouse, showers, toilets, Elsan disposal point and laundry, store and workshop and manager's accommodation and office.
- Car parking spaces for 142 vehicles arranged in groups around the marina's perimeter.
- New vehicular access from Boddington Road with internal access roads and footpaths.
- New pedestrian towpath bridge over the marina entrance continuing the PROW.
- Yard area with wet dock/maintenance bay for pump out, refuelling and light maintenance.
- Various embankments from cut and fill.

3.2 The application has been amended twice since the original submission; firstly to respond to Officer concerns about the size and positioning of the marina and secondly to respond to concerns expressed by the Environment Agency. The amendments are as follows;

- Reduction in size of marina basin.
- Reduction in number of berths from 250 to 192.
- Re-siting of the marina basin further east from Boddington Road.
- Re-siting the embankments, access and access roads outside the functional floodplain.
- Amendments to the design of the marina, including a larger wildlife embankment and larger islands between the berths.
- Amendments to car parking arrangements.
- Reductions in size and changes to the design of the proposed facilities building.
- Soft landscaping proposals have been enhanced and more detail provided.
- Amendments to the towpath bridge railings in respond to comments made by the Canal and Rivers Trust.
- Amended surface water drainage details in response to objections from the Environment Agency and County Council.

- 3.3 The marina is quite organic in form with groups of berths separated by landscaped 'spits' of land and groups of no more than 16 boats. A large wildlife embankment extends as a promontory to its eastern end. However, due to existing ground levels the proposal does involve extensive earthworks in order to accommodate the marina at the adjacent canal water level, and to create its dam. The result is extensive embankments rising up from Boddington Road and the northern site boundary in particular. As an indication, existing grounds levels at Boddington Road are around 113.000 AOD at its lowest point, with the embankment rising to 118.000 AOD at its highest on this western end. The canal and marina water level is 115.000 AOD.
- 3.4 The marina will be circled by an access road (surfaced in local stone) with loading/unloading points to the bottom of the embankments, with a footpath circling it along the top of the embankments. The facilities building is at its western end to provide surveillance over the canal access point for security purposes.
- 3.5 An entrance for boats will be provided from the canal into the marina. A new footbridge will be provided to continue the canal towpath across the marina entrance.
- 3.6 The application is accompanied by landscaping proposals which show wildflower/grass edges to the marina leading into shrub and native tree planting.
- 3.7 The facilities building has been re-designed to replicate a converted agricultural barn and has a GIA of 363sqm. It is finished with timber cladding and local stone under a natural slate roof. All external joinery will be timber.
- 3.8 The applicants have put forward a number of points in support of the application including;
- The marina will provide a valuable recreational resource on the Oxford Canal, one of the most popular canals for tourism and boating.
 - The proposal will create more facilities and choice for boaters wishing to visit the region and cruise the canal.
 - HS2 is likely to have a negative impact on tourism and recreation. A positive development such as the marina will help to offset the negative impact.
 - It will provide an essential source of non-agricultural income on a farming operation severely impacted by HS2 (118 acres of land for the construction of HS2 for up to 10 years; a line that will bisect the farm).
 - It will provide resilience for the farming business in the face of challenges arising from Brexit and TB in cattle. The lake will provide irrigation for crops that are not dependant on EU subsidies.

They have also provided what they term a 'sequential test' considering the suitability of alternative locations for a marina 'within or adjacent to' a settlement. All information is supplied in the applicant's submission which is available on the Council's website.

4. RELEVANT PLANNING HISTORY

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

16/00082/SO	Screening opinion for proposed marina development	Screening Opinion not requesting EIA
18/00041/SO	Screening Opinion to 18/00904/F - Formation of inland waterways marina with ancillary facilities building, car parking, access and associated landscaping including the construction of a new lake	Screening Opinion not 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 site notices displayed near the site, by advertisement in the local newspaper, and by letters sent to nearby residential properties that the Council has been able to identify from its records. Both the original and amended plans have been subject to consultation. The final date for comments on the latest amended plans is 13.09.2019. The responses to both the original and amended plans are summarised below.

6.2. In total, over 70 letters have been received objecting to the application, the vast majority from residents of Claydon. In addition, the owners of existing marinas at Braunston and Fenny Compton have objected. These objections can be grouped and summarised as follows;

Impact on highway safety

- The surrounding roads are unsuitable for an increase in traffic, being narrow with few/no passing places, pot-holed, cracked, with blind bends and in a poor state of repair. The proposal will increase accident risk.
- There are weight and width restrictions on the canal bridge which is narrow with restricted vision. Vehicles often get stuck on this bridge and block the road.
- The Committee should visit the site and travel between Claydon and Boddington.
- The road is not well maintained and/or gritted during winter months. The road is used by walkers, cyclists and horse-riders (including children) whose safety would be put at risk. Sat Navs direct traffic through the villages.
- Additional traffic through Claydon will be hazardous as the village is not fully paved and roads are unlit. The majority of the cars going to and from the marina would come through Claydon.
- Construction traffic will cause chaos, especially combined with HS2 impacts. Limited information has been provided.

- Concerns about access for emergency vehicles.
- The Transport Assessment and surveys have many shortcomings.

Impact on the Oxford Canal Conservation Area

- Harmful impact on the setting of the Conservation Area and the quiet nature of the canal.

Impact on the character of the area and the countryside

- Out of keeping with the character of the countryside, one of the few truly remote and rural parts of the South Oxford Canal. The arrival of HS2 makes it even more important.
- The impact and suburbanisation is amplified by the extent of earthworks, retaining structures, signage, hardsurfaces and buildings. Open views to the east will be lost. Bunds are described variously as between 6-8m in height.
- Contrary to Policy ESD13.
- The planting proposed along the Lower Boddington Road is a large block, completely out of character with the existing landscape structure of farmland.

Impact on Claydon village and residents' amenities

- Will add to disruption that will already be experienced from HS2.
- Additional demands on over-stretched local GP surgeries and other local amenities like schools. Non-residential use can't/won't be enforced as evidenced by Cropredy.
- Disproportionate to the size and population of Claydon (described variously as 129 dwellings/350 people). Its size will be approx. $\frac{3}{4}$ that of Claydon. Images have been submitted by residents to illustrate the comparative scale of the proposed marina to that of Claydon.
- No tangible benefits for the village – there will not even be public access to the site to walk.
- Noise and air pollution. The village and surrounding area is very quiet. Noise will be created during construction and could carry over from boats and the clubhouse in the evenings.
- House prices and sale of properties will be affected.
- Security and risk of crime.
- As a non-residential site, boat owners and their families will not be liable for Council Tax, but will be free to avail themselves of locally-funded Council Tax services and amenities, not least medical care. Additional facilities could only be funded by a rise in Council Tax, paid for solely by the current residents of the area for benefit of those residing at the marina.

Impact on ecology and biodiversity

- Harmful impact on wildlife and their habitats.
- Otters have been sighted in the canal and it's important that they are not adversely affected by the marina.

The need for a marina and the site location

- The site is not sustainable. It is isolated from nearby villages and services – Claydon has no shop, school, PO, GP, pub or public toilets and there is no public transport in the area. The development will be car dependent.
- The need for a marina and its economic benefit are questioned. No objective analysis of supply and demand has been presented. It is suggested that there is space for around 700 boats between Cropredy and Fenny Compton and no need for more berths.
- The owner of Braunston Marina comments that there is already a considerable surplus of marina berths within a 15 mile radius. In particular recently built marinas remain unfilled, and more importantly unfinished in terms of landscape and ancillary facilities not being supplied. The filling of this proposed marina would only be achieved by attracting boats from existing marinas by a severe undercutting in terms of price – to the long term detriment of all. The lack of demand is shown by the proposed extension to Cropredy Marina, permission for which was given some two years ago, and to date no works have been carried out, and there are no indications that the extension will ever be built. *Officer Note: This is a view shared by the owner of Fenny Marina.*
- The Owner of Fenny Marina also supplies information to suggest that there is no need/demand for a new marina, stating that there is a national surplus of marina moorings. The proposed marina would be the third in an 8 mile stretch (Fenny and Cropredy being the others) leaving the lower Oxford canal with no marinas. That is where it's suggested new facilities should be focussed. Many residents share this view.
- Contrary to Development Plan Policies and Strategies restricting new homes in the countryside (ESD1); Contrary to SLE1; no essential need for a worker to live on site.
- Expectations that the proposal will bolster the tourism industry are misplaced; most boaters supply their own provisions and do not patronise pubs and explore towns and villages. This is more commonly done by the hire boat market which is not catered for in this application.

Impact on the Oxford Canal

- There should be an impact assessment of the burden for Canal and River Trust in maintaining and operating the canal, an identification of existing online mooring spaces and other suitable sites that may make up any deficit and an analysis of delays at lock flights.
- Impact on nearby narrowboat settlement.
- Additional boats could inhibit tourist trade and add to canal maintenance costs by adding to congestion on the Canal.

- The CRT is concerned about implications of climate change and water resources but motivated by increased revenue.
- There would be a huge impact on the already strained water level and queues at the locks. Boat users report that there is a water shortage at a number of locations on the Canal causing problems during holiday season with boats running aground. Low levels along the southern section of canal are attributed to high lockage use from an increase in boat traffic.
- Whilst sympathising with the negative impact on the farming business of HS2, a negative impact on the Canal cannot be permitted. Loss of revenue resulting from HS2 should be addressed through Government compensation and not at the expense of the local community.

Environmental issues

- Adequacy of foul and surface water disposal proposals.
- Light pollution.
- Environmental Impact Assessment should be undertaken.
- Air and water pollution from boats in queues at locks. Use of fossil fuels conflicts with aims to reduce carbon emissions.

Control of Development

- Many residents express concerns that non-residential use will not be enforced and make reference to Cropredy Marina.
- Any permission needs 5000 trees to be planted; restoration of lift bridge 151; no overnight lighting; mooring spaces made available to agricultural/medical workers or essential workers; no hire boats, shared ownership, boat trips or repair/maintenance, part-time residential or holiday rentals; no boat building, dry docking or working on boats; a register of home addresses made available to the Council with fines made when violated; reconstruction and repair of road network; provision of passing places; consideration of permanent access through construction route; compensation for damage/injury; free access for the community; public footpath links; high water quality; native landscaping; no effect on use of canal; permanent residents should pay council tax.

6.3 In addition to the above, the owner of Fenny Marina has instructed solicitors to object to the application on his behalf. He has also provided a supplemental note, mapping and annotated comments against the applicant's alternative site analysis. These documents can all be viewed in full on the Council's website.

6.4 In summary, it is claimed that the proposal is fundamentally at odds with the development plan and the national planning policy framework and that there are no material planning considerations that outweigh this so permission must be refused. Any benefits are of limited weight falling a long way short of overcoming the fundamental policy conflicts; specifically, Policy ESD16 of the adopted Local Plan which requires new facilities for canal users to be located within or immediately adjacent to settlements, but also SLE1, SLE2 and SLE3 and to an extent ESD1.

- 6.5 It is further claimed that the proposal does not protect, enhance or conserve the iconic heritage asset of the canal or intrinsically beautiful open countryside; is a speculative scheme with no evidence of demand, no public benefit, and is in an unsustainable location; there will be a significant and irreversible impact and the cumulative effect cannot be anything less than adverse, particularly given the advent of HS2; the search area in the FRA is limited and a flawed analysis; all alternative sites along the canal should be assessed and the applicant's search area and assessment is flawed; surface water drainage is not properly addressed; enforcement of occupancy is difficult in the long-term; viability will be a struggle except over an extremely long-term basis; the claims of financial benefit are unjustified; financial and personal circumstances are irrelevant and the marina could be sold.
- 6.6 Cropredy Surgery: **Objects** as it is under immense pressure with substantially increased demands to provide an efficient and effective service to the local population. This pressure results from the increase in Cropredy marina berths, 43 new homes at Great Bourton, plans for 37 homes in Cropredy and new housing in Banbury. The practice list is currently closed having reached its threshold of safe staff to patient ratio. Experience has been that a marina within the area does put increased workload pressures on the practice, even if the marina is non-residential, it makes no difference as people can and will still register at this surgery when the list re-opens. Also, many of these people are retired with complex health issues. Also feel that local amenities and bus services are not keyed up to deal with an influx of people, especially those requiring public transport. Approval of this planning application should take into consideration how medical provision for Primary Care can be supported locally in services that are already overwhelmed.

Officer Note: The objection from the surgery was followed up by the case officer. The Officer's understanding is that, in part, these objections arise from the surgery's experience with Cropredy Marina, whereby people who are claiming that they are resident at the marina are registering with the surgery. This is despite residential occupation of the marina being in contravention of planning conditions. This information has been passed on to the Planning Enforcement Team. The surgery now has a closed list and is therefore able to decline to accept new patients. If the list is open once more the surgery could decline to accept patients but in reality is unlikely to do so. In the case officer's view, the objections are based on a scepticism that the marina will be used recreationally and that unauthorised residential use will be enforced given previous experiences.

- 6.7 Officers and Committee of Banbury Sailing Club based at Boddington Reservoir: **Object.** The Boddington reservoir is a primary supply of water to the Oxford Canal. The Club has direct experience that each summer the water drawn by the canal system has a significant effect on water levels and the proportion of the reservoir which can be used for sailing. In previous years this has prevented racing at times which has resulted in members leaving and a significant adverse financial effect on the club. The Club considers that any increase in usage of the canal and locks has a direct, adverse effect on water levels at Boddington and do not believe any measures are planned to increase water supplies to compensate for the increased lock usage or decreased capacity at Boddington due to silting. They therefore strongly object to this application which would cause a loss of amenity for sailing at Boddington due to the increase in canal usage and water draw which would result from such a large facility. The objection provides information pertaining to the nature of the Club and its value to the local community. *NB The applicant's agent has responded to the objections raised by the sailing club and does not believe the objection is based on planning grounds. The CRT has also provided a substantive response explaining how the impacts of new marinas are assessed and stating that the increase in canal demand will be met from a combination of different sources,*

not by one single reservoir. The Trust comments that it recognises and values the activity of the sailing club and their use of the reservoir, but it is also mindful that the primary function of the reservoir is to supply water to the canal network.

- 6.8 All comments received can be viewed in full on the Council's website, via the online Planning Register. Residents have also posted videos showing the road network on YouTube.

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. CLAYDON WITH CLATTERCOTE PARISH COUNCIL: **Object** on the following grounds;

- The proposal will see a significant increase in general traffic volume on the local network. The Parish Council is concerned about the impact this will have on the roads in the village which already have issues with large vehicles attempting to drive through the village and getting stuck. Large vehicles ignore the weight limit on the railway bridge which has resulted in damage to the bridge. There are only three narrow lanes into the village with limited, and informal, passing places. These issues have been raised numerous times with the County and District Councillors, clearly adding such a large development to the area will be counterproductive.
- The proposal is detrimental to the setting, character and appearance of the Canal Conservation Area.
- Claydon is currently a very rural village with no street lighting. Lighting at the marina will create light pollution and will dramatically change the character of the area.
- There is only one footpath in the village, the additional traffic will increase the danger posed to parishioners walking in the village as in most places they have to walk on grass verges or on the road which is particularly dangerous at night time.
- Although the application states that boats will be recreational only, this will be difficult to enforce and therefore there is a risk that the boats will be used for residential purposes.
- There is no need for a dry dock in Claydon as these facilities are already offered nearby in Fenny Compton.
- The proposed development falls into a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located.
- The area of this application is roughly $\frac{3}{4}$ the size of the existing village. This would be considerable overdevelopment and unsustainable development in this rural setting.
- Do not believe there is a need/demand for further moorings in this area.

- Cannot see any benefit to the community, particularly as the application states that the public will not be allowed access to the marina.

7.3. The Parish Council ask for the following in the event that the application is approved;

- Lower Boddington Road is surveyed, its structure analysed and its capacity examined and repaired and/or reconstructed where necessary to take the up-to-date predicted usage by all forms of traffic during and after construction for a period of five years.
- That the route of the construction traffic through the applicants' farm be appraised as to its suitability as the permanent route of all transport and other traffic to and from the marina, thus making sure that conflicts with pedestrians and vehicles on the Lower Boddington Road are avoided and that Claydon is not on the exit route from the marina.
- If that is not agreed by the applicants, that safe routes then will be provided for pedestrians and cyclists. The applicant also will ensure that all marina residents and travellers will give priority, and give way, to pedestrians and cyclists on the Lower Boddington Road.
- That all routes into and through Claydon will be inspected for their suitability for the passage of whatever vehicles will be used to construct and supply and maintain the marina. Where unsuitable, the applicants will ensure that vehicle sizes will be modified to ensure no risk of damage, etc. to people or property will occur. Where this is not possible, or damage or injury occurs, relevant compensation will be payable firstly to the Parish Council or then as relevant. Where amendments to the roads within Claydon or a structure, property or service is unavoidably altered, compensation will be sought to carry out any necessary works, etc. The applicant will therefore carry public liability insurance as agreed with the local authority.
- That the applicants and any subsequent owners of the farm and marina in their entirety will agree to free public access to the marina by residents of Claydon. They will also confirm compliance to this free access in the future by the owners and any subsequent owners of the marina and that any security requirements made for the marina residents, employees, etc. do not affect the rights of the people of Claydon when visiting the site.
- That the proposed footpath that is to connect with PROW 170/6/20 will be maintained in perpetuity for use by local walkers, etc. and by villagers from Claydon.
- Some funding should be provided to the parish to allow the creation of a village hall with suitable facilities for disabled access which the village currently lacks.
- That all lighting will be designed to ensure that the dark night sky is not affected and that all lighting that is not required for safety will be extinguished by a time agreed with the local authority, appropriate to the relevant season.

7.4. ASTON LE WALLS PARISH COUNCIL (adjoining Parish in SNC): raises **concerns** regarding an increase in traffic through the Parish, Aston le Walls and Appletree, traffic from the North and North East not only during construction but also when in use as a Marina. They are already part of a haul route for the construction of HS2.

CONSULTEES

- 7.5. OXFORDSHIRE COUNTY COUNCIL TRANSPORT: **No Objections.** The proposed development is aimed at boaters with their vehicles and is not envisaged to generate any HGVs as part of the development traffic, but operational only such as weekly refuse collections and during construction. Data extracted from TRICS database on marinas possessing similar characteristics such as this one shows that they are busiest during bank holiday weekends, generating about one vehicle every 3 minutes during the busiest hour. It is not expected for such a development to generate significant movements during the local network peak hours. Although there would still be additional movements on the network, in view of the nature of the development and its location, this is not likely to result in a significant detriment to highway safety and/or traffic flow.
- 7.6. It is understood that there will be very limited HGVs during the construction of the development. The TA states that there will be no need to import or export earth as any soil excavated for the marina will be used to form bunds around its perimeters. Construction vehicles will be limited to bringing in earth excavating and digging plant at the start and end of the build and bringing in materials for the clubhouse and car parking/yard areas. It is also indicated that these construction vehicles can be brought in across the fields to the east of the site which is within the applicant's ownership via the access to Springfield Farm (avoiding the canal bridge). This is acceptable and should be clearly stated as part of the routeing structure in the Construction Traffic Management Plan.
- 7.7. Having considered the Transport Assessment, OCC comment that Boddington Road would command relatively low speeds and that required visibility splays can be provided. OCC acknowledge that the vast section of Boddington Road from Banbury Road is not without numerous constraints such as narrow carriageway width which cannot accommodate two lanes of traffic, sharp bends and dilapidated surfacing. In order to improve accessibility OCC consider that passing places should be provided along Boddington Road. This could be secured through a S278/S106 Agreement, or by condition.
- 7.8. OCC also comment that the application is considered contrary to the National Planning Policy Framework and Local Transport Plan 4 in that it fails to reduce the need to travel and maximise trips by sustainable modes.
- 7.9. OCC also state that the applicant should fund improvements to the public footpath to Claydon to enable visitors/residents to gain access. A sum of £10k is considered appropriate for spot surface, furniture (stile to gate replacement) and vegetation management works.
- 7.10. Conditions are recommended to secure full access specification details and agreement of a Construction Management Plan prior to commencement.
- 7.11. NORTHAMPTONSHIRE COUNTY COUNCIL HIGHWAYS: **No objections** subject to a condition requiring a construction management plan.
- 7.12. CANAL AND RIVER TRUST: **Comment** that the main issues relevant to the Trust are;
- a) Impact on the structural integrity and water resource of the Oxford Canal.
 - b) Impact on the heritage, character and appearance of the waterway corridor.
 - c) Marina entrance and proposed towpath bridge

- d) Impact on the structural integrity and water quality of the canal due to the drainage proposals.
- e) Impact on the biodiversity of the waterway corridor.
- 7.13. They go on to say that it is up to each developer/applicant to determine whether there will be demand for their mooring scheme. The role of the Trust is to provide advice and a clear process for anyone thinking of developing a marina on its waterway network. The Trust has not provided any specific information on this matter for this scheme and does not carry out studies into matters of need or demand for marinas on behalf of applicants. It is for the developer/applicant to deal with these matters if they consider it appropriate or if they are required to do so as part of their planning submission.
- 7.14. The Trust is satisfied that sufficient water resource is available for the marina, that the submitted ecological report and proposed planting are acceptable, and recommends various conditions to secure matters including agreement of a Construction and Environmental Management Plan (CEMP), details of management and maintenance regimes for landscaped areas, details of surface and foul water drainage, and further details for the proposed towpath bridge. They consider the marina layout breaks up the waterspace ensuring it is not a large and featureless waterbody which aids in retaining the landscaped character of the canal corridor. They are also satisfied that the proposed marina entrance (including the towpath bridge) is practical and welcome design changes made to the facilities building.
- 7.15. The CRT would also like to clarify that any revenue accruing to the Trust as a result of the development will go towards the overall work of the Trust. The revenue will not be ringfenced and therefore it cannot be said that it will go directly to the management and maintenance of the Oxford Canal.
- 7.16. NATURAL ENGLAND: **No comments.**
- 7.17. ENVIRONMENT AGENCY: *Original Plans* - **Objects** on 4 grounds; 1) Proposed development incompatible with Flood Zone 2) Inadequate FRA 3) Assessment and mitigation of the risks to nature conservation and fisheries are inadequate 4) Use of non-mains foul drainage system in a publicly sewered area.
- Comments on the amended plans which seek to respond to the objections from the Environment Agency are awaited at the time of writing this report.
- 7.18. THAMES WATER: No response received.
- 7.19. CDC LANDSCAPE SERVICES: **No Objection** subject to conditions securing detailed landscaping proposals.
- 7.20. CDC ENVIRONMENTAL PROTECTION: **No objections** with regard to noise, air quality, contaminated land, odour, light.
- 7.21. CDC ECOLOGY: **No Objections** subject to conditions.
- 7.22. CDC CONSERVATION: **Objects**: whilst reductions in the overall size of the development and changes to the associated building and hardstanding for car parking and service roads are welcomed and are considered to reduce the harm to the canal conservation area, the proposed marina will still cover a substantial area of land which currently forms an agricultural landscape providing a rural setting for the conservation area. This rural setting is highlighted as enhancing the conservation area in the Oxford Canal Conservation Area Appraisal. Overall the

cumulative impact of the buildings, hardstanding and marina itself will be an intrusion into the landscape and the character of this section of the Oxford Canal will be notably altered. The pedestrian bridge and the entrance to the marina will also significantly alter the experience of the canal; however it is possible that the impact of this could be mitigated with an appropriate design and suitable treatment of the area.

- 7.23. The development is considered to result in less than substantial harm to the significance of the Conservation Area; however the amended proposals have resulted in a reduction in this harm. The harm identified should be weighed against the public benefits in line with paragraph 196 of the NPPF.
- 7.24. CDC BUILDING CONTROL: **Comments** that Building Regulations apply to the 'buildings', adjacent parking and access to them; they do not apply to the general marina area and boat moorings. An application for Building Regulation approval will be required for the new buildings on the site. With respect to fire safety and the boat moorings it is suggested that Oxfordshire Fire and Rescue are consulted. It is unclear what provision has been made with respect to Access and Facilities for the Fire Service for purposes of firefighting (in context of the Building Regulations and the buildings themselves) and it appears no information has been provided within the DAS regarding Access and Inclusive design relating to the buildings, the general area and boat moorings.
- 7.25. CDC ECONOMIC GROWTH: **Support** the proposal in principle. There is potential to increase tourism revenue for the stretch of the Oxford Canal within Cherwell district, with the opportunity for businesses close to the canal such as pubs, restaurants, cafes and shops to benefit from a growth in trade. The proposed development has the potential to provide a positive economic impact by increasing the numbers of visits to the area and the amount of time and money visitors spend locally. The application also represents a valuable farm diversification opportunity and the creation of a small number of jobs would be a further positive contribution to the local economy.
- 7.26. However, this would need to be balanced against the potential impact on the canal, roads and countryside. This is a large marina in a relatively remote location which raises some concerns as to its suitability. The potential impact should be balanced with the potential economic benefits. The impact could possibly be mitigated to some extent through improving the lane with, for example, the creation of additional passing places and the advice of the highways authority should be considered.
- 7.27. There is a risk that with established marinas operating nearby there could be expected to be an increased volume of boaters following the addition of a new marina. This stretch of the canal might risk being perceived as congested in high season but this may be subjective and there may be capacity. If this is a concern, the Canal & River Trust should be able to provide advice. The impact on existing local traffic - including walkers, cyclists and horse riders who currently enjoy the use of this lane - should be considered. Not only would the marina's shop and clubhouse be expected to receive regular deliveries, its sewage treatment plant would also be expected to require maintenance and treatment.
- 7.28. SOUTH NORTHAMPTONSHIRE COUNCIL (Adjoining Authority): **No Objections** but make comments about the application boundary (*now resolved*) additional landscaping on embankments (*already proposed*) and need for a Construction Management Plan (*proposed to be conditioned*).
- 7.29. HS2 LIMITED: **No Comments**.

7.30. CDC ARBORICULTURE: **No objections** to the 10 ash trees being removed and happy with the species of trees to be planted by way of replacement.

7.31. OCC Archaeology: **No Objections**

7.32. THAMES VALLEY POLICE CPDA: **Comment** that the applicants should refer to the principles and standards of the police's Secured by Design (SBD) scheme in relation to the buildings, and to the advice contained within the British Waterway's publication, 'Under Lock and Quay'.

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 (CLPP1)

- PSD1 – Presumption in Favour of Sustainable Development
- SLE3 – Supporting Tourism Growth
- SLE4 – Improved Transport and Connections
- 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)
- ESD8 – Water Resources
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- EDS16 – The Oxford Canal
- ESD17 – Green Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C5 –Protection of ecological value
- C8 – Sporadic development in the open countryside
- C23 – Retention of features contributing to the character and appearance of a conservation area
- C28 – Layout, design and external appearance of new development
- C29 – Appearance of development adjacent the Oxford Canal
- TR7 –Minor Roads
- TR10 – HGVs
- TR11 – Oxford Canal
- ENV1- Pollution Control
- ENV7 – Water Quality

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 2010
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

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 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
- Need/Demand for a marina
- Highways/Access
- Visual and landscape impact
- Heritage impact
- Impact on the Canal as a tourist and leisure asset and green transport route
- Ecology and biodiversity Impact
- Drainage and flooding
- Economic and social implications
- Impact on residential amenity
- Other relevant planning matters

Principle of development

Policy Context

9.2. Planning law requires that planning decisions are made in accordance with the Development Plan unless material considerations indicate otherwise. Paragraph 2 of

the NPPF (2019) makes clear that it does not change the statutory status of the development plan as the starting point for decision making. However the NPPF is a significant material consideration.

- 9.3. Para 83 of the NPPF 'Supporting a prosperous rural economy' states that planning policies and decisions should enable both the development and diversification of agricultural and other land-based rural businesses and sustainable rural tourism and leisure developments which respect the character of the countryside. Planning decisions should recognise that sites to meet local business and community needs in rural areas may be found beyond settlements and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable.
- 9.4. The NPPF also provides policies concerning the historic and natural environments, promoting sustainable transport, building a strong and competitive economy and meeting the challenge of climate change and flooding. Section 16 'conserving and enhancing the historic environment' is of relevance, particularly para 196 and weighing less than substantial harm against public benefits.
- 9.5. The Development Plan comprises the saved policies of the 1996 adopted Cherwell Local Plan (CLP 1996) which are not replaced by the adopted Part 1 Cherwell Local Plan 2011-2031; and the adopted Part 1 Cherwell Local Plan 2011-2031 (CLPP1).

Assessment

- 9.6. Policy PSD1 of the CLPP1 reflects the Government's policy commitment to securing sustainable development. Para A.29 of the CLPP1 makes clear that this is about positive growth, making economic, environmental and social progress for this and future generations.
- 9.7. The Council's vision as expressed in the CLPP1¹ includes plans to develop a vibrant, diverse and sustainable economy; to support a stronger, sustainable rural economy that is diverse and not reliant entirely on agriculture and to cherish and protect the natural and built environment and historic heritage². The Council's spatial strategy to implement this vision is to focus most growth towards the main towns and to strictly control development in the open countryside.
- 9.8. To achieve the Council's vision the CLPP1 establishes a set of objectives to meet its themes of developing a sustainable local economy, building sustainable communities and ensuring sustainable development³. Several of these objectives are of relevance to the application including objectives to facilitate economic growth and employment and a more diverse local economy; to support the diversification of the rural economy; to encourage sustainable tourism; to incorporate the principles of sustainable development in mitigating and adapting to climate change impacts; to focus development in sustainable locations conserving and enhancing the countryside and landscape setting; reducing dependency on the car and protecting and enhancing the historic and natural environment.
- 9.9. The application site lies within the open countryside, immediately adjacent the Oxford Canal, in a location where both the CLPP1 and the CLP 1996⁴ seek to strictly control development. The CLPP1 recognises that tourism has scope to play a significant, wealth-creating role for the District (worth over £300 million in the

¹ Page 28 of the CLPP1

² Para A.9 of CLPP1

³ Para A.12 of the CLPP1

⁴ See Policy C8 which seeks to resist sporadic development in the countryside

District) and makes a significant contribution to a sustainable local economy, and that it can help support local services and facilities and provide employment.⁵ Policy SLE3 supports tourism growth in sustainable locations and the supporting text recognises that the Oxford Canal is not used to its full potential and access should be improved to promote green and sustainable leisure opportunities including water, cycling and boating (Para B.65).

- 9.10. The CLPP1 also recognises that rural areas must seek to provide appropriate opportunities for new jobs, such as support for farm diversification proposals and rural employment opportunities that are sustainable and support local communities, whilst protecting the landscape of the District.⁶ In particular, it encourages proposals that can support a vibrant tourist economy whilst preserving the local environment (para C.238) recognising that in order to remain viable many farms are diversifying into tourism and other uses.
- 9.11. The application falls to be considered in this context and the Council's aspirations to deliver sustainable development and positive growth that balances the drive for a sustainable economy with the protection of the built and natural environment and the area's heritage.
- 9.12. Policy ESD16 of the CLPP1 concerns the Oxford Canal specifically, and recognises its historic, ecological and recreational significance. The Policy, along with Policy ESD17, seeks to protect and enhance the canal corridor as a feature forming part of the green infrastructure network and a green transport route and as a tourism attraction and leisure facility through the control of development in reflection of the above vision and objectives. Proposals which would harm its biodiversity value or character and appearance will not be permitted. Policy TR11 of the CLP 1996 also seeks to preserve the canal as a resource and resist development which would prejudice its future.
- 9.13. Policy ESD16 does not set out an approach to residential canal moorings and boater's facilities, stating that this will be set out in the Cherwell Local Plan Part 2. It does however state that proposals to promote transport, recreation, leisure and tourism related uses of the canal, where appropriate, will be supported. The Policy goes on to state that other than appropriately located small-scale car parks and picnic facilities, new facilities for canal users should be located within or immediately adjacent to settlements.
- 9.14. The Policy is not specific about what is meant by 'new facilities for canal users', noting that the approach to boater's facilities is to be set out in Part 2. Notwithstanding this, the application site is not within or immediately adjacent to a settlement and therefore the provision of a marina in such a location conflicts with this part of Policy ESD16 in this respect. Conversely, the proposal does seek to promote leisure, tourism and recreational use of the canal in reflection of the aspirations of ESD16.
- 9.15. Many of the objections received suggest the location of the proposal is such that there is a clear conflict with development plan policy EDS16 and that this warrants a refusal of planning permission on these grounds alone. However, in light of the above policy context and the drive to support a stronger, diverse, sustainable rural economy (including the tourist economy), your Officers take the view that the demonstrable harmful impacts of the development as a whole need to be considered and weighed in the planning balance, along with any benefits that may arise, alongside a consideration of whether the development amounts to sustainable

⁵ See supporting text to SLE3

⁶ See page 241 of the CLPP1

development. Material considerations that may outweigh any conflict with the development plan also need to be given due consideration.

- 9.16. The aim of Policy ESD16 is to protect and enhance the Oxford Canal corridor in terms of its biodiversity, heritage, tourism and leisure use and as a green transport route, and to ensure that sustainable development is achieved. Therefore the impact of the development on these characteristics needs to be considered. In addition, the impact of the development on landscape character and visual amenity, highways and transport, flood risk, drainage and water resources needs to be considered in order that demonstrable harm and benefits can be balanced. This judgement is detailed in the following sections of the report.
- 9.17. Consideration should also be given to the national policy framework (NPPF). Para 83 states that planning policies and decisions should enable both the development and diversification of agricultural and other land-based rural businesses and sustainable rural tourism and leisure developments which respect the character of the countryside. Planning decisions should recognise that sites to meet local business and community needs in rural areas may be found beyond settlements and in locations that are not well served by public transport.

Conclusion

- 9.18. In conclusion, the Development Plan seeks to deliver sustainable development and positive growth that balances the drive for a sustainable economy with the protection of the built and natural environment and the area's heritage. It seeks to focus most growth to locations within or adjoining the main towns and to protect and enhance the canal corridor as a green transport route, tourism attraction and leisure facility.
- 9.19. However, whilst development in the countryside will be strictly controlled the Plan recognises the need to support the visitor economy; to preserve the Oxford Canal whilst maintaining and realising its potential; that many farms need to diversify to remain viable; and that opportunities for rural employment should be ensured.
- 9.20. Therefore, and whilst recognising that there is a degree of conflict with Policy ESD16, on balance officers consider that the development of a marina in this location *could* be acceptable in principle subject to consideration of its impacts on the built, historic and natural environment, alongside its benefits, and whether there are material planning considerations that outweigh this conflict.

Need/Demand for a marina

- 9.21. The applicants advise that they are connected to an existing marina operator who operates marinas in Leicestershire. They advise that they have extensive experience and knowledge of the boating industry and propose this marina as they are satisfied that there is sufficient demand for recreational berths on the Oxford Canal that will ensure that their investment is successful.
- 9.22. The applicants advise that it is not possible to accurately determine the availability of moorings on the canal and point to concerns about competition hindering sharing of information between marina owners. They do however believe that there is significant demand for high quality recreational berths on the Oxford Canal. They comment that the berths would attract new boaters to the region who will make a valuable contribution to tourism revenue within Oxfordshire, making use of shops, pubs, restaurants and other tourist facilities. They have supplied supporting information in support of their application which is available on the Council's website.

- 9.23. It is of note that third parties (including owners of other marinas) have equally made comments refuting this evidence and commenting that there is already a considerable surplus of marina berths within a 15 mile radius and that this is also reinforced by delays in implementing a permission for an extension to Cropredy marina.
- 9.24. A report from the Canals and River Trust dating from 2015 (published in response to mooring price decisions) has been provided which states that south of Napton there are approximately 870 berths with most operators reported to be full or near full. On the southern stretch of the canal (Napton to Oxford) there are 4 other marinas referred to; two in Napton, one in Cropredy and one in Fenny Compton.
- 9.25. What is clear from the information available is that it is very difficult to find up to date, quantifiable, evidence of need or demand for a marina of this size in this location. The Canal and River Trust do not offer any advice on matters of need/demand and policies pertaining to boaters facilities are to be addressed in Part 2 of the Local Plan. However, there is no reference in local, adopted, policy to developments such as this needing to establish 'need' for the facility.
- 9.26. In the absence of any clear evidence, and given there is not a policy requirement to establish 'need', the potential benefits of the scheme need to be balanced against the harm that would result from the development and a judgement made about whether any harm is outweighed or otherwise by any benefits.

Highways/Access

Policy

- 9.27. Policies TR7 and TR10 of the CLP state that development that would regularly attract large commercial vehicles, generate frequent HGV movements or large numbers of cars onto unsuitable minor or rural roads will not normally be permitted. Policy SLE4 of the CLPP1 states that 'where reasonable to do so' all development should facilitate the use of sustainable modes of transport. Development which is not suitable for the roads that serve it and which have a 'severe traffic impact' will not be supported.

Assessment

- 9.28. The application is accompanied by a Transport Statement. Access will be provided from a new access off Boddington Road. The existing agricultural access further north will be retained. Vision splays are shown suitable to 35mph-40mph design speeds.
- 9.29. Boddington Road is a narrow road (3m-4m wide) which is uneven in places and poorly surfaced in parts. It has no footway and is unlit. Many objections have been made to an increase in traffic using this road (and the wider road network including though Claydon village) and the implications for highway safety. This includes not only other car users but also pedestrians, cyclists and horse riders.
- 9.30. The Transport Statement reports traffic count data which found that the busiest traffic recorded on the road was an average of one vehicle every 2 mins with very few HGVs recorded. 85th percentile speeds were recorded as a maximum of 28mph northbound and 26.9mph southbound.
- 9.31. In terms of traffic generation, trip rates can vary depending on the range of facilities available at the marina. TRICS shows that a marina of 192 berths could generate trip rates of 325 trips between 7am and 7pm during weekends (around 27 trips per

hour). However, the Transport Statement also provides information collected by former British Waterways in 2008, suggesting that private boats moored at marinas only generate 5 vehicle trips an hour per 100 berths with remaining trips accounted for by hire boats, sales, visiting public, and catering/retail related. In this case the applicant does not propose hire boats, boat sales and large scale catering/retail facilities and there will not be access available to visiting members of the public.

- 9.32. The Statement also looks at traffic data from a marina at Crick with similar characteristics to the application proposal. The Crick figures suggest that during the busiest hours there could be 12 vehicles per hour entering the site and 9 leaving; this would represent just over one vehicle every 3 minutes during the busiest hours (bank holiday weekends); the suggestion being that actual traffic generation will be lower than TRICS data.
- 9.33. In 2016 planning permission was granted for an extension to Cropredy marina. The extension would increase the number of berths from 249 by a further 100. The applicant for that proposal provided a Transport Statement which demonstrated that the impact of the extended marina, creating a 349 berth marina, would be significantly less than was predicted and considered to be acceptable at the time that the original marina development (249 boat berths) was proposed. When the proposals for the existing 249 berth marina were considered, 120 daily vehicle trips were predicted to be generated. The number of actual vehicle movements each day associated with the 249 berth marina were subsequently recorded at an average of 53 (based on a four week automatic traffic counter survey capturing the busy summer period). The Highway Authority accepted this position.
- 9.34. The Highway Authority has not objected on highway safety grounds. It does comment that the proposal will see a 'significant' increase in traffic, but in view of the nature of the development and location, states that the proposal is not likely to result in significant detriment to highway safety and/or traffic flow. They further comment that this is not by any means considered severe to warrant refusal on highway grounds in line with the NPPF. By the nature and scale of this development, they consider it unlikely that its impact shall be felt during the network peak periods.
- 9.35. The Highway Authority has acknowledged the road conditions but does not consider them a basis for objection. They further comment that in order to prevent creeping suburbanisation of the countryside, it is not appropriate to expect the development to provide, or contribute towards, improvements such as paved footways or street lighting in an area that has not got a poor accident record. On quiet lanes where traffic speeds are inherently low due to physical constraints, it will usually be appropriate for pedestrians, cyclists and equestrians to walk/ride along the carriageway on an informal shared-use basis (especially where remote from built-up areas).
- 9.36. However, the Highway Authority has requested the provision of passing places along Boddington Road up to the county boundary. These could be secured by attaching conditions to any permission and such a condition is recommended in the event that permission is granted. A Construction Traffic Management Plan has also been requested (by condition) to ensure that all construction traffic arrives via Springfield Farm rather than Boddington Road. This Plan would also require a dilapidation survey which will ensure that if conditions are worsened by construction traffic to the site remedial measures can be requested.
- 9.37. The applicants have further offered that the marina operator could send guidance to users about routes. This would warn that long vehicles, or vehicles hauling trailers, should not approach from the south because of the hump back bridge. This would also apply to vehicles servicing the marina, such as tankers or refuse vehicles which

would be instructed to enter and leave the marina via the north only. Boats would be brought to the site by canal only. A condition requiring submission and approval of a traffic management strategy to secure such measures is recommended.

- 9.38. In terms of site location, the site is not served by public transport and is not best suited to access by foot or cycle given not only its location, but the constraints of Boddington Road mentioned above. It is also correct, as many residents have commented, that there are very limited facilities available in either Claydon or Lower Boddington. The site is therefore not in a location that is suited to sustainable transport modes and will be dependent on car travel.
- 9.39. However, the NPPF states that planning decisions should recognise that sites to meet local business and community needs in rural areas may be found beyond settlements and in locations that are not well served by public transport. It also seems likely that those who moor their boats in marinas would travel back and forth by car; however accessible the location by alternative means. Boat owners will not all live within easy reach of the proposed marina. The location of the marina is aimed at those boat owners who want an off-line mooring in a rural area, and as such is expected to be reliant on the private car. Locations for marinas are also dictated by the location of the canal, which does not always offer a plethora of suitable sites within or on the edge of settlements. The implications for access by sustainable transport modes need to be balanced with the need to provide sustainable rural communities and economic growth.
- 9.40. The proposal does offer opportunities for walking links into Claydon via the PRoW to its eastern boundary although a connection from the marina to this PRoW will be needed (NB this can be achieved on the applicant's land and can be secured by condition). The County Council has asked for a financial contribution of £10,000 towards improvements to this footpath, including spot surfacing, replacement of a stile to a gate and vegetation management works, but no further detail has been provided.
- 9.41. With regard to emergency access, the Highway Authority assess the site for emergency service accessibility to within 40m of each building, including swept path analyses of fire appliances into the site. Having done so they advise that the application includes an 11.2m vehicle tracking for vehicles entering and leaving the site using left in/right out manoeuvres. Although this is for refuse, the vehicle used is much longer than any fire appliances used and is within reach of the building. The wider site can be accessed by the inner loop road. They do not see the need to consult fire services.

Conclusion

- 9.42. On balance, as the Local Highway Authority has raised no objections on highway safety grounds and whilst recognising the nature of the surrounding road network and the strong objections raised by some residents and the Parish Council, it is not considered that there is evidence that a marina of the nature and size proposed, and with the conditions recommended, would give rise to such levels of traffic that there would be an unacceptable and severe impact on highway safety, or that the residual cumulative impacts on the road network would be severe. In accordance with Paragraph 109 of the NPPF development should not therefore be prevented or refused on highways grounds.

Visual and Landscape impact

Policy

- 9.43. Policy ESD13 seeks to respect and enhance local landscape character. Proposals will not be permitted if they cause undue visual intrusion, harm to important features, are inconsistent with local character and impact on areas with a high level of tranquillity or harm landmark features or the historic value of the landscape.
- 9.44. Policies C28 and C29 of the CLP 1996 seek to ensure new development is sympathetic to its context and designed to a high standard which complements its setting in terms of design, materials and landscaping.

Assessment

- 9.45. The application is accompanied by a Landscape and Visual Impact Assessment (LVIA). This finds that the proposals would result in a very evident change to landform and views, especially along Boddington Road. Due to the visual containment of the site however, it also finds that this change would have a localised effect, especially in the longer term.
- 9.46. Officers agree that the visual impact will be localised. From the north the site is well screened by mature planting along the dismantled railway and from the south the site is well screened from the canal and beyond. From the east the development would be visible from the public footpath, however, in the foreground would be the proposed irrigation lake with the marina in more distant views. The LVIA finds that there are a few long distance views from elevated locations allowing panoramic views towards the site but that the proposed development would either not be visible or form a minor new feature within a distant part of the view having a limited effect on the view.
- 9.47. Most views will be from the new canal entrance and from Boddington Road but only from a short stretch between the dismantled railway and canal bridge due to the topography and existing planting. However, from Boddington Road there will be a very evident change to views, especially in the short term.
- 9.48. Officers raised concerns originally about the visual impact of the development from Boddington Road and in response amended plans were submitted which reduced the size of the marina and set its dam some 70m from the road at its nearest point. In addition the car park and yard area (and consequent extent of hard surfacing) has been considerably reduced from this aspect, the service bays have been relocated and the berths have been moved further east. This all has the effect of reducing the impact from Boddington Road, enabling a much shallower embankment and provision of additional landscaping. Officers are satisfied that the amended proposals, whilst inevitably resulting in change, would not result in serious harm to landscape character or visual amenity to the extent that there would be a resulting conflict with Policy ESD13. Whilst it is noted that the arrival of HS2 will have an impact on the local landscape and context, this is not considered to lead to the impact of the marina being any more harmful.
- 9.49. External lighting is proposed to be low level and directed downwards. This can be secured by appropriate conditions.
- 9.50. The clubhouse/facilities building amounts to 281.40sqm and is traditionally designed to replicate a two storey barn with a single storey wing/extension. The main

elevations consist of horizontal timber cladding and local stone. Detailing features red brick quoins and red brick soldier course detailing. External glazing and openings are traditionally styled to reflect features typically associated with agricultural barns & buildings. The windows and doors are to be stained hardwood and the pitched roofs will be finished in slate. The proposed facilities building has been positioned to provide the Marina office with an unrestricted view of the Marina canal entrance and new road access to ensure maximum visibility of the main key operational areas in the interests of site safety and security.

- 9.51. The principle of taking this traditional approach is supported (including by the CRT), although conditions are recommended to secure appropriate detailing. The scale of the building is not considered to be inappropriate, nor its location given the security and surveillance function of the building.
- 9.52. In terms of landscaping, 10 semi-mature ash trees will need to be removed to construct the marina entrance but extensive planting is proposed within the site which will include additional planting behind the canal hedgerow. Landscaping proposals are well developed and will help to assimilate the development into the surrounding countryside. Core woodland planting will take place at 2m centres with shrub species at the woodland edge.

Conclusion

- 9.53. In conclusion, there will be a localised impact. The marina and its associated buildings and earthworks will be a distinct feature in the local landscape, particularly in the short term until the landscaping is established. Officers are however mindful that the Council's Landscape Architect agrees with the methodology, commentary and findings of the submitted LVIA and raises no objections in terms of visual or landscape impact and, on balance, are satisfied that the amended plans overcome previous concerns and that the amended proposals would not result in serious harm to landscape character or visual amenity to the extent that there would be a resulting conflict with Policies ESD13, C28 or C29.

Impact on Heritage Assets

Legislative and policy context

- 9.54. The full length of the canal through the District is a designated Conservation Area and the site lies within its setting.
- 9.55. 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.*
- 9.56. 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 CLPP1 echoes this guidance.
- 9.57. Policy C23 of the CLP 1996 applies a presumption in favour of retaining features which make a positive contribution to a conservation area.

Assessment

- 9.58. The Oxford Canal Conservation Area Appraisal does not consider the site an 'Important Open Space'. However it does mention positive vistas across parts of the site from the canal. This Appraisal also notes the development of marinas as a potential threat to the conservation area suggesting "strongly" that any future development of marinas in the rural areas be very carefully designed and quite limited in their capacity. Otherwise they will be obtrusive and inappropriate. It is further recommended that large marina development should be within urban areas, such as Banbury or Kidlington. 'Large' and 'quite limited' in this context are not defined.
- 9.59. Both the applicant's heritage consultant and the Council's Conservation Officer consider that harm to the setting and significance of the conservation area will be less than substantial. The Conservation Officer comments that the amended proposals reduce the level of harm. Regard must also be had to the very recently issued national guidance in respect of assessing harm to a heritage asset. The PPG makes it clear that within each category of harm, the extent of the harm may vary.
- 9.60. Nevertheless, regardless of the extent of harm, great weight should be given to the asset's conservation and any harm requires clear and convincing justification and should be weighed against the public benefits of the proposal.
- 9.61. In this case the heritage asset is the Oxford Canal as a whole within the District. Except for the creation of the marina entrance, the canal will be untouched. The canal towpath and hedgerow will be unaffected and the original function of the canal will still be clearly read. A recreational marina is development of a character which is not unexpected alongside a canal and not, in terms of use, necessarily incongruous, noting that planning permission has been granted for other marinas along the canal's length. Views of the marina from the canal and towpath will be limited in scope, not least by the established and dense hedgerow planting which runs alongside the canal for the affected stretch. Save for the entrance, the visual impact on views out from the canal to its surroundings, would be limited in extent.
- 9.62. The canal is currently a tranquil space and the surrounding area for the affected stretch is very attractive, remote, undulating countryside. The creation of a marina of the size proposed with its associated earthworks, buildings, hardsurfacing and activity will inevitably have some impact on the character of this short stretch of canal. However, in the wider context of the canal as a whole this impact will be reduced in significance and any increase in noise and activity will be generated by a related function. The marina has been designed with its context in mind and proposes an 'organic' shape with landscaped 'islands' and landscaping around it.
- 9.63. Nevertheless, the marina and its associated hardsurfacing, access, earthworks building and activity will introduce a new feature into the rural landscape providing part of the countryside setting for this stretch of canal. The extent of harm however must be seen in the context of the canal as a whole and is considered to be at the lower end of 'less than substantial'.

Conclusion

- 9.64. It is recognised that the proposal will amount to less than substantial harm to the heritage asset; albeit considered to be towards the lower extent of this 'spectrum' of harm. The weight to be given to this extent of harm has been considered and weighed against any public benefits likely to arise. These benefits are set out in paras 10.4 and 10.5 below. Officers have had regard to the level of harm which concerns a less than substantial harm to a short stretch of the canal which is the

designated asset along its whole length. Having done so it is considered that there are public benefits which when weighed against the limited extent of harm in this case lend support to the application.

- 9.65. It is considered that the application does not conflict with Policies ESD15 and ESD16 as it does not fail to conserve, sustain and enhance a designated heritage asset and is not considered to be detrimental to its character of appearance. Nor does the development fail to respect the context of the development, or to contribute positively to its character and identity.

Impact on the canal as a tourist and leisure asset and green transport route

- 9.66. There is no evidence to suggest that the value of the canal as a tourist/leisure asset and green transport route will be adversely affected by the proposal. Indeed the application seeks to provide services for boaters to enable easy access to use the canal for such leisure pursuits.
- 9.67. Third parties have raised concerns about available water resources and the impact of increased boat traffic on users of the canal, suggesting that there would be an impact on the already strained water level and congestion and queues at the locks. Boat users report that there is a water shortage at a number of locations on the Canal causing problems during holiday season with boats running aground. Low levels along the southern section of canal are attributed to high lockage use from an increase in boat traffic. There are concerns that increased traffic will add to congestion on the canal and undermine its value and enjoyment for existing boat users.
- 9.68. The Canal and River Trust were asked for a view on these concerns and they have commented that the issue of congestion on the waterways is subjective; there is no commonly agreed definition of congestion. They further advise that following an extensive period of research and consultation with the trade, a British Marine Federation/Canal & River Trust agreed process is now applied to all new marina applications affecting popular boating areas. In relevant cases the Trust will provide estimates of boat movement increase (at the key locks within the relevant area) and make this available to LPAs on request. Whilst they acknowledge their press release of the 1st March 2018 titled "Oxford Canal named as nation's most popular waterway with boaters", they state that the proposed marina does not fall within a defined popular boating area in relation to the Trust's process for appraising new marinas.
- 9.69. The Trust also advises that it undertakes a tiered assessment approach to consider water resources impact of new marinas and whether proposals will lead to unacceptable impact. In this case they comment that although the marina will place a greater demand on water resources the impact will be minimal and therefore deemed acceptable.
- 9.70. In light of the Trust's comments, the Council does not have evidence to demonstrate that the proposed marina would undermine the canal's role as a leisure and tourism asset or conflict with Policy ESD16 in this regard.

Ecology and Biodiversity Impact

Legislative context

- 9.71. 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.

- 9.72. 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.
- 9.73. 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.

Policy Context

- 9.74. 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.
- 9.75. Paragraph 175 states that 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; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.76. 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.
- 9.77. Policy ESD10 of the CLPP1 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. Policy ESD16, and C5 of the CLP 1996, seek to protect the biodiversity and ecological value of the canal corridor.

Assessment

- 9.78. Natural England's Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site is adjacent to the canal, close to a stream and Local Wildlife Site and there are a number of mature trees and hedgerows within and adjacent the site. Whilst the land is in agricultural production, it therefore has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles, great crested newts, water voles and invertebrates.

- 9.79. The application is accompanied by a Preliminary Ecological Appraisal (PEA) as well as a Follow Up Report concerning potential impacts on Wormleighton Brook, opportunities for habitat and connectivity improvements to the LWS and enhancement options for Otters. A Biodiversity Impact Assessment has also been undertaken. It is noted that over 70% of the site is currently in arable production but there are however features of ecological interest such as grass edges, hedgerow boundaries, the canal, nearby watercourse and areas of woodland. There is evidence of badger activity within 2km of the site, trees with potential for bats and moderate foraging habitat, features suitable for nesting birds, habitat suitable for Great Crested Newts and reptiles. There are records of Otter within 2km of the site and water voles within 100m. The ecological information submitted considers the impact on designated sites, the watercourse, habitats and protected species and proposes mitigation where necessary.
- 9.80. The Council's Ecologist finds the submitted ecological appraisal to be acceptable in scope and depth. The arable nature of the site leaves it with limited ecological value other than in hedgerows/ditches. The proposed landscaping with addition of the wildlife peninsular and lake will have some benefits for wildlife in the long-term, as will the additional planting. This includes enhancements for a number of bird species, foraging opportunities for bats and breeding opportunities for amphibians. Appropriate mitigation during and after construction can further reduce impacts.
- 9.81. Overall, there will be some level of net biodiversity gain although further enhancements should be secured through conditions so there is an agreed level on-going. A Management Plan should also be secured.
- 9.82. To the north of the application site lies the North Claydon Disused Railway Local Wildlife Site (LWS). The Council's Ecologist initially raised concerns about indirect impacts and whether there would be significant increases in recreational use of the LWS of North Claydon disused railway, including by domestic pets. The applicants have advised that boat owners will not be permitted to keep cats on their boats. Some boat owners do own dogs and bring them to their boats, but within the marina dogs will have to be kept on leads and not allowed to roam freely.
- 9.83. The amended plans now propose enhancement of the LWS by providing further scrub planting between the marina site boundary and the northern boundary of the applicant's land to enhance the LWS and provide cover to reduce any disturbance to Otter along the brook. The applicant has agreed to plant and manage this in a manner which improves connectivity of the LWS to the surrounding habitats including those proposed within the site.
- 9.84. The Environment Agency objected to the original plans as they considered the assessment and mitigation of the risks to nature conservation and fisheries to be inadequate. The latest set of amendments seek to respond to this and the comments of the Environment Agency are awaited at the time of writing this report.

Conclusion

- 9.85. Subject to the comments of the Environment Agency, 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 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. It is further considered that the proposal would not conflict with the aims of Policy C5 of the CLP 1996 and Policies ESD10 and ESD16 of the CLPP1.

Drainage and Flooding

Policy

- 9.86. Policy ESD6 of the CLPP1 seeks to use the sequential approach to development where necessary. Development will only be permitted in areas of flood risk when there are no reasonably available sites in areas of lower risk and the benefits of the development outweigh risks from flooding. Policy ESD7 seeks to ensure development uses sustainable drainage systems (SuDS) for the management of surface water run-off.

Assessment

- 9.87. A small part of the site along its northern boundary lies within FZ 2 and 3. The remainder is within FZ1. The application has been amended, and a revised Flood Risk Assessment (FRA) submitted, in order to respond to initial concerns of the Environment Agency and County Council. The amendments place the area of development (basin, embankments, access, roads, car parking areas etc) outside of FZ 2 and 3 and wholly within FZ1.
- 9.88. The comments of the Environment Agency are awaited at the time of writing this report.
- 9.89. Surface water runoff from the access roads and parking areas outside of the marina basin will be directed to filter drains along the edges of the access roads. The filter drains will then outfall at a restricted rate to a detention basin located on the eastern side of the site and a smaller basin closer to Boddington Road. The detention basins will then outfall to the adjacent lake and watercourse.
- 9.90. The access roads within the marina basin will be gravel and any run-off from these access roads along with the building, maintenance yard and other hardstandings within the marina basin will be directed and stored within the marina.
- 9.91. The drainage system will be maintained by the owners/manager and not offered for adoption. The comments of OCC as Lead Local Flood Authority (LLFA) are awaited at the time of writing this report.
- 9.92. Foul drainage from the facilities building will drain to a package treatment plant which will discharge into the nearby watercourse⁷. A private foul water pumping station and a rising main will be necessary to direct foul flows from the clubhouse to the proposed treatment plant, due to the level differences. Foul waste from the narrowboats will be pumped to an underground holding tank where it will be periodically emptied via a licenced waste disposal firm.
- 9.93. The CRT comments that the drainage methods of new developments can have significant impacts on the structural integrity, water quality and the biodiversity of waterways. It is important to ensure that no contaminants enter the canal from surface water or foul drainage and full details should be submitted and agreed. These details should also include details on petrol interceptors and maintenance regimes to ensure the systems continue to operate as intended. Such details are recommended to be secured by conditions.

⁷ A Discharge Licence from the Environment Agency will be needed.

Conclusion

- 9.94 The comments of the Environment Agency and LLFA are awaited. Their comments will enable an assessment of whether the drainage proposals and flood risk implications of the proposed development are suitable and comply with relevant development policies. An update will be provided at the Committee meeting.

Economic and Social Implications

- 9.95 The proposal will provide some valuable local employment opportunities during construction and operation in this rural area. When operational it is likely to require the recruitment of 3 full time and 3 part time employees.
- 9.96 Whilst very difficult to quantify, wider economic and social benefits are also likely to arise such as providing more choice for boat owners, increasing local visitor spend in the District as cruisers are likely to make use of local retail outlets, pubs, restaurants and tourist facilities and encouraging longer stays and increased numbers of visitors in the District. The proposal also helps to sustain and diversify an existing agricultural enterprise.
- 9.97 In terms of social benefits, the applicants are also keen to see the marina and its facilities make a contribution to local education. As such they have approached local primary schools to discuss whether the facilities that the Marina offers would be of interest to them for educational purposes. This could be in terms of use of the building and site for teaching, as well as the marina being of interest from an ecological and heritage perspective. The lake could have a jetty that would allow supervised primary school children to study aquatic wildlife by allowing them to “pond dip” safely for example. Positive responses have been received from 3 primary schools in the area.

Impact on residential amenity

- 9.98 Policy ENV1 of the CLP seeks to avoid development causing materially detrimental levels of noise, vibration, smell, smoke, fumes or other environmental pollution.
- 9.99 Those residential properties most closely related to the application site include a property north of the site on the other side of Boddington Road around 500m away, the northern edge of Claydon village to the south and the residential canal moorings.
- 9.100 The location of the site and the nature of the use is such that the proposed development is not considered to cause harm to the amenity of nearby residents. The closest residential properties are sufficiently distant from the proposed marina. The Council's Environmental Protection Team have not made objections and it is not considered that there would be conflict with Policy ENV1.
- 9.101 Construction impacts are considered below.

Other relevant planning matters

Construction impacts

- 9.102 Concerns have been raised about the impact of the construction phase of development on the local highway network and the amenity of residents.
- 9.103 All development is likely to result in some temporary disruption to the highway and to neighbours, and this is not itself a reason to refuse permission except in the most exceptional circumstances. Furthermore, there are separate controls under Environmental and Highways legislation which can be used to manage the impact of

construction work. Nevertheless, it is considered appropriate to condition a Construction Management Plan to ensure the impact of construction work is properly managed and kept to a minimum.

9.104 Construction traffic is expected to be minimised due to the use of cut and fill to construct the marina with material not needing to be exported off site. Apart from staff cars, construction related visits will be confined to bringing in plant at the beginning and end of operations and importing of materials for the construction of the clubhouse building.

9.105 Contractors and construction traffic will not be permitted to access the site via the new highway access off Boddington Road and all construction equipment will be brought to the site via Springfield Farm and through the fields, to the east. The farm and route across the fields are wholly within the applicant's land ownership. This can be approached from either the A423 or the A361 via Lower Boddington village. This will avoid the need for heavy construction traffic to travel through the village of Claydon and over the existing canal bridges.

9.106 A Construction Traffic Management Plan can be secured by way of condition.

Water Resources (including impact on Boddington Reservoir)

9.107 Policy ENV7 of the CLP and Policy ESD8 seeks to maintain water quality and ensure adequate water resources. Development which would adversely affect water quality will not be permitted and development will only be permitted where adequate water resources exist or can be provided.

9.108 Third parties have raised concerns about available water resources and the impact on users of the canal (all comments can be viewed on the Council's website). The Canal and River Trust advise that it undertakes a tiered assessment approach to consider water resources impact of new marinas and whether a proposals will lead to unacceptable impact. In this case they comment that although the marina will place a greater demand on water resources the impact will be minimal and therefore deemed acceptable.

9.109 In response to the objections raised by Banbury Sailing Club the CRT comment;

As part of the new marinas process that the Trust uses to assess whether or not we should allow new marinas to connect to our network, we carried out a Stage 2 Water Resources Study. The study considers the impact of the marina proposal on our service standards for navigating canals and rivers within the hydrological unit. Its purpose is not to consider the impact on individual water bodies within that hydrological unit and it is not calibrated to do so. We can, however, provide the following information to assist the council.

The stage 2 study for the proposed Claydon marina concluded that the uplift in demand as a result of the development would be 48 Ml/annum (net impact on the hydrological unit). This is the equivalent of approximately 1% of the average annual inflow to Boddington Reservoir. The marina will be located on the South Oxford Summit, which is part of the Ox&GU hydrological unit. As such, the increased demand from the marina will not simply be met by an increased feed from Boddington Reservoir, even if it is a preferred source. Canal demands within the hydrological unit are met by a combination of water from eight reservoirs and numerous surface water feeders. Additionally, backpumps have the ability to recirculate the water used as boats move through the locks and to transfer water around the hydrological unit. The Trust's Water Management Team consider water

levels in our reservoirs on a weekly basis to assist our decision-making about where to draw water from.

For the reasons above, it is problematic to put the increased demand into the context of a change in water level in Boddington Reservoir. The top 200mm section of the reservoir (i.e. -0.2m below top water level) contains roughly 48 Ml of reservoir storage (the assessed uplift in demand). However, assuming the marina will result in the reservoir operating 200mm lower than currently/pre-marina is incorrect. As outlined above, the increase in canal demand will be met from a combination of different sources, not by one single reservoir.

The Trust, as owner of the reservoir, recognise and value the activity of the sailing club and their use of the reservoir. We also have to be mindful that the primary function of the reservoir is to supply water to the canal network. The stage 2 water resources study assesses the impact of the marina on our service standards for the navigation of the canal network and is appropriate for our needs. As we have advised, a number of sources can be used to supply water to the canal. In these circumstances, it is unclear as to how a definitive answer about the impact of the development of the marina on water levels in the reservoir can be established.

- 9.110 In light of the response of the CRT there is no evidence that the development would give rise to an unacceptable impact on the water resource of the canal or conflict with ESD8 or ESD16.

Residential Use and Impact on local facilities

- 9.111 Many of the objections received suggest that the boats will be lived in permanently and that non-residential use will not be enforced. It is suggested that this will have a harmful impact on local services, which are limited in any case. The impact of the marina on the GP service at Cropredy is mentioned as an example.
- 9.112 This report highlights potential benefits to local services and facilities from increased patronage. Concerns have been expressed about the adverse impact of permanent residential use on services like GP surgeries and schools. The marina is proposed to be for recreational use, which means that the impact on services like schools and GPs should be minimal, but to avoid putting further strain on local services it is key that conditions restricting permanent occupation are both enforceable and enforced.
- 9.113 The applicants have confirmed that the marina is proposed to be wholly recreational and that no permanent residential use of the boats will be permitted. The marina at Cropredy was similarly proposed for recreational use only. The Council has previously accepted, by the granting of planning permission for the marina at Cropredy, and its subsequent extension, that occupation of the boats can be controlled by applying conditions. This is not an unusual approach.
- 9.114 Reports have been received that the boats at Cropredy are being occupied on a permanent basis. This has been investigated by the Enforcement Team but it is fair to say that the drafting of the occupancy conditions has caused some issues with enforceability in the past and being able to establish at what point occupancy becomes permanent.
- 9.115 As a result of these issues, when planning permission was granted for the extension to Cropredy marina the conditions were supplemented and strengthened. The report to the Planning Committee at that time (application 16/01119/F refers) states (abridged);

Comments received from the Parish Council and from third parties have raised concerns that some individuals are living permanently at the site.

In response to the concerns raised by the Parish Council, officers have investigated this matter further. It is the case that a small number of boats moored at the existing marina (seven) appear to have registered address points at the marina and some appear on the electoral roll (i.e. registered to vote) at these addresses. This would suggest that these boats may be occupied residentially on a permanent basis at the site. However this small number of boats is not a significant number and would therefore not in itself bring into question the need or justification for an additional basin. Furthermore, there is no evidence to suggest that the pressure for additional moorings at the site (and so the reason for the current application) is being driven by unauthorised residential use and not demand for additional leisure moorings.

As regards the current application, officers are satisfied that when considered on its own merits it is acceptable in principle for the reasons outlined above, and concerns about occupancy can be adequately addressed and enforced by condition.

9.116 This was accepted and planning permission was granted for the marina extension with conditions limiting occupancy imposed. In response to the objections raised to this current application, these conditions have been reviewed again and strengthened conditions are recommended which both restrict the number of consecutive days/nights the boats can be occupied, as well as the total number of days/nights the boats can be occupied in any one year. The requirement for the operator to maintain a register of boats is retained but again strengthened to ensure the register is available to the Council on request.

9.117 The Planning Department does also now have the resource of its Monitoring Officers, enabling the site to be actively monitored on a regular and on-going basis.

9.118 Whether someone is occupying a boat recreationally or residentially depends on individual circumstances and will include factors such as whether they have a permanent place of residence elsewhere, where they are registered to vote/pay Council tax, where they receive utility bills and bank statements etc. It does present some challenges but that is not to say that appropriately worded conditions would not meet the 6 tests set out in the NPPF. Officers are satisfied that the conditions recommended do meet these tests.

Building Regulations

9.119 An application for Building Regulations Approval will be needed for the buildings if planning permission is granted. Oxfordshire Fire and Rescue Service has been consulted with regard to fire safety/firefighting but no comments have been received. The Highway Authority advises that they have assessed the site for emergency service accessibility and they have raised no concerns on these grounds.

9.120 The internal access routes will be suitable for use by wheelchairs and there will be moorings that are wheelchair accessible.

10. PLANNING BALANCE AND CONCLUSION

10.1. In the absence of a clear position on need/demand for a marina of this size in this location, Officers have sought to balance the benefits of the proposal against demonstrable harm.

- 10.2. Demonstrable harm in your Officer's view amounts to a less than substantial harm to the setting of the Conservation Area. 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. Great weight must therefore be given to this harm.
- 10.3. There are other impacts as a result of the development, notably the localised visual and landscape impact, alongside an increase in traffic on the surrounding road network. However, for the reasons explained in the report, these are not considered to be significant adverse impacts which conflict with the development plan and warrant refusal of the application.
- 10.4. On the other hand, there are some benefits to be considered in the balance. These include economic benefits arising from providing more choice for boat owners, increasing local visitor spend in the District as cruisers are likely to make use of local retail outlets, pubs, restaurants and tourist facilities, encouraging longer stays in the District and providing some valuable local employment opportunities during construction and operation in this rural area. The proposal also helps to sustain and diversify an existing agricultural enterprise.
- 10.5. There are also considered to be some, minor, environmental benefits arising from the biodiversity enhancements proposed and the opportunity for some, albeit more limited, social benefits.
- 10.6. The application is finely balanced but, on balance, and having regard to the assessment in this report, it is considered that the benefits of the development outweigh the less than substantial harm to the setting of the conservation area that would result and that there are material planning considerations which outweigh the limited conflict with that part of Policy ESD16 which considers location of canal facilities.

11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)

TIME LIMITS AND GENERAL IMPLEMENTATION 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:

- Site Location Plan AdamCM-1-5-001A dated 06/02/2019
- Proposed Site Plan A05/020F dated 15/07/2019
- Proposed Site Plan (Levels and Contours) A05/022E dated 15/07/2019
- Proposed Site/Marina Sections A05/100F dated 19/07/19
- Proposed Highways Access and Visibility Splay Plan ADAMCM-1-1-005 Rev A dated 15/01/19
- Proposed Detention Basin Sections ADAMCM-1-4-003 dated 21/08/19
- Landscaping Proposal - Species Selection and Planting Specification: April 2018 (Rev B – July 2019)
- Tow Path Bridge A05/601B dated 25/10/2018
- Proposed Building A05/405B dated 28/01/2019

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.

Compliance with Ecological Report

3. The development hereby permitted shall be carried out in accordance with the recommendations set out in Section 4 of the Preliminary Ecological Appraisal Report by RSK dated April 2018 and Section 3 of the RSK Follow Up Report dated 27th July 2019 unless otherwise agreed in writing by the Local Planning Authority. This shall include;
 - Completion of a detailed badger activity walkover survey no more than 3 months prior to development or site clearance works commencing, with the findings and any mitigation and/or Licensing requirements submitted to the Local Planning Authority for written approval. No development or site clearance to take place until such written agreement is provided.
 - A hand-search of any suitable terrestrial-phase amphibian and reptile habitat prior to any vegetation clearance. Once the affected area has been hand-searched, the habitat will be made unsuitable for amphibians and reptiles as a precaution, by strimming long grass from the centre in an outwards direction to allow any animals present to move to adjacent habitat. The habitat will be kept in an 'unsuitable' condition for terrestrial-phase amphibians and reptiles until the construction phase is complete, during which time enhancements will be made across the wider site for a variety of species, including amphibians in accordance with details which have been previously submitted to and approved in writing by the Local Planning Authority. Any common reptiles and amphibian species found will be moved to suitable areas in the north of the site which will not be affected by works.
 - Checks for Holts and Otter resting sites prior to construction.
 - Ecological Clerk of Works present on site to assess exact headwall locations prior to de-vegetation and during installation.
 - Use of subdued lighting located away from the watercourse so as not to illuminate the brook corridor.
 - Planting and maintenance of additional habitat outside of the site's northern redline boundary (part of the North Claydon Disused Railway LWS) to provide additional cover and habitat connectivity between the

watercourse and the boundary of the proposed development.

- Leaving the banks along the north-eastern boundary of the site (adjacent to Wormleighton Brook) undisturbed and uncut to encourage vegetation growth for otter and water vole.

Reason: To protect habitats and/or species of importance to nature conservation from significant harm in accordance with the Government's aim to achieve sustainable development as set out in Section 15 of the National Planning Policy Framework and to comply with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1.

PRE COMMENCEMENT CONDITIONS

Access Provision

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

Reason - In the interests of highway safety and to mitigate the impact of vehicles on the surrounding highway network, road infrastructure and local residents to comply with Policy SLE4 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy TR7 of the Cherwell Local Plan 1996 and 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.

Construction Traffic Management Plan

5. No development shall take place until a Construction Traffic Management Plan (CTMP) has been submitted to, and approved in writing by, the Local Planning Authority. The CTMP should incorporate the following in detail:
 - The CTMP must be appropriately titled, include the site and planning permission number.
 - Routing of construction traffic and delivery vehicles with signage to the necessary standards/requirements. This includes means of access into the site.
 - Details of and approval of any road closures needed during construction.
 - Details of and approval of any traffic management needed during construction.
 - Details of wheel cleaning/wash facilities – to prevent mud etc. from vehicle tyres/wheels migrating onto the adjacent highway.
 - Details of appropriate signing, to accord with the necessary standards/requirements, for pedestrians during construction works including any footpath diversions.
 - The erection and maintenance of security hoarding / scaffolding if required.
 - Contact details of the Project Manager and Site Supervisor responsible for on-site works.
 - The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.
 - No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will be parked and occupiers transported

to/from site to be submitted. Areas to be shown on a plan not less than 1:500.

- Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes.
- A before-work commencement highway condition survey and agreement with a representative of the Highways Depot – contact 0845 310 1111. Final correspondence is required to be submitted.

Reason - In the interests of highway safety and to mitigate the impact of vehicles on the surrounding highway network, road infrastructure and local residents to comply with Policy SLE4 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy TR7 of the Cherwell Local Plan 1996 and 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.

Improvements to Boddington Road

6. No development shall take place until details of improvements to Boddington Road which shall include the provision of passing places to the north of the access to the marina have been submitted to and approved in writing by the Local Planning Authority. The improvements shall be completed in accordance with the approved details before the marina is first brought into use.

Reason - In the interests of highway safety and to mitigate the impact of vehicles on the surrounding highway network, road infrastructure and local residents to comply with Policy SLE4 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy TR7 of the Cherwell Local Plan 1996 and 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.

Construction Method Statement and Environmental Management Plan

7. No development shall take place until a Construction Method Statement and Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Statement and Plan shall provide for at a minimum:
 - details of pollution prevention measures
 - method of construction to ensure that there would be no potential threat to the water environment of the adjoining canal and the wider network
 - the parking of vehicles of site operatives and visitors
 - the loading and unloading of plant and materials
 - the storage of plant and materials used in constructing the development
 - Details of protective measures to protect current biodiversity interest and avoid impacts during construction (both physical measures and sensitive working practises)
 - Measures to control the emission of dust and dirt during construction
 - A scheme for recycling/ disposing of waste resulting from construction works
 - A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as when badgers, reptiles and amphibians are active and during bird nesting seasons)
 - The mitigation measures recommended in Section 4 of the Preliminary Ecological Appraisal Report by RSK dated April 2018 and the RSK Follow Up Report Rev 3 dated 26th July 2019 including appropriate mitigation to

avoid negatively impacting upon Wormleighton Brook and its surrounding habitats during the construction phase of the development

- Details of how regular reviews of the impacts on the Local Wildlife Site will take place during construction
- Delivery, demolition and construction working hours
- Persons responsible for:
 - i) Compliance with legal consents relating to nature conservation;
 - ii) Compliance with planning conditions relating to nature conservation
 - iii) Installation of physical protection measures during construction;
 - iv) Regular inspection and maintenance of the physical protection measures and monitoring of working practices during construction;
 - v) Provision of training and information about the importance of Environment Protection measures to all construction personnel on site.

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 the interests of the structural integrity of the waterway, to ensure the proposed works do not have any adverse impact on the safety of waterway users, the integrity of the Canal, the general public and features of ecological importance in accordance with Policy ENV1 of the Cherwell Local Plan 1996 and Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government policy contained within the National Planning Policy Framework.

Tree Protection

8. No development shall take place until the existing trees and hedgerows to be retained have been protected in accordance with a Tree Protection Plan and Arboricultural Method Statement that has been submitted and approved in writing by the Local Planning Authority. The approved protection measures shall be in place before any equipment, machinery or materials are brought onto the site for the purposes of development and shall be maintained until all equipment machinery and surplus material has been removed from the site. Nothing shall be stored or placed within the areas protected by any barriers erected in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made, without the written consent of the Local Planning Authority.

Reason : To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

9. Before any development commences a scheme for the provision, implementation and maintenance of foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The drainage works shall be constructed and completed in accordance with the approved plans before the first use of the marina or the occupation of the building hereby approved (whichever is the sooner).

Reason : To ensure satisfactory drainage of the site in the interests of achieving sustainable development, public health, to avoid flooding of adjacent land and property to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice in the National Planning Policy Framework.

CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE FIRST USE OF THE MARINA

10. The marina shall not be brought into first use until a footpath link from the site connecting into the existing public rights of way network (footpath 170/6/20) and as shown indicatively on the PROW Access Plan AdamCM-1-1-004 dated 15th November 2018 has been provided in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The footpath link shall be retained and made available for use by users of the marina at all times thereafter.

Reason : To provide convenient pedestrian links with the existing public rights of network to facilitate access between the development, Claydon village and the surrounding countryside to comply with Policy ESD15 and ESD17 of the Cherwell Local Plan 2011 – 2031 Part 1, and 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.

Landscaping

11. Notwithstanding the approved plans, a scheme for landscaping the site shall be submitted to and approved in writing by the Local Planning Authority which shall include:-

(a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch etc),

(b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,

(c) details of the hard landscaping including hard surface areas, pavements, footpaths, parking and yard areas, pedestrian areas and steps

(d) Tree Pit details

Such details shall be provided prior to the first use of the marina, or such alternative time frame as agreed in writing by the developer and the Local Planning Authority. The approved scheme shall be implemented by the end of the first planting season following completion or first use of the marina, whichever is the sooner. Any tree(s) or shrub(s) removed, dying, or becoming seriously damaged, defective or diseased within 10 years from the substantial completion of the scheme shall be replaced within the next planting season by tree(s) or shrub(s) of similar size and species to those originally required to be planted.

Reason: To ensure that a satisfactory landscape scheme is provided in the

interest of well planned development and visual amenity and to accord with Policies G3(L) and EV29 of the South Northamptonshire Local Plan 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.

Traffic Management and Routeing Strategy

12. No boats shall be moored at the marina until the applicant has submitted to the Local Planning Authority a Traffic Management and Routeing Strategy and had that Strategy approved in writing by the Local Planning Authority. This Strategy shall provide details of measures that will be taken by the marina operators to ensure that wherever possible all vehicles visiting the marina enter and leave the marina to the north and avoid routeing through Claydon village. The marina operators shall ensure that the agreed measures are in place before the marina is first brought into use and maintained at all times thereafter.

Reason: To help minimise disturbance and inconvenience to residents of Claydon Village where possible to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

LEMP

13. A Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of the marina. The LEMP shall show ongoing management and objectives for the site with the aim of achieving the best possible ecological condition for all habitats in the long term and shall include the following details;

- Landscape and ecological maintenance and management arrangements for the site for a minimum period of 25 years with the aim of achieving best possible ecological condition for all habitats in the long term;
- Additional enhancement measures for wildlife to demonstrate that a net biodiversity gain will be achieved (including within the building proposed)
- Areas of habitat provision on site in areas that are less accessible to people
- Proposals for the use and management of the irrigation lake (which shall not be stocked with fish)
- Measures to prevent any disturbance by domestic pets
- Proposals for the enhancement and maintenance of the buffer to the LWS.

Thereafter the measures approved in the LEMP shall be carried out as approved and all habitats and planting shall thereafter be maintained/managed for a period of at least 25 years from the completion of the development in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

Reason : To protect habitats of importance to biodiversity conservation from any loss or damage and 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 Policies ESD10 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.

CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE SPECIFIC CONSTRUCTION WORKS TAKE PLACE

Materials and Detailing

14. Samples of the slate to be used in the construction of the roof of the facilities building and the timber cladding and bricks to be used on the walls of the facilities building shall be submitted to and approved in writing by the Local Planning Authority before construction of the facilities building above slab level. Thereafter the development shall be carried out in accordance with the samples so approved.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality 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.

15. Prior to the commencement of the facilities building hereby approved above slab level, a stone sample panel (minimum 1m² in size) shall be constructed on site which shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the building shown on the approved plans to be stone shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel.

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 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.

16. Notwithstanding the approved plans, prior to the commencement of the facilities building hereby approved above slab level, full details of the doors and windows (which are to be constructed in timber) and eaves and verges hereby approved, at a scale of 1:20 including a cross section, cill, lintel and recess detail and colour/finish, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the doors, windows, eaves and verge shall be completed in accordance with the approved details.

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

17. Notwithstanding the approved plans, prior to the commencement of any works to the marina entrance from the mainline of the Oxford Canal full details of the marina entrance and towpath bridge shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:

- Handrail details to the towpath bridge;
- Surface finishes for the towpath bridge and approach ramps;
- Finishes for the 'Geobag' retaining structure;
- Maintenance and management regimes for the marina entrance and towpath bridge.

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

Reason: In the interests of the visual amenities of the Oxford Canal Conservation Area and to ensure the proposed works do not have any adverse impact on the safety of waterway users and the integrity of the Oxford Canal in accordance with Policy ESD15 and ESD16 of the Cherwell Local Plan 2011-2031 Part 1, and Government guidance contained within the National Planning Policy Framework in particular 120 & 121.

SuDS

18. SuDS maintenance and management – wording to be confirmed once consultation response received from Environment Agency and LLFA.

Bin Storage/Furniture

19. Full details of the following structures shall be submitted to and approved in writing by the Local Planning Authority before their installation in the development;

- Refuse and recycling bin storage including location and compound enclosure details;
- Permanent Outdoor Seating;
- Permanent Outdoor Tables.

Thereafter the structures shall only be provided in accordance with the approved details.

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

Enclosures

20. No enclosures along any of the site boundaries or within the site (including any walls, fences or gates) shall be erected unless details of those enclosures have previously been submitted to and approved in writing by the Local Planning Authority.

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

External Lighting

21. Details of all external lighting including the design and specification, position, orientation, illumination levels and any screening of the lighting alongside their operation, management and maintenance regime 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 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 advice in The National Planning Policy Framework.

ONGOING REGULATORY CONDITIONS TO BE COMPLIED WITH AT ALL TIMES

Site Clearance

22. 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.

Occupancy and Use Restrictions

23. All boats moored at the marina hereby approved shall be occupied at all times only for the purposes of recreational moorings and not for any permanent residential or hire fleet purposes or any other purpose whatsoever. None of the 192 boats moored at the marina shall be occupied for more than 60 consecutive days or nights and for no more than a total of 150 days or nights in any one calendar year.

Reason - To ensure that the development does not introduce permanent residential use of the site which would lead to additional pressure on local services and in the interests of highway safety and to comply with Policy ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government advice contained within the National Planning Policy Framework.

24. No more than 192 boats shall be moored at any one time in the marina basin hereby approved and no boats, other than those on the water, shall be stored on the site.

Reason - In the interest of highway safety and the visual amenities of the area and to comply with Policies SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government Advice in the National Planning Policy Framework.

25. A register of all boats moored at the marina, shall be provided annually to the Local Planning Authority, on or before the 30th April of every calendar year, and shall also be made available to the Local Planning Authority on request. The register shall include details of the previous 12 months of boat moorings (1st April to 31st March) at the marina and the following information:

- i. boat owners names and permanent addresses - for all boats moored at the marina in that year;
- ii. boat names and moorings occupied - for all boats moored at the marina in that year; and
- iii. The arrival date and departure date of each boat moored at the marina in that year, stating the period of time that each boat is moored at the marina, including any periods in which any boat is occupied overnight within the marina.

Reason: To enable the Local Planning Authority to properly monitor the use of the site and to ensure that the development does not introduce permanent residential use of the site which would lead to additional pressure on local services and in the interests of highway safety and to comply with Policy ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government advice contained within the National Planning Policy Framework.

26. The living accommodation hereby approved shall be occupied as a manager's residence solely in conjunction with and ancillary to the operation of the marina and shall not be sold, leased or occupied as a separate unit of accommodation or for any other purpose.

Reason: This consent is only granted in view of the security and management needs of the enterprise, which are sufficient to justify overriding the normal planning policy considerations which would resist residential development on the application site, to comply with Policy ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government advice contained within the National Planning Policy Framework..

27. The irrigation lake hereby approved shall be used for the purposes of agriculture only and not for any other use (including recreational) unless planning permission has otherwise been granted. The lake shall at no time be stocked with fish.

Reason: The planning application was submitted and determined on this basis. Use for recreational purposes could give rise to such impacts as have not been considered or assessed by the Local Planning Authority including traffic generation and highway impacts. Fish stocking is prohibited to ensure water is of sufficiently high quality to minimise any risks to Wormleighton Brook in the event of discharge from the overflow.

Notes

1. The proposed footbridge should be constructed to DMRB standards, or to Canal and River Trust (C&RT) public towpath standard. This structure must be maintainable by the applicant or C&RT and OCC accepts no liability for its construction, public liability or future maintenance. The footpath/towpath will need to be closed to enable construction and a temporary closure needs to be applied for from OCC. Note that there is normally a 12 week lead time for this. It is expected that the footpath/towpath will be protected from plant damage and repaired to same or higher standard after the works have been completed.
2. **Temporary obstructions.** 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.
3. **Route alterations.** No changes to the public right of way direction, width, surface, signing or structures shall be made without prior written permission by Oxfordshire County Council or appropriate temporary diversion.
4. **Vehicle access (construction):** No construction 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.

5. **Vehicle access (Occupation):** No vehicle access may be taken along or across a public right of way to commercial sites without prior written permission and appropriate safety and surfacing measures approved by Oxfordshire County Council.
6. **Gates / right of way:** 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.
7. **Improvements to routes:** Public rights of way through the site should be integrated with the development and improved to meet the pressures caused by the development whilst retaining their character where appropriate. No improvements may be implemented without prior approval of Oxfordshire County Council. No improvements to public rights of way may be implemented without prior approval of Oxfordshire County Council.
8. The applicants are referred to the principles and standards of the police's Secured by Design (SBD) scheme in relation to the buildings, and to the advice contained within the British Waterway's publication, 'Under Lock and Quay'.
9. The applicant is advised to contact the CRT Works Engineering Team on 0303 040 4040 in order to ensure that any necessary consents are obtained and that works comply with the "Canal and River Trust Code of Practice for Works affecting the Canal and River Trust."
10. In respect of condition 6 above the applicant will need to enter into an agreement under Section 278 of the Highways Act 1980 with the Highway Authority prior to work commencing within the highway boundary.
11. The canal here has a large population of zander, a species classified as non-native and invasive, the Trust would require access to the marina with electrofishing equipment for the purposes of zander removal and other fish harvesting. Any fish that migrate into the marina would remain the property of the Trust.

CASE OFFICER: Clare O'Hanlon

TEL: 01295 221900

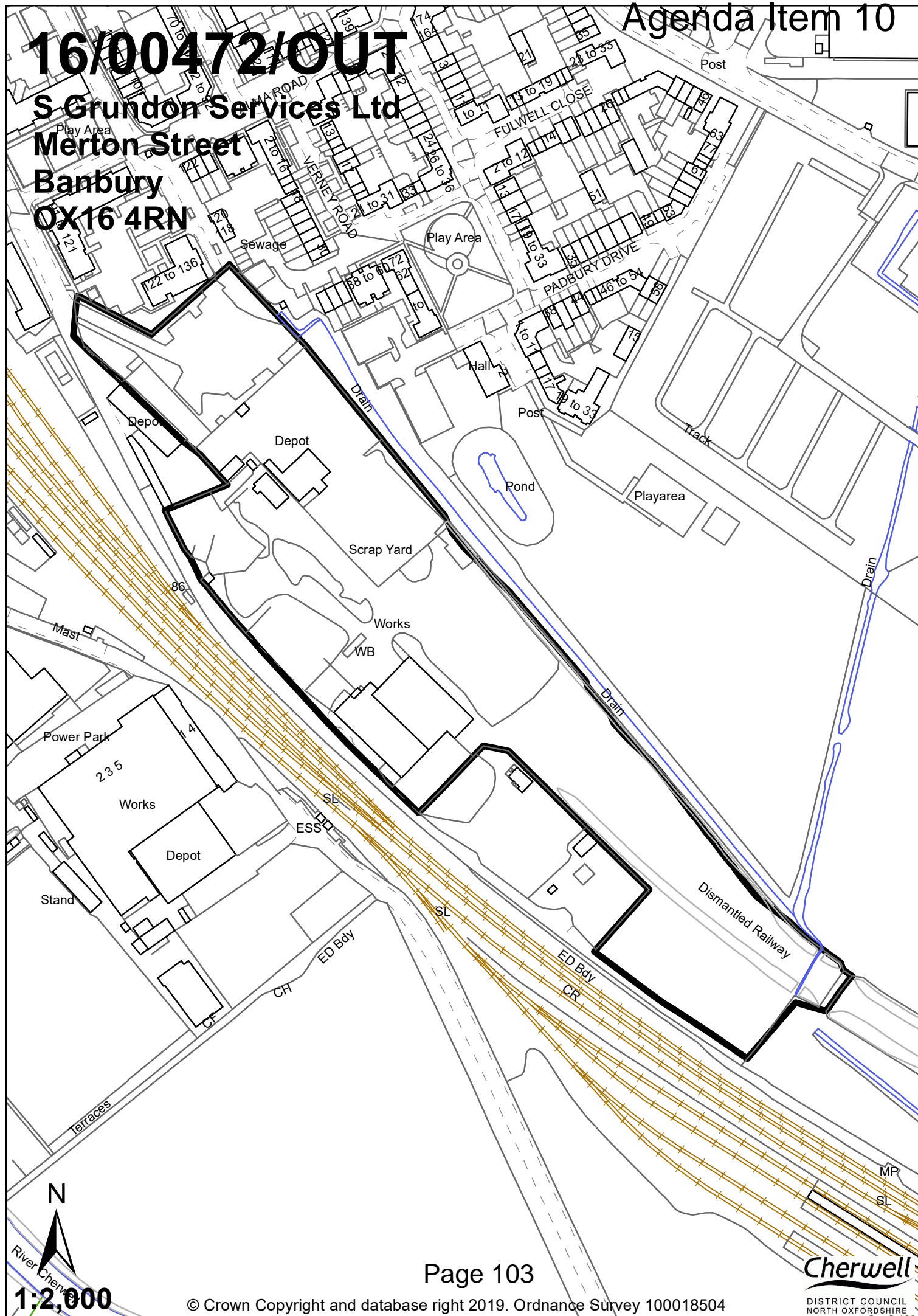
16/00472/OUT

S Grundon Services Ltd

Merton Street

Banbury

OX16 4RN



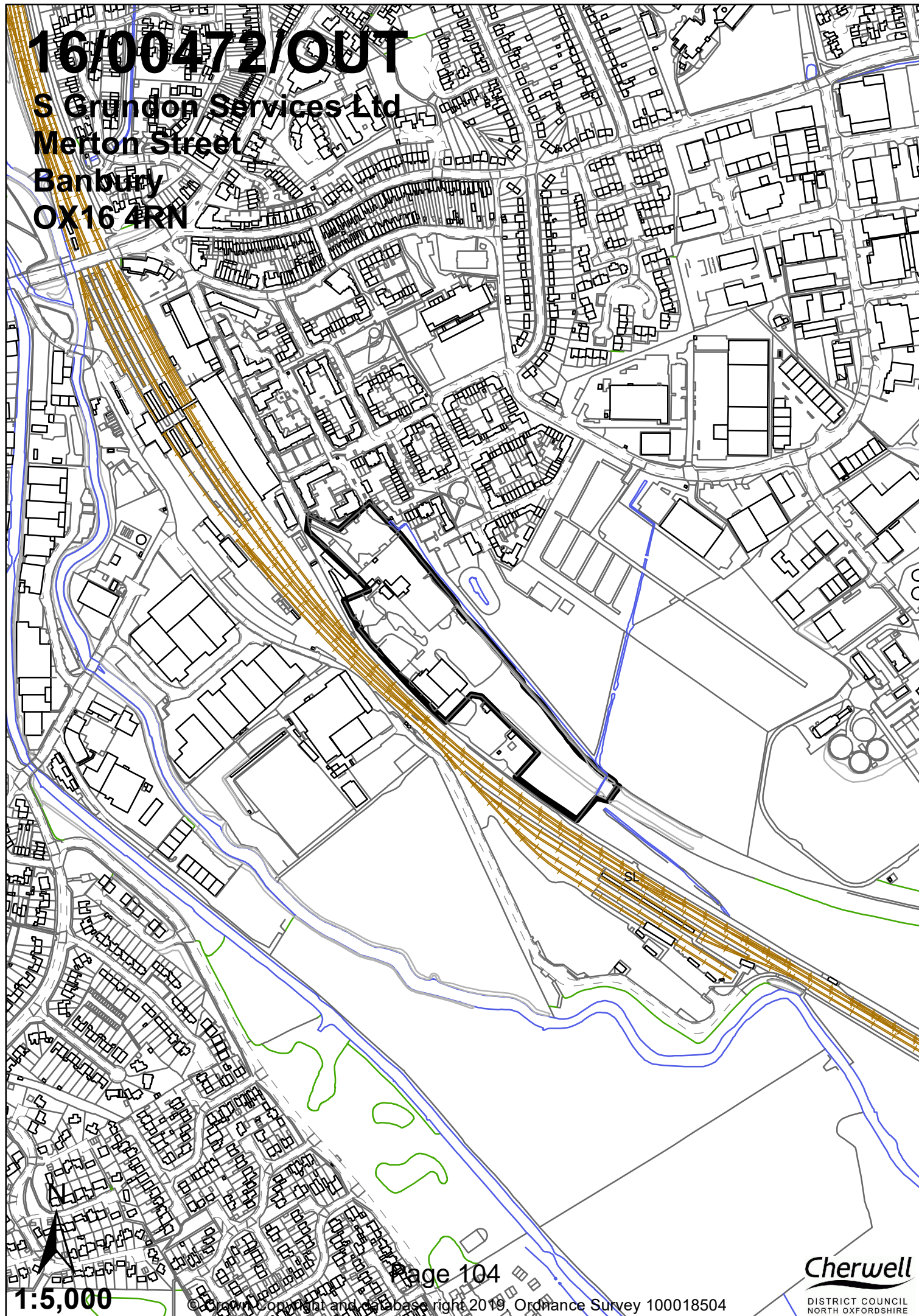
16/00472/OUT

S Grundon Services Ltd

Merton Street

Bankbury

OX16 4RN



Case Officer: Rebekah Morgan

Applicant: Grundon Waste Management Ltd & Cemex UK

Proposal: Proposed residential redevelopment for approximately 200 units

Ward: Banbury Grimsbury and Hightown

Councillors: Cllr Andrew Beere, Cllr Perran Moon, Cllr Shaida Hussain

Reason for Referral: Major development

Expiry Date: 30 November 2016

Committee Date: 19 September 2019

This application was subject to a Committee Members Site Visit, which took place on 19th September 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

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

Proposal

This outline application (with all matters reserved) seeks planning permission for 200 dwellings. Illustrative plans accompanying the application show that the dwellings would be provided in multiple blocks of apartments of three, four and five stories in height. Car parking (at one space per unit) would be provided as undercroft parking in the ground floors of the blocks. Communal landscaped areas and play provision would be provided around the blocks.

Consultations

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

- Banbury Town Council, Network Rail, CDC Environmental Protection and Banbury Civic Society

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

- Environment Agency, Oxfordshire County Council (Single response), Thames Water, Thames Valley Police, CDC Planning Policy, CDC Housing, CDC Landscape, CDC Recreation and Leisure, CDC Waste and Recycling, CDC Ecology and CDC Finance

3 letters of objection have been received.

Planning Policy and Constraints

The site is subject to the Banbury 19 strategic allocation which proposes 150 residential units on this site. Other relevant policies are set out in paragraphs 7.2 and 7.3 of the previous case officers report (attached at Appendix 1).

The site is contaminated land, is immediately adjacent a mainline railway, and is also partially within Flood Zone 3 (the zone of highest flood risk).

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

Conclusion

The key issues arising from the amended application details are:

- Principle of development
- Access and transport impacts
- Car parking
- Flood risk and drainage
- Design, and impact on the character of the area
- Housing mix and affordable housing
- Ecology and biodiversity
- Noise impact assessment
- Climate change mitigation
- Open space and outdoor recreation
- Minerals and waste matters
- Contaminated land
- Planning obligations

The application was previously reported to Planning Committee on 18th July 2019 but was deferred to allow for a pre-committee site visit to take place. This report is an addendum to the previous case officer report (attached at Appendix 1) and addresses additional information submitted in respect of flooding and drainage, and noise.

The report provides updates on these two issues (to be read in conjunction with the original report) and Officers conclude that the proposal is acceptable subject to conditions and a s106 legal agreement.

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

MAIN REPORT

1. PURPOSE OF THIS REPORT

- 1.1. The purpose of this report is to provide an update on application 16/00472/OUT (S Grundon Services Ltd, Merton Street, Banbury). On 18 July 2019 members took a decision to defer the application for a pre-committee site visit.
- 1.2. This report is an addendum to the original case officers report and should be read in conjunction with the report contained within the agenda pack for planning committee on 18 July 2019 (included at Appendix 1).
- 1.3. This report focusses on two outstanding matters:
 - Flood risk and drainage
 - Noise impact assessment

2. ADDITIONAL COMMENTS

- 2.1. The following comments have been received since the writing of the previous committee report (some of these were included in the written updates for planning committee on 18 July 2019).
- 2.2. ENVIRONMENT AGENCY: **Objection withdrawn.** Comments are set out in full at paragraph 3.3 below.
- 2.3. CDC ENVIRONMENTAL PROTECTION: No objections but make the following comments;

Damage Cost Assessment – Satisfactory, no comments.

Noise Assessment – The Council's Environmental Protection Officer has discussed this matter with the agent's consultant. A summary of the technical comments have been provided which state:

'Section 4.3

- *Paragraph 2 and 3. It's not clear how the 'representative' background levels have been arrived at?*
- *Paragraph 3 should refer to Figure 9 not 8 and the time period should be 8 not 16 hours. The last sentence should also read 'night-time' and not 'daytime'.*
- *The night time background level is 6dB higher than the day time, is that correct? You thought it might be to do with the LMD but see query below.*
- *Paragraph 7 (2nd paragraph on page 14) gives the night time levels without LMD. The background level dropped by 2dB but is still higher than the daytime background? The night time background was 51dB in paragraph 3 so a 2dB drop would give a level of 49dB and not 48 as shown.*
- *With all noise sources removed attributable to the rail line and the LMD (paragraph 1 top of page 15) the night time background is still 49dB and still higher than the day time level. In the next paragraph it mentions the M40 as another residual noise, however I would expect the noise from this to be lower at night.*
- *Last paragraph on page 15, the start of the third line needs to be deleted. Probably a copying and pasting typo from the paragraph above.*

Section 4.5

- *As the first bullet point above, how have the 'Ambient' and 'Background' levels been arrived at in Table 3? Are they the average of all the hourly and 15 minute readings for the day and night respectively? What is the range i.e. max and min? The night time background should be 49 according to previous calculations in the report.*

Section 5.3

- *Should a higher penalty be applied to account for all the acoustic characteristics of the noise from trains idling in the LMD and not just the air brakes?*

Section 8.3

- *Can you confirm, as it's not that obvious from the figures showing the modelled data in section 7.4, that acceptable internal levels can only be achieved with the glazing specifications detailed in section 8.3 and with windows closed, in which case alternative ventilation other than trickle vents will be required?*

- *Octave band data is shown for the glazing specifications but not for the measured data.*

- 2.4. BANBURY CIVIC SOCIETY: The Society made comments on this site in 2017 (?) and we hope these will be reflected in the report to Committee. We note that Network Rail have also made extensive critical remarks concerning the use of this site for housing, notwithstanding its allocation for that purpose in the Approved Local Plan. It seems to us that, despite the urgent need for social housing, this site has many disadvantages to that end, especially given the complaints that have already arisen from existing nearby residents citing noise, vibration and other disturbance to the detriment of their living conditions.

However, the Society is most concerned about retaining the long term possibility of extending Higham Way southwards to either a) connect with the proposed South-to-East link road between Bankside and Chalker Way (see Banbury Vision and Masterplan), OR b) to swing eastwards around the perimeter of Ban 6 also to link with Chalker Way, thereby also providing access possibilities to the presently undeveloped remainder of Ban 6. The Indicative Layout, as posted, does not engender confidence that either of these options would be possible.

Both of the above options would provide a secondary access to / from both the area south of Causeway and the railway car park. This would contribute towards relieving, to a greater or lesser degree depending on other construction, the congestion at the Middleton Road / Merton Street junction and provide improved connectivity to the whole area.

It is argued that, as the area south of Causeway is predominantly social housing in character, traffic generation is low. Observation at various times of the day indicates that this assumption is not true and therefore any opportunity to alleviate the situation should be promoted.

Furthermore the alignment of Higham Way extension into the proposed development, as shown on the submitted drawings, is very much of 'switchback' in nature and is barely suitable for an estate access road. It would certainly not be suitable if a further extension southwards, as envisaged, is ultimately achieved.

If committee is minded to support the southward extension of Higham Way, we would suggest a reappraisal of the layout in order to make it suitable for both those living nearby and those who might be using it as a through route to (say) the railway car park.

Officer Comment: The current illustrative layout plan demonstrates that it is possible to form a new route through the site to connect to the 'Banbury 6' site and therefore potentially to the proposed link road.

- 2.5. COUNCILLOR SHAIDA HUSSAIN: **Objects**

- 2.6. ALMA ROAD RESIDENT: Objects on the grounds that –

I believe the area is already overdeveloped in terms of housing and there are far too many homes in too close proximity.

The road network cannot cope with the current amount of traffic and cannot sustain further housing development in the area. There is a huge issue of slow moving traffic and congestion in the whole area around Middleton Road, Merton Street, Higham Way, Alma Road, Bridge Street and beyond.

There is a massive issue with air quality in the area and the effects of traffic fumes and pollution for pedestrians and people who live and work locally.

Officer comment: The application site is allocated with the Cherwell Local Plan 2031 and therefore expected to be re-developed for residential use. Oxfordshire County Council as the Local Highway Authority raise no objections to the proposal with regards to highways issues.

3. APPRAISAL

FLOOD RISK AND DRAINAGE

3.1. The applicants have entered into further correspondence with the Environment Agency to overcome the objection set out in the previous report.

3.2. The Environment Agency have made comments and stated:

'We have re-reviewed the application and consider that the principle of development is acceptable based upon the flood water compensation information submitted thus far. Subject to the conditions below, we therefore withdraw our previous objection, dated 23 October 2018.

The proposed development will be acceptable if the following conditions are included on the planning permission's decision notice. Without these conditions we would object to the proposal due to its adverse impact on the environment'.

3.3. The Environment Agency has recommended six conditions which (in brief) cover the following areas:

1. Flood compensation scheme
2. Specified minimum finished floor levels
3. Remediation strategy to deal with risks associated with contamination of the site
4. Verification of works being carried out in accordance remediation strategy
5. No piling using penetrative methods to be carried out without the written consent of the LPA
6. No drainage systems for the infiltration of surface water to ground are permitted without the written consent of the LPA

3.4. The recommended conditions have been included in the revised recommendation for the application and the conditions are set out in full below.

NOISE IMPACT ASSESSMENT

3.5. As noted in the previous case officers report (see Appendix 1) the site is particularly constrained in terms of noise levels especially with its location adjacent to the railway line.

3.6. The Noise Assessment report has concluded that due to the relatively high noise levels across the site, the dwellings cannot be ventilated by openable windows whilst meeting the internal noise criteria set by the Council. To address this, it is proposed to install a noise barrier along the south-west boundary of the site. The details of the noise barrier will be required via condition, but it is expected to be a minimum of 6m in height and can be comprised of a mixture of bunding and fencing.

3.7. The latest comments made by the Council's Environmental Protection Officer raise some queries with the submitted Noise Assessment. The applicant has submitted further information and revised reports to address these comments. At the time of

writing this report, further comments from the Environmental Protection Officer are expected and will be provided in the written update.

- 3.8. However, it is anticipated that current noise constraints affecting the site can be overcome with the combination of acoustic sound installation to individual properties and the construction of an acoustic bund/fence (minimum 6m high). The details of both measures will be dealt with via planning conditions, as recommended below

4. PLANNING BALANCE AND CONCLUSION

- 9.1. I reiterate the conclusions set out in the original case officers report. The site is allocated for residential development under Policy Banbury 19 of the Cherwell Local Plan 2031. However, the site faces several challenges due to its shape, the need to provide a through route from Higham Way to connect to the Policy Banbury 6 site (and hence the proposed South East Link Road), the cost of remediation of contaminated land, and the high noise levels on the site.
- 9.2. The applicants are proposing that in order to meet these demanding requirements, that the density of the development is increased to make the site feasible/viable to develop. In your officer's opinion this increase in density is necessary.
- 9.3. Furthermore, given the size/shape of the site, the increase is only possible if the scheme comes forward as a wholly flatted development. Whilst this is contrary to Policy Banbury 19 of the Cherwell Local Plan 2031, the land is unlikely to come forward in any other form of residential development. This would impact on housing delivery rates and leave an allocated brownfield site undeveloped. The alternative of reducing housing numbers to provide a policy compliant housing mix would impact further on the sites viability.
- 9.4. It is anticipated that current noise constraints affecting the site can be overcome with the combination of acoustic sound installation to individual properties and the construction of a minimum 6m high acoustic bund/fence.
- 9.5. The Environment Agency have now withdrawn their objection and are content that flood risk, contamination and drainage matters can be dealt with via suitable conditions. These have been included in the officer recommendation.
- 9.6. Due to the lack of viability of the scheme, driven by high remediation costs, it is necessary to strike a balance between affordable housing and other infrastructure contributions and negotiations will be ongoing taking account of any views expressed by members and the interests of both the district and County Council. Provided members are satisfied with all other aspects of the proposal, it is recommended the committee resolve to grant permission (as set out in the recommendation below) allowing negotiations to proceed with confidence that if an acceptable conclusion is reached then planning permission will be forthcoming. Failure to reach agreement would of course result in the application returning to committee.

5. RECOMMENDATION

DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION, SUBJECT TO THE RESOLUTION OF THE OUTSTANDING NOISE ISSUES, THE CONDITIONS SET OUT BELOW (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, IN ACCORDANCE WITH THE**

TERMS SET OUT IN PARA 8.51 OF THE ORIGINAL COMMITTEE REPORT AT APPENDIX 1.

CONDITIONS

Time Limits and General Implementation

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

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, and Article 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

2. In the case of the reserved matters, no application for approval shall be made later than the expiration of three years beginning with the date of this permission.

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, and Article 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

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

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, and Article 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

4. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and documents: Application forms, Design and Access Statement, Energy Statement, and drawings numbered: PL-99 Location Plan (July 2015), PL-103A Proposed Site Access Plan (June 2017) and 116150_TP_0002 Proposed Site Access Arrangements (September 2017).

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

Phasing

5. Prior to the commencement of the development hereby approved, a phasing plan covering the entire application site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in

accordance with the approved phasing plan and each reserved matters application shall only be submitted in accordance with the terms of the approved phasing plan and refer to each phase (or phases) it relates to as set out in the approved phasing plan.

Reason – To ensure that the proposed development proceeds in a manner which minimises impacts on external infrastructure and the amenity of the area, and to secure a form of development that is in accordance with the aims of the site allocation, to comply with Policy SLE4, ESD15 and Banbury 19 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

6. All reserved matters submissions within an approved phase (where buildings are proposed) shall be accompanied by details of the proposed finished floor levels of all proposed buildings in relation to existing surrounding ground levels for that phase. Where the floor level details are approved as part of the reserved matters approval, the development in that phase shall be undertaken in accordance with the approved levels.

Reason – To ensure that the proposed development is in scale and harmony with its neighbours and surroundings 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.

Demolition of Existing Buildings

7. Prior to the commencement of the development hereby approved, the buildings and structures on the site at the date of this permission shall be demolished and the debris and materials removed from the site.

Reason – In order to achieve a satisfactory form of development, to ensure that the site is not overdeveloped 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.

Maximum No. of Dwellings

8. No more than 200 dwellings shall be accommodated on the site.

Reason – In order to achieve a satisfactory form of development, to ensure that the site is not overdeveloped and to comply with Policy ESD15 and Banbury 19 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.

Means of Access

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

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

Estate Roads and Footpaths

10. Prior to the first occupation of any of the dwellings hereby approved, all of the estate roads and footpaths (except for the final surfacing thereof) shall be laid out, constructed, lit and drained in accordance with Oxfordshire County Council's 'Conditions and Specifications for the Construction of Roads' and its subsequent amendments.

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.

Completion of Access Road

11. Prior to the first occupation of any of the dwellings hereby approved the main access road shall be completed in accordance with condition 10 above to a point on the south-east boundary to be first submitted to and agreed in writing with the Local Planning Authority.

Reason – In order to secure the proper planning of the area and the development of adjoining land and to safeguard the opportunity to provide a link to the proposed South East Link Road to comply with Policy SLE4, ESD15 and Banbury 19 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Drainage Strategy

12. Prior to the commencement of the development hereby approved, a detailed drainage strategy for the surface water and foul sewage drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, and prior to the commencement of any building works on a phase of the development a detailed surface water and foul water drainage scheme shall be carried out and prior to the first occupation of any building to which the scheme relates the approved foul sewage drainage scheme shall be implemented. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".

The strategy shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development. The phases shall subsequently be implemented in accordance with the approved details before the development is completed. The detailed drainage schemes shall also include:

- Discharge Rates
- Discharge Volumes
- Maintenance and management of SUDS features (this may be secured by a Section 106 Agreement)
- Sizing of features – attenuation volume
- Infiltration tests to be undertaken in accordance with BRE365
- Detailed drainage layout with pipe numbers
- SUDS (list the suds features mentioned within the FRA to ensure they are carried forward into the detailed drainage strategy)
- Network drainage calculations

- Phasing plans
- Flood Risk Assessment

Reason – To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with Policy ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Noise Levels/Insulation

13. Prior to the commencement of the development hereby approved, full details of a scheme for acoustically insulating all habitable rooms within the dwelling(s) such that internal noise levels do not exceed the criteria specified in Table 4 of the British Standard BS 8233:2014, 'Guidance on sound insulation and noise reduction for buildings', shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the dwelling(s) affected by this condition, the dwelling(s) shall be insulated and maintained 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.

Noise Barrier

14. Prior to the first occupation of any dwelling a noise barrier to perform in accordance with the requirements of the submitted noise report (reference to be inserted) shall be installed in accordance with full details of its design, siting, layout, height, construction and finished appearance which have first been submitted to and approved in writing by the Local Planning Authority prior to its installation. The noise barrier shall thereafter be retained in situ.

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.

15. 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.

Reptile Survey

16. Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance or the translocation of any reptile, a reptile survey (which shall be in accordance with best practice guidelines) shall be carried out, and the findings, including a mitigation strategy if required, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works of mitigation 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 the National Planning Policy Framework.

Breeding Birds (Hedgerow Removal)

17. No removal of hedgerows, trees or shrubs nor works to, or demolition of buildings or structures that may be used by breeding birds, shall take place between the 1st March and 31st August inclusive, unless the Local Planning Authority has confirmed in writing that such works can proceed, based on health and safety reasons in the case of a dangerous tree, or the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site.

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.

Ecology Enhancement Measures

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

LEMP

19. Prior to the first occupation of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the LEMP shall be carried out and adhered to 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 the National Planning Policy Framework.

CEMP

20. No development shall take place (including demolition, ground works, vegetation

clearance) until a Construction Environmental Management Plan (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 the National Planning Policy Framework.

Energy Strategy (Reserved Matters)

21. Reserved matters applications made for any phase as defined in the approved phasing plan shall be in general accordance with the submitted Energy Strategy and shall be the subject of a further energy statement that demonstrates how the development in that phase will take the opportunities available to improve energy efficiency and incorporate low carbon technology to minimise environmental impact. No dwelling shall be occupied until it has been constructed to meet the energy performance standard in accordance with the approved details.

Reason – To ensure sustainable construction and reduce carbon emissions in accordance with Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework. Details are required at pre-commencement stage to ensure that from the outset each dwelling is designed and constructed to achieve a high level of fabric efficiency in the interests of environmental sustainability.

Domestic Waste Disposal

22. Prior to the commencement of each successive phase of the development hereby approved, full details of the location, method of storage and disposal of all means for the disposal of domestic waste from the dwellings along with a timetable for their provision within that phase shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out and maintained in accordance with the approved details

Reason – To ensure that proper arrangements are made for the disposal of waste, to ensure the creation of an environment free from intrusive levels of odour/flies/vermin/litter, in accordance with Policy ENV1 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy

Framework.

Residential Travel Plan

23. Prior to occupation of any phase of the development a residential travel plan shall be submitted to and approved by the Local Planning Authority. The plan shall incorporate details of the means of regulating the use of private cars at the development in favour of other modes of transport and the means of implementation and methods of monitoring.

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.

Construction Traffic Management Plan

24. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Construction Traffic Management Plan shall be implemented and operated in accordance with the approved details.

Reason – In the interests of highway safety and the residential amenities of neighbouring occupiers, to comply with Policy SLE4, ESD15 and Banbury 19 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Flood Water Compensation Scheme

25. Prior to the approval of reserved matters, a flood water compensation scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
1. Calculations, assessment and details of proposed flood water storage areas and methods used to provide the required compensation;
 2. A phasing plan demonstrating installation and completion of the compensatory flood water storage areas prior to construction of any of the proposed dwellings on site;
 3. A maintenance strategy explaining how the flood water storage areas will remain clear and operational for the lifetime of the development;
 4. Details of the floodable undercroft parking areas.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason – This condition is sought in accordance with paragraph 163 of the National Planning Policy Framework to reduce the risk of flooding on-site and elsewhere, and to comply with Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1.

Finished Floor Levels (Flood Risk)

26. Finished floor levels shall not be set lower than 90.45m AOD (at the southeast end of the site) and 90.85m AOD (at the north-west end of the site) as stated within paragraph 5.1.2 of the Flood Risk Assessment, prepared by Peter Brett

Associates, reference 33390/4001, revision A, dated 3 October 2017.

Reason – This condition is sought in accordance with paragraph 163 of the National Planning Policy Framework to reduce the risk of flooding on-site and elsewhere, and to comply with Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1.

Contamination

27. Prior to commencement of each phase of development approved by this planning permission, a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:
 - All previous uses
 - Potential contaminants associated with those uses
 - A conceptual model of the site indicating sources, pathways and receptors
 - Potentially unacceptable risks arising from contamination at the site
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason – To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of ground and water pollution in line with Policy ENV1 of the Cherwell Local Plan 1996 and paragraph 170 of the National Planning Policy Framework.

28. Prior to each phase of development being occupied, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason – To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site complete. This is in line with Policy ENV1 of the Cherwell Local Plan 1996 and paragraph 170 of the National Planning Policy Framework.

Piling etc.

29. Piling using penetrative methods shall not be carried out other than with the written

consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason – To ensure that the proposed development, does not harm groundwater resources in line with paragraph 170 of the National Planning Policy Framework.

Surface Water Infiltration

30. No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the Local Planning Authority. Any proposals for such systems must be supported by an assessment of the risks to controlled water. The development shall be carried out in accordance with the approved details.

Reason – To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 170 of the National Planning Policy Framework.

Planning Notes

1. The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:
 - On or within 8 metres of a main river (16 metres if tidal)
 - On or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
 - In a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact the National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by e-mailing enquiries@environment-agency.gov.uk

The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

2. With regard to condition 27, previous activities at this site may have resulted in contamination. Potential sources of contaminations have been noted on this site. In particular a former gas works, waste sites and oil storage have been described. This site is located within a sensitive area with regards to underlying aquifers and surface watercourses. These are controlled water receptors which could be impacted by any contamination present on the site.

Further investigation is required to determine the extent of any contamination present and to what extent it poses a risk to controlled waters. Any risk identified would need to be adequately addressed to ensure that controlled water receptors are not impacted. This could include remedial works to resolve contamination issues.

APPENDIX 1 – PREVIOUS COMMITTEE REPORT

Below is the report included in the agenda for planning committee on 18 July 2019. This should be read in conjunction with the above report.

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

Proposal

This outline application (with all matters reserved) seeks planning permission for 200 dwellings. Illustrative plans accompanying the application show that the dwellings would be provided in multiple blocks of apartments of three, four and five stories in height. Car parking (at one space per unit) would be provided as undercroft parking in the ground floors of the blocks. Communal landscaped areas and play provision would be provided around the blocks.

Consultations

The following statutory consultees have raised objections to the application:

- Banbury Town Council, OCC Highways, and Environment Agency

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

- Banbury Civic Society

2 Letters of objection have been received

Planning Policy

The site consists of the Banbury 19 strategic allocation which proposes 150 units on this site. Other relevant policies are set out at para 7.2 and 7.3 below

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

Conclusion

The key issues arising from the amended application details are:

- Principle of development
- Access and transport impacts
- Car parking
- Flood risk and drainage
- Design, and impact on the character of the area
- Housing mix and affordable housing
- Ecology and biodiversity
- Noise impact assessment
- Climate change mitigation
- Open space and outdoor recreation
- Minerals and waste matters
- Contaminated land
- Planning obligations

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

RECOMMENDATION - GRANT PERMISSION SUBJECT TO CONDITIONS AND A LEGAL AGREEMENT

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

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. This application relates to a 3 hectare site on the eastern side of the railway just south of Banbury railway station. It is currently used as an operational base for waste freighters operated by the applicants. It consists in part of surfaced and unsurfaced yard areas and contains some buildings in workshop and welfare uses.
- 1.2. The site is bounded to the south west by the London-Birmingham rail lines, beyond which lie commercial buildings accessed off Station Approach (the area is known as Power Park). To the north lie 2 and 3 storey houses and 3 and 4 storey flats in Marshall Road and Vernay Road. To the north-east are areas of parking and open space associated with the development off Vernay Road and Chandos Close, and areas of open undeveloped land lie to the south east.
- 1.3. The site is accessed off Higham Way, which in turn are linked through Merton Street to Middleton Road.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. This outline application (with all matters reserved) seeks planning permission for 200 dwellings. Illustrative plans accompanying the application show that the dwellings would be provided in multiple blocks of apartments of three, four and five stories in height. Car parking (at one space per unit) would be provided as undercroft parking in the ground floors of the blocks. Communal landscaped areas and play provision would be provided around the blocks.
- 2.2. The road access to the site would be an extension of Higham Way and would skirt the western side of the site (next to the railway) for most of its length. It is designed to provide a through route from north to south to provide the possibility of onward connection to the land allocated for commercial development in the Cherwell Local Plan to the south, and possibly through to a south eastern perimeter road at some time in the future.
- 2.3. Due to the noise levels on the site, from the adjacent railway and newly opened railway depot, the site will need currently unspecified noise mitigation measure on the western boundary.

3. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
01/01030/OCC	Building to house a material recovery facility	Objections
15/00069/SO	SCREENING OPINION - Proposed	Screening

4. PRE-APPLICATION DISCUSSIONS

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

<u>Application Ref.</u>	<u>Proposal</u>
14/00190/PREAPP	Preapplication Advice - Proposed residential redevelopment
15/00161/PREAPP	Follow-up Pre-App enquiry - Proposed residential development

5. RESPONSE TO PUBLICITY

- 5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 10.10.2018, although comments received after this date and before finalising this report have also been taken into account.

The comments raised by third parties are summarised as follows

Banbury Civic Society's most recent comments are that they are surprised and dismayed that no notice appears to have been taken of the Society's earlier comments. The Society therefore wishes to restate its **objection** to the current application.

It is the Society's view that, if Cherwell Street is to be relieved of traffic for the benefit of the economic health of both the town and residents, then additional east / west 'cross valley' infrastructure will have to be provided. At the moment the only viable option on the table is a South-to-East Link Road from the A361 to Chalker Way (and thence to the M40) via the Bodicote Flyover, and we believe the County Council has accepted this idea in principle, subject, of course, to further study and, possibly, alternative routes - which have not been forthcoming to date.

The Society's outline proposals envisage a link from the S-to-E route to Higham Way in order to provide essential connectivity to the Grimsbury area in general and the railway (east-side) car park in particular, thereby relieving the Merton Street junction and providing a more acceptable access to the car-park from the south and west of the town.

It is perverse, therefore, not to keep this future use of Higham Way in mind when considering any future use and layout of the 'Grundon' site particularly in relation to the alignment and width requirements that the possible extension of Higham Way southwards to junction with any S-to-E road that will be necessary for the predicted traffic load. If such future opportunities are not kept in mind at this stage, then options will be closed that could be to the detriment of the town in the future.

As a second comment, and in the light of recent complaints regarding noise from railway operations, the Society wishes to re-iterate its previous view that the 'Grundon' site would be better utilised for the relocation of businesses displaced from Canalside than for residential purposes, that is unless extensive noise suppression measures are incorporated on the western boundary treatment.

In their original comments the Civic Society also noted that whilst not objecting to housing in this location per se, they wish consideration to be given to the facts that the site is (a) in close proximity to a 24 hr. working railway and (b) is not far from the 24 / 7 rolling stock maintenance depot now under construction. Have noise, light pollution and vibration predictions for this site been supplied?

Two Letters have been received from residents of Marshall Road and Alma Road. Concerns are raised about

- overdevelopment of the site,
- potential to increase peak time congestion on Higham Way, Merton Street, Middleton Road, and Bridge Street
- Parking on residential streets
- Impact on air quality
- Concerns about increased flooding risks
- Noise from increased accessing traffic

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

6. RESPONSE TO CONSULTATION

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

6.2. PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

BANBURY TOWN COUNCIL: would like to object to this application. We believe the development does not comply with policy BSC 3 as the details of the affordable housing within the scheme are unclear or absent. Members also expressed concern over the feasibility and practicality of the new access road between Higham Way and Chalker Way which has been proposed. This leads us to believe that the proposal does not comply with policy SLE 4 "development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported". Members also had some environmental concerns with this development, particularly relating to policy ESD 7 as there does not appear to be a SuDS scheme attached to the proposal.

The scheme is not in line with policy Banbury 19 – Land at Higham Way. Paragraph C.217 states "in principle the site offers a suitable location for development, and would contribute to the creation of sustainable and mixed communities". We do not believe a development consisting totally of one and two bedroom flats in this circumstance could contribute towards creating "sustainable and mixed communities". Policy Banbury 19 also clearly states that a Travel Plan and transport assessment should be submitted with any proposals for the policy area, neither has been submitted by the applicant. Banbury 19 states that the site is fit for approximately 150 units comprising of 70% houses and 30% flats, we do not believe the applicants reasons for submitting a proposal for 200 flats and ignoring this recommendation are strong enough. Lastly, a wholly flatted development such as this is unlikely to provide "an age friendly neighbourhood with extra care housing

and housing for wheel chair users and those with specialist supported housing needs” as stated in policy Banbury 19.

STATUTORY CONSULTEES

- 6.3. ENVIRONMENT AGENCY’s latest comments are that in their response to this application dated 6 August 2018, they objected to this proposal and recommended refusal of planning permission because of the absence of an acceptable Flood Risk Assessment (FRA). In particular, the submitted FRA failed to provide detailed information on the proposed croft parking and underfloor voids regarding losses and gains in floodplain storage, and clarify whether there would be any loss in flood plain storage proposed from the under crofts.

Since that response, they have received additional information. They are pleased to see the clarification that there will be 576.4m³ of flood plain storage gained on this site. They are however concerned, that the proposed undercroft parking drawing prepared by JSA Architects, reference PL-127, has not confirmed whether the proposed undercroft void would be set above the 1 in 100 year flood level with an appropriate allowance for climate change. As no height for this void has been specified on this drawing, it has not been demonstrated whether flood flows would be impeded and if flooding would occur elsewhere. They therefore **maintain their objection** to this proposal as submitted. An update on this Issue will be given in an update to Committee if available.

- 6.4. OXFORDSHIRE COUNTY COUNCIL initially responded in November 2016 raising objections on transport grounds due to the lack of traffic modelling and on drainage grounds. They indicated that there were no objections on education issues subject to the securing infrastructure contributions for secondary, SEN and early years provision. They also sought contributions for library and adult care provision. They further commented that the current waste management facility is being relocated to a nearby site at Thorpe Mead, where planning permission was granted in 2011 for the redevelopment and extension of an existing waste transfer and recycling facility also operated by Grundon. There would therefore be no loss of waste management capacity as a result of the proposed development of the Merton Street site, and the proposed development would not be contrary to policy W11 of the emerging new Minerals and Waste Local Plan: Part 1 – Core Strategy.

Since then there has been detailed negotiation on traffic and transport matters including the provision for the access road to be to adoptable standard and to be built to the southern limit of the site in such a form that it could act as a through road to the BAN 6 site and a potential link road between Chalker Way and Bodicote.

More recently the County Council stressed that the scheme should only be approved if the applicants committed to the delivery of an estate road through the site allowing a future link to the planned Banbury SE link road. In Jan 2018 the County Council withdrew its objection to the scheme on drainage grounds subject to the imposition of a suitable drainage condition.

By October 2018 they indicated that a revised indicative layout plan, PL111G, had been provided, showing a road linking the site access with the southern boundary. The county council welcomed the inclusion of this link road. However, they still had the following comments on the layout and alignment:

- The link road appears sufficiently wide for two-way traffic, but vehicle swept path analysis should be provided to demonstrate this.
- A turning head will need to be provided at the southern end of the road.
- Near block J the edge of the carriageway is very close to the site boundary. There will need to be adequate space for a verge of no less than 1m.

- It is undesirable for the play area to be on the opposite side of the road to the majority of the housing. The crossing points are close to the bend, and sufficient visibility will need to be demonstrated.
- Traffic calming measures will need to be introduced. These could be short narrowings, but this detail can be conditioned.
- There is no footway shown on the railway side of the site. This is acceptable in principle except at the southern end of the site, where there are residential units on both sides of the road. 2m footways would be required on both sides along this section of road, with a suitable crossing point for continuity.
- It is noted that there are no off-carriageway cycle facilities on the road. The application mentions a green pedestrian/cycle route through the heart of the site, but the layout does not show a clear route that would be sufficiently wide, and the route appears to use the road at the northern and southern end of the site. There should be a continuous shared use pedestrian/cycle route 3m wide through the site.
- There are two areas of perpendicular parking proposed along the link road, one of which comprises nine spaces, and the other is close to a bend and blocks visibility from the adjacent access. This is unsuitable for this type of road, due to the risk of reversing vehicles. With adjacent spaces occupied, there would be insufficient pedestrian visibility splay to the back of the footway, and traffic flow would be adversely affected. The county council would not adopt perpendicular parking and would require an 800mm maintenance strip between the back of the spaces and the adopted footway.
- It is recommended further work is done on the road alignment to address the above issues, so that a corridor can be defined and specified in the S106 agreement. It is recommended that, if the development comes forward in phases, the detail of the link road is included in the first reserved matters application, and that no reserved matters layouts are approved at the site that does not include the road.
- Although the layout is indicative, I also note that the side roads do not have turning heads. I am not confident that refuse vehicles and other delivery vehicles could turn in the layout provided, so additional space (potentially taking up parking spaces) may need to be provided for turning. There is then a question as to whether the site could provide sufficient parking for residents.
- I also note that the Proposed Site Plan PL111G is inconsistent with the proposed site access plan, PL-103, which showed a narrower access road. While this is an application for outline planning permission with all matters reserved, the ability of the site to provide safe and suitable access for all road users, should be considered at this stage. The carriageway and footway must tie in with existing facilities on Higham Way. In particular, as the footway at the end of Highway Way is not adjacent to the carriageway (i.e. not as shown in the site layout plan) some highway works will be required to tie the proposed footway within the site, into the footway on Higham Way.

Since then further amended plans have been received and all of the above issues appear to have been satisfactorily dealt with bearing in mind that the layout and access are reserved matters which will be determined later in the planning process.

- 6.5. NETWORK RAIL In their original response in 2016 they commented that the scheme is just to the south-east of Banbury Railway Station, and the proposal also includes works both during construction and as a permanent arrangement in relation to the layout and design of the site that will be undertaken next to the existing operational railway. Having reviewed the documentation as submitted by the developer Network Rail had a whole series of detailed comments on the then

proposed earth bunding and fencing (specifically its stability). They said that acoustic fencing / close boarded fencing that is proposed to be installed along the boundary with Network Rail is a cause for concern. Therefore the acoustic fence and its foundation design would be subject to the Network Rail Asset Protection Engineer review. Any acoustic fencing should be set back from the railway boundary such that the fence and its foundations can be constructed and maintained wholly within the applicant's land ownership footprint. They also had comments about the drainage of the site, likely noised impact of rail operations upon the residents, and congestion of the road network around the station.

In their most recent comments they indicate that all these concerns remain.

6.6. THAMES WATER comment as follows:

Waste Comments

With the information provided Thames Water, has been unable to determine the waste water infrastructure needs of this application. Should the Local Planning Authority look to approve the application ahead of further information being provided, we request that the following 'Grampian Style' condition be applied - "Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed". Reason - The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.

Surface Water Drainage

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

Water Comments

Thames Water recommends the following informative be attached to this planning permission. 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.

Supplementary Comments

Thames Water advises that a drainage strategy should be provided with the details of the points of connection to the public sewerage system as well as the anticipated flows (including flow calculation method) into the proposed connection points. This data can then be used to determine the impact of the proposed development on the existing sewer system

NON-STATUTORY CONSULTEES

6.7. CDC POLICY raise no objection in principle and comment:

The adopted Cherwell Local Plan states that, in principle, the site offers a suitable location for development, and would contribute to the creation of sustainable and mixed communities. Policy Banbury 19 provides greater detail on the Council's site specific requirements. In particular it states that this is an appropriate location for higher density housing to include a mix of dwelling styles and types. Taking advantage of the accessibility of the site to the town centre, development should create an age friendly neighbourhood with extra care housing and housing for wheel chair users and those with specialist supported housing needs. It also states there is potential for live/work units.

Future detailed reserved matters will need to include, inter alia, the following elements to meet the requirements of Policy Banbury 19:

- a) Approximately 70% houses, 30% flats
- b) 30% Affordable Housing
- c) The provision of extra-care housing and the opportunity for community self- build affordable housing.
- d) Open space as outlined in Policy BSC 11 (NB 200 dwellings will meet the threshold for providing NEAPS, LEAPS/LAPS and outdoor sports provision on site)
- e) Developer contributions towards primary school and secondary education provision.

These specific requirements, and the others required to meet Local Plan policies, may limit the number of dwellings able to be accommodated satisfactorily on the site.

6.8. CDC LANDSCAPE ARCHITECT initially commented that they had concerns in respect of future ownership and maintenance responsibility of the sound attenuation wall. This matter will be clarified with the 106 agreement. We at Landscape Services would appreciate being involved in the drafting of the 106 in respect of the sound attenuation wall and the play area and public open space.

I look forward to the submission detailed hard and soft landscape proposals:

All plants are to be supplied in accordance with Horticultural Trade Association's National Plant Specification and from a HTA certified nursery. All plants are to be planted in accordance with BS3936. Trees are to be supplied, planted and maintained in accordance with BS8545. Delivery and backfilling of all plant material to be in accordance with BS4428/JCLI/CPSE Code of Practice for 'Handling and Establishing Landscape Plants, Parts I, II and III.

All excavated areas to be backfilled with either topsoil from site or imported to be BS3882 –General purpose grade. All topsoiled areas to be clear of rocks and rubble larger than 50mm diameter and any other debris that may interfere with the establishment of plants.

6.9. CDC STRATEGIC HOUSING comments that we have no objection to the proposed residential development and there is a 30% affordable housing requirement to be made on site. There should be a mix of tenure within that affordable housing provision of 70/30 rented and shared ownership which should be agreed with the Council.

As stated, our preference would be for some affordable houses to be designed into the scheme. If this is not possible we would need to have some discussions regarding the best use of the affordable housing on this site in terms of client groups and tenure mix.

We would expect to see a mix of houses and flats making up the affordable housing provision, which should include 1,2, and 3 bed units with the majority being 1 and 2 beds.

However, there is still no indication as to how the affordable housing will be provided. The design appears to consist of large blocks of flats over undercroft parking which may cause issues with the clustering of the affordable units and potential mixed tenure blocks. In general we do not like to have 2 bed flats for rent above first floor level.

The affordable units should be delivered in clusters of no more than 10-15 units although this can be discussed further at reserved matters stage, should this be awarded outline permission.

All of the affordable housing units are to be built to the government's Nationally Described Space Standard (Technical Housing Standards), and we would expect that 50% of the affordable rented units meet the Building Regulations Requirement M4(2) Category 2: Accessible and Adaptable Dwellings requirement.

The parking provision does not seem adequate, we would expect that for the affordable units the 1 bedroom properties should have a minimum of 1 parking space per unit – and the 2 and 3 bedroom properties should have a minimum of 2 parking spaces per unit.

There may be scope for some form of specialised housing provision on the site due to its town centre location, which may present a more concentrated affordable housing provision, however this will need to be considered further should the scheme progress.

The Registered Provider taking on the affordable housing units would need to be agreed with the council.

6.10. CDC RECREATION AND LEISURE raises no objections subject to a legal agreement securing necessary infrastructure for the site in the following manner:

On-site outdoor sports facilities (as per the 2018 SPD)

Off-site contribution towards the development of on-site outdoor sports facilities. Based on 1.13ha per 1000 people. 1 dwelling = 2.49 persons. 200no dwellings x 2.49 = 498 x 0.00113ha = 0.56ha requested.

Off-site indoor sports facilities (as per the 2018 SPD):

Off-site contribution towards the expansion and/or enhancement of existing indoor sports facilities within the vicinity of Banbury (more specific information to be provided as the new district sports studies emerge). Based on £335.32 per person. 200 dwellings x 2.49 x £335.32 = £166,989.36.

Community Hall Facilities (as per the 2018 SPD):

In accordance with the recommendation of the 2017 CCDS Study a required community hall facility standard of 0.185m² per person will be applied for applications of 10 dwellings or more. The minimum onsite facility size is 345m² (approx. 750 dwellings). For applications smaller than this, a financial contribution towards existing facilities within the vicinity of the development will be requested. Based on the cost of existing facilities, £298.88 per 1m² will be expected. 200 x 2.49 persons x 0.185m² x £298.88 = £27,535.81.

Public Art Provision:

Financial contributions will be sought for public realm and public art projects listed in the Council's IDP which is updated on an annual basis. Community Services Arts officers to be consulted on a case by case basis for guidance on what projects to request funding towards.

6.11. CDC ENVIRONMENTAL PROTECTION comment:

Air Quality

The Air Quality Assessment referenced 3382/AQ/001 submitted by Accon UK does not include damage cost calculations, which was previously advised would be required.

Noise

The Noise Assessment initially submitted is limited to a desk study of noise break-in only and does not include an assessment of the impact of the LRMD and sidings as previously requested.

With regard to the LRMD reference has just been made to a previous report prepared by Spectrum Acoustics indicating that average operational noise levels from the depot would be approximately 45-50dB(A). It also goes on to state the Spectrum Acoustics report does not discuss maximum levels from the LRMD and therefore these could not be assessed. The LRMD wasn't built in accordance with the application for which the Spectrum Acoustics report was submitted. The noise from the sidings is intermittent with the frequent stopping and starting of engines and the release of air brakes. The assessment therefore needs to be in accordance with the requirements of BS4142 and include corrections for the character of the noise. Quoting an indicative average level from a previous report is not sufficient.

Data for the number of train movements has just been taken from the Rupert Taylor report as 'likely to be 22 passenger trains and 36 freight trains', there is also no data for the number of night-time movements. The assessment needs to be based on current movements.

Further uncertainties with this assessment are detailed in section 3.5 of the report, the last paragraph of which mentions that these would be reduced with a detailed acoustic survey and modelling.

With regard to source height the last paragraph in section 4.1.2 mentions that this cannot be determined without a more detailed site survey. In section 4.2 'Proposed mitigation measures' the last sentence states 'However, we do not have sufficient information to accurately assess this', and in section 4.4 the last sentence states 'Again, we would need more detailed survey information to assess this'.

The submitted report is insufficient and does not address the issues previously raised. As previously advised a detailed noise impact assessment is required to include an assessment of all potential noise sources that might impact on the proposed development site.

Since these comments a further noise report has been submitted. At the time of writing this report the further comments of the EPO were awaited. They are expected to be received before the Committee and will be included in the written update.

6.12. CDC WASTE AND RECYCLING comment that the Developer will have to satisfy the local authority that they have adequate provision for waste and recycling storage, before the application is agreed. Bin stores for flats need to be 1.4 sq.m. and households need space of 1.8 sq.m. If the developer needs any more advice please refer to: Waste and Recycling guidance which can be found on the Cherwell District Council website. Section 106 contribution of £106.00 per property will also be required.

6.13. CDC ECOLOGY

Regarding the above outline application, generally the conclusions of the ecological assessment report are considered to be sound. Since the original habitat survey was undertaken in January 2015, over two years have passed and it is possible that the habitats have become more developed over this time as such updated surveys would be recommended prior to commencement of development. The existing trees should be retained where possible, and all retained trees should be protected in line with the British Standards. Although no evidence of bats was found in the buildings and they are sub-optimal construction for bats, an updated inspection of the buildings should be undertaken prior to demolition works due to the time that has passed since the survey in January 2015. The site comprises large areas of suitable habitat for nesting birds, including the buildings and scrub/trees, as such works should be timed to avoid the nesting bird season (approx. March to August).

The reptile survey was undertaken during April - June 2015, at an appropriate time of year and largely during appropriate weather conditions, although I do note that the temperature during the first visit was cool (6 degrees C) as such no reptiles were likely to have been found. No reptiles were recorded during the survey. As highlighted in the report, a small population of common lizard has been recorded to the north of the site. In addition, a medium population has been recorded to the south of the site (14/01621/F). Given the suitability of the existing habitat within the site from aerial photography and the description (rubble piles), and known records and time since the survey was undertaken, an updated reptile survey should be undertaken prior to any site clearance works commencing, during appropriate weather conditions and at the appropriate time of year (optimal periods are April - June or September-October). I recommend a condition for an updated reptile survey below. The results of which would then inform appropriate mitigation measures should common lizard be present, which should be provided as part of an overarching Construction Environmental Management Plan (CEMP) of the site.

There are no known records of GCN in the local area which appears to have been well surveyed. However as a precaution, great crested newts will need to be considered within the CEMP given the ephemeral pool which is present within the site and ditches present, and an updated assessment of these habitats will be required to inform the CEMP. The site must be cleared sensitively, with ecological supervision of clearance of suitable habitat. Should any GCN be found during works, all works must stop immediately whilst Natural England is contacted for advice and a licence is likely to be required.

From the indicative landscape proposals, I can see that areas of native trees and shrubs are proposed along the north-east boundary of the site and extensive tree planting within the site, including along part of the south-west boundary. The proposed sound bund to the railway line is also a good opportunity to provide biodiversity enhancements within the detailed landscaping. The tree and shrub planting should comprise of a variety of different native species, as these are far more beneficial to biodiversity than non-native species. The detailed landscaping plans should include a suitable buffer to the proposed hedgerows/linear scrub boundaries such as rough grassland/wildflower grassland margins, and be managed

for wildlife to ensure these are protected as functioning wildlife corridors. Although the rough grassland, disturbed ground and scrub habitats will be lost to development, given the large areas of existing hardstanding, it is considered likely that a biodiversity gain will be achievable within any detailed plans provided that biodiversity enhancements are considered at the detail design stage, e.g. through the creation of wildflower grasslands within the proposed landscaping areas, SuDs/swales, and provision of log piles, invertebrate boxes, reptile and amphibian hibernacula in suitable locations along the boundaries of the site. Provision of integrated bat and bird boxes in suitable locations within the proposed buildings are also strongly recommended due to the opportunities within the built environment, e.g. sparrow terraces, bat tubes/boxes etc. Given the swift records in the local area, at least 10 swift bricks should also be incorporated into the walls of the buildings in suitable locations to be advised by an ecologist. Further information can also be provided by the swift conservation officer for Cherwell. In line with the report, the design of the lighting scheme should also consider the use of the site by foraging and commuting bats. A detailed landscape and ecological management plan (LEMP) of the site should include all details of appropriate habitat creation and long term management across all phases of the development.

I therefore have no objections subject to the conditions below:

K9 Reptile Survey

K12 Nesting Birds: No Works Between March and August Unless Agreed

K18 Habitat Boxes

K20 Landscape and Ecological Management Plan (LEMP)

K21 Construction Environmental Management Plans (CEMP) for Biodiversity

K23 Use of Native Species

6.14. CDC FINANCE

It is estimated that this development has the potential to attract New Homes Bonus of £858,800 over 4 years under current arrangements for the Council. This estimate includes a sum payable per affordable home.

6.15. THAMES VALLEY POLICE

I do not wish to object to the proposals. However, I consider some aspects the design and layout to be problematic in crime prevention design terms and therefore feel that the development may not meet the requirements of:

- The National Planning Policy Framework 2018, Section 12 'Achieving well-designed places', point 127 (part f), which states that; 'Planning policies and decisions should ensure that developments... create places that are safe, inclusive and accessible... and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience'.
- HMCLG's Planning Practice Guidance on 'Design', which states that; 'Although design is only part of the planning process it can affect a range of objectives... Planning policies and decisions should seek to ensure the physical environment supports these objectives. The following issues should be considered: safe, connected and efficient streets... crime prevention... security measures... cohesive & vibrant neighbourhoods.'

In addition, the Design and Access Statement (DAS) does not adequately address crime and disorder as required by CABE's 'Design & Access Statements- How to write read and use them'. This states that DAS' should; 'Demonstrate how development can create accessible and safe environments, including addressing crime and disorder and fear of crime'. I

suggest the omission of a section on crime and disorder prevention is addressed at reserved matters.

In addition, I offer the following advice in the hope that it will assist the authority and applicants in creating a safer and more sustainable development, should outline approval be granted:

- I am concerned about the provision of undercroft parking. These features can attract antisocial behaviour (ASB) and make vehicles and people vulnerable. This design also creates a development with little or no active frontage to the street at ground level, which can have a negative effect on community interaction. I would prefer to see designs amended to omit the undercrofts or convert them to secure garages. If they must remain, they should be made secure, have appropriate lighting and be overlooked by active rooms of dwellings.
- Blocks A and G have vehicle routes under/through the block. This design can cause the same issues as the above and should be omitted. Again, if they must remain, they should have appropriate lighting and be overlooked by active rooms of dwellings.
- It is unclear from the plans supplied if any of the flat blocks have rooms of dwellings on the ground floor. Regardless, but especially if this is the case, there should be defensible space provided for each of the blocks. An area of at least 1m in depth should be provided to afford the occupants ownership of their private space and provide definition from public areas.
- I note that some flats have balconies. There should be no easily climbable access to these as this will make the blocks more vulnerable to burglary etc.
- The landscaping scheme should ensure that natural surveillance throughout the development and to/from dwellings is not compromised. I am also concerned that some trees and other features may impinge upon street lighting in future. Tree positions and final growth height/spread should be considered to avoid this. A holistic approach should be taken in relation to landscape and lighting and the police's Secured by Design (SBD) scheme guidance on both should be followed.
- The landscaping scheme and maintenance plan must ensure that areas of ambiguous ownership are not created. Measures to prevent vehicle intrusion onto any segregated pedestrian routes and public open spaces must also be provided.
- The design of play areas etc. require careful consideration in relation to proximity to housing, equipment selection (to define user group age etc.), boundary treatment, lighting and landscaping etc. The designs should promote ownership and enjoyment for all users as well as child safety, but they should also deter ASB. Locations must not isolate users and natural surveillance must be maintained.
- I feel there are too many pedestrian routes from the proposed development to the adjacent recreation ground. I believe two would be sufficient and designs of the bridges and an appropriate lighting plan for these routes should be provided prior to submission of a reserved matters application.
- I note that the south facing gable end elevations of the blocks appear to have no windows. Although I am sure the views of the rail lines are not very desirable, there should be oversight of the access road and open spaces at the southern edge of the development from active rooms of the dwellings. Active rooms include living rooms, kitchens and hall ways. Studies, bedrooms, bathrooms/toilets etc. are not considered active.
- Finally, I will have much to advise on at reserved matters in relation to the security of the blocks themselves. Physical security, access control, internal layout, delivery provision, refuse and cycle storage etc. all needs careful consideration. I am of course available to advise the applicants on these aspects should outline approval be granted.

- I would also like to remind the applicants that Building Regulations Part Q requires them to install doors and windows that 'Resist unauthorised access to... new dwellings'. Advice on how to achieve this can be found in Building Regulations Approved Document Q and in SBD's New Homes Guide. The authority may wish to condition that the development incorporates the physical security principles/standards of SBD as this would ensure Part Q is also achieved

The comments above are made on behalf of Thames Valley Police and relate to crime prevention design only. You may receive additional comments from TVP on other Policing issues regarding infrastructure etc. (CDC officers note – no further comments received).

7. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

- Policy PSD 1: Presumption in Favour of Sustainable Development
- Policy SLE4 Improved Transport and Connections
- Policy BSC 1: District Wide Housing Distribution
- Policy BSC 2: The Effective and Efficient Use of Land
- Policy BSC 3: Affordable Housing
- Policy BSC 4: Housing Mix
- Policy BSC 11 : Local Standards for Outdoor Recreation
- Policy ESD 1: Mitigating and Adapting to Climate Change
- Policy ESD 2: Energy Hierarchy and Allowable Solutions
- Policy ESD 3: Sustainable Construction
- Policy ESD 4: Decentralised Energy systems
- Policy ESD 5: Renewable Energy
- Policy ESD 7: Sustainable Drainage Systems (SuDs)
- Policy ESD 10: biodiversity
- Policy ESD 15: The Character of the Built and Historic Environment
- Policy Banbury 19: Land at Higham Way

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- Policy C28: Layout, Design and External Appearance of New Development.
- Policy C30: Design Control

- Policy ENV12: Development on Contaminated Land

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Relevant Policies of the Non-Statutory Cherwell Local Plan 2011
 - Policy EN 8: Development sensitive to rail traffic
 - Policy EN 14: Development and Flood Risk
 - Policy EN 15: Surface water run-off and flooding
 - Policy EN 17: Development on contaminated land
- Oxfordshire Minerals and Waste Local Plan: Part 1
 - Core Strategy (2015) policy W11

8. APPRAISAL

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

- Principle of development
- Access and transport impacts
- Car parking
- Flood risk and drainage
- Design, and impact on the character of the area
- Housing mix and affordable housing
- Ecology and biodiversity
- Noise impact assessment
- Climate change mitigation
- Open space and outdoor recreation
- Minerals and waste matters
- Contaminated land
- Planning obligations

Policy Context

- 8.2. 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.
- 8.3. 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.

- 8.4. 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.
- 8.5. 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.
- 8.6. 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.
- 8.7. The application site is identified as a strategic residential development site under Cherwell Local Plan Policy Banbury 19. This policy is therefore fundamental to the consideration of the application as 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 '*a redevelopment that would bring about environmental benefits in terms of using previously developed and vacant land within the town*'. The policy further specifies that the dwelling mix shall 30% affordable housing with a dwelling mix of 70% houses and 30% flats with opportunities for extra-care housing and self-build.
- 8.8. The Plan also includes a number of other relevant policies to this application, including those related to sustainable development, transport, flood risk, ecology, environment and design. These policies are all considered in more detail in the appraisal below.
- 8.9. 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

- 8.10. 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 2018-2023 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 12th 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.
- 8.11. Given the proposed development is allocated for residential development under Policy Banbury 19, the principle of developing the site for residential purposes is established. Whilst the proposed allocation refers to approximately 150 dwellings, this application seeks consent for up to 200 dwellings and is therefore technically 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 without causing undue harm and subject to complying with other policies in the plan and other material considerations.

Access and transport impacts

- 8.12. Access for vehicles, cyclists and pedestrians is proposed by means of a 5.5m wide road with one footway connecting into Higham Way. Higham Way itself is adopted highway although comparing the original site plan and the highway records suggested that there is a gap between the adopted road and the planning application site boundary. This has now been corrected. As noted at para 6.4 above the traffic and transport implications of this proposal have been analysed and the subject of discussion over the time period that this application has been processed.
- 8.13. Following initial concerns, due to the lack of adequate modelling, about the possible impact upon the Merton Street/Bridge Street junction, further assessment work was undertaken. The County Council, as local highway authority, are now content that the addition of the traffic produced by the development would not cause severe harm to this part of the local highway network.
- 8.14 The County Council also initially expressed the view that the development provided the opportunity to provide a road linkage southwards across this site and into the BAN 6 policy area allowing a future connection through to the South East Link road identified in the OCC Local Transport Plan 4. A road through this development linking into the adjoining Banbury 6 site would help to mitigate the impact of this site and wider Cherwell Local Plan growth in Banbury. A South East Link Road has been identified in the county council's LTP4 linking Chalker Way to Bankside. The benefits of this road will be greatly enhanced if a vehicular link through to this development site (Banbury 19) is made. At present only two roads cross the railway in Banbury (Bridge Street and Hennen Way). Providing a route from Grimsbury into the proposed South East Link Road via Higham Way and the proposed development site will provide greater connectivity and access from the Grimsbury area to southern Banbury, the eastern employment areas, and the motorway/strategic road network beyond. Without the link from Higham Way to the South East Link Road, the existing connectivity and access issues at Grimsbury will be exacerbated. The road link between this development site and Banbury 6 should be secured through a S106 agreement. In order for the road link to safely accommodate cars and buses it should be at least 6.5m wide.
- 8.15 The illustrative plan for the scheme has now been amended to show the ability to construct a road of appropriate alignment and construction from Higham Way to the boundary of the site.
- 8.16 The County Council have commented that over and above what is required to mitigate the direct impacts of a development in this location, development that is likely to create general demand for new transport infrastructure, or overload the existing off-site transport infrastructure and/or traffic management arrangements, will be expected to contribute to future measures (to be undertaken by public authorities) designed to mitigate the impact. They calculate that an appropriate contribution (based on all flats being two-bedroomed) would be £145,464. The basis of this calculation seems reasonable and can be justified.
- 8.17 Policy Banbury 19 in the Cherwell Local Plan sets out how this development should encourage walking and cycling, particularly in the local area. One of the policy's key site specific design and place shaping principles is:

“A layout that maximises the potential for walkable neighbourhoods and enables a high degree of integration and connectivity between new and existing communities. New footpaths and cycleways should be provided that link to existing networks “

As such it is welcome that potential links are shown on the illustrative proposed site plan that lead to the open space to the north east of the site. These connections will need to be secured by means of the S106 agreement. The connections must then lead to Padbury Drive so that onward journeys can be made to Thorpe Way which will give access to the employment area there. The illustrative plans thereby indicate that compliance with that element of Banbury 19 can be achieved.

- 8.18 With regards to public transport this site is located some 800 metres from bus services passing along Middleton Road and Bridge Street to Banbury Town Centre. In the opposite direction, buses extend beyond Grimsbury to Brackley (service 200); to Daventry (service 500) and to the Gateway Retail Park (service B6). The Banbury bus strategy includes a proposal to develop a cross-town route between the Gateway Retail Park, from employment areas to the north-east of Banbury, through Grimsbury and the Town Centre towards Bretch Hill in the western suburbs. This service would provide direct links between residential and employment areas on opposite sides of the town, that currently do not exist. The County Council suggest that the developers of this site should be required to contribute £1,000 per dwelling towards the delivery of the new east-west public transport corridor through Banbury. Residents of the Higham Way development would then have access to a frequent bus service to the Banbury Cross area and to the various facilities such as educational and medical facilities in this area. This contribution is matched by an equivalent per-dwelling contribution from a development site in Bretch Hill and will be matched by requests to other developers along this corridor.
- 8.19 Whilst there are no public rights of way that actually cross the site, there are a number that are close and which will see increased usage if the development is permitted. The routes potentially provide a useful route for pedestrians to get access to the Chalker Way industrial/employment area. In their current state they are not suitable for increased pedestrian usage. The County Council therefore seeks the developer to pay a contribution of £30,000 towards an upgrade of the route – specifically improvements to the surfacing. This would help provide a suitable route to this employment area from the development, showing that the applicant has considered all opportunities for sustainable transport modes in line with the NPPF.

Car parking

- 8.20 Car parking is proposed at just over 1 space per dwelling allowing a limited number of visitor spaces. This is considered acceptable given the proximity of railway station, the funding to improvements of the public transport system, and the proximity of the town centre and schools. In their original comments OCC expressed the view that more car parking as required, but more latterly has not made any further comment on this, and has few remaining concerns.

Flood risk and drainage

- 8.21 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.

- 8.22 A Flood Risk Assessment was originally submitted with the application, and following initial objections from the Environment Agency and OCC as lead local flood authority a revised document was submitted. The Environment Agency (EA) Flood Zone map shows the site lies partly within Flood Zone 3 'High Probability' area for the River Cherwell, defined as follows:

Flood Zone 3 'High Probability' (greater than 1 in 100 (1.0%) annual probability of river flooding or greater than 1 in 200 (0.5%) annual probability of sea flooding)

The Flood Zone classification ignores the presence of flood defences. However, the detailed EA flood data confirms that the site is offered up to a 1 in 200 year (0.5% annual probability) standard of protection from the Banbury Flood Alleviation Scheme (Banbury FAS), which opened in 2012.

- 8.23 In their latest response the EA comment that

"In our response to this application dated 6 August 2018, we objected to this proposal and recommended refusal of planning permission because of the absence of an acceptable Flood Risk Assessment (FRA). In particular, the submitted FRA failed to provide detailed information on the proposed undercroft parking and underfloor voids regarding losses and gains in floodplain storage, and clarify whether there would be any loss in flood plain storage proposed from the under crofts.

Since our response, we have received additional information. We are pleased to see the clarification that there will be increased flood plain storage gained on this site. We are however concerned, that the proposed undercroft parking drawing ..., has not confirmed whether the proposed undercroft void would be set above the 1 in 100 year flood level with an appropriate allowance for climate change. As no height for this void has been specified on this drawing, it has not been demonstrated whether flood flows would be impeded and if flooding would occur elsewhere. We therefore maintain our objection to this proposal as submitted".

Your officers are awaiting confirmation that this issue has been satisfactorily resolved.

Design and impact upon the character of the area

- 8.24 The illustrative plans and asymmetric views of the proposed development show the 200 units being provided in 12 blocks of 3-5 storey flats. These blocks are orientated to be set at an angle to the railway line to minimise noise nuisance and to maximise sunlight to the dual aspect flats and the intervening courtyards. It is proposed that a large percentage of the car parking would be under the flat blocks in under crofts. This will produce a distinctively different form of development, albeit that there are other forms of flat development to the north and east of the application site in Marshall Road and Vernay Road.
- 8.25 The site is long narrow and not regularly shaped, and consequently it is difficult, if not impossible, to envisage a layout in a traditional street format. Given the need to accommodate over 150 units (see later in the report for the justification of the number of units proposed) the scheme, of necessity, requires an approach using multiple flat blocks to be used. High density schemes were envisaged in Policy

Banbury 19. The illustrative material shows an innovative layout and potential design for the blocks which deals with the competing pressures of parking, the provision of open space, the need to provide the through route, and providing the best possible living conditions for future residents of the development.

- 8.26 The use, in part, of four and five storey blocks of flats has been assessed both in terms of its impacts upon wider views and from the immediate vicinity of nearby residential property and the railway. The southern end of the site is potential visible in the wider views from Bankside and the canal and from closer views from the roadway leading from the station to Banbury United FC. The illustrative layout plans show a reduction in building height at the southern end of the site. In your officers opinion this impact would be acceptable and not overly intrusive.
- 8.27 The northern end of the site tucks into the corner created by existing development of Marshall Road and Vernay Road which is predominantly four and three storey developments respectively. This relationship and the character of the existing and proposed development are considered to be compatible.

Housing mix and affordable housing

- 8.28 Policy Banbury 19 requires that 30% of the new dwellings provided on the site shall 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). In the original application the applicant has indicated a commitment to provide such affordable housing but an issue has arisen with regard to the viability of the site. See section below on the planning obligation. Any affordable housing will need to be secured through a section 106 agreement.
- 8.29 Policy Banbury 19 also indicates that the dwelling mix aimed for on this site should be 70% houses and 30% flats. The submitted scheme deviates from that dramatically as it is proposed to be made up entirely of flats, and with an additional 50 units over and above the 150 proposed in the allocation. Policy BSC4 relating to housing mix 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. The development economics of this site (influenced significantly by the high cost of remediation of the site) have led the applicant to promote the site for a denser development than envisaged in the Local Plan policy to make the site feasible for development. In your officers opinion the provision of either 150 units (as proposed in BAN 19), or the 200 proposed in this application, would results in the need to produce a scheme made up of all flats given the shape of the site, the need to accommodate car parking, the through route for the road, and the provision of necessary open space and play space.
- 8.30 In the Strategic Housing Officers comments they raise no objections but then confusingly refer to seeking a mixture of houses and flats and indicating that they try not to agree 2-bed flats above first floor level. Whilst this may be desirable, as Development Management officers we do not consider that anything other than a scheme of all flats is feasible and deliverable on this site, and that therefore this exclusion of houses should be agreed.

Ecology and Biodiversity

- 8.31 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.
- 8.32 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.
- 8.33 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.
- 8.34 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.
- 8.35 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.
- 8.36 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.
- 8.37 The application is supported by an Ecological Assessment that concludes that subject to appropriate mitigation, on the basis of current evidence, there are not considered to be any overriding ecological reasons why the site could not be developed. The Council's Ecology Officer has commented that generally the conclusions of the assessment are considered sound and raises no objections subject to conditions covering issues such as the need for a further reptile survey; protection of nesting birds; provision of nesting boxes; the need for Management Plans for landscape and ecological management and construction management. This issue is therefore considered acceptably dealt with by the imposition of conditions.

Noise impact

- 8.38 A revised noise impact report was received on 16 May 2019. The significant noise sources affecting the site are:

- Diesel locomotives on the rail line on the site's southern boundary;
- Activities taking place at Chiltern Railway's Light Maintenance Depot close to the site's south-eastern boundary;
- Road traffic on the M40 approximately 950m east of the site;
- Noise from the industrial estate approximately 300m north-east of the site.

- 8.39 The conclusions of that report are that due to the relatively high noise levels across the site the dwellings cannot be ventilated by openable windows and meet the internal noise criteria set out by the Council. It is proposed to install a noise barrier along the south-west boundary of the site. They recommend that the proposed barrier should be a total of 6 metres high and can be a combination of earth bund topped with a fence if achieving this height is difficult with either bund or fence alone. Fencing should have no holes or gaps and be made of an appropriate dense material. It is also proposed that the flats shall be fitted with various grades of acoustic double glazing depending on whether the windows are facing the railway or other directions. With the proposed mitigation measure and the facade treatments in place, internal noise levels should comply with the noise criteria set out by the Council. External amenity areas across most of the site meet the recommended levels set out in BS8233. They have assessed the noise from the Light Maintenance Depot to the south west of the site according to BS4142:2014. The proposed dwellings will require noise control measures to avoid significant adverse impacts at night.
- 8.40 It will be noted that one element of the noise mitigation is the installation of tall fencing and/or bunding. Comments on the visual impact of such mitigation measures is referred to at para 8.45 below.
- 8.41 At the time of writing this report the further comments of the EPO had not been received. These will be reported to Committee in the written update

Climate Change mitigation

- 8.42 The applicant has submitted an energy statement. The applicants indicate that they intend to follow a fabric-first policy and propose the installation of triple glazing to improve acoustics and heat loss; solar pv on all south facing roof slopes; mini wind turbines per block; and communal heating systems consisting of air source heat pumps, ground source heat pumps and biomass boilers. The proposal will therefore be able to comply with the ESD policies of the Local Plan and with the relevant bullet point in Policy Banbury19 . This exemplary approach will be secured by condition

Open space and recreation

- 8.43 The submitted illustrative layout indicates that the areas between the multiple blocks will be separated by communal soft landscaping areas. It is intended that there will be either on-site play provision or the possibility of enhancing nearby spaces. The applicants indicate that the distribution of open space has evolved by taking into account the need to link into existing neighbourhood spaces. Residential areas will be characterised by street trees, landscaped verges, with the inclusion of a green link running through the heart of the site interrupting the building pattern and softening the street scenes.
- 8.44 At para 6.5 above the views of the Council's Recreation and Leisure team are reported. It will be seen that they seek contributions towards indoor sports facilities, and the provision of on-site outdoor facilities. No such facilities are

proposed, and there is not sufficient land available to provide them. Policy Banbury 19 does not require on-site provision, albeit that Policy BSC11 indicates that new development should contribute to the provision of open space, sports and recreation. This on-site shortfall would therefore need to be overcome by a further contribution via the legal agreement that secures other infrastructure contributions.

- 8.45 Due to the noise climate on the site it will be necessary to place a continuous noise bund/fence combination along the railway boundary. Careful attention will be needed to the appearance of this, especially on the site side of that structure, which otherwise could have a dominant appearance. Along approximately half of its length there will be good opportunities for screen planting, but at other points, because of the alignment of the internal access road such opportunities are more limited. It will be necessary to carefully consider the form of the noise mitigation structure at reserved matters stage.

Minerals and waste matters

- 8.46 The proposed development site includes a waste transfer station operated by Grundon. This site is proposed to be safeguarded for waste management use in the submitted Oxfordshire Minerals and Waste Local Plan: Part 1 – Core Strategy (2015) (policy W11 and Appendix 2).

This waste management facility is being relocated to a nearby site at Thorpe Mead, where planning permission was granted in 2011 for the redevelopment and extension of an existing waste transfer and recycling facility also operated by Grundon. There would therefore be no loss of waste management capacity as a result of the proposed development of the Merton Street site, and the proposed development would not be contrary to policy W11 of the emerging new Minerals and Waste Local Plan: Part 1 – Core Strategy, and consequently OCC do not object to the proposal.

Contaminated land

- 8.47 The site was initially developed as a gasworks in the late 1880s and was further expanded in the 1930s and 40s with a railway line that was present in the central and western parts of the site. The site was decommissioned between 1955 and 1978, however, some historical structures remained.

Historical decommissioning of Gasworks generally comprised the levelling of a site with the retention of in ground structures. Previous site investigation has identified the remnants of below ground structures including the gasworks house, tar and liquor wells, retort house, carburetted water gas (CWG) plant and purifier and below ground storage tanks. Following the decommissioning of the site as a gasworks the site was used for scrap metal storage, a steel fabricators and more recently a waste collection depot.

- 8.48 The site was the subject of previous intensive site investigation. Significant soil contamination has been identified, mainly associated with the former gasworks (particularly the tar wells) and former structures in the northwest of the site up to a depth of 5m below ground level. Additional contamination has been recorded in the south of the site including asbestos contaminated ground and fly-tipped rubbish. The primary soil contaminants of concern have been identified to be Total Petroleum Hydrocarbons (TPH), Polycyclic Aromatic Hydrocarbons (PAHs), Ammonia, Cyanide, Heavy Metals, Phenols, asbestos and BTEX compounds

- 8.49 As a result of the findings above the site will require extensive remediation. The Council's Environmental Protection Manager has commented that if planning consent were to be granted he would recommend the standard contaminated land conditions be applied to any consent. The submitted reports meet the

requirements of conditions concerning a desk study/site walk over and for an intrusive investigation.

Planning Obligations

8.50 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.

8.51 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:

In summary the overall heads of terms sought by OCC and CDC amount to

Cherwell District Council

- 30% affordable housing
- Provision of on-site public open space and future maintenance arrangements – potentially this would be dealt with by a management company
- Financial contribution towards the provision of off-site outdoor sports pitches, and financial contribution for future maintenance arrangements
- Financial contribution towards community hall facilities
- Financial contribution to indoor sports improvements at Spiceball
- Provision of on-site children's play provision and financial contribution for future maintenance (again potentially by management company); or contribution to improvement of nearby play provision
- Provision of on-site SuDS drainage and financial contribution for its future maintenance
- Public art provision on site
- Financial contribution towards police infrastructure

Oxfordshire County Council

- Strategic transport contribution
- Vehicular/pedestrian/cycle connection to Banbury 6 Site
- Pedestrian/cycle connections to north-east – including improvements to public rights of way
- Public transport – bus services contribution
- Travel plan monitoring contribution

- Section 278 highway works – to connect to Higham Way
- Early years education contribution
- Secondary education contribution
- Special Education Needs contribution
- Financial contribution towards Libraries and adult day care

8.52 It is recognised that the need for the remediation of the contamination of this site adds significantly to the cost of developing the site and has a significant impact upon the viability of the site. The applicant has submitted a confidential detailed site viability assessment and the Council have had that document independently reviewed. As part of that external review detailed examination was given to the applicants costs and a revised conclusion was agreed. In simple terms the conclusion is that due to the exceptional costs of site restoration the development of the site is not viable if both the normal affordable housing requirement is met and full Section 106 payments are made. The latter amount to in excess of £2.1 million for the District and County Council contributions.

8.53 Your officers have been working on the assumption that the Council will wish to seek to ensure that this site provides at least some affordable housing. In the light of the above it will be necessary to seek the overall extent of financial payments to be reduced. As a guide the applicants have indicated that if the infrastructure contributions were reduced to £1.1 million then it should be possible to provide in the region of 9% affordable housing. Clearly there is the need for complex three-way negotiations between the applicants and both Councils to conclude a level of contributions and affordable housing that are acceptable. Difficult decisions about foregoing elements of essential infrastructure are necessary if this scheme is to be approved. Whilst these discussions are on-going they will not be concluded by the date of Committee. It is therefore recommended that the Committee indicate their general agreement to this scheme subject to achieving a satisfactory resolution of the planning obligation issues. Any views expressed by the Committee can of course be taken into account in the negotiations.

8.54 Some of the shortfall in either affordable housing or infrastructure contributions may be eligible to be enhanced by seeking Growth Deal money. This possibility will be pursued separately.

9. PLANNING BALANCE AND CONCLUSION

9.1. This site is allocated under Policy Banbury 19 for residential development. However it is a difficult site to develop because of its shape, the need to provide a through route from Higham Way to the south to connect to the Policy Banbury 6 site and hence to the proposed South East Link Road, the cost of remediation of the contaminated land, and the high noise levels on the site. The applicants are proposing that in order to meet these demanding requirements that the density of development is increased to make the site feasible/viable to develop at all.

9.2. In your officers opinion this increase in density is necessary. Given the size and shape of the site this increase is only possible if the scheme becomes all flats. Whilst this is contrary to Policy Banbury 19, not agreeing to such an increase in density and the consequent omission of houses may result in the land not coming forward for residential development with the consequent impact upon housing

delivery. Any reduction in density and hence housing unit numbers will only worsen the viability of the site.

- 9.3. The design of the layout of the proposal has been revised to ensure that a through route can be provided across the site so that a future link from Merton Street to the proposed South East Link Road can be safeguarded. Other aspects of Policy Banbury 19 and other relevant policies are met.
- 9.4. Clearly the issue of noise levels on the site, and the need for extensive mitigation to create an acceptable residential amenity level are important. It is hoped that this matter can be dealt with by conditions. The final views of the EPO are awaited.
- 9.5. Due to the lack of viability of the scheme, driven by the high remediation costs, it is necessary to strike a balance between affordable housing and other infrastructure contributions. It is recommended that provided Members find other aspects of the proposal acceptable that the recommendation set out below is accepted allowing negotiations to proceed with confidence that if an acceptable conclusion is reached then planning permission will be forthcoming. Failure to reach agreement would of course result in the application returning to Committee.

10. RECOMMENDATION

That permission is granted, subject to (i) the satisfactory resolution of the outstanding drainage and noise issues; (ii) the following conditions (with delegated authority given to the Senior Manager Development Management to add to or amend conditions as deemed necessary) and (iii) subject to the applicants entering into a legal agreement in the terms set out in para 8.51 above as amended by on-going negotiations with regards to affordable housing and the overall infrastructure costs

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

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, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended). In the case of the reserved matters, no application for approval shall be made later than the expiration of three years beginning with the date of this permission.

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

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, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

3. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and documents: Application

forms , Design and Access Statement, Energy Statement, and drawings numbered: [insert]

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

4. Prior to the commencement of development hereby approved, a phasing plan covering the entire application site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved phasing plan and each reserved matters application shall only be submitted in accordance with the terms of the approved phasing plan and refer to the phase (or phases) it relates to as set out in the approved phasing plan.

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

5. All reserved matters submissions within an approved phase (where buildings are proposed) shall be accompanied by details of the proposed finished floor levels of all proposed buildings in relation to existing surrounding ground levels for that phase shall be submitted as part of the reserved matters application. Where the floor level details are approved as part of the reserved matters approval, the development in that phase shall be undertaken in accordance with the approved levels.

Reason - To ensure that the proposed development is in scale and harmony with its neighbours and surroundings 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

6. Prior to the commencement of the development hereby approved, the buildings and structures on the site at the date of this permission shall be demolished and the debris and materials removed from the site.

Reason - In order to achieve a satisfactory form of development, to ensure that the site is not overdeveloped 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.

7. No more than 200 dwellings shall be accommodated on the site.

Reason - In order to achieve a satisfactory form of development, to ensure that the site is not overdeveloped 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.

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

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

9. Prior to the first occupation of any of the dwellings hereby approved, all of the estate roads and footpaths (except for the final surfacing thereof) shall be laid out, constructed, lit and drained in accordance with Oxfordshire County Council's 'Conditions and Specifications for the Construction of Roads' and its subsequent amendments.

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.

10. Prior to the first occupation of any dwelling hereby approved the main access road shall be completed in accordance with condition 10 above to a point on the south-east boundary to be first agreed with the Local Planning Authority

Reason - In order to secure the proper planning of the area and the development of adjoining land and to safeguard the opportunity to provide a link to the proposed South East Link Road

11. Prior to the commencement of the development hereby approved, a detailed drainage strategy for the surface water and foul sewage drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, and prior to the commencement of any building works on a phase of the development a detailed surface water and foul water drainage scheme shall be carried out and prior to the first occupation of any building to which the scheme relates the approved foul sewage drainage scheme shall be implemented. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".

The strategy shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development. The phases shall subsequently be implemented in accordance with the approved details before the development is completed. The schemes shall also include:

- Discharge Rates
- Discharge Volumes
- Maintenance and management of SUDS features (this may be secured by a Section 106 Agreement)
- Sizing of features – attenuation volume
- Infiltration tests to be undertaken in accordance with BRE365
- Detailed drainage layout with pipe numbers
- SUDS (list the suds features mentioned within the FRA to ensure they are carried forward into the detailed drainage strategy)
- Network drainage calculations
- Phasing plans
- Flood Risk Assessment

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

12. Prior to the commencement of the development hereby approved, full details of a scheme for acoustically insulating all habitable rooms within the dwelling(s) such that internal noise levels do not exceed the criteria specified in Table 4 of the British Standard BS 8233:2014, 'Guidance on sound insulation and noise reduction for buildings', shall be submitted to and approved in writing by the Local

Planning Authority. Thereafter, and prior to the first occupation of the dwelling(s) affected by this condition, the dwelling(s) shall be insulated and maintained 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.

To be reviewed once EPO comments received

13. Prior to the first occupation of any dwelling a noise barrier to perform in accordance with the requirements of the submitted noise report shall be installed and thereafter retained in situ

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.

To be reviewed once EPO comments received

14. 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.

15. If remedial works have been identified in condition 14 above the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 15. 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.

16. 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.

17. Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance or the translocation of any reptile, a reptile survey (which shall be in accordance with best practice guidelines) shall be carried out, and the findings, including a mitigation strategy if required, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works of mitigation 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 the National Planning Policy Framework.

18. No removal of hedgerows, trees or shrubs nor works to, or demolition of buildings or structures that may be used by breeding birds, shall take place between the 1st March and 31st August inclusive, unless the Local Planning Authority has confirmed in writing that such works can proceed, based on health and safety reasons in the case of a dangerous tree, or the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site.

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.

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

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

accordance with the approved details.

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

21.No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:

- i) Risk assessment of potentially damaging construction activities;
- j) Identification of 'Biodiversity Protection Zones';
- k) 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);
- l) The location and timing of sensitive works to avoid harm to biodiversity features;
- m) The times during construction when specialist ecologists need to be present on site to oversee works;
- n) Responsible persons and lines of communication;
- o) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- p) 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 the National Planning Policy Framework.

22.Reserved matters applications made for any phase as defined in the approved phasing plan shall be in general accordance with the submitted Energy Strategy and shall be the subject of a further energy statement that demonstrates how the development in that phase will take the opportunities available to improve energy efficiency and incorporate low carbon technology to minimise environmental impact. No dwelling shall be occupied until it has been constructed to meet the energy performance standard in accordance with the approved details.

Reason - To ensure sustainable construction and reduce carbon emissions in accordance with Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework. Details are required at pre-commencement stage to ensure that from the outset each dwelling is designed and constructed to achieve a high level of fabric efficiency in the interests of environmental sustainability.

23.Prior to the commencement of each successive phase of the development hereby approved, full details of the location, method of storage and disposal of all means for the disposal of domestic waste from the flats shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development

shall be carried out and maintained in accordance with the approved details.

Reason – To ensure that proper arrangements are made for the disposal of manure/slurry/waste, to ensure the creation of an environment free from intrusive levels of odour/flies/vermin/smoke/litter and to prevent the pollution of adjacent ditches and watercourses, in accordance with Policies AG5 and ENV1 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

24. Prior to occupation of any phase of the development a residential travel plan shall be submitted to and approved by the local planning authority in consultation with the local highway authority. The plan shall incorporate details of the means of regulating the use of private cars at the development in favour of other modes of transport and the means of implementation and methods of monitoring.

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.

25. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Construction Traffic Management Plan shall be implemented and operated in accordance with the approved details.

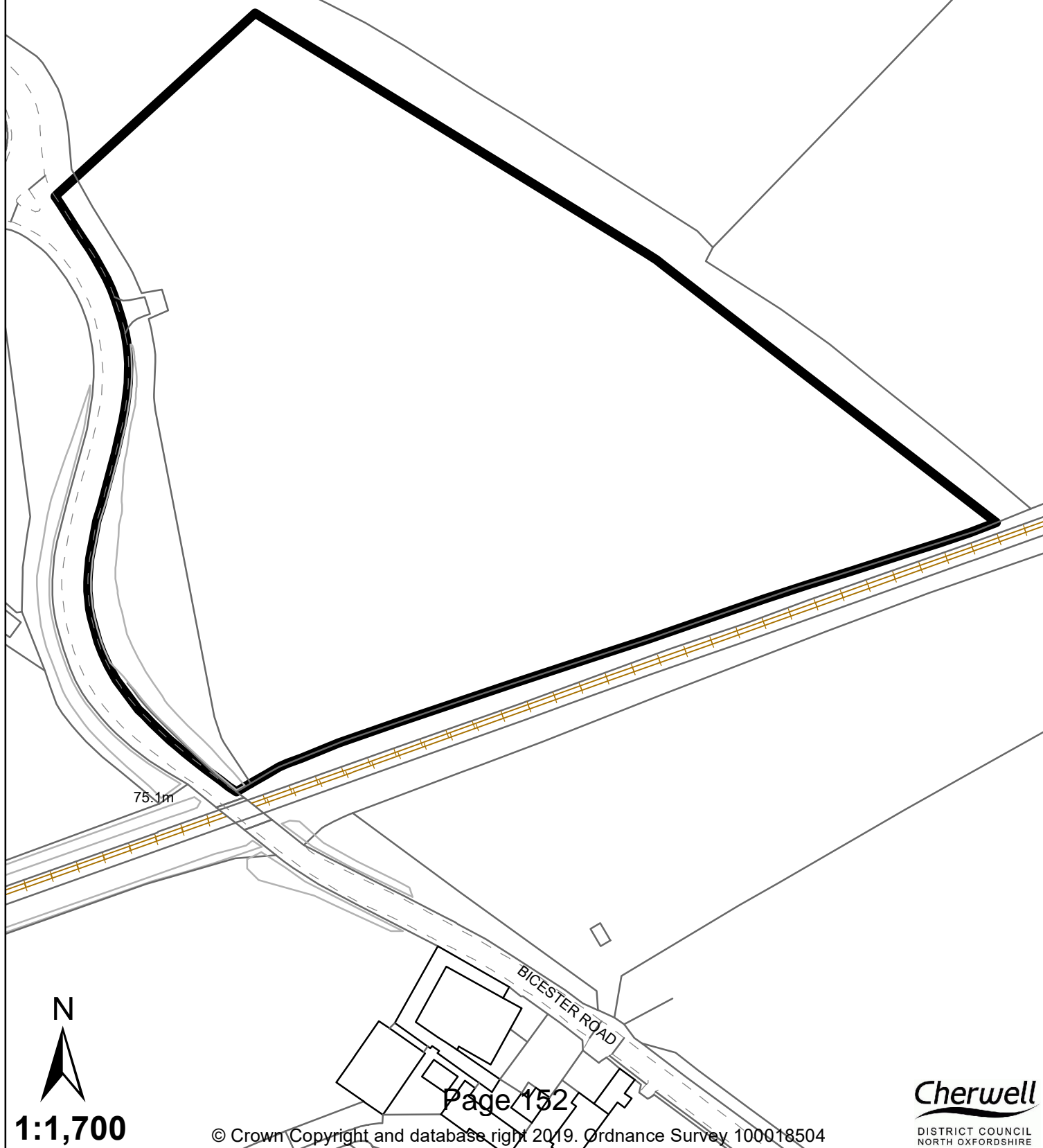
Reason - In the interests of highway safety and the residential amenities of neighbouring occupiers.

CASE OFFICER: Bob Duxbury

TEL: 01295 221821

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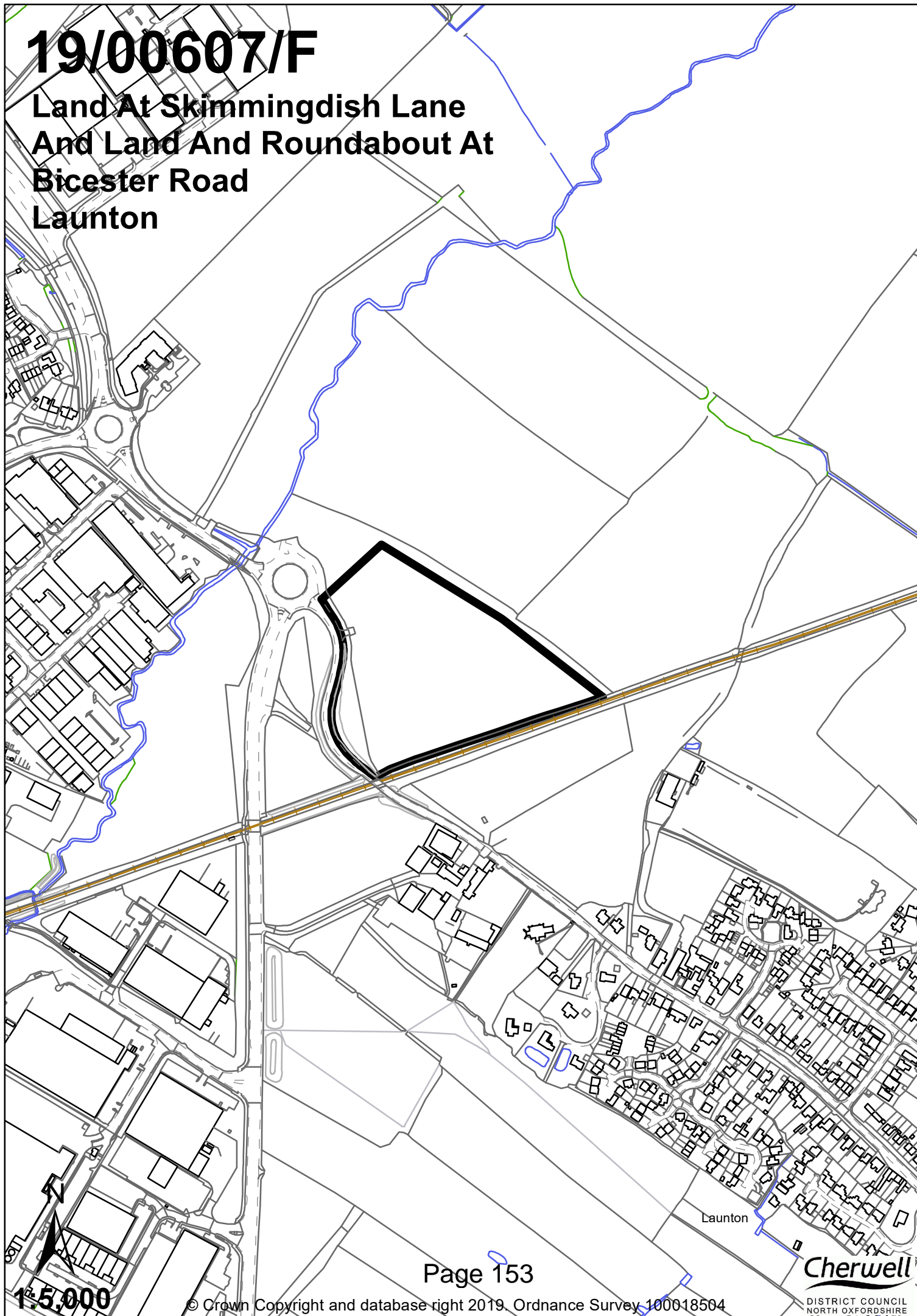
**Land At Skimmingdish Lane
And Land And Roundabout At
Bicester Road
Launton**



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19/00607/F

Land At Skimmingdish Lane
And Land And Roundabout At
Bicester Road
Launton



Case Officer: Linda Griffiths

Applicant: Network Rail Infrastructure Ltd

Proposal: Use of land as a construction compound incorporating storage area, site offices and car parking

Ward: Launton and Otmoor

Councillors: Timothy Hallchurch, Simon Holland, David Hughes

Reason for Referral: Major development

Expiry Date: 23 September 2019

Committee Date: 19th September 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

The application seeks temporary planning permission for the creation of a construction compound that comprises a 3 storey site accommodation block, boundary fencing, gatehouse and barrier, lighting, storage area, water treatment tank, internal access roads and tree protection fencing to be used during the construction of the works to the adjacent railway line under East West Rail 2. Site access will be from Bicester Road, via the A4421. A new access will be created onto the highway and an existing farm access at this location will be formalised and retained as an emergency access point. The compound will be served from the minor arm of the new signal-controlled junction onto Bicester Road, to the southeast of the A4421/Charbridge Lane.

Consultations

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

- Launton Parish Council

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

- Environment Agency, CDC Environmental Protection, CDC Landscape Officer, OCC Transport, OCC Lead Flood Authority (originally objected but this objection has since been removed).

1 letter of objection has been received.

Planning Policy and Constraints

The application site is not located within any statutory or non-statutory land designations. It is however, located within 2km of Stratton Audley SSSI. Bicester Airfield and Gavray Drive Local Wildlife Sites are within 1km of the site. The site constraints have identified a number of Protected and Notable Species are present within a 250m buffer of the site. The site lies within Flood Zone 1 but a watercourse lies approximately 80m from the north-western boundary of the site. The site is potentially contaminated.

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
- Layout
- Transport impact and highway safety
- Drainage
- Archaeology
- Landscape and visual impact
- Ecology and net biodiversity gain

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 extends to 4.1ha in size and comprises agricultural land bound by hedgerow. There are three mature trees within the site and it is currently accessed from the public highway by a gated field entrance to the west of the site from Bicester Road or from the Charbridge Lane/Bicester Road roundabout. The land to the east of the site is predominantly arable and pasture land crossed by a network of hedgerows and mature scattered trees and boundary ditches. To the south of the site along Bicester Road lies the village of Launton. There are no public rights of way within the site although a public right of way passes on land to the north. The southern part of the site is bounded by the railway line.

2. CONSTRAINTS

- 2.1. The application site is not located within any statutory or non-statutory land designations. It is however located within 2km of Stratton Audley Quarry SSSI. Bicester Airfield and Gavray Drive Local Wildlife Sites are within 1km of the site. The site constraints have identified a number of Protected and Notable Species are present within a 250m buffer of the site. The site lies within flood Zone 1 but a watercourse lies approximately 80m from the north-western boundary of the site. The site is potentially contaminated.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks temporary planning permission for the creation of a construction compound that comprises a 3 storey site accommodation block provided within a modular building, boundary fencing, gatehouse and barrier, lighting, storage area, water treatment tank, internal access roads and tree protection fencing to be used during the construction of the works to the adjacent railway line under East West Rail 2. Site access will be from Bicester Road, via the A4421. A new access will be created onto the highway and an existing farm access

at this location which will be formalised and retained as an emergency access point. The compound will be served from the minor arm of a new junction onto Bicester Road, to the southeast of the A4421/Charbridge Lane.

4. RELEVANT PLANNING HISTORY

- 4.1. There is no planning history directly on this application site and relevant to the proposal. However, on the adjacent site directly to the north-west, an appeal against non-determination has been lodged in respect of an application for the erection of an electricity generator. The appeal decision is awaited (19/00163/F) refers.

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 **23rd June 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:

- Great care will be required to ensure these new lights work in unison with the existing
- A growing number of vehicles are shooting the lights, this situation could be exasperated. To discourage this and maintain road safety, would be advisable to install cameras

- 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. LAUNTON PARISH COUNCIL: **object** because of the access and traffic light arrangements proposed for the Bicester Road. Appears that the access is being moved much closer to the railway bridge which is already controlled by lights. Two sets of lights so close together would be unworkable, cause great disruption to village traffic and be dangerous.

- 7.3. BICESTER TOWN COUNCIL: Welcome the application

CONSULTEES

- 7.4. OCC HIGHWAYS: **No objection** subject to conditions. It should be noted that the signalised form of junction is not approved but the position of the junction is

acceptable – details are requested by condition. The comments can be read in full on the online Planning Register (on the Council's website) and are discussed in more detail in the appraisal below.

- 7.5. OCC DRAINAGE: Objected to the original submission – on the basis that insufficient evidence had been provided to enable a full technical review of the drainage proposals. Additional information has since been submitted and further comments have been received which confirm that **the objection has now been removed** and a condition is recommended.
- 7.6. OCC ARCHAEOLOGY: **No Objection** subject to conditions.
- 7.7. THAMES WATER: **No comment**, not clear what sqm of office space is being erected.
- 7.8. ENVIRONMENT AGENCY: **No objection**
- 7.9. ENVIRONMENTAL PROTECTION: **No comments** in respect of noise, contaminated land, air quality, odour or light.
- 7.10. NATURAL ENGLAND: **No comments**
- 7.11. ARBORICULTURAL OFFICER: **No objection**. Layout plan shows only a small group of trees removed from the site access with the remaining trees retained and protected. As the area around the retained trees is to be used as storage there should be an exclusion zone around. These trees appear worthy of a TPO. Conditions relating to exclusion zone and tree protection recommended.
- 7.12. LANDSCAPE OFFICER: **No objection**. Agrees with findings of landscape and visual impact section of planning statement. Therefore essential to retain and protect hedges at mature height and trees to ensure it is successfully mitigated.
- 7.13. BICESTER DELIVERY TEAM: **Comments** that it is not clear from the plans where the 3 storey offices will be located. Visual impact and utilitarian appearance will be contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan. Considerable amount of storage, height of which is unspecified. Air pollution and dust will need to be addressed by Environmental Health. Little regard appears to have been made regarding sustainable travel to and from the site, including footpath provision and how they will connect more widely. Ecology comments important in terms of ensuring adequate mitigation. Need to ensure that the proposed development of the site or access to it does not result in an unacceptable impact on the local area and community.
- 7.14. ECOLOGY OFFICER: Comments awaited
- 7.15. BBOWT: **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)

- ESD15 - The Character of the Built and Historic Environment
- ESD7 – Sustainable drainage systems
- ESD8 – Water resources
- ESD10 – Protection and enhancement of biodiversity and the natural environment
- ESD13 – Local landscape protection and enhancement
- SLE4 – Improved transport and 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)
- National Policy Statement for National Networks (2014)
- National Infrastructure Delivery Plan (2016)
- 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:

- Principle of development
- Layout
- Transport impact and highway safety
- Drainage
- Archaeology
- Landscape and visual impact
- Ecology and net biodiversity gain

Principle of Development

- 9.2. 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 purposes 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.
- 9.3. On 27th July 2019 a Transport and Works Act Order (TWAo) application was made for the construction, operation and maintenance of an up-graded, and reinstated rail link between Bicester-Bletchley-Bedford and Aylesbury-Claydon junction in addition to new railway infrastructure including new overbridges, footbridges, a new station and platforms. The East-West Rail alliance proposes to set up a number of the strategic and satellite temporary construction compounds in advance of the TWAo being made which are necessary due to the tight project timetable. This is one such compound. Once construction works have been completed, the land will be reinstated and revert to its former use and condition as agricultural land.
- 9.4. The application seeks permission for the construction of a main compound off Bicester Road, north west of the village of Launton for the construction of East West Rail Phase 2. A satellite compound was granted consent earlier this year for a smaller satellite compound along Station Road just outside the village of Launton (18/02122/F) refers. This application only covers the construction of the compound and its use for preliminary activities in advance of the Transport and Works Act Order, and should the Order be granted, it will then be used to facilitate the main works. The compound will be constructed between September 2019 and December 2019 and is expected to be removed in advance of the first services on the line being introduced (currently anticipated in 2023).
- 9.5. Although EWR2 is not classified as a nationally significant infrastructure project, the nature and scale of the project is closely allied to such projects, and East West Rail will help to meet the country's needs and support the Government's ambitions in this regard. Therefore, the principle of development is acceptable in this case.

Layout

- 9.6. The application submission indicates the erection of a three storey office and welfare station within 14 modular units, car and cycle parking provision for staff and operatives, boundary fencing measuring 2.4m in height in the form of palisade fencing to ensure the site is secure, gatehouse and access barrier, storage area, water treatment tank, wheel-wash, fuel filling station and lighting.
- 9.7. The office/welfare block will be positioned adjacent to the access road into the compound and will be screened to a degree by existing vegetation. An exclusion zone is proposed along the eastern boundary of the site to protect the existing hedgerow. Material and topsoil storage are proposed in a significant area adjacent to the existing railway track. Access to the track for construction works and vehicles will be provided at the south eastern end of the compound. A lighting condition will be necessary as no lighting details have been included. It is important that the design of the lighting together with its timing of use is such that the impact on habitats is kept to a minimum and the amenities of the locality are not compromised by unnecessary lighting during non-working hours.
- 9.8. All in all, the layout is considered logical and appropriate, and is acceptable.

Transport Impact and Highway Safety

- 9.9. A Transport Statement has been submitted with the application. There are two types of compound proposed for the construction project; strategic and satellite. This compound (A1), is a strategic compound which will act as a base, store and site office for the advance works, including materials import and storage of topsoil and construction materials, vegetation clearance along the railway, repair work to culverts and environmental mitigation works where required.
- 9.10. The original application proposed that the compound would be accessed from the minor arm of a new signal-controlled junction onto Bicester Road to the southeast of Charbridge Lane. Temporary traffic signals and a recessed gate were proposed due to the expected volumes of traffic, to allow safe and unimpeded access and egress to and from the site. It is expected that HGVs will access the site from either A4421 Skimmingdish Lane or A4421 Charbridge Lane using Construction Access Routes. It is not proposed to provide any passing places for vehicles using Construction Access Routes.
- 9.11. The concerns of Launton Parish Council are noted. The submission has been assessed by OCC as Local Highway Authority, who initially sought clarification on a number of points, to avoid an objection. One of these points related to the assumptions that fed into a safety audit where the issue of speeds was raised. OCC needed to understand the vehicle speeds to ensure that sufficient forward visibility can be provided to the signal heads, and requested that vehicle speeds are established through a survey and forward visibility marked on a plan.
- 9.12. A meeting on site between OCC highway officers and the applicants on 24th July 2019 resulted in the following outcomes:
- OCC officers confirmed that they were unwilling to recommend sign off of the works because of concerns about inadequate forward visibility to signal heads and the proposed mitigation of low skid surfacing not being sufficient.

- OCC officers suggested that a priority junction in the position of the current access should be investigated as an alternative which might on balance be safer than the signal option although Atkins (the agent) remain of the opinion that the signalised option would be safer.
- Atkins confirmed that the proposed access position fits better with the proposed layout of the compound – the current access point would be less suitable.
- Atkins confirmed that it was not possible to take access off the roundabout as originally proposed, or an alternative position, as prior to the Transport and Works Act Order (TWAO) coming into force, the project cannot acquire the land needed to enable this.
- Atkins confirmed that the current access position had been considered and discounted and would provide further information that led to that conclusion.
- OCC re-confirmed that speed surveys would be required and suggested that this be carried out for both the current and proposed access position. It was generally felt that speeds were below the posted limit.
- Atkins advised that they would find it difficult to procure speed surveys, so OCC agreed to look at carrying them out for a fee.
- OCC agreed that upon receipt of the above, that the information would be reviewed urgently upon receipt.

9.13. Since the application was submitted, there has been a lengthy exchange of e-mails with the applicant and following the site meeting above, speed surveys have been carried out. It was considered that the proposed signalised junction could not be accommodated safely due to inadequate forward visibility to the signal heads and OCC advised therefore that this could not be accepted. However, on the basis of speed surveys and visibility splays reported in an e-mail from the agent of 22 August 2019 it was established that a priority junction at the proposed location could be accommodated subject to the clearance of adequate visibility splays, which are shown to be within the highway boundary. A Sec 278 Agreement with OCC will be required to create the access and details of the priority junction is required by condition.

9.14. The site offers good potential for staff and operatives to travel to work sustainably, being located close to a good network of footways and cycleways, and within reasonable walking distance of bus stops. There is a footway on Bicester Road, on the opposite side from which the site is accessed. A revised plan has been provided showing an improvement to the crossing point at the roundabout splitter island, and a new section of footway on the eastern side of Bicester Road, leading into the proposed emergency access. This would provide adequate, safe pedestrian access, but the drawing will need to be updated as it includes details of the proposed traffic signals which are not acceptable as detailed above. The details will be required by condition.

9.15. The works to construct the access will require temporary traffic management and will be disruptive to the local highway network. It is recommended that any conditions that restrict working hours do not apply to the highway works, in order that they may be completed at weekends if necessary, to reduce the period of disruption.

- 9.16. During the construction of the compound, an access route will be created through the site onto the railway track, which will then provide an onward haul route to the Launton satellite compound which was granted consent in March 2018 (18/02122/F) refers. The Transport Assessment states that all loading will be from within the site only, and there appears to be a route for HGV's within the site.

Traffic Impact

- 9.17. The number of vehicles generated by the site during the compound set up and preliminary works is predicted to total 12 and 13 vehicles respectively in the am peak, and 23 and 19 respectively in the pm peak. Of these, there would be 4 HGV's in the peak hours for compound set up and 2 for preliminary works. It is assumed that the number of staff trips is low in the peaks due to the early start working hours of the site. This is not considered to have a significant detrimental impact on the operation of the local highway network. The Transport Statement submitted includes capacity modelling of the adjacent roundabout, showing it operating within capacity even with the main works traffic flows.
- 9.18. A Construction Traffic Management Plan has been submitted with the application, covering the compound set up and preliminary works phase. Although a more detailed CTMP will be prepared for the main project as required by the Transport and Works Order, this CTMP is deficient and a revised CTMP for this specific proposal will therefore be required to be submitted and agreed by condition.

Conclusion

- 9.19. Whilst the proposed access arrangements are not ideal and do present challenges, Officers are satisfied that all options have been exhausted by Network Rail and OCC as Local Highways Authority. The proposal is necessary to enable the delivery of a key infrastructure project, and it is significant that OCC Highways have confirmed no objections subject to final details of the proposed access and visibility splays. Having regard to the above comments, the temporary nature of the proposed development, and the submission of revised plans relating to the vehicular access, the proposal is considered acceptable in highway safety terms and therefore in accordance with the advice within the NPPF.

Drainage

- 9.20. In line with Government guidance and policy, surface water management in respect of any new development should be considered at the outset and wherever possible, runoff should be managed at source with residual flows then conveyed downstream to further storage or treatment components where required. It is therefore expected that existing drainage features on the site should be retained and they should be retained, utilised and enhanced wherever possible.
- 9.21. The site is within Flood Zone 1. A Flood Risk assessment has been submitted with the application to identify potential sources of flooding to the site. The Langford Brook flows south west of the site, approximately 85m from the northern boundary of the Compound. The FRA has been assessed by OCC as Lead Flood Authority. This submission was considered to be insufficient to provide a full technical review of the drainage proposal.
- 9.22. In response a further drainage strategy dated July 2019 has been submitted to address the concerns raised. This has now been assessed by OCC as Lead Flood Authority and found to be acceptable subject to the imposition of a number of conditions.

Archaeology

- 9.23. The site is located in an area of archaeological interest immediately north of an area of probable Iron Age and Roman settlement identified during road construction. A ditch and posthole were recorded along with Iron Age and Roman pottery. Further Iron Age and Roman sites have been recorded in the area including a settlement site 600m to the south. Bronze Age barrows have been recorded as cropmarks on aerial photographs within the area and a number of later prehistoric enclosures have also been recorded. It is therefore possible that this development will encounter further aspects of these sites. However, the County Archaeologist has advised that this potential impact of the development can be managed by conditions.
- 9.24. Having regard to the above, planning conditions are recommended.

Landscape and Visual Impact

- 9.25. 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. 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 tress, historic boundaries, landmark 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 by the NPPF), including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively designed and integrated in accordance with advice in the NPPF and NPPG'*.
- 9.26. This is a greenfield site which is agricultural in use located within open countryside, albeit the village of Launton lies nearby to the south and Bicester to the west. Whilst the site is reasonably screened by existing vegetation, the proposed development due to its nature and scale of the office block, will be visible, from both the wider countryside and Bicester Road. Due to the semi-rural nature of the site, it is accepted that there would be adverse impact on the immediate locality during construction works and the use of the compound; this however would only be for a temporary period during the construction of the EWR2 Project and therefore is not considered unacceptable.
- 9.27. An Arboricultural Impact Assessment has been submitted with the application and has been assessed by the Arboricultural Officer. It assesses the impact of the construction compound on the existing tree stock, to determine the current extent of tree removals required to facilitate its construction and operation. The tree survey includes trees both within and adjacent to the compound planning application boundary.
- 9.28. The recorded tree stock form part of the existing railway corridor vegetation and as part of linear groups of trees and shrubs growing along field boundaries. The hedgerows are primarily thorn species and have received periodic management by flailing operations, which has damaged some branches on the standard trees, but not significantly at present. The trees recorded are primarily common oak and ash. The proposed area for the compound is a broadly triangular shaped field that is

bound by vegetation on all its boundaries. Individual standard oak trees are growing within the field and on its boundaries and are of high landscape amenity value and Arboricultural significance given their relatively advanced ages. The layout of the compound has been adapted to ensure retention of these trees which have been assessed by the council's Arboricultural Officer who considers them to be worthy of a Tree Preservation Order and suggests a condition requiring a larger area than indicated around the trees to ensure they are appropriately protected. A TPO has been made in respect of the trees, but its confirmation is still awaited at the time of writing the report.

- 9.29. The creation of the proposed site access from the Bicester Road will involve the removal of a small stretch of hedgerow. Access to the railway from the compound will be via the south-west corner where a new access will be created by the removal of a stretch of scrub.
- 9.30. Whilst the development will have a significant impact on the locality, the application only seeks consent for a temporary period, which following the construction and completion of the EWR2 Project (currently anticipated for 2023) will be removed and the land re-instated. Therefore provided the existing vegetation, hedges and trees are adequately protected during the period that the compound is in use, the long-term impacts will not be unacceptable. Accordingly, it is considered that the application accords with Policies ESD13 and ESD15 of the Cherwell local Plan and Government advice within the NPPF and is therefore acceptable in this respect.

Ecology Impact and Net Biodiversity Gain

Legislative context

- 9.31. 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.
- 9.32. 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.
- 9.33. 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.
- 9.34. 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.

9.35. 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

9.36. 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.

9.37. 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.

9.38. 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.

9.39. 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.

9.40. 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.

- 9.41. 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.
- 9.42. 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

- 9.43. 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')

- 9.44. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site is existing pasture land and contains no buildings or structures. Within the field and around the field boundaries are a number of scattered trees. The eastern and western boundaries of the site are species-rich hedgerows, including trees with scattered scrub bordering to the south. The northern boundary of the site is pasture field, with the site occupying only part of the field. Beyond the boundary to the west is Bicester Road and allotments; to the east agricultural fields; to the south is the OXD line with agricultural fields beyond; north is the field boundary hedgerow and associated stream with agricultural fields beyond.
- 9.45. 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.
- 9.46. 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.

- 9.47. The application is supported by an Ecological Impact Assessment. The site is not located within any international or national statutory land designations although it is located within 2km of the Stratton Audley Quarries SSSI. The site also lies within 1km of Bicester Airfield and Gavray Drive Local Wildlife Sites. A desk study was undertaken in November 2017, as part of the Environmental Statement relating to the EWR2 Project works and the TWAO, and, has been used to inform this application submission. An ecological walkover survey of areas within and adjacent to the site was undertaken on 31st May 2018. The Ecological Impact assessment identifies general mitigation measures that will be put in place during the construction and operation of the compound and concludes that there is unlikely to be any significant negative impact on ecological features and habitats on the site.
- 9.48. Officers are satisfied, on the basis of the above 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.

Human Rights and Equalities

- 9.49. 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.
- 9.50. 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

- 9.51. 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 neighbour letter, site notice and in the local press 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. In addition, third parties were invited to the public meeting of the Planning Committee and had the opportunity to speak. 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

- 9.52. 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

- 9.53. 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.
- 9.54. 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 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 taken in isolation, but are sought jointly and simultaneously.
- 10.2. 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. The proposed compound is necessary to enable the upgrade works to the existing railway line as part of the EWR2 Project, in the interests of providing sustainable public transport which is in the public interest. In accordance with Paragraph 11 of the NPPF, permission should therefore be granted.

11. RECOMMENDATION

DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS OR ADDITIONAL CONDITIONS AS DEEMED NECESSARY)

CONDITIONS

Time Limits

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2. The development and use hereby approved shall cease and be discontinued at the expiration of 5 years from the date of this permission, or upon the completion of the works relating to this section of the EWR2 Project, whichever is the sooner, and the land restored to its former use and condition on or before that date.

Reason – In order to safeguard the character of the area in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

Compliance with Plans

3. 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: Location Plan 133735-2A-EWR-OXD-XX-DR-L-019009 Rev A01; Arboricultural Impact Assessment and drawing number 133735-2A-EWR-OXD-XX-DR-L-019001 Rev A01; A1 Site Design 133735-2A-EWR-OXD-XX-DR-L-019011 Rev A01; Modular Office elevations and floor plans; Environmental Appraisal Report; Transport Statement and drawing numbers 133735-RW-EWR-XX-XX-DR-LE-010803 Rev P01, 010690 Rev P01, 010691 Rev P01, 010692 Rev P01, 010693 Rev P01, 010694 Rev P01, 010696 Rev P01, 010697 Rev P01, 010698 Rev P01, 010699 Rev P01, 010700 Rev P01 and 0107001 rev P01; Flood Risk Assessment and drawing numbers 133735-2A-EWR-OXD-XX-DR-L-019010 Rev A01 and 019011 Rev A01; Additional Drainage Strategy Information dated July 2019 and received 4 September 2019; Ecological Impact Assessment; Planning Statement; Construction Travel Plans; and drawing numbers: 133735-2A-EWR-OXD-CC-A1-DR-CH-002003 Rev B02, 002004 Rev B02; 002007 Rev B02, 002008 Rev B02, 002010 Rev B02, 012001 Rev P01 and additional visibility zone plans relating to the emergency access received 22 August 2019.

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.

External Lighting Details

4. Prior to the installation of any external lighting on the site, full details of the design, height, location, and finished appearance of the external lighting, including the timings for its use shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the lighting shall be installed and operated in accordance with the approved details.

Reason – To ensure the satisfactory appearance of the area, safeguard the area and in the interests of ecological protection and to comply with Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

Boundary Treatments

5. Prior to the first use of the development hereby permitted, means of enclosure along all boundaries of the site shall be erected and maintained for the lifetime of the development in accordance with the approved plans.

Reason – To ensure the satisfactory appearance of the completed development, to protect vision splays and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

Reinstatement Scheme

6. Upon the cessation of the use of the compound hereby approved, all material, buildings, hardstanding, fencing or any other structures shall be removed from the site and the site re-instated in accordance with a detailed scheme which shall also include timescales for the restoration works, which shall have been previously agreed in writing by the Local Planning Authority. The re-instatement works shall be completed in accordance with the approved scheme.

Reason – In the interests of the visual amenities of the area, to ensure the site is

reinstated appropriately in accordance with Policies ESD10 and ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

AMS Required

7. Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions, which shall also include an exclusion zone around the existing trees within the site, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter all works shall be carried out in accordance with the approved AMS.

Reason – To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area and to comply with Policy ESD10 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

AMS Scheme of Supervision

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

Reason – To ensure the continued health of retained trees/hedgerows and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenities of the area and to comply with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

Restriction of Use

9. The site shall be used only for the purpose of a construction compound in conjunction with EWR2 and for no other purpose whatsoever.

Reason – The impact on the character and visual amenities of the area is only acceptable given the need for the development, and to comply with Policies ESD10 and ESD15 of the Cherwell Local Plan 2011-2031 and Government

guidance within the National Planning Policy Framework.

Protected Species Check

10. Prior to, and within two months of the commencement of the development, the site shall be thoroughly checked by a suitably qualified ecologist to ensure that no protected species, which could be harmed by the development, have moved on to the site since the previous surveys were carried out. Should any protected species be found during this check, full details of mitigation measures to prevent their harm shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved mitigation scheme.

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

Bird Nesting Season

11. No removal of hedgerows, trees or shrubs, nor works to, or demolition of buildings or structures that may be used for breeding birds, shall take place between 1st March and 31st August inclusive, unless the Local planning Authority has confirmed in writing that such works can proceed, based on health and safety reasons in the case of a dangerous tree, or the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest in the site.

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

Traffic and Highways

12. Notwithstanding the submission and prior to the commencement of the development hereby approved, a revised Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority which shall include the following:

- A firm commitment to always using the construction traffic routes set out in the Environmental Statement for the EWR2 Scheme;
- Precluding any access to the site by HGV or LGV via Launton Village; and
- A commitment to carrying out a pre-condition survey of the route and making good any damage.

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

Reason – In the interests of highway safety and to safeguard the amenities of residents during the construction period and to comply with Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework.

13. Prior to the commencement of the development hereby approved, full details of the means of access between the strategic compound and the highway, including position, layout, construction, drainage, pedestrian access, gates, signage, lighting and vision splays shall be submitted to and approved in writing by the Local Planning Authority, together with details of and a timetable for its reinstatement at the end of the East West Rail Phase 2 Project. Thereafter, the means of access shall be constructed prior to the opening of the strategic compound, retained in accordance with the approved details during the operation of the compound, and reinstated in accordance with the approved details and timetable.

Reason – In the interests of highway safety and to accord with Government guidance within the National Planning policy Framework.

14. The approved vision splays shall be kept clear of any object, structure, planting or other material of a height that would obstruct vision of any road user exiting the site.

Reason – To ensure that adequate visibility is retained in the interest of highway safety and Government guidance within the National planning Policy Framework.

Archaeology

15. Prior to any demolition and 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 and to comply with Government guidance within the National Planning Policy Framework.

16. Following the approval of the Written Scheme of Investigation referred to in condition 15, 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 programme of archaeological 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 National Planning Policy Framework.

Drainage

17. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local planning Authority, as per the proposed strategy; 133735-2A-EWR-OXD-CC-A1-RP-DH-000001 (ProjectWise no.) 133735-EWR-REP-EDR-000022

(eB no.) Rev B01. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the development commencing.

Reason – To ensure that the principles of sustainable drainage are incorporated into this proposal in accordance with Policy ESD7 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

18. No building hereby permitted shall be occupied or the use commenced until the sustainable drainage scheme for this site has been completed in accordance with the details approved under condition 17. The sustainable drainage scheme shall be managed thereafter in accordance with the agreed management and maintenance plan.

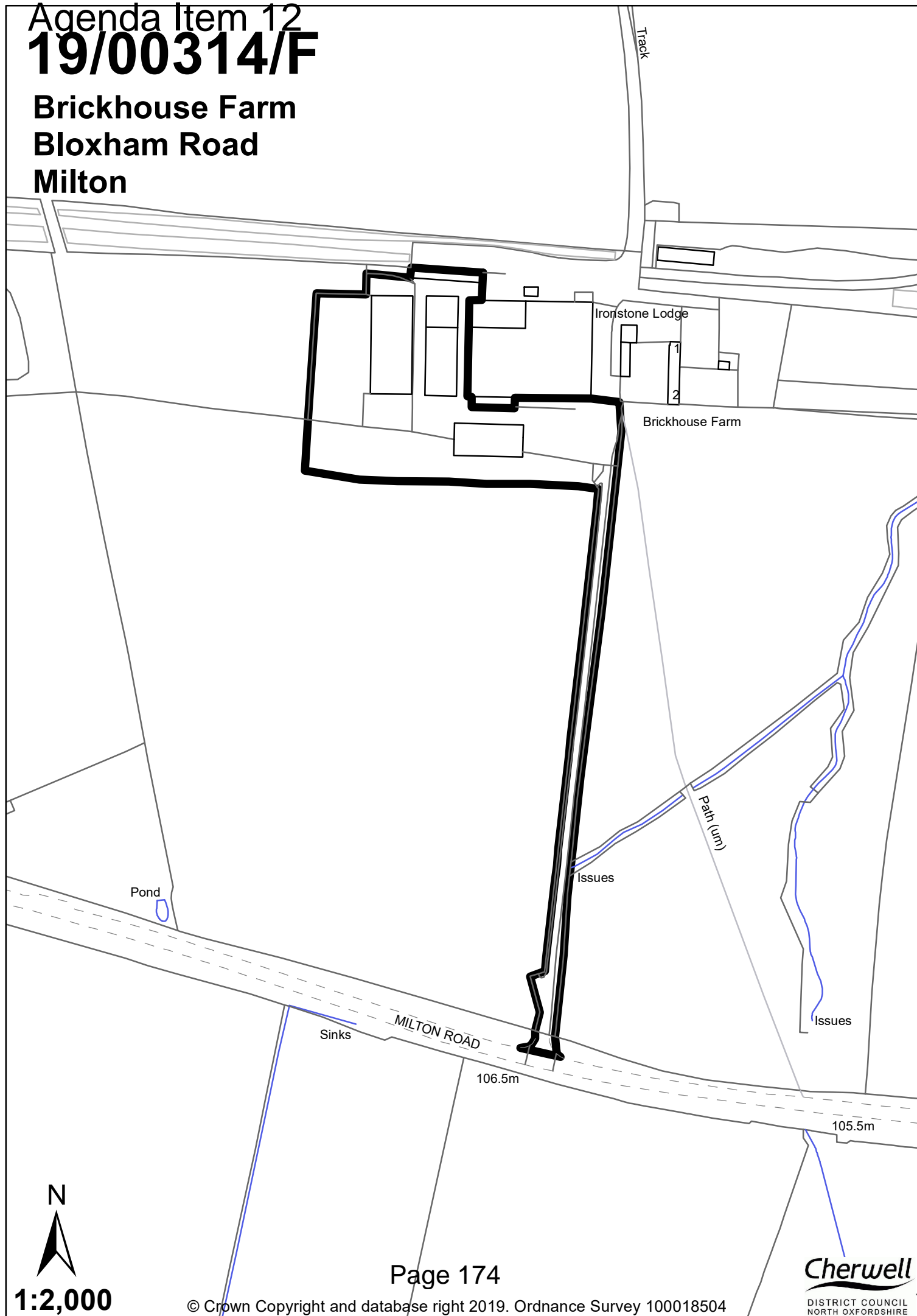
Reason – To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with Policy ESD7 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

CASE OFFICER: Linda Griffiths

TEL: 01295 227998

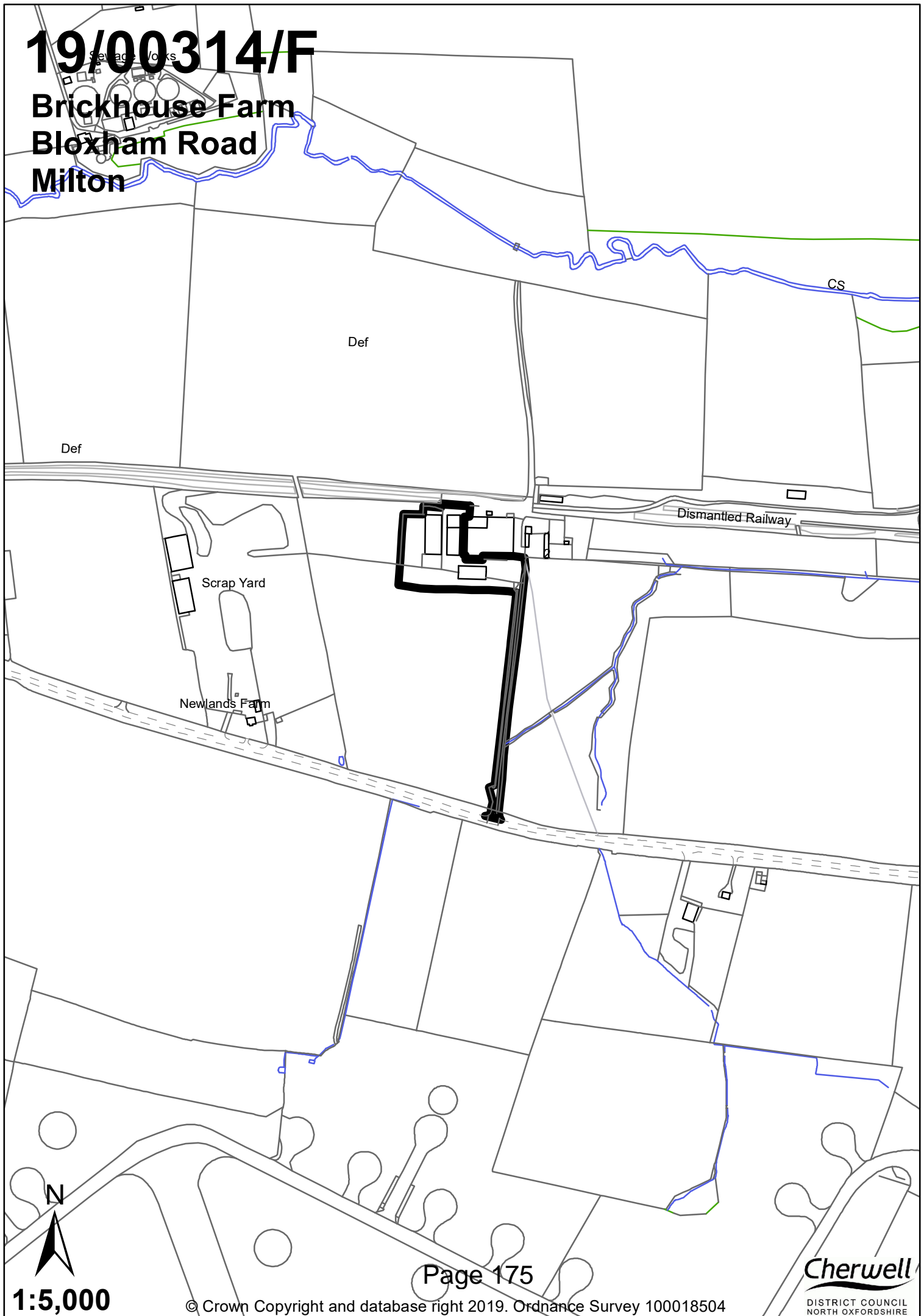
Agenda Item 12
19/00314/F

**Brickhouse Farm
Bloxham Road
Milton**



19/00314/F

Brickhouse Farm
Bloxham Road
Milton



Case Officer: Bob Neville

Applicant: Mr Smith

Proposal: Change of use of existing agricultural buildings to commercial for (B1) light Industrial, (B2) General Industrial and (B8) general purpose storage uses

Ward: Adderbury Bloxham and Bodicote

Councillors: Cllr Mike Bishop
Cllr Chris Heath
Cllr Andrew McHugh

Reason for Referral: Major development

Expiry Date: 23 September 2019 **Committee Date:** 19 September 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: REFUSE PERMISSION

Proposal

The application seeks planning permission for the conversion and change of use of existing agricultural buildings to provide commercial for (B1) light Industrial, (B2) General Industrial and (B8) general purpose storage uses with associated access, parking and landscaping.

Consultations

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

- Bloxham Parish Council, Milton Parish Council, OCC Highways, OCC Drainage and CDC Planning Policy

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

- CDC Building Control, Environmental Protection and OCC Minerals and Waste

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

Planning Policy and Constraints

The site is not within a designated area and there are no heritage assets within the immediate vicinity of the site; the nearest listed buildings being within the Milton Conservation Area some 750m to the east of the site. The site is within a Minerals Consultation Area. The site is also in an area where the geology is known to contain naturally occurring elevated levels of Nickel, Chromium and Arsenic and is also within a buffer zone of an area of potentially contaminated land associated with the former railway line that ran along the northern boundary of the site. Public Rights of Way (PRoW) run along the northern boundary (Footpath 300/1/10) of the site and across the field (Footpath 300/2/10) to the front south-east of the site continuing through the farm complex and joining up with the route to the north 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 Principle of development
- Highway Safety
- Design, and impact on the character of the area
- Residential amenity
- Drainage and Flood-risk
- Energy Efficiency/Sustainability
- Ecology and Biodiversity

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

1. The proposed development represents an unjustified and unsustainable form of employment development in a rural location, and it has not been demonstrated that exceptional circumstances exist for such development in this unsustainable location. Further, it has not been demonstrated that the proposals would be of sustainable construction or embrace the principles of sustainable development including the use of renewable forms of energy.

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

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application relates to a complex of farm buildings (7no portal framed buildings and a farmstead courtyard containing residential dwellings) and associated yard/hardstanding in open countryside midway between the villages of Milton and Bloxham. The agricultural buildings are predominantly steel portal framed buildings with elements of timber boarding, metal cladding and concrete blockwork and panelling to the walls under corrugated roofing (metal and fibre cement) material. The site is accessed by a single lane private track off the road connecting Bloxham and Milton with Adderbury beyond.
- 1.2. The northern boundary of the farm complex is bounded by a mature hedgerow with land slightly rising to the north. To the west of the site is the Newlands Farm Recycling Centre and to the east is a further complex of buildings in residential use associated with the farmstead. The southern aspect of the site is fairly open with views from the adjacent highway across an agricultural field, albeit there is an existing hedgerow bordering the field and the highway with a number of trees within this boundary.

2. CONSTRAINTS

- 2.1. In terms of site constraints, the site is not within a designated area and there are no heritage assets within the immediate vicinity of the site; the nearest listed buildings being within the Milton Conservation Area some 750m to the east of the site. The site is within a Minerals Consultation Area. The site is also in an area where the geology is known to contain naturally occurring elevated levels of Nickel, Chromium and Arsenic and is also within a buffer zone of an area of potentially contaminated land associated with the former railway line that ran along the northern boundary of

the site. Public Rights of Way (PRoW) run along the northern boundary (Footpath 300/1/10) of the site and across the field (Footpath 300/2/10) to the front south-east of the site continuing through the farm complex and joining up with the route to the north of the site (albeit that there was little visual evidence of the existence of this route noted during the site visit).

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks planning permission for alterations to and change of use of four of the existing agricultural buildings to form commercial units for (B1) light Industrial, (B2) general Industrial and (B8) general purpose storage uses with associated access, parking and landscaping. The alterations would comprise additional and replacement cladding, roller shutter and pedestrian doors to the existing buildings. Building 1 would be subdivided to create 2no units (~140 sqm and ~213 sqm internal floor space); Building 2 subdivided to create 7no units (~107 sqm); Building 3 subdivided to create 3no units (~163 sqm, 205sqm and ~206 sqm); Building 4 subdivided to create 3no units (~39 sqm). The remaining buildings would continue in agricultural use supporting the continued farming operations at the site.
- 3.2. During the application revised and additional information has been submitted in response to officer concerns with regard to the lack of supporting information, inconsistencies within the submission and design changes to the proposed buildings. Officers have therefore agreed an extension of the determination period of the application with the applicant's agent, to allow them time to submit the necessary information to address perceived deficiencies in the application and then the due consideration of such.

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>
05/01663/AGN	Erection of building for young cattle	Prior approval not required.
02/01251/F	Erection of open-sided storage building for hay and straw	Application permitted
CHN.482/92	Conversion of redundant building into single dwelling	Application permitted
CHN.643/89	Conversion of redundant building into single dwelling	Application permitted
CHN.610/81	General purpose agricultural building (retrospective)	Application permitted

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. A further consultation exercise was also undertaken in light of revised and additional information being received. The final date for comments was 23/6/2019, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. Two letters of objection have been received from local residents during the course of the application. The comments raised by third parties are summarised as follows:
- The proposals and associated pollution (air, noise, light, traffic emissions) would have a negative impact on Milton and surrounding countryside.
 - Milton Road has seen significant new development resulting in a significant increase in traffic, resulting in detrimental impacts on highway safety; the proposals would exacerbate this situation with additional vehicle movements.
 - Access from the Adderbury/Bloxham Road inadequate to meet the increased traffic movements of the proposed development.
- 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. BLOXHAM PARISH COUNCIL: **Objects**

- 7.3. MILTON PARISH COUNCIL: **Objects**

CONSULTEES

- 7.4. BUILDING CONTROL: **No objections.** The proposals would require a separate Building Regulations approval.
- 7.5. ECOLOGY: No comments received.
- 7.6. ECONOMIC DEVELOPMENT: No comments received.
- 7.7. ENVIRONMENTAL HEALTH: **No objections.**
- 7.8. OCC DRAINAGE: **Objects**, on the basis that insufficient drainage information has been provided to enable a full technical assessment of surface water risk to the proposed site.
- 7.9. OCC HIGHWAYS (LHA): **Objects**, on the grounds of the unsustainability of the location of the site.
- 7.10. OCC MINERALS AND WASTE: **No objections.**
- 7.11. OPENSACES SOCIETY: No comments received.

7.12. PLANNING POLICY: **Objects**, highlighting the conflict with Policy SLE 1.

7.13. RAMBLERS ASSOCIATION: 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)

- PSD1: Presumption in Favour of Sustainable Development
- SLE1: Employment Development
- SLE4: Improved Transport and Connections
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD5: Renewable Energy
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- TR7: Development attracting traffic on minor roads
- TR10: Heavy Goods Vehicles
- C8: Sporadic Development in the Open Countryside
- C28: Layout, Design and External Appearance of New Development
- C31: Compatibility of proposals in residential areas.
- ENV1: Pollution Control
- ENV12: Land Contamination

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Connecting Oxfordshire: Local Transport Plan 2015-2031 (LTP4)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- CDC Annual Monitoring Report 2018 (AMR 2018)

8.4. Council's 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
- Highway Safety
- Design, and impact on the character of the area
- Residential amenity
- Drainage and Flood-risk
- Energy Efficiency/Sustainability
- Ecology and Biodiversity

Principle of Development

9.2. Legislation in the form of Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require planning applications to be determined against the provisions of the development plan for the area unless material considerations indicate otherwise. Current national planning policy within the NPPF (which is a material planning consideration of significant weight) reaffirms this position and confirms that the starting point for proposals that are contrary to an up-to-date Local Plan (i.e. those local planning policies within a development plan document that are consistent with the NPPF) is refusal unless material considerations justify a departure from it.

9.3. Court judgements have concluded that there is no presumption in favour of sustainable development within the NPPF where a proposal conflicts with an up-to-date development plan given that the plan itself will have been prepared against national planning policy and guidance and so must in itself be a sustainable strategy for the area. As a result, significant and specific overall benefits would need to be demonstrated to justify departing from a development plan that is up-to-date with respect to national policy rather than a generic balancing exercise as part of a presumption in favour of sustainable development.

Policy Context

- 9.4. The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having three dimensions: economic, social and environmental; and seeks to secure support for the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings and encourages Local Planning Authorities to proactively meet the development needs of business.
- 9.5. Policy PSD1 of the CLP 2031 echoes the NPPF's requirements for 'sustainable development' and that planning applications that accord with the policies in the Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.
- 9.6. NPPF Para. 84 advises of the need to recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.
- 9.7. The Cherwell Local Plan 2011-2031 Part 1 (CLP 2031) looks to sustainable new development and primarily focuses new growth in the District to Banbury and Bicester whilst limiting it elsewhere in order to provide for the most sustainable form of growth over the plan period. Amongst other things it identifies a number of strategic sites for housing and employment development in and around Banbury so that they are provided in carefully considered proportions in order to deliver a sufficient number and type of jobs to reduce the need for out-commuting from Banbury arising from the new housing which would be unsustainable.
- 9.8. Policy ESD1 advises that measures will be taken to mitigate the impact of development within the District on climate change. This in part includes distributing growth to the most sustainable locations and delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars. And includes designing developments to reduce carbon emissions and use resources more efficiently, to ensure that development is more resilient to climate change impacts.
- 9.9. The proposals look to provide new employment generating 'B' Class use units in a rural location, albeit through the conversion of existing agricultural buildings; in this respect Policy SLE1 of the CLP 2031 is considered relevant. Policy SLE1 seeks to protect existing employment sites whilst supporting sustainable economic growth. It states that: *Employment development will be focused on existing employment sites. On existing operational or vacant employment sites at Banbury, Bicester, Kidlington and in the rural areas employment development, including intensification, will be permitted subject to compliance with other policies in the Plan and other material considerations.*
- 9.10. However, in respect of new employment development in rural areas on non-allocated sites Policy SLE1 further states: *'Unless exceptional circumstances are demonstrated, employment development in the rural areas should be located within or on the edge of those villages in Category A'.*

9.11. Further that: *'New employment proposals within rural areas on non-allocated sites will be supported if they meet the following criteria:*

- 1) *They will be outside of the Green Belt, unless very special circumstances can be demonstrated.*
- 2) *Sufficient justification is provided to demonstrate why the development should be located in the rural area on a non-allocated site.*
- 3) *They will be designed to very high standards using sustainable construction and be of an appropriate scale and respect the character of villages and the surroundings.*
- 4) *They will be small scale unless it can be demonstrated that there will be no significant adverse impacts on the character of a village or surrounding environment.*
- 5) *The proposal and any associated employment activities can be carried out without undue detriment to residential amenity, the highway network, village character and its setting, the appearance and character of the landscape and the environment generally including on any designated buildings or features (or on any non-designated buildings or features of local importance).*
- 6) *The proposal will not give rise to excessive or inappropriate traffic and will wherever possible contribute to the general aim of reducing the need to travel by private car.*
- 7) *There are no suitable available plots or premises within existing nearby employment sites in the rural areas.*

The Local Plan has an urban focus. With the potential for increased travel by private car by workers and other environmental impacts, justification for employment development on new sites in the rural areas will need to be provided. This should include an applicant demonstrating a need for and benefits of employment in the particular location proposed and explaining why the proposed development should not be located at the towns, close to the proposed labour supply'.

Assessment

9.12. Policy SLE1 advises of the need for exceptional circumstances to be demonstrated where such development is not sustainably located, and further sets out several criteria which also need to be met, as noted above, for such development to be considered acceptable. Taking these in turn:

9.13. 1) *Green Belt* – The proposals would be outside of the Green Belt.

9.14. 2) *Justification* - The applicant has put the proposals forward on the basis of being rural diversification scheme and restructuring of the existing farm business; looking to re-use redundant buildings to provide a more profitable business option going forward, following a downturn in the existing business running a pedigree Limousin cattle herd for the high-end cattle breeding market and significant financial losses previously incurred; largely as a result of vulnerability in market variations and prevalence of diseases affecting the breeding cattle in recent years, including Tuberculosis (TB) and Johne's Disease.

9.15. A confidential Justification Statement (JS) submitted in support of the application sets out three options that were considered by the business, with the option (option 3) being taken-up being to:

- Sell all pedigree Limousin cattle,
- Keep a small cattle herd

- Rent out surplus grassland and livestock sheds as commercial
- 9.16. It is noted that there is a discrepancy between the Planning Statement and JS in respect of option 3. However, the JS for the application goes on to advise that the business has indeed sold its pedigree Limousin breeding herd during 2018, and that the agricultural business will continue to have a beef enterprise through the purchase of a mixed breed herd and that this will allow for farming operations to continue on the holding and with a mixed breed herd to generate some income for the agricultural business. The herd will, however, be considerably smaller than the pedigree herd and only utilise one livestock building on the farm. This means that several the livestock buildings subject of this application will become redundant and will not be needed for the continuation of the agricultural activity at Brickhouse Farm.
- 9.17. The proposals are put forward as a diversification of the existing agricultural business. However, officers would consider that appropriate diversification would involve uses that are more ancillary to the existing farming business e.g. a farm shop, rural tourism (tourist accommodation or farm attractions) or business(es) related to agriculture; whereas the current proposals represent a new business venture rather than diversification of the existing agricultural business.
- 9.18. Whilst the applicant has explored various options to increase levels of profit and viability of the business going forward, no evidence has been submitted to suggest that the option of solely retaining the site for an agricultural use in a different ownership has been explored, nor that variations and impacts on the agricultural industry are not exclusive to this and are experienced by farming enterprises across the district.
- 9.19. 3) *Design* - The proposals would essentially be conversion of existing structures, with additional cladding and new roller shutter and pedestrian doors being installed and are considered to represent functional design responding to the context, as opposed to good quality design. No information has been supplied in respect of the sustainability of the construction.
- 9.20. 4) *Scale* - The scale of the buildings would not change and, whilst the currently open structures would in-filled, these would be of materials consistent with those in use on the existing buildings. Visually the operational development necessary to convert the buildings would not result in significant adverse impacts on the character of the site or surrounding environment.
- 9.21. 5) *Impacts on residential amenity, the highway network, character and setting* - Given the site's rural context, the proposals would not likely result in significant impacts on residential amenity, other than on the existing residential farmstead units which are in the applicant's control.
- 9.22. The character of the site would change from a typical agricultural farm to a more commercial site. The end users of the proposed units are not known at this stage and as such trip generation, employment levels and the level of intensification of use of the site cannot be fully quantified at this stage. However, it should be noted that the application proposes flexible Class B1, B2 and B8 uses in the units across the site and differing levels of employment and activity would usually be associated with each of these uses; for example a Class B2 use could include a vehicle repair centre which is likely to have significant daily movements whilst a Class B8 storage unit could generate very little movement to and from the site if it was just used for medium to long-term storage. A more intense use of the site would likely impact on the character and appearance of the site and its wider rural setting.

- 9.23. In terms of impacts on the highway network the LHA notes that traffic would likely impact on existing congested villages, highlighting the mini roundabout in Bloxham with the Barford Road, Church Street and the A361, the traffic signals in Adderbury with the A4260 and B4100 and finally the Deddington signals with the A4260 and B4031, as key pinch points. However, the LHA does not object on these grounds. Transport impacts are discussed further below, but it is considered likely that the proposals would not result in such severe impacts on the local road network as to warrant a reason to refuse the application.
- 9.24. *6) Traffic and movements* - The site is not in a sustainable location and this is acknowledged by the applicant's agent in correspondence (letter dated 17 Aug 2019) received during the application. The site is in open countryside with no pedestrian links to either Milton to the east of Bloxham to the west or convenient access to public transport and as such those using the proposed units, including employees and customer/visitors would be reliant on the use of motor vehicles to travel to and from the site. An intensification of the use of this site would thus not be appropriate given that the only attractive access is by private motor vehicle and Bloxham facilities are also not suitably accessible by sustainable transport
- 9.25. Given the size of the units it is unlikely that there proposed use would give rise to significant HGV units with smaller businesses tending to use smaller commercial vans. Overall, however, there would be a heavy reliance on the use of cars and vans and this would conflict with the provisions and aims of both national and local policy guidance in looking to contribute to the general aim of reducing the need to travel by private car.
- 9.26. In this instance no supporting information on how the applicants would look to achieve such sustainable transport options or limit vehicle movements reducing the need to travel, have been submitted. The proposals would therefore demonstrate conflict with the provisions and aims of both local and national planning policy in terms of sustainable transport.
- 9.27. *7) Existing opportunities* - The applicant has undertaken an assessment of market conditions and availability of other commercial units within Banbury and surrounding areas. The report identifies several units that are available and provides an assessment of each of the units. The report concludes that the proposed re-use of the buildings at the site would contribute to meeting a lack of existing supply on existing estates and rural areas and would be no different other rural industrial estates including West Street Shutford, Apollo Business Park Wroxton and Sugarswell Business Park Sherington. However, it is unclear as to the type of target end users, with the proposed plans showing the units to be little more than enclosed barns with no internal facilities such as offices and staff welfare facilities. Whilst officers acknowledge that such facilities could be incorporated at a later date without requiring a further consent, this in itself would limit the appeal of such units to potential B1 or B2 businesses, as currently proposed.
- 9.28. Whilst the report does provide a snap shot of commercial unit availability at the time of the preparation of the report, it does highlight that there are existing options available that would have a similar offering as the proposed development. It is also noted that were a number of units that were identified as 'no longer' being available within the assessment section of the report, but an online search undertaken at the time of the preparation this report appeared to show some of these units as still being available. The case officer dealing with this application is also handling a planning application at one of the units (3 Mallorie House Banbury) which was highlighted as no longer being available, but which was vacant at the time of the preparation of this report. Further units also appear to be available, in some respects demonstrating fluidity in the commercial market.

9.29. In terms of employment development monitoring within the district, the Council's Annual Monitoring Report 2018 (AMR 2018) highlights the following key facts:

- The district has seen a low gain in employment floorspace with 951 sqm completed over 2017/18 following a high return in 2016/17 (103,000 sq m).
- At 31 March 2018 there was nearly 500,000 sq m (net) of employment floorspace with planning permission but not constructed.
- Employment land which includes allocations and permissions amounts to 287.14 ha. There are nearly 79 ha of remaining allocated employment land yet to receive planning permission.
- Only 0.51 ha of employment land was lost to non-employment use during 2017/18.
- Overall there was a small loss of 281.92 sq m (net) floorspace in tourism related developments over the course of 2017/18.

9.30. The AMR 2018 highlights that whilst there has been a decrease in the number of completions there remain consents that could be implemented and further ample land allocated for employment development.

Conclusion

9.31. Whilst there would be benefits to the applicant going forward in providing an alternative income through the re-use of the existing agricultural buildings, officers consider that it has not been satisfactorily demonstrated that exceptional circumstances exist, that provide sufficient justification as to why new employment development should be allowed in this unsustainable location, and that any such need that may exist could not be met on existing or allocated employment sites. The proposals are therefore contrary to the provisions and aims of Policies SLE1 and ESD1 of the CLP 2031 and Government guidance within the NPPF.

Highway Safety

Policy Context

9.32. The NPPF (Para. 108) states that the planning system should actively manage patterns of growth in support of the achievement of promoting sustainable transport. However, notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

9.33. The NPPF (Para. 108) advises that in assessing specific applications for development, it should be ensured that:

- a) [appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;] – *assessed earlier in this report*
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

9.34. Saved Policy TR7 of the CLP 1996 states that: '*Development that would regularly attract large commercial vehicles or large numbers of cars onto unsuitable minor roads will not normally be permitted*'.

- 9.35. Saved Policy TR10 states that: *'Development that would generate frequent heavy-goods vehicle movements through residential areas or on unsuitable urban or rural roads will not be permitted. The council will resist proposals for the establishment of heavy-goods-vehicle operating centres where they would create traffic problems or adversely affect the amenity of residential areas or villages'*.

Assessment

- 9.36. The site is accessed via an existing gated access and access track off the road connecting Bloxham, Milton and further to Adderbury, and which links into the wider road network at key points in Adderbury and Bloxham. The proposals would result in an intensification in traffic movements to and from the site above current levels, and those when the site was in a more active use. Following concerns being raised by officers at the application was registered, the applicant submitted a Transport Statement (TS) which has been subsequently updated and supplemented with further information during the application in response to comments from the LHA.
- 9.37. The TS sets out that whilst there would be an increase in vehicle movements that these would not be significantly above those experienced when the farm operations were at their height; indicating figures of 114-228 of proposed vehicle movements, as opposed previous levels at 38 to 88 trips a day onto Milton Road based on a 12-hr working day and between 56 and 131 trips based on an 18-hour day. The TS and further information submitted during the application, including 'Visibility splay and passing places' plan (03 Rev. A) demonstrate that appropriate vision splays can be achieved for the surveyed speeds of passing vehicles.
- 9.38. The LHA has assessed the proposals and additional information that has been submitted during the course of the application and does not object on the grounds of impact on highway safety or to the network.
- 9.39. The LHA originally objected to the proposals in respect of the access onto the highway and access track. Amended plans have been submitted during the application which look to address visibility splay issues at the access to the site and passing bays have been included along the access track. The inclusion of passing bays along the access track allow for two-way passing and are considered acceptable. In respect of the visibility splays, the LHA is not clear of the status of the highway at that location. However, given that it is likely that this issue could likely be resolved and could be dealt with through a Section 278 Agreement the LHA has removed its objection in this respect.
- 9.40. There are Public Rights of Way (PRoW) that cross land at the front south-east of the site continuing through the farm complex and joining up with the route to the north of the site. During the site it was evident that the authorised route to the south-east of the site did not appear to be heavily used, with no signs of use across the field or any access through the boundaries of the field.
- 9.41. It is noted that no objections or comments have been received from the County Council's PRoW Officer or Ramblers Association in response to consultation on the application. The proposals would not directly impact on the authorised routes other than more frequent vehicle movements along part of the access track. If the Council were minded to approve the application, conditions and informative notes would be recommended noting that the PRoW should not be obstructed by vehicles (during construction and occupation) or plant and machinery during construction so that the right of way would remain available and convenient for public use.

Conclusion

- 9.42. The NPPF (Para. 109) states that: *‘Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe’*. Notwithstanding issues with regards to the sustainability of the location of the site, and whilst the comments of both Milton and Bloxham Parish Councils and Third Parties are duly noted, in relation to the impacts of increased vehicular movements, it is considered that given the scale of the proposals and the likely type and frequency of vehicular movements associated with the proposed development, it is unlikely that such impacts would be so significant, or severe, that they would be to the detriment of the safety and convenience of highway users to the extent that it would warrant a reason to refuse the application on highway safety grounds alone.

Design, and impact on the character of the area

Policy Context

- 9.43. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 9.44. These aims are also echoed within Policy ESD15 of the CLP 2031 which looks to promote and support development of a high standard which contributes positively to an area’s character and identity by creating or reinforcing local distinctiveness, further stating that: *“Development of all scales should be designed to improve the quality and appearance of an area and the way it functions, deliver buildings, places and spaces that can adapt to changing social, technological, economic and environmental conditions and support the efficient use of land and infrastructure, through appropriate land uses, mix and density/development intensity”*.
- 9.45. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development. Further, saved Policy C30 of CLP 1996 states control will be exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 9.46. Policy ESD13 of the CLP 2031 states that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not normally 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, or impact on areas judged to have a high level of tranquillity.

Assessment

- 9.47. As noted above the proposals are functional in their design, working with the existing structures, limiting changes to the external appearance of the buildings. Internally the proposals would result in enclosed structures with no associated facilities; which whilst such would provide adequate storage facilities, would be limited in terms of supporting potential B1 and B2 business uses, unless such amenities and facilities were incorporated at a later date.
- 9.48. The proposals are open to views from the public domain, with the main vantage points being from the adjacent highway (at a distance of approx. 250m) and clearly from the PRow that run through and along the boundaries of the site.

- 9.49. The proposals would see the enclosing of the existing portal framed buildings with new walls and access doors and would not result in any significant increase in the scale or form of the existing structures. Views of the site from the adjacent highway presently are of the rear elevation of the barn at the southern of the site (which is a blockwork wall with cladding above), and the end elevations of two portal framed buildings (largely open with metal gates, timber fencing to lower sections of the elevations and profiled metal cladding to the upper end gables). Officers consider that the views of the site from the south would not be significantly affected by the proposed operational development.
- 9.50. Whilst finish materials are not specifically detailed within the application, the submitted drawings appear to indicate that materials would likely be consistent with those currently in use on the buildings. This is a matter that could be further controlled by way of appropriate conditions attached to any such permission should the Council be minded to approve the application.
- 9.51. The proposed commercial use would not extend beyond the confines of the existing farm complex with associated hardstanding. Whilst the proposed change of use would change the character of the site in the rural context, it is considered that any potential visual impacts could be largely mitigated by way of natural screening and an appropriate landscaping scheme. In order to address the visual impacts of the proposed development the applicant has submitted a landscape plan during the course of the application. Whilst this plan is limited in terms of specific detail of species and planting, it does indicate the potential for natural screening and it is considered that appropriate details could again be secured by way of appropriate conditions attached to any such permission, should the Council be minded to approve the application.

Conclusion

- 9.52. Officers consider that, whilst the proposals would result in a change in the character of the site, any harm that would be caused to the wider landscape setting and setting could be adequately be mitigated through an appropriate landscaping scheme, providing natural screening of the site, and any visual intrusion would not be so significant that it would warrant a reason to refuse the application on these grounds alone.

Residential Amenity

Policy Context

- 9.53. Policy C31 of the CLP 1996 states that: *'In existing and proposed residential areas any development which is not compatible with the residential character of the area, or would cause an unacceptable level of nuisance or visual intrusion will not normally be permitted'*; with the aim being that new development, including changes of use, does not prejudice the environment of the areas concerned. These provisions are echoed in Policy ESD15 of the CLP 2031 which states that: *'new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space'*.

Assessment

- 9.54. The site is in a rural location and is divorced from the nearby villages of Milton (630m to the east) and Bloxham (620m to the west), and as such is not likely to have any direct significant impacts on the residential amenity of properties in these settlements.

- 9.55. There are residential properties within the farmstead, also in the applicant's control, at the site, to the west of the buildings and land proposed to be changed in use. However, there are agricultural buildings on intervening land that would be retained in agricultural use. The Council's Environmental Protection Officer has assessed the application and raises no concerns in respect of the potential impacts on the amenities of the occupants of these properties. Officers see no reason to disagree with the EHO's assessment.
- 9.56. Were the Council minded to approve the application, conditions could potentially be applied with regards to operational times of the proposed units, to ensure that the proposed use does not impact to any significant extent on the amenities of the properties within the farmstead. It is therefore considered that the proposals are unlikely to result in any significant impacts on these properties above those currently experienced from the existing agricultural use.

Conclusion

- 9.57. Officers are satisfied that the development could be made acceptable in residential amenity terms.

Drainage and Flood-risk

Policy Context

- 9.58. Policy ESD6 of the CLP 2015 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.
- 9.59. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.

Assessment

- 9.60. The County Council's Drainage Team have assessed the application, and further information submitted during the course of the application, and sustain an objection in terms of the lack of supporting information in respect of the proposed drainage of the site. However, they acknowledge that this is essentially a conversion scheme and proposals would not create any significant new impermeable surfaces, and that it is likely that an acceptable solution could be achieved given that the existing site and buildings is currently drained.
- 9.61. No drainage details or assessment of flood-risk has been submitted with the application, and such matters have not been satisfactorily addressed by the applicant's agent despite the issue being brought to their attention during the course of the application. The agent has indicated that they would be willing to provide additional information in respect of drainage however, such information had not been submitted in time for appropriate consideration and consultation at the time of preparation of this report.
- 9.62. The site is not within an area of higher than normal potential for flood-risk (Flood Zone 1) and as noted above the proposals are not likely exacerbate the potential for flood-risk above the current situation. It is considered likely that an acceptable sustainable drainage solution is achievable and such matters could be secured by way of appropriate conditions.

Conclusion

- 9.63. Whilst there is a lack of sustainable drainage details for the proposed development at this stage, it is considered that acceptable details could be secured by way of appropriate conditions attached to any such permission, should the Council be minded to approve the application, to ensure that the proposals would be acceptable in terms of flood-risk and drainage.

Energy Efficiency/Sustainability

Policy Context

- 9.64. The Ensuring Sustainable Development of the CLP2031 require new development to reduce carbon emissions, use resources more efficiently, incorporate renewable energy provision in the interests of sustainable development and looking to mitigate the impacts of climate change.
- 9.65. Policy ESD 3 of the CLP 2031 requires that all new non-residential development will be expected to meet at least BREEAM 'Very Good' with immediate effect, subject to review over the plan period to ensure the target remains relevant. The demonstration of the achievement of this standard should be set out in the Energy Statement.
- 9.66. Policy ESD 5 of the CLP 2031 requires a feasibility assessment of the potential for significant on-site renewable energy provision (above any provision required to meet national building standards) for all applications for non-domestic developments above 1000m² floorspace. And that where feasibility assessments demonstrate that on site renewable energy provision is deliverable and viable, this will be required as part of the development unless an alternative solution would deliver the same or increased benefit.

Assessment

- 9.67. No information/assessment has been submitted with the application in terms of demonstrating the sustainability of the proposed development or potential for the inclusion of renewable sources of energy at the site.
- 9.68. The proposals would result in the re-use of existing agricultural buildings and therefore could be considered sustainable in this respect. However, there is no assessment as to how efficient the buildings would be in terms minimising both energy demands and energy loss, whilst embracing opportunities for maximising passive solar lighting and natural ventilation; in turn maximising resource efficiency. Without such assessment or satisfactory details being submitted, officers consider that the sustainability credentials of the proposed development are significantly limited.

Conclusion

- 9.69. The proposals demonstrate significant conflict with Policies ESD3 and ESD5 of the CLP 2031 which, when coupled with the issues with regards to the sustainability of the location, and conflict with Policies SLE1 and SLE4 of the CLP 2031 discussed above, result in an unsustainable form of development contrary to the provisions and aims of both local and national policy guidance and therefore unacceptable in this regard.

Ecology Impact

Legislative context

- 9.70. 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.
- 9.71. 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.
- 9.72. 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.
- 9.73. 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.
- 9.74. 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

- 9.75. 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.

- 9.76. 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.
- 9.77. 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.
- 9.78. 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.
- 9.79. 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.
- 9.80. 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.
- 9.81. 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

- 9.82. No ecological appraisal has been submitted in support of the application. However, there are also no records of protected species as being present. 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')
- 9.83. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site consists existing open-sided agricultural structures and established hedgerow to the northern boundary of the site. There are a number of trees close by and in the boundary of the site which would not be affected by proposals. There are no buildings to be removed due to the proposed development and given the open nature of the existing structures it is considered that there is limited potential for bats or nesting birds to be present.
- 9.84. Whilst no formal comments have been received from the Council's Ecologist, in light of Natural England's Standing Advice and taking account of the site constraints it is considered that the site has limited potential to contain protected species and any species present are unlikely to be adversely affected by the proposed development. As such no formal survey is required and in the absence of which this does not result in a reason to withhold permission. An informative note reminding the applicant of their duty to protected species would need to be included on any approval and is considered sufficient to address the risk of any residual harm.
- 9.85. In respect of the requirements of Policy ESD 10 of the CLP 2031 and guidance within the NPPF, in terms of providing a nett gain in biodiversity opportunities, the proposals would include significant further natural planting within the proposed landscaping scheme. It is considered that the use of appropriate native species of plants that would encourage wildlife and biodiversity could be secured through any conditions in relation to the proposed landscaping scheme and planting schedule; to ensure that that the proposed development would provide a net gain in biodiversity

Conclusion

- 9.86. Officers are satisfied, that subject to appropriate conditions, that 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. Further that subject to the implementation of an appropriate landscaping scheme, to ensure that that the proposed development would provide a net gain in biodiversity, the proposals would in accordance with the provisions of Policy ESD10 of the CLP 2031 and Government guidance within the NPPF, regarding the importance of conserving and enhancing the natural environment.

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 overarching objectives, to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 10.2. Government guidance within the NPPF supports the plan-led system and advises that applications that accord with an up-to-date plan should be approved without delay. However, conversely

- 10.3. In reaching an informed decision on planning applications there is a need for the Local Planning Authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. It is also necessary to recognise that Section 38 of the 1990 Act continues to require decisions to be made in accordance with the development plan and the NPPF highlights the importance of the plan led system as a whole.
- 10.4. Given the above assessment it is considered that the proposal represents an unsustainable form of employment development within the rural open countryside for which it has not been demonstrated that there is an exceptional need for such development in this unsustainable rural location; and further that it has not been demonstrated that the proposals would represent a sustainable form of development in terms of construction or energy efficiency going forward.
- 10.5. Whilst there would be personal benefit to the applicant in providing a more viable business model going forward and the proposals would have the potential to provide some opportunities for rural businesses, albeit on a limited basis, it is considered that such benefits would not outweigh the environmental harm caused by allowing such an unsustainable form of development that would be highly dependant on the use of motor vehicles in this rural location.
- 10.6. Given the above assessment in the light of current guiding national and local policy context, it is considered that the proposal conflicts with the relevant Policies of the Development Plan outlined above and therefore permission should be refused.

11. RECOMMENDATION

RECOMMENDATION - REFUSAL FOR THE REASON SET OUT BELOW

1. The proposed development represents an unjustified and unsustainable form of development in a rural location, and it has not been demonstrated that exceptional circumstances exist for such development in this unsustainable location. It has not been demonstrated how services, facilities and public transport can be accessed from its location or that there is a realistic choice of travel means for future users of the development. Further, it has not been demonstrated that the proposals would be of sustainable construction or embrace the principles of sustainable development including the use of renewable forms of energy, contrary to the provisions and aims of Policies SLE1, SLE4, ESD1, ESD2, ESD3 and ESD5 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

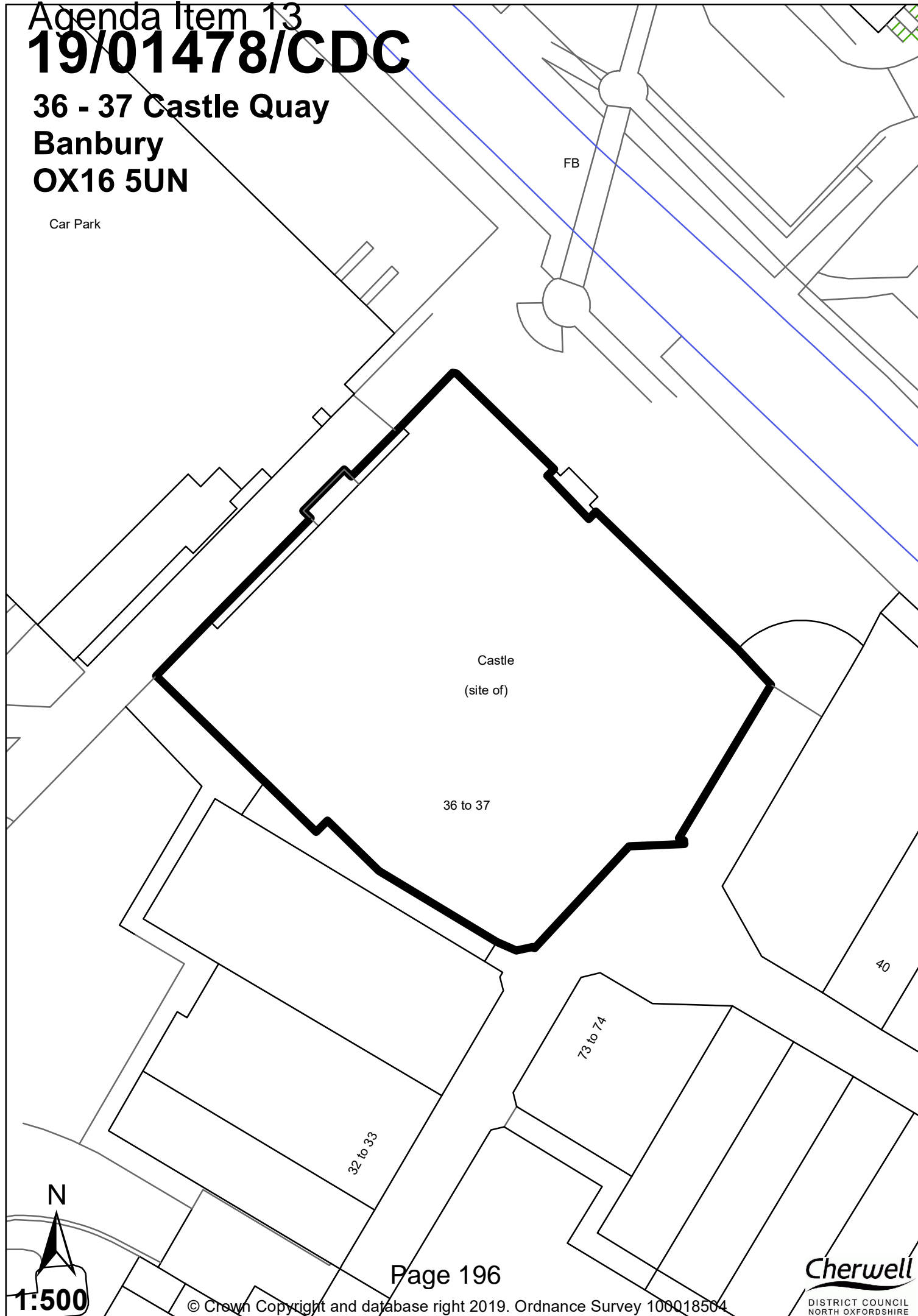
CASE OFFICER: Bob Neville

TEL: Bob Neville

Agenda Item 13
19/01478/CDC

**36 - 37 Castle Quay
Banbury
OX16 5UN**

Car Park

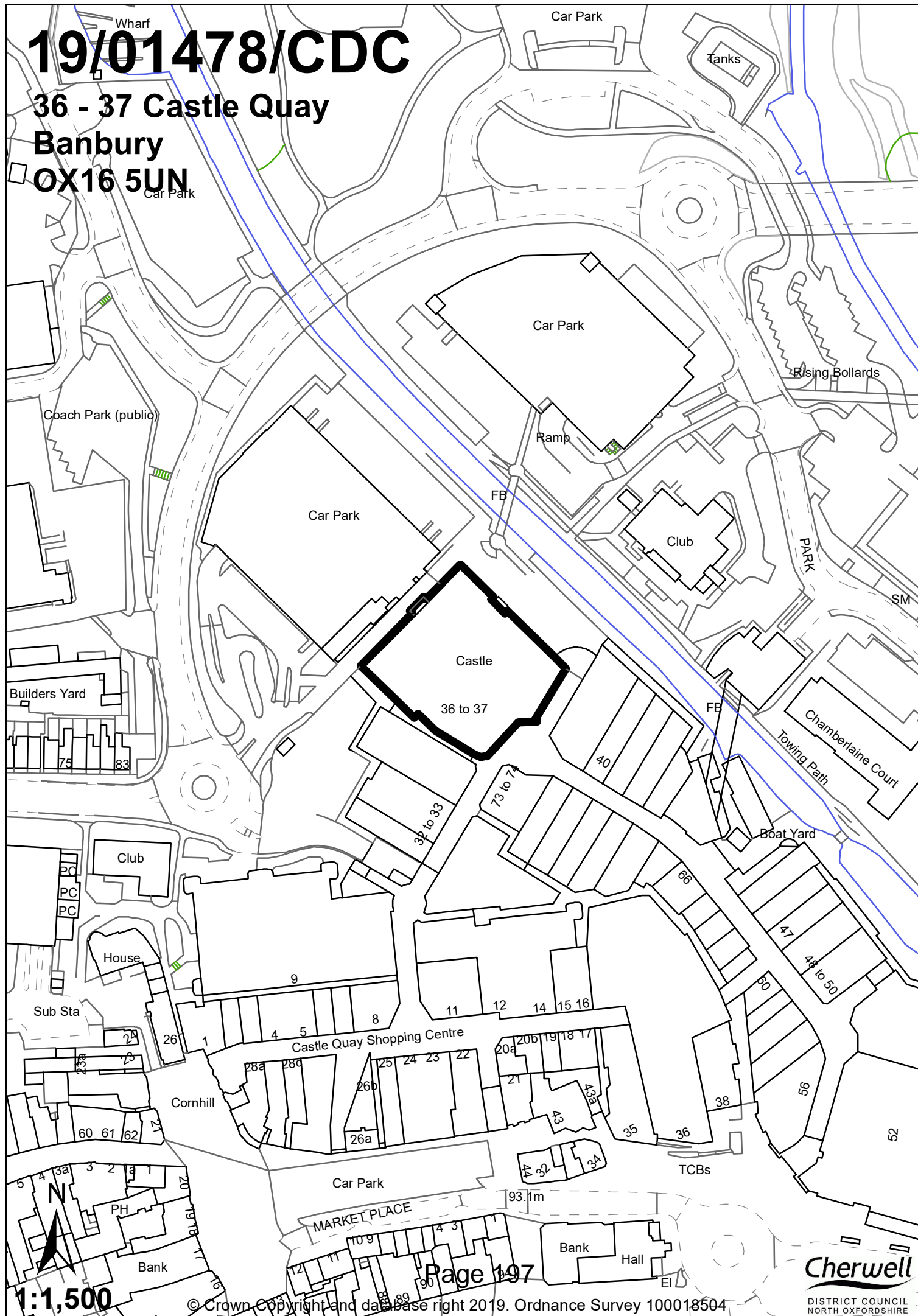


19/01478/CDC

36 - 37 Castle Quay

Banbury

OX16 5UN



Case Officer: Emily Shaw

Applicant: Cherwell District Council

Proposal: Change of use from A1 with ancillary A3, to a sui generis/mixed use (at the ground floor only); comprising use classes A1, A3, A4, A5, D1 and D2. New toilet provision for staff.

Ward: Banbury Cross and Neithrop

Councillors: Councillor Hannah Banfield, Councillor Surinder Dhesi and Councillor Cassi Perry

Reason for Referral: Application affects Council's own land and the Council is the applicant.

Expiry Date: 24 September 2019

Committee Date: 19 September 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

This application relates to unit 36-37 Castle Quay, previously occupied by BHS and currently a vacant unit and seeks planning permission for the change of use from retail (A1 use class) with ancillary café, to a sui generis/mixed use (at ground floor only); comprising use classes A1, A3, A4, A5, D1 and D2. The application also includes new toilet provision for staff which will be located near to the new customer toilet facility approved under 19/00535/CLUP.

Consultations

No consultees have raised **objections** to the application.

The following consultees have raised **no objections and commented** on the application:

- OCC Highways – Planning condition to ensure existing pedestrian routes remain open for public pedestrian use at all times during hours of operation. There has been no assessment carried out to demonstrate the additional number of peak hour trips compared to the existing use. However, it is estimated that this will be minimal as most of the additional trips will be shared with existing retail trips or made at off peak times.
- CDC Building Control – Proposals need to provide access in line with Part M
- Banbury Town Council – **no objections**

No letters of support have been received.

Planning Policy and Constraints

The application site lies within Banbury Town Centre and therefore Policy Banbury 7: Strengthening Banbury Town Centre is relevant in the assessment of this application. Policy Banbury 7 supports shopping, leisure and other 'Main Town Centre Uses' in this area. The Banbury Canal Conservation Area lies immediately to the north east of the site, the site however does not lie within the Conservation Area.

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
- Proposed layout, hours of operation and management
- Highway Impact and Pedestrian Connectivity

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 comprises unit 36-37 Castle Quay, formerly British Homes Stores, and is located within the town centre of Banbury within the Castle Quay Shopping Centre. The application site comprises a unit measuring a floor space of 16,429 square metres with an existing retail use with ancillary café. The unit has been vacant for a number of years. The application site has an internal frontage into the shopping centre to the south and external frontages to the north east and north west facing the Canal and the adjacent multi storey car park.

2. CONSTRAINTS

- 2.1 The Banbury Canal Conservation Area lies immediately to the north west of the application site and Flood Zone 2 lies immediately to the north and north west of the application site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks planning permission for the change of use of the ground floor of unit 36-37 Castle Quay. The current authorised use of this unit is retail (A1) with ancillary café (A3).
- 3.2. The proposed use is a sui generis mixed use comprising retail, café, restaurants, hot food takeaway and a community/event space within fixed units totalling 6929 square feet and broken down as follows:

Proposed uses within fixed units shown on drawing number TB_19_1683 P101 01. (percentage of total floor space)	
Retail (A1)	1623 Square feet (10%)
Restaurant and café (A3)	1093 square feet (6%)
Restaurant and café/ Drinking	2453 Square feet (15%)

establishments (A3/A4)	
Hot food take-away (A5)	659 square feet (4%)
Non residential community space/events space (D1/D2)	1101 square feet (7%)

The proposal also comprises a sui generis mixed use and flexible use of the central floor space area (total floor space 9500 square feet). The proposed total tradeable area proposed will comprise up to 2400 square feet of trading space of A1, A3, A4, A5, D1 and D2 in mobile units as well as more permanent lock up units and occasional temporary event uses within the space.

- 3.3. The application is supported by a supplementary statement which provides an assessment of anticipated vehicle trips to the unit compared with the authorised retail use. The statement concludes that trip generation to the unit will not significantly change compared to trips generated by the existing retail use. The statement also provides a further breakdown of the retail 'carts' proposed and advises that; 9no 97sq/ft lock up kiosks, 4no 67sq/ft stalls and 2no, retail carts are proposed within the central open area and will occupy a maximum of 25% of the total 9500 square feet of the central area. The unit is proposed to be open for trading between the hours of 9am and 10pm (with staff access to 11pm). As the proposed uses will trade outside of the Castle Quay Centre opening hours the space is proposed to be accessed independently from the shopping centre by external entrances from the north west and north east but also from within the centre from all entrances. A security presence will be on site during all opening hours.
- 3.4. This application is for the change of use of unit 36 and 37 only. Planning application 19/01658/CDC deals with the impact of the proposed external alterations which include new plant to the roof, ventilation louvres, downpipes and internal drainage associated with the change of use of this unit and this is a separate item on this Committee agenda.

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>
19/00535/CLUP	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 service yard.	Permitted 31.05.2019
18/01426/F	Installation of new entrance doors in north western elevation of former BHS unit to allow pedestrian access to shopping centre from south multi storey car park	Permitted
	Reserved Matters Application to	

17/00284/REM	16/02366/OUT across the whole development site is sought. Application for approval of reserved matters for scale, layout, appearance and landscaping.	Permitted 26.09.2018
16/02366/OUT	Removal/ Variation of conditions 4 (list of approved drawings) and 9 (enhancement of River Cherwell) to 13/01601/OUT - Condition 4 to be varied to reflect alterations in the access and servicing strategy for Block C, with variations to maximum deviations in block and Condition 9 to be removed as no longer justified.	Permitted 1.06.2018

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 14.09.2019, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. COUNCILLOR SURINDER DHESI: **comments received.** The proposals are welcomed and would also welcome additional seating for the elderly and waste bin provision within the shopping centre.

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.

TOWN COUNCIL

- 7.2. BANBURY TOWN COUNCIL: **no objections**

CONSULTEES

- 7.3. THAMES VALLEY POLICE CRIME PREVENTION DESIGN ADVISOR: **no objection, raised the following comments.** Concerned that the addition of potentially late-night drinking establishments (A4 use) and take away (A5) uses in this location could add to existing levels of crime and anti-social behaviour experienced locally, however these uses are a small proportion of the overall unit so do not object. Confirmed happy with proposed hours of operation. External lighting and security measures may need improving in this area.

- 7.4. OCC HIGHWAYS: **No objection subject to:** Planning condition to ensure existing pedestrian routes remain open for public pedestrian use at all times during hours of operation. There has been no assessment carried out to demonstrate the additional number of peak hour trips compared to the existing use. However, it is estimated that this will be minimal as most of the additional trips will be shared with existing retail trips, or made at off peak times.
- 7.5. CDC BUILDING CONTROL: **comments.** The toilet provision needs to provide a disabled facility.
- 7.6. CDC LICENSING: **no comments.**

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)

- Policy PSD1: Presumption in Favour of Sustainable Development
- Policy SLE 2: Securing Dynamic Town Centre
- Policy ESD15: The Character of the Built and Historic Environment
- Policy ESD16: The Oxford Canal
- Policy Banbury 7: Strengthening Banbury Town Centre

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- Policy S2 – Proposals for retail development in the shopping centre and town centre, Banbury
- Policy C28 – Layout, design and external appearance of new development
- Policy C29 – Appearance of development adjacent to the Oxford Canal

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF) – Section 7 ‘Ensuring the vitality of Town Centres’ and Section 12 ‘Achieving well designed places’
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Banbury Vision and Masterplan

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 (incl. heritage impact)
- Proposed layout, hours of operation and management
- Highway Impact and Pedestrian Connectivity

Principle of Development (incl. Heritage Impact)

- 9.2. The National Planning Policy Framework (NPPF) sets out the purpose of the planning system which is to contribute to the achievement of sustainable development. The planning system has three overarching objectives in relation to sustainable development and these are; an economic objective, a social objective and an environmental objective which are to be pursued in a positive way. At the heart of this is a presumption in favour of sustainable development. Paragraph 85 of the NPPF seeks to ensure viable town centres are achieved through locating main town centre uses within town centres and this proposal meets this objective. Paragraph 127 sets out considerations to be had in relation to new developments and good quality design.
- 9.3. The application site is located within the town centre of Banbury and is located within the Castle Quay shopping centre. Policy SLE 2 and Policy Banbury 7 of the Cherwell Local Plan 2011-2031 seek to secure retail, leisure and other ‘Main Town Centre Uses’ within the town centre of Banbury. This application proposes a mixed-use town centre space comprising A1, A3, A4, A5 and D1/D2. These are all uses which meet the requirements of Policy Banbury 7 which will strengthen the town centre of Banbury by supporting shopping and leisure uses. Furthermore, the proposal seeks to operate extended hours beyond the opening of the current shopping centre and will therefore develop and improve leisure offering for the town in accordance with the Local Plan.
- 9.4. The site affects the setting of the Oxford Canal Conservation Area and therefore, Local Plan policy ESD16 is relevant and seeks to ensure that development is not detrimental to the conservation area and supports proposals which will promote transport, leisure and tourism related uses, as well as supporting enhancement of the canal’s active role in mixed used development in urban settings. Furthermore, 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.*

- 9.5. The application site lies within the town centre of Banbury and currently comprises a vacant retail unit. Noting that the proposal is for uses that are typically found in the town centre, the proposed use is not considered to have any material impact on the setting, character or significance of the Conservation Area.
- 9.6. The proposed change of use will bring a large central town centre unit back into use after a long period of being empty. The proposed mixed-use space will generate a vibrant day time shopping and leisure space as well as an evening leisure space which is considered to accord with the principles set out within the NPPF in relation to sustainable development, vibrant and viable town centres and attractive and safe places to live and also in accordance with the principles of appropriate town centre and canal side uses set out in Local Plan policies SLE 2, Policy Banbury 7 and Policy ESD16.

Proposed layout, hours of operation and management

- 9.7. This application is supported by drawing numbers TB_19_1683 P101 Rev. 01 and TB_19_1683 A101B Rev. 101 which show the proposed layout comprising 7 fixed units which will sit on the ground floor around the edge of the unit. These fixed units have a total tradable floor space of 6900 square feet. The hot food take-away unit on the north west elevation and the retail unit on the southern elevation of the unit are shown to be broken down into multiple kiosks within the defined area. In addition to the fixed units there will also be flexible retail outlets within the central area of the space up to 25% of the tradable area, which amounts to a maximum of 2400sq/ft within the central space along with a number of fixed lock-ups and flexible stalls/kiosks.
- 9.8. The proposal reuses an existing retail unit and introduces a number of leisure uses as well. The proposed change of use will introduce a day time and night time economy to this part of the town which will support the leisure uses already approved within the Castle Quay 2 development approved as part of application 16/02366/OUT and 17/00284/REM and currently under construction.
- 9.9. The application is supported by a short statement which confirms that the mixed-use space within unit 36 and 37 will, during trading times, be covered by monitored CCTV; a mobile security patrol will be undertaken regularly throughout the day; and a centre manager will be present on site during opening hours of the centre and the mixed-use space. No additional external lighting is proposed at this time, the applicant has confirmed that this will form part of a later application to seek permission for advertisements and external alterations. Thames Valley Police have confirmed they have no objections to the proposed change of use and Officers have no reason to form a different view in terms of operation and management of the proposals.
- 9.10. There are existing residential uses located to the north east of the canal at Chamberlaine Court, which comprises retirement apartments. These residential units are located on the opposite side of the canal to the proposed mixed use space. Whilst the proposed change of use will extend the hours of opening of units 36 and 37 beyond the opening hours of the existing shopping centre it is not located closer to the residential uses than the cinema and leisure uses currently being constructed as part of Castle Quay 2. The uses proposed and hours of operation proposed in this application due to their distance from existing residential uses and having

consideration for other authorised uses nearby the proposal would not adversely affect residential amenity of residents of Chamberlaine Court.

- 9.11. The uses proposed, hours of operation and management arrangements contained within this application are an acceptable form of development with no adverse impacts on the amenity of the area or neighbours, and which meets the requirements of Policy SLE 2 and Policy Banbury 7: Strengthening Banbury Town Centre of the Cherwell Local Plan 2011-2031 and Policy S2 and C28 of the Cherwell Local Plan 1996 and guidance contained within the NPPF.

Highway Impact and Pedestrian Connectivity

- 9.12. The proposal reuses the ground floor of an existing town centre retail unit and will provide a mix of uses including retail and leisure uses (restaurant, café and hot food takeaway). The application proposes no new vehicle accesses and the service arrangements to the unit will remain as they are at present. Pedestrian routes will be available through the centre during hours of operation between 9am and 10pm and will allow better connectivity through this part of the town and better access to the bus stops on Bridge Street.
- 9.13. No assessment has been carried out to demonstrate the number of additional peak hour trips likely to be generated compared to the existing use. However, it is likely that additional trips will be very minimal, and any additional trips will be either shared with existing retail visits, or due to the mix of uses comprising later evening uses additional trips will be made at off peak times.
- 9.14. Comments from the Local Highway Authority have raised the issue of poor pedestrian connectivity through the centre. The Castle Quay 2 development planning permission has a requirement to keep pedestrian routes through the existing shopping centre open until the development closes. This change of use application is supported by a drawing which shows the pedestrian routes to remain open during operating hours of the shopping centre as well as the new mixed-use space (Lock 29) which will be open longer than the existing centre.
- 9.15. The proposed change of use will not significantly alter the number of vehicle trips to the site and will potentially improve the pedestrian connectivity through this part of the town with better access and routes within the centre during hours of operation. The change of use is acceptable in highway safety terms and meets the requirements of Local Plan Policy PSD1 and guidance contained within the NPPF.

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.

RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)

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. The development shall not be carried out otherwise than in complete accordance with the approved plans and other details:
 - Application form
 - Site Location Plan – TB_19_1684 P-EX001 Rev. 01
 - Existing Ground Floor Plan – TB_19_1683 P-EX010 Rev. 01
 - Existing External Elevations – TB_19_1683 P-EX020 Rev. 01
 - Existing Roof Plan – TB_19_1683 P-EX013 Rev. 01
 - Proposed General Arrangement Plan – TB_19_1683 P101 Rev. 01
 - Proposed General Arrangement Plan – TB_19_1683 A101B Rev. 01
 - Supplementary Information Statement received by email on the 5th September 2019
 - Supplementary Management Statement received by email on the 5th September 2019
 - Proposed uses and proportion of uses schedule dated the 26.07.2019.
 - Pedestrian Access Routes – 407-OP-19 Rev. P6

unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

Reason : To clarify the permission and for the avoidance of doubt.

Waste Bins

3. Prior to the first use of the development hereby approved, suitably located waste bins shall be provided outside the premises and retained for public use in accordance with details to be firstly submitted to an approved in writing by the Local Planning Authority.

Reason: In order that proper arrangements are made for the disposal of waste, and to ensure the creation of a satisfactory environment free from intrusive levels of odour/litter in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

External Lighting

4. Prior to the installation of any external lighting on any part of the development hereby approved, full details of the proposed external lighting including its hours of usage, shall be submitted to and approved in writing by the Local planning Authority. Thereafter, the external lighting shall be carried out and retained in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved

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

Mix of Uses

5. The mix and proportion of uses comprising the sui generis mixed use hereby approved shall be as detailed in the "Proposed uses and proportion of uses schedule" dated the 26.07.2019 and the premises shall be used for no other purpose, mix or proportion of uses whatsoever unless otherwise submitted to and approved in writing by the Local Planning Authority.

Reason : To safeguard the amenities of the area and to ensure the vitality of the Town Centre, in accordance with Policy SLE2, Banbury 7 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C31 of the Cherwell Local Plan 1996 and Government Guidance contained in the National Planning Policy Framework.

Opening Times

6. The operational use of the premises shall be restricted to the following times:

Monday to Friday: 8:00am to 10:00pm

Saturday's: 8:00am to 10:00pm

Sunday's, Bank and Public Holidays: 10:00am to 10:00pm

Reason: To protect the amenities of nearby residents and to comply with Saved Policy ENV1 of the Cherwell Local Plan 1996.

CASE OFFICER: Emily Shaw

TEL: 01295 221819

Agenda Item 14
19/01658/CDC

**36 - 37 Castle Quay
Banbury
OX16 5UN**

Car Park

Ramp

FB

Castle
(site of)

36 to 37

40

73 to 74

32 to 33

N

1:500

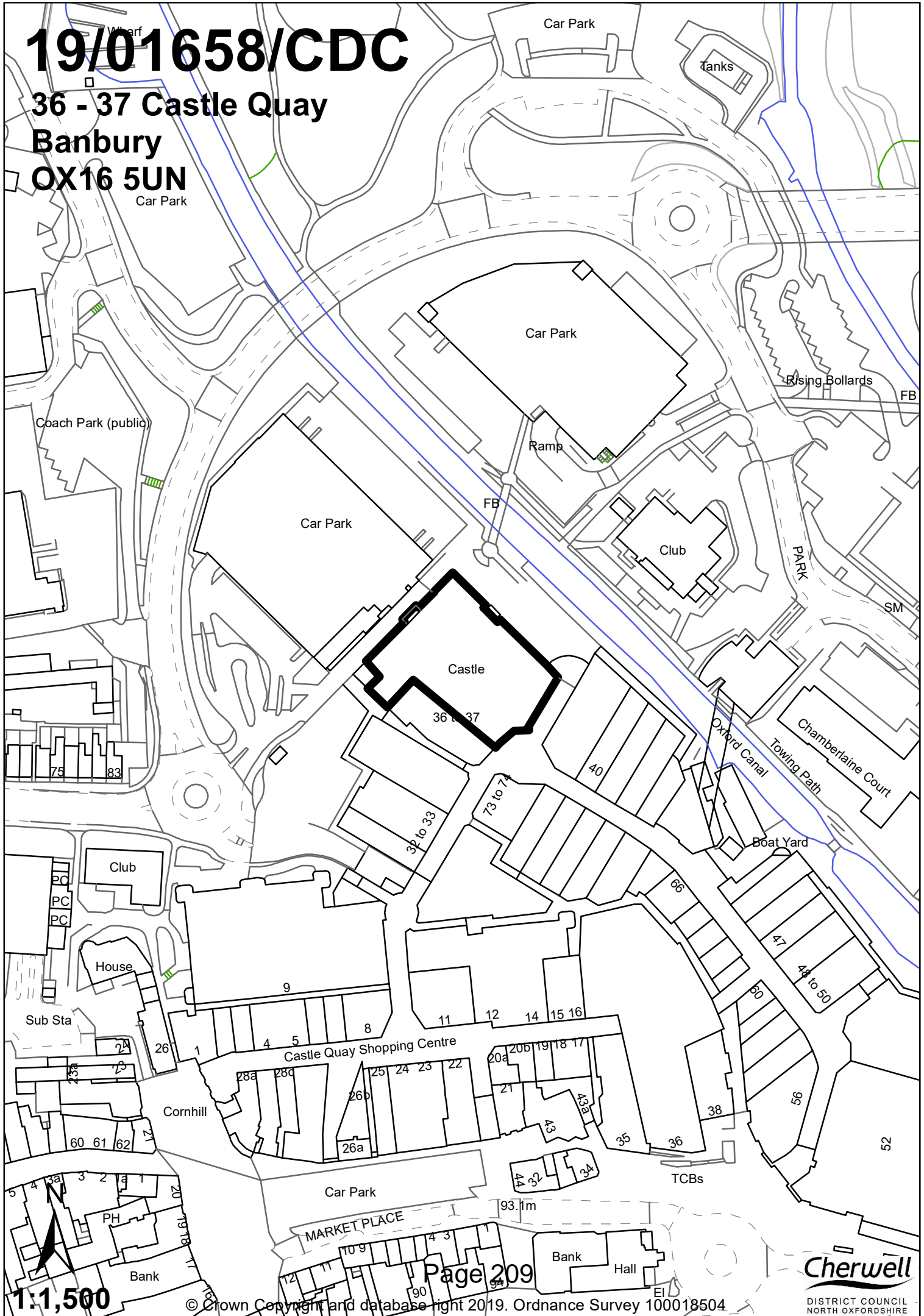
19/01658/CDC

36 - 37 Castle Quay

Banbury

OX16 5UN

Car Park



1:1,500

Case Officer: Emily Shaw

Applicant: Cherwell District Council

Proposal: New plant, ventilation louvres, downpipes and drainage

Ward: Banbury Cross and Neithrop

Councillors: Councillor Hannah Banfield, Councillor Surinder Dheshi and Councillor Cassi Perry

Reason for Referral: Application affects Council's own land and the Council is the applicant.

Expiry Date: 11 October 2019

Committee Date: 19 September 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

This application relates to unit 36-37 Castle Quay, previously occupied by BHS and currently a vacant unit and seeks planning permission for the operational development associated with the change of use of the unit from retail to mixed use covered under application 19/01478/CDC. This application seeks permission for the installation of external plant to the roof of the building, ventilation louvres on the external elevations, and drainage down pipes.

Consultations

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

- None received

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

- CDC Environmental Health

No letters of support have been received to date.

Planning Policy and Constraints

The application site lies within Banbury Town Centre and therefore Policy Banbury 7: Strengthening Banbury Town Centre is relevant in the assessment of this application. Policy Banbury 7 supports shopping, leisure and other 'Main Town Centre Uses' in this area. The Banbury Canal Conservation Area lies immediately to the north east of the site, the site however does not lie within the conservation area. Policy ESD16 is therefore relevant in the assessment of the proposals.

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
- Design, and impact on the character of the area and Heritage 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 comprises unit 36-37 Castle Quay, formerly British Homes Stores, and is located within the town centre of Banbury within the Castle Quay Shopping Centre. The application site comprises a unit measuring a floor space of 16,429 square metres with an existing retail use with ancillary café. The unit has been vacant for a number of years. The application site has an internal frontage into the shopping centre to the south and external frontages to the north east and north west facing the Canal and the adjacent multi storey car park.

2. CONSTRAINTS

- 2.1 The Banbury Canal Conservation Area lies immediately to the north west of the application site and Flood Zone 2 lies immediately to the north and north west of the application site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks planning permission for the operational development associated with the change of use of the ground floor of unit 36-37 Castle Quay from A1 to a mixed use. The operational development proposed comprises the following:

- New ventilation plant to the roof of the building
- 1no. new cast iron down pipe and 2no. ventilation louvres to the north eastern elevation
- 2no. new cast iron down pipes and 6no. ventilation louvres to the north western elevation
- 1no. ventilation louvre to the south western elevation

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>
19/00535/CLUP	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	Permitted 31.05.2019

service yard.

18/01426/F	Installation of new entrance doors in north western elevation of former BHS unit to allow pedestrian access to shopping centre from south multi storey car park	Permitted
17/00284/REM	Reserved Matters Application to 16/02366/OUT across the whole development site is sought. Application for approval of reserved matters for scale, layout, appearance and landscaping.	Permitted 26.09.2018
16/02366/OUT	Removal/ Variation of conditions 4 (list of approved drawings) and 9 (enhancement of River Cherwell) to 13/01601/OUT - Condition 4 to be varied to reflect alterations in the access and servicing strategy for Block C, with variations to maximum deviations in block and Condition 9 to be removed as no longer justified.	Permitted 1.06.2018

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 is 18.09.2019; any comments received after finalising this report will be included in the Written Updates published on the day of Planning Committee.
- 6.2. No comments have been raised by third parties.

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.

TOWN COUNCIL

- 7.2. BANBURY TOWN COUNCIL: **No comments received**

CONSULTEES

- 7.3. CDC ENVIRONMENTAL HEALTH: **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)

- Policy PSD1: Presumption in Favour of Sustainable Development
- Policy SLE 2: Securing Dynamic Town Centre
- Policy ESD15: The Character of the Built and Historic Environment
- Policy ESD16: The Oxford Canal
- Policy Banbury 7: Strengthening Banbury Town Centre

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- Policy S2 – Proposals for retail development in the shopping centre and town centre, Banbury
- Policy C28 – Layout, design and external appearance of new development
- Policy C29 – Appearance of development adjacent to the Oxford Canal

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF) – Section 7 ‘Ensuring the vitality of Town Centres’ and Section 12 ‘Achieving well designed places’
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Banbury Vision and Masterplan

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
- Design, and impact on the character of the area and heritage impact
- Impact on residential amenity

Principle of Development

9.2. The National Planning Policy Framework (NPPF) sets out the purpose of the planning system which is to contribute to the achievement of sustainable development. The planning system has three overarching objectives in relation to sustainable development and these are; an economic objective, a social objective and an environmental objective which is to be pursued in a positive way and at the heart of this is a presumption in favour of sustainable development. Paragraph 85 of the NPPF seeks to ensure viable town centres are achieved through locating main town centre uses within town centres and this proposal meets this objective. Paragraph 127 sets out considerations to be had in relation to new developments and good quality design.

9.3. The application site is located within the town centre of Banbury and is located within the Castle Quay shopping centre. Policy SLE 2 and Policy Banbury 7 of the Cherwell Local Plan 2011-2031 seek to secure retail, leisure and other 'Main Town Centre Uses' within the town centre of Banbury. This application seeks permission for the operational development which is required to facilitate the change of use of unit 36-37 from A1 to a mixed-use space. The proposed ventilation plant located on the roof and ventilation louvres in the external elevations will provide ventilation to the ground floor units to allow alternative uses in this town centre location which will meet the requirements of Government guidance contained within the NPPF and Local Plan policies SLE 2 and Policy Banbury 7 in relation to securing active town centre uses within Banbury.

Design, and impact on the character of the area and Heritage Impact

9.4. Local Plan policy ESD15 seeks to ensure that new development complements and enhances the character of its context through sensitive sighting, layout and high-quality design.

9.5. The site sits immediately adjacent, but not within, Oxford Canal Conservation Area. Local Plan policy ESD16 seeks to ensure that development is not detrimental to the Conservation Area and supports proposals which will promote transport, leisure and tourism related uses, as well as supporting enhancement of the canal's active role in mixed used development in urban settings.

9.6. 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.*

- 9.7. Conservation Areas and Listed Buildings 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.
- 9.8. The proposed plant which is to be sited on the roof of the building will not be visible from ground level above the current parapet/roof of the existing building and therefore this element of the proposal will have no adverse impact on the visual amenities of the area or on the setting of the adjacent canal Conservation Area.
- 9.9. The proposed ventilation louvres and new downpipes located to the north western, south western and north eastern elevations will be visible from the public domain, however due to their size and proposed colouring to match the existing ventilation louvres in the building would not be considered to visually harm the character and appearance of the area. In terms of the impact on the adjacent canal Conservation Area the louvres would be visible within a large elevation facing the canal and would be coloured to match all existing external fenestration and therefore the louvres would not be prominent when viewed from the canal and therefore the impact on the adjacent heritage asset will be limited. The proposed operational development would therefore be in accordance with Government guidance within the NPPF in relation to visual amenity and heritage assets and in accordance with Local Plan policy ESD15 and ESD16 and saved Local Plan policy C28 and C29.

Impact on Residential Amenity

- 9.10. As noted in the report for the associated application for change of use (ref:19/01478/CDC), the site is located in a mixed use area with Castle Quay 2 (which includes a mixture of leisure and retail uses) being constructed between the site and the nearest residential properties. In this context, the proposed operational development is not considered likely to lead to unacceptable impacts on the amenity of the nearest residential properties.

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.

11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)

CONDITIONS/REASONS FOR REFUSAL

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. The development shall not be carried out otherwise than in complete accordance with the approved plans:

- Site Location Plan – drawing number TB_19_1683 P-EX001 01
- Indicative Ventilation System – drawing number 11350-M-001 T1
- Indicative M&E Roof Services – drawing number 11350-ME-001 T1
- Existing Roof Plan – drawing number TB_19_1683 PEX013 01
- Proposed External Elevations – drawing number TB_19_1683 P121 01
- Existing External Elevations – drawing number TB_19_1683 PEX021 01
- Proposed General Arrangement Plan (Above ground drainage) – drawing number TB_19_1683 P101 01
- Existing Ground Floor Plan – drawing number TB_19_1683 PEX010 01

unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

Reason: To clarify the permission and for the avoidance of doubt.

CASE OFFICER: Emily Shaw

TEL: 01295 221819

Cherwell District Council

Planning Committee

19 September 2019

Appeals Progress Report

Report of Assistant Director Planning and Development

This report is public

Purpose of Report

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

1.0 Recommendations

The meeting is recommended:

- 1.1 To accept the position statement.

2.0 Report Details

2.1 New Appeals

19/00444/F – 2 Boxhedge Terrace, Boxhedge Road, Banbury, OX16 0BX -
Erection of single storey porch (Retrospective)

19/00596/OUT – Land to the West of Northampton Road, Weston On The Green - Residential development of up to 18 dwellings with associated access, internal roads, car parking, public open space, landscaping, drainage and other associated infrastructure.

18/02079/F - 59 West End, Launton, Bicester, OX26 5DG - Conversion of pool house into a two-bedroom dwelling (existing unauthorised) (revised scheme of 17/01008/F)

19/00910/F - OS Parcel 6091 East Of Duiker House, Fencott, OX5 2RD - Erection of 1no single storey dwelling and ancillary carport/garden workshop

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

18/00792/OUT - Land At Tappers Farm, Oxford Road, Bodicote, Banbury, OX15 4BN - Outline application (all matters reserved except for access) for the demolition of existing buildings and erection of up to 46 no dwellings, with associated works and provision of open space

Method of determination: Hearing – Wednesday 4th September

Key Dates:

Start Date: 20.06.2019 **Statement Due:** 25.07.2019 **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

18/01727/F – 126 Churchill Road, Bicester, OX26 4XD - Externally re-clad and re-image an existing office and the attached industrial brick factory, storage and distribution unit. This includes splitting the existing industrial unit into 5 separate areas with additional DDA access and Accessible WC provision to all areas.

Method of determination: Written Reps.

Key Dates:

Start Date: 02.07.2019 **Statement Due:** 06.08.2019 **Decision:** Awaited

18/01822/F - Bicester Service Station, Oxford Road, Bicester, OX26 1BT - Re-development of the existing service station including the retention of the existing petrol filling station (PFS) and kiosk; demolition of existing restaurant building and construction of a drive-thru coffee-shop; construction of a restaurant building on land currently used for HGV parking; associated parking provision; retention of existing vehicular access from Oxford Road and reconfiguration of internal access routes to serve the development; creation of separate pedestrian/cycle access; all associated engineering and landscape works - re-submission of 17/01967/F

Method of determination: Written Reps.

Key Dates:

Start Date: 24.06.2019 **Statement Due:** 29.07.2019 **Decision:** Awaited

18/01841/F - 22 Campbell Close, Bicester, OX26 6RY - Demolition of part of existing house and garage and erection of new two-bedroom dwelling (re-submission of 18/00402/F)

Method of determination: Written Reps.

Key Dates:

Start Date: 09.07.2019 **Statement Due:** 13.08.2019 **Decision:** Awaited

18/01894/OUT - OS Parcel 4300 North Of Shortlands And South Of High Rock, Hook Norton Road, Sibford Ferris, Oxfordshire, OX15 5QW - Outline planning permission with all matters reserved for up to 25 dwellings with associated open space, parking and sustainable drainage

Method of determination: Hearing – Wednesday 25th September

Key Dates:

Start Date: 23.07.2019 **Statement Due:** 27.08.2019 **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

19/00231/Q56 - Brockford Farm Agricultural Building, Tadmarton Heath Road, Hook Norton, OX15 5BU - Change of use of building and curtilage from agriculture to single dwellinghouse with associated physical works.

Method of determination: Written Reps.

Key Dates:

Start Date: 26.07.2019 **Statement Due:** 30.08.2019 **Decision:** Awaited

Enforcement appeals

None

- 2.3 Forthcoming Public Inquiries and Hearings between 20 September and 24 October 2019

18/01894/OUT - OS Parcel 4300 North Of Shortlands And South Of High Rock, Hook Norton Road, Sibford Ferris, Oxfordshire, OX15 5QW - Outline planning permission with all matters reserved for up to 25 dwellings with associated open space, parking and sustainable drainage
Hearing date – 25.09.2019

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

Start date of Public Inquiry – Tuesday 15th October (Due to last 3 days)

2.4 Results

Inspectors appointed by the Secretary of State have:

1. Dismissed the appeal by Sharon Haddy & Mandy Borton for Erection of three residential dwellings. Land Adjacent And West Of Roba, Camp Road, Upper Heyford – 18/01436/F (Delegated)

The Inspector considered that the main issues were whether the principle of residential development is acceptable in the location and whether the proposal would preserve or enhance the character or appearance of the Rousham and Upper Heyford Conservation Areas.

The Inspector found that the site lay beyond the built-up limits of the village and the development would be contrary to Policy H18 of the Cherwell Local Plan 1996 and was is not in a location where infill and conversions would be acceptable under Policy Villages 1 of the Cherwell Local Plan 2011-2031. It was considered that the visual built edge of the village extended up to the appeal site but did not include it. The appeal proposal would encroach into the open countryside between Heyford Park and Upper Heyford and despite being outside the Zone of Coalescence it would fail to protect the intrinsic value of the countryside and would result in isolated new homes.

The site is located within the Rousham Conservation Area but outside the Upper Heyford Conservation Area. The Inspector considered that the development proposal would result in less than significant harm to the character of both Conservation Areas as it would introduce a tighter grain of development with a regular pattern and a prominent frontage which would erode the rural character of the surroundings which contributes positively to the setting of the Conservation Areas.

The Inspector concluded that whilst the public benefits of providing three dwellings, namely an increased population making use of village services and facilities as well as limited construction jobs, would not outweigh the harm identified and accordingly dismissed the appeal.

2. Dismissed the appeal by Mr G Noquet for Change of use from Class A4 (ACV Listed) to Class C3 dwellinghouse. The Pheasant Pluckers Inn, Burdrop, Banbury, OX15 5RQ – 18/01501/F (Committee)

The Inspector considered the main issues to be: (1) Whether it was demonstrated that the public house, as an Asset of Community Value (ACV), cannot be financially viable in the longer term; and (2) the effect of the proposed development upon locally and nationally designated heritage assets.

The Inspector noted the long planning history of the site and that the local community regarded the Pheasant Pluckers Inn as a valued facility; and that the value of the pub to the local community was evidenced in its designation as an Asset of Community Value (an ACV) and acknowledged in the 2012,

2013 and 2018 appeal decisions and further in representations submitted to the application and appeal which indicated continued support for retaining the facility.

The Inspector noted that sustainability and viability issues had been assessed in previous applications and appeals, with conclusions being drawn that there were insufficient grounds to conclude the pub would not be viable in the long term. The Inspector noted that the basis of the present appeal, and the application which preceded it, was the concluding remarks from the Inspector of the previous appeal, suggesting the community make a considered bid for the premises; but the Inspector also noted the lack of any new detailed expert evidence in respect of viability.

The Inspector discussed issues raised in representations during the application and appeal as to whether Localism Act 2011 and ACV Regulations 2011 had been adhered to; concluding that he did not have enough information before him to determine this. However, he noted that this matter was not a determinative test as to whether or not the pub is financially viable in the longer term.

The Inspector concluded that no meaningful evidence had been submitted by the appellant to demonstrate the pub is unviable in the longer term, and thereby agreed with the Council's position that it had not been demonstrated that the pub was not financially viable in the longer term and that the proposed development was contrary to Policy S29 of the CLP and Policy BSC12 of the CLPP1 and national policy guidance within the NPPF which seek to retain and enhance community facilities which serve the basic needs of the local community and guard against the unnecessary loss of valued and accessible facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

In respect of the impact on Heritage Assets, the Inspector noted the site's location within the Sibford Gower and Burdrop Conservation Area, that the building is identified as a Locally Significant Asset within the Conservation Area Appraisal (2012), and that there were a number of listed buildings in proximity to the site. The Inspector noted the changes that had already taken place at the site including the removal of pub signage, considering that the proposed change of use would have a small adverse effect upon the character and appearance of the Conservation Area, because of permanently losing a traditional focal point of the community. Further for the same reason it would result in a small amount of harm to its special architectural and historic interest as a Locally Significant Asset. The Inspector found no perceptible impact upon the significance of the listed buildings.

The Inspector concluded that, whilst acknowledging the 2018 Inspector's concerns about the size of the population of the villages to sustain a second pub, there was and still is a requirement on the appellant to demonstrate that the pub would not be viable in the long term. He found this had not been demonstrated and that the proposal conflicted with the Local Plan and the NPPF and that the adverse impacts of granting permission would significantly

and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. The appeal was therefore dismissed.

3. Allowed the appeal by Gladman Developments Ltd for 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 – 18/02056/OUT (Committee)

The Inspector noted that in the lead up to the Inquiry the Council had agreed the ecology refusal reason to have been adequately addressed and therefore considered the main issues to be: (1)

(1) whether the proposal would lead to an over-concentration of new housing development in Ambrosden which would undermine the Council's housing strategy and prejudice a more balanced distribution of housing growth, contrary to Cherwell Local Plan policy and policies in the National Planning Policy Framework (the Framework);

(2) the effect of the proposed development on the character and appearance of the surrounding area and on the significance of the Grade II* listed Church of St Mary the Virgin through change in its setting; and

(3) whether the proposal makes adequate provision for necessary infrastructure directly arising from its development

The Inspector noted the agreement between the Appellant and the Council that Ambrosden lay outside of the area of the district proposed to meet Oxford's unmet need and which had been accepted in the LP Inspector's preliminary conclusions.

The Inspector noted the Appellant's acceptance that CDC could currently demonstrate both a 3 year and 5 year supply of deliverable housing land within the district.

The Inspector noted the Council's acceptance during the inquiry that there was only alleged conflict with LP policies cited within the refusal reasons and not, for instance, with BSC1.

Refusal Reason 1 – housing strategy

The Inspector was not convinced by the Appellant's evidence that the 750 figure in Policy Villages 2 (PV2) had no significance and noted that the Inspector who dismissed the Chesterton appeal (51 dwellings) considered "the use of figure of 750 in PV2 must have some form of constraining effect on total numbers, otherwise the policy would be meaningless in terms of its contribution towards the overall strategy of the plan".

However, he questioned "what planning harm would arise" from a breach of the 750 figure, and noted that PV2 did not contain any temporal dimension (i.e. when during the plan period housing should be delivered), no phasing element (i.e. apportionment of the 750 to years 1-5, 6-10, etc.) and no spatial

dimension (i.e. where the 750 should be delivered, other than at Category A villages).

The Inspector appears to have concluded that it is only where there is conflict with the criteria in the second half of PV2 that the Council's overall housing strategy will have been offended. This conclusion runs contrary to the findings of other Inspectors e.g. Kirtlington, Weston on the Green, Finmere, and Chesterton, to which the Inspector refers in detail (see above).

The Inspector found Ambrosden to be one of the most sustainable Category A Settlements and noted it was the fifth largest Cat A village in terms of population, and benefited from a range of services including pre-school nurseries, primary school, food shop, post office / general store, village hall, two churches, hairdresser's, public house, recreational facilities and a limited opening doctor's surgery, as well as having two bus services connecting to Bicester to Oxford and an off-road cycle path connecting the village to Bicester. The Inspector considered that employment development on the edge of Bicester was "within ready cycling distances". The Inspector concluded that "against a background of no spatial apportionment of additional housing between Category A villages" there was no issue with Ambrosden taking 25% of all PV2 development.

The Inspector disagreed with the Council that PV2 responds to a recognised need to meet rural housing need, despite the text in supporting paragraph C.272: *"In the interests of meeting local housing need in rural areas, an allocation is also being made to enable the development of some new sites (for 10 or more dwellings) in the most sustainable locations..."* The implication seems to be that this should be reflected in the wording of the policy itself.

The Inspector noted that his colleagues had expressed concerns in the various other appeal decisions (Kirtlington, Weston on the Green, Finmere, Fringford, etc.) regarding those appeal proposals contributing to unconstrained growth but opined that those decisions were made at a time when the 750 breach was "hypothetical". This appeal proposal will result in *actual* (rather than hypothetical) exceedance of the 750.

The Inspector considered that, *"the Council [had] demonstrated how in its own right allowing the appeal would lead to the undermining of the Council's overall housing rebalancing strategy contrary to the intent of Policy PV2. The purpose of limiting growth within the rural 'rest of the district' is not an end in itself but is intended to ensure delivery of the rebalancing strategy of an urban focus of new development in Banbury and Bicester. I find that agreeing to the proposal need not make the maintenance of its strategy materially more difficult."* However, the Inspector does not explain how this is so.

Refusal Reason 2 - Character and appearance and impact on heritage assets

The Inspector found that the proposal would result in some harm arising from the *"transformative effect"* of the change from open countryside to built development, but that the site did not have any *"readily perceptible associated*

landscape or visual qualities” and that it was part of “*a pleasant but unremarkable rural landscape*”. He concluded the site as having “*comparatively lesser environmental value*”.

The Inspector found that the proposal would have a “*moderate adverse*” impact both on the local landscape and on views of St Mary’s Church, and that impacts on the latter would be “*substantially adverse*” in the early stages of the development until landscaping had matured.

The Inspector noted that the proposal would result in a significant extension of the village to its south-western side but that was not objectionable in itself, partly because of the development at Ambrosden Court.

The Inspector concluded that through careful attention to layout, design, external appearance and landscaping, development of the site could be designed as not to have “*any significant adverse impact on the character and appearance of its surroundings*” and that the overall impact on the significance of the church was “*very minor*”.

Refusal Reason 3 - Provision for necessary infrastructure

The Inspector noted the provision in the signed unilateral undertaking in relation to outdoor and indoor sports, community facilities, waste and recycling, management of open space and SuDS, affordable housing, biodiversity offsetting, bus service improvement, capacity enhancement of the junction of Ploughley Road and the A41, primary school expansion and travel plan monitoring. The Inspector disagreed with the Council with regarding to the necessity of a payment towards the costs of provision of a footpath link to footpath 295/7 to the south-west of the site.

Other matters

The Inspector referred in particular to the concern raised at the inquiry by local residents in relation to the nature of the footpath link along Merton Road into the village. He noted the narrowing ‘pinch point’ in the footway adjacent to Holly Tree Cottage caused by the presence of telegraph poles. The Inspector noted the non-compliance with Condition 12 of the Ambrosden Court development which would address the issue and found that the matter could be satisfactorily addressed through condition of permission here.

The Inspector found the proposal acceptable in relation to flooding, drainage and light pollution. The Inspector noted the Parish Council survey of village residents in relation to the appeal proposal but found the response rate of 66 “*relatively low and not indicative of widespread concern about the proposal*”.

Conclusion

The Inspector found “*no conflict with the thrust and intent of Policy PV2*”, some limited degree of landscape and visual impact and some harm to the significance of the Grade II* listed church but concluded that the proposal would not harm the setting of Ambrosden or be inconsistent with local

character. He remarked on the locally widening gap in the ratio of house prices to earnings and gave “*significant weight*” to the need to address affordability ratios in Cherwell district as well as “*moderate weight*” to the benefit of significantly boosting the supply of homes and “*modest weight*” to biodiversity and potential for improvement in terms of run-off rates.

Overall the Inspector concluded that the proposal was a sustainable form of development and accordingly allowed the appeal.

3.0 Consultation

None

4.0 Alternative Options and Reasons for Rejection

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

Option 1: To accept the position statement.

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

5.0 Implications

Financial and Resource Implications

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

Comments checked by:

Kelly Wheeler, Business Partner, 01295 225170,
Kelly.wheeler@cherwell-dc.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

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

6.0 Decision Information

Wards Affected

All

Links to Corporate Plan and Policy Framework

A district of opportunity

Lead Councillor

Councillor Colin Clarke

Document Information

Appendix No	Title
None	
Background Papers	
None	
Report Author	Sarah Stevens, Interim Senior Manager, Development Management
Contact Information	sarah.stevens@cherwell-dc.gov.uk