

# Public Document Pack



**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Committee:** Planning Committee  
**Date:** Thursday 24 October 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 George 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 - 16)**

To confirm as a correct record the Minutes of the meeting of the Committee held on 19 September 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. **Proposed Himley Village, North West Bicester, Middleton Stoney Road, Bicester, Oxfordshire** (Pages 19 - 163) **14/02121/OUT**

9. **Land North of Park and Ride, Adj To Vendee Drive, Bicester** (Pages 164 - 183) **19/01351/CDC**

10. **Photovoltaic Installation and Premises, Woodstock Road, Yarnton, Oxfordshire OX5 1PQ** (Pages 184 - 203) **19/01046/F**

11. **Lower Lodge, Williamscot, OX17 1AE** (Pages 204 - 222) **19/01399/F**

12. **Lower Lodge, Williamscot, OX17 1AE** (Pages 223 - 236) **19/01400/LB**

13. **Trysports, 26 Deans Court, Bicester, OX26 6RD** (Pages 237 - 243) **19/01210/F**

**Review and Monitoring Reports**

14. **Appeals Progress Report** (Pages 244 - 251)

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.

## **15. Enforcement Report (Pages 252 - 257)**

Report of Assistant Director Planning and Development

### **Purpose of Report**

To inform Members about planning enforcement cases at CDC and update on the current position following the update in July regarding case numbers, formal notices served, and enforcement action taken.

### **Recommendation**

The meeting is recommended:

- 1.1 To note the contents of the report

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

## **Information about this Agenda**

### **Apologies for Absence**

Apologies for absence should be notified to [democracy@cherwellandsouthnorthants.gov.uk](mailto:democracy@cherwellandsouthnorthants.gov.uk) or 01295 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 Lesley Farrell, Democratic and Elections  
democracy@cherwellandsouthnorthants.gov.uk, 01295 221591

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

Published on Wednesday 16 October 2019



## **Cherwell District Council**

### **Planning Committee**

Minutes of a meeting of the Planning Committee held at Bodicote House,  
Bodicote, Banbury, OX15 4AA, on 19 September 2019 at 4.00 pm

Present: Councillor James Macnamara (Chairman)

Councillor Andrew Beere  
Councillor John Broad  
Councillor Hugo Brown  
Councillor Phil Chapman  
Councillor Colin Clarke  
Councillor Chris Heath  
Councillor Simon Holland  
Councillor David Hughes  
Councillor Mike Kerford-Byrnes  
Councillor Cassi Perry  
Councillor Lynn Pratt  
Councillor George Reynolds  
Councillor Barry Richards  
Councillor Les Sibley  
Councillor Katherine Tyson

Substitute Members: Councillor Barry Wood (In place of Councillor Ian Corkin)

Also Present: Joy White, Senior Transport Planner, Oxfordshire County Council for 19/00617/F  
Anthony Kirkwood, Principal Road Safety Engineer, Oxfordshire County Council for 19/00617/F

Apologies for absence: Councillor Maurice Billington  
Councillor Ian Corkin

Officers: David Peckford, Assistant Director: Planning and Development  
Sarah Stevens, Interim Senior Manager – Development Management  
Nat Stock, Minors Team Leader  
Linda Griffiths, Principal Planning Officer  
Rebekah Morgan, Principal Planning Officer  
Jennifer Crouch, Solicitor  
Lesley Farrell, Democratic and Elections Officer

## **Declarations of Interest**

### **8. Land To The East of The Warriner School, Bloxham Grove Road, Bloxham, Oxfordshire.**

Councillor Chris Heath, Declaration, that she had been involved in negotiations on behalf of the Parish with this application and would speak as ward member but would leave the chamber for the remainder of the application and would not take part in the vote.

Councillor George Reynolds, Non Statutory Interest, as a member of Oxfordshire County Council which had been consulted on the application.

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

### **10. S Grundon Services Ltd, Merton Street, Banbury, OX16 4RN.**

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.

### **11. 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.

### **13. 36 - 37 Castle Quay, Banbury, OX16 5UN.**

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

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

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

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

Councillor George Reynolds, Declaration, as a member of the Executive and would leave the Chamber for the duration of the item.

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

### **14. 36 - 37 Castle Quay, Banbury, OX16 5UN.**

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

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

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

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

Councillor George Reynolds, Declaration, as a member of the Executive and would leave the Chamber for the duration of the item

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

66 **Requests to Address the Meeting**

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

67 **Minutes**

The Minutes of the meeting held on 15 August 2019 were agreed as a correct record and signed by the Chairman.

68 **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.

69 **Urgent Business**

There were no items of urgent business.

70 **Proposed Pre-Committee Site Visits (if any)**

No pre-Committee site visits were proposed.

71 **Land To The East of The Warriner School, Bloxham Grove Road, Bloxham, Oxfordshire**

The Committee considered application 19/00617/F for a Part 2-storey, part 1-storey Special Education Needs school with new access from Bloxham Grove

Road, associated outdoor play areas, multi-use games area, staff parking, pupil drop-off and landscaping at Land to the East of The Warriner School, Bloxham Grove Road, Bloxham, Oxfordshire for the Department for Education.

Councillor Chris Heath addressed the committee as Ward Member.

Steve Craggs addressed the committee on behalf of Bloxham Parish Council in objection to the application.

Chris Maltby, agent for the applicant, Jayne Howarth from Oxfordshire County Council and Daniel Townsend from Stantec addressed the committee in support of the application.

Councillor Clarke, seconded by Councillor Perry requested that officers arrange a meeting, before the Special Education Needs school opens, between Oxfordshire County Council Highways, Cherwell District Council Planners and Bloxham Parish Council to discuss safety in the vicinity of the Warriner School, Bloxham.

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

Councillor George Reynolds voted against the motion and asked for his vote to be recorded.

### **Resolved**

- (1) That authority be delegated to the Assistant Director for Planning and Development to grant permission for application 19/00617/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.

#### **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

#### **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.

**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.

**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.

**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.
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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.

**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.
- 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.
- 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.
- (2) That the 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) be completed:
- 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.

- (3) That a meeting be arranged, before the Special Education Needs school opens, between Oxfordshire County Council Highways, Cherwell District Council Planners and Bloxham Parish Council to discuss safety in the vicinity of the Warriner School, Bloxham.

72      **Glebe Farm, Boddington Road, Claydon, Banbury**

The Chairman referred the Committee, to the written updates and advised the Committee that application 18/00904/F had been withdrawn from the planning process by the applicant.

73      **S Grundon Services Ltd, Merton Street, Banbury, OX16 4RN**

The Chairman referred to the written updates and highlighted that the officer recommendation for application 16/00472/OUT had changed to deferral to enable the consideration of additional information and consultation responses.

Councillor Macnamara proposed that application 16/00472/OUT be deferred, Councillor Clarke seconded the proposal. On being put to the vote, Members voted in favour of deferring consideration of the application.

**Resolved**

- (1) That consideration of application 16/00472/OUT be deferred to enable the consideration of additional information and consultation responses.

74      **Land at Skimmingdish Lane and Land and Roundabout at Bicester Road, Launton**

The Committee considered application 19/00607/F for the use of land as a construction compound incorporating storage area, site offices and car parking at land at Skimmingdish Lane and land and roundabout at Bicester Road, Launton for Network Rail Infrastructure Limited.

Thomas Bode, agent for the applicant, addressed the committee in support of the application.

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

**Resolved**

- (1) That authority be delegated to the Assistant Director for Planning and Development to grant permission for application 19/00607/F 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.
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.

### **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.

### **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.

### **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.

**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.

**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.

**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)

**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.

**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.

**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.

**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.

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.
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.

**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.

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.

#### **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.
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.

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#### **Brickhouse Farm, Bloxham Road, Milton**

The Committee considered application 19/00314/F for the change of use of existing agricultural buildings to commercial for (B1) light Industrial, (B2) General Industrial and (B8) general purpose storage uses at Brickhouse Farm, Bloxham Road, Milton for Mr Smith.

Sunita Burke, James Brown and Tim Humphrey addressed the committee on behalf of the applicant 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**

- (1) That application 19/00314/F be refused for the following reasons:
  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.

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

The Committee considered application 19/01478/CDC for the 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 at 36 - 37 Castle Quay, Banbury, OX16 5UN for Cherwell District Council.

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

#### **Resolved**

- (1) That authority be delegated to the Assistant Director for Planning and Development to Grant Permission for application 19/01478/CDC 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.

##### **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).

### **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.

### **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.

### **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.

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

The Committee considered application 19/01658CDC for new plant, ventilation louvres, downpipes and drainage at 36 - 37 Castle Quay, Banbury, OX16 5UN for Cherwell District Council.

In reaching its decision the committee considered the officer’s report and presentation.

### **Resolved**

- (1) That authority be delegated to the Assistant Director for Planning and Development to grant permission for application 19/01658CDC 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.

**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).

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**Appeals Progress Report**

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

**Resolved**

- (1) That the position statement be accepted.

The meeting ended at 6.10 pm

Chairman:

Date:



## CHERWELL DISTRICT COUNCIL

### PLANNING COMMITTEE

24 October 2019

### PLANNING APPLICATIONS INDEX

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

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

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

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

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

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

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

#### **Human Rights Implications**

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

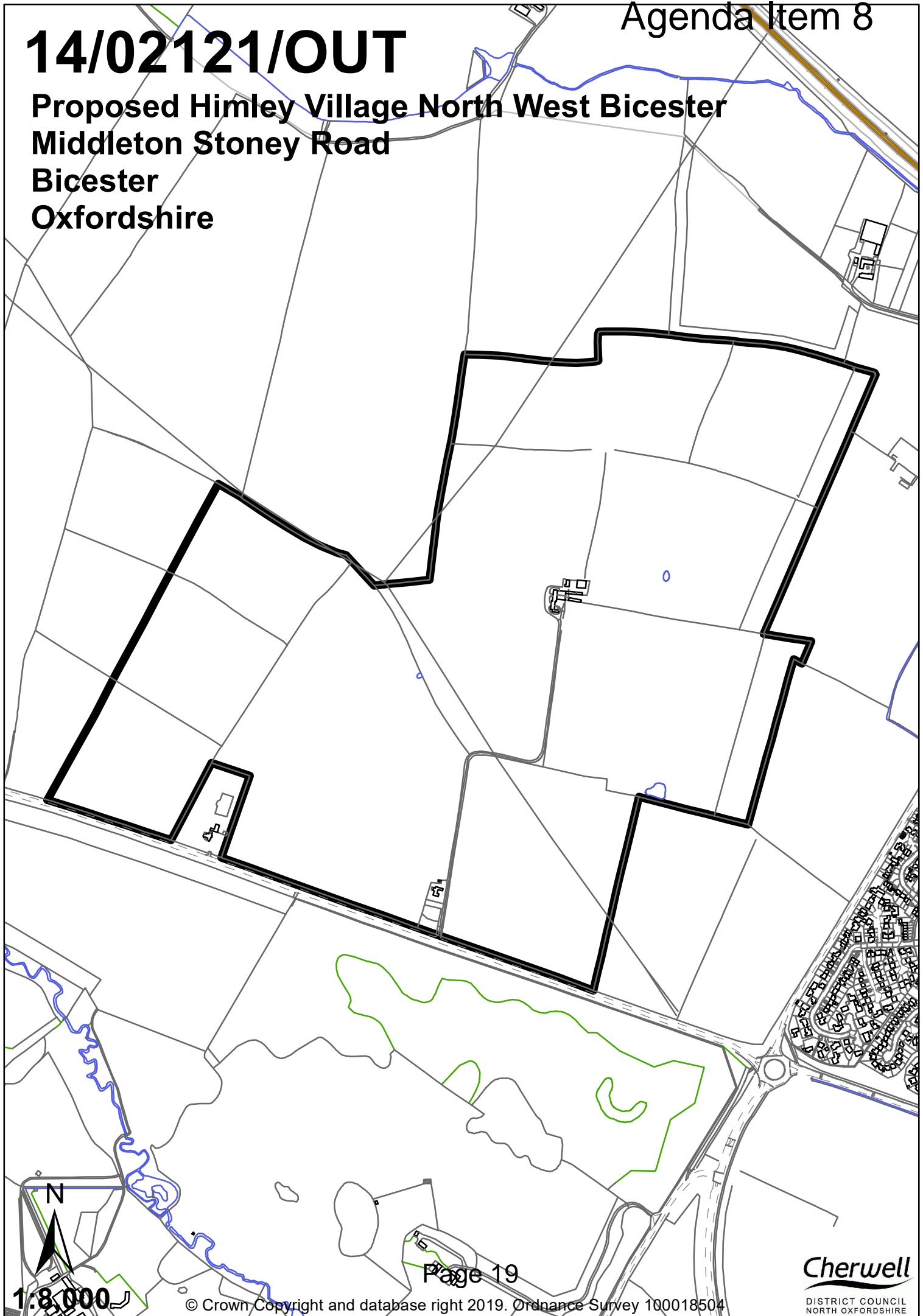
#### **Background Papers**

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

	<b>Site</b>	<b>Application No.</b>	<b>Ward</b>	<b>Recommendation</b>	<b>Contact Officer</b>
8	Proposed Himley Village, North West Bicester, Middleton Stoney Road, Bicester, Oxfordshire	14/02121/OUT	Bicester North and Caversfield	Approval	Caroline Ford
9	Land North of Park and Ride, Adj To Vendee Drive, Bicester	19/01351/CDC	Fringford and Heyfords	Approval	Linda Griffiths
10	Photovoltaic Installation and Premises, Woodstock Road, Yarnton, Oxfordshire OX5 1PQ	19/01046/F	Kidlington West	Approval	Shona King
11	Lower Lodge, Williamscot, OX17 1AE	19/01399/F	Cropredy, Sibfords and Wroxton	Refusal	Gemma Magnuson
12	Lower Lodge, Williamscot, OX17 1AE	19/01400/LB	Cropredy, Sibfords and Wroxton	Refusal	Gemma Magnuson
13	Trysports, 26 Deans Court, Bicester, OX26 6RD	19/01210/F	Bicester East	Approval	Michael Sackey

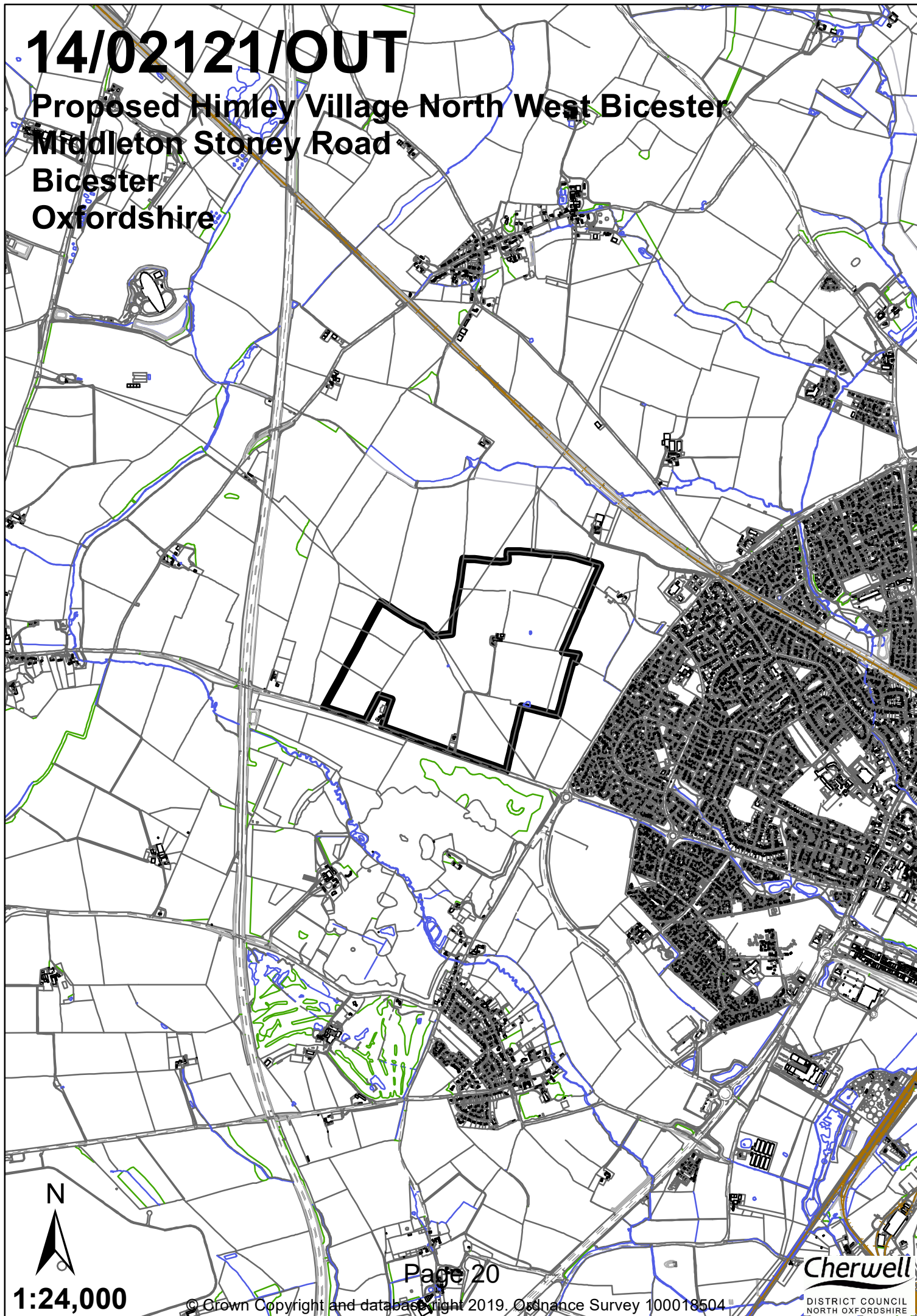
**14/02121/OUT**

**Proposed Himley Village North West Bicester  
Middleton Stoney Road  
Bicester  
Oxfordshire**



# 14/02121/OUT

**Proposed Himley Village North West Bicester  
Middleton Stoney Road  
Bicester  
Oxfordshire**



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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Case Officer:** Caroline Ford

**Applicant:** Portfolio Property Partners Ltd

**Proposal:** OUTLINE - Development to provide up to 1,700 residential dwellings (Class C3), a retirement village (Class C2), flexible commercial floorspace (Classes A1, A2, A3, A4, A5, B1, C1 and D1), social and community facilities (Class D1), land to accommodate one energy centre and land to accommodate one new primary school (up to 2FE) (Class D1). Such development to include provision of strategic landscape, provision of new vehicular, cycle and pedestrian access routes, infrastructure and other operations (including demolition of farm buildings on Middleton Stoney Road)

**Ward:** Bicester North And Caversfield

**Councillors:** Councillor Nick Mawer, Councillor Lynne Pratt, Councillor Jason Slaymaker

**Reason for Referral:** Major development

**Expiry Date:** 31 October 2019

**Committee Date:** 24 October 2019

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

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

#### **Proposal**

The application seeks planning permission for a large scale major development to the North West of Bicester forming part of the NW Bicester site allocated by Policy Bicester 1. The proposal seeks permission for up to 1700 dwellings, including affordable housing along with supporting infrastructure including a primary school, non residential uses and open space. The development is proposed to meet true zero carbon standards as required by Policy Bicester 1.

Planning Committee previously resolved at its meeting on 16<sup>th</sup> March 2017 to grant planning permission subject to conditions and completion of a S106 agreement, and subject to confirmation that the road and tunnels under the railway at NW Bicester could be provided 2019/20. The application is now being brought back to planning committee to ask Members to re-endorse their previous decision to approve the application taking into account changes that have been made since the application was last considered and how various matters, including the S106 negotiations have progressed.

#### **Consultations**

The application has not been re-advertised or re-consulted upon since the application was last considered by Planning Committee as the scheme has not substantively changed to warrant such a process. Consultations and third party comments were reported in the previous committee reports presented to committee in March 2017 and February 2016. These are appended to this report at Appendix B and C respectively.

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

The application site is part of the site allocated by Policy Bicester 1 in the Cherwell Local Plan, which seeks a true zero carbon development built to Eco Town Standards to the NW of Bicester. The site has a number of constraints including listed buildings on part of the site, protected species nearby and on site and the site having archaeological interest and being potentially contaminated. The site also has naturally occurring constraints such as its topography and the natural field boundaries.

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 previous reports appended at Appendix B and C cover the key issues and impacts of the development and these are unchanged other than as summarised and assessed within this report. The development is considered to continue to comply with the Development Plan and to represent sustainable development.

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

## **MAIN REPORT**

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

- 1.1. The application site is situated to the north west of Bicester, north of Middleton Stoney Road and west of Howes Lane and it forms part of the wider NW Bicester Eco Town area within the extent of the site allocated by Policy Bicester 1. The land sits detached from the Western extent of the town and is separated from it by Howes Lane and a parcel of land also part of the allocated site, which benefits from planning permission and on which construction has recently started on site. A property called Lovelynch House sits outside the site boundary but is within the overall allocated site and it is a private residence. The land extends to approximately 90.3ha and is currently agricultural land divided by field hedgerows.

### **2. CONSTRAINTS**

- 2.1. The application site has a number of recorded site constraints – there are listed buildings at Himley Farm present on the site itself, a public bridleway runs to the north of the site close to the railway line, a SSSI site is within proximity and protected/ notable species have been recorded within proximity and on site. The site also has archaeological interest and it has the potential to be contaminated.
- 2.2. The site also has naturally occurring constraints including the field hedgerows, a block of woodland at the east of the site as well as two ponds on site. The land also slopes with approximately an 11m fall from North West to South East across the site. The majority of hedgerows and woodland located within the site area are to be retained as are the listed buildings at Himley Farm.

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

- 3.1. The proposals seek outline planning permission with all matters reserved for the provision of up to 1700 dwellings (including affordable), up to 100 retirement units (within use class C2), land for commercial and community uses including a new local centre, land for a two form entry primary school, the retention of the majority of



existing trees and hedgerows and the provision of strategic landscaping, open space (including a central village green, informal pitches and play areas), a network of Green Infrastructure and new footpaths and cycle routes. The proposed homes are to be constructed to high environmental standards including to meet the true zero carbon standards, and to Lifetime Homes Standards, and commercial buildings are to be constructed to achieve BREEAM Very Good. The plan allows for the provision of an energy centre and the applicant also aspires to water neutrality, including the provision of land for a waste water treatment plant. The existing buildings at Himley Farm are proposed to be retained and incorporated into the wider development. The provision of land for commercial and community uses is proposed to be a maximum area of up to 8000sqm (falling within the land use classes proposed and within the areas of the site indicated on the parameter plans centrally and close to Himley Farm and along the Middleton Stoney Road).

- 3.2. The application is accompanied by a set of parameters and sets some development principles in relation to how the site could develop whilst allowing flexibility. Access is proposed to be taken from the Middleton Stoney Road.
- 3.3. The application has previously been reported to Planning Committee and it was resolved to be approved in March 2017 subject to a number of matters including the completion of a legal agreement and planning conditions, and subject to confirmation that the road and tunnels under the railway at NW Bicester could be provided 2019/20. Whilst negotiations have been ongoing relating to the S106, matters have progressed in respect of the delivery of the road and tunnels such that the previous resolution cannot be fully followed. The changes will be explained within this report. There have also been a number of changes to the heads of terms and conditions which were resolved to be approved and to the plans considered. As such, it is considered appropriate to revert the application back to Committee to update Members on these matters and to ask that Members re-endorse their resolution (as amended by this update) to enable the permission to be issued once the S106 agreement is finalised.
- 3.4. Whilst no specific timescales for delivery has been provided and there are a number of matters that would need to progress before development could proceed (i.e. design work and then reserved matters submissions as well as the current applicant not being a Developer), the applicant is very keen to secure a planning permission to enable matters to progress on the site.

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

- 4.1. There is no planning history directly relevant to the current application site area other than the fact that the current application has been with the Council for a number of years and it has previously been reported to Planning Committee.
- 4.2. There is planning history relating to the wider land at NW Bicester following the identification of the land as one of four locations nationally for an Eco Town in the Eco Town Supplement to PPS1 and then its allocation by Policy Bicester 1 in the Cherwell Local Plan Part 1 (2011-2031). The application sites are at various stages:
  - 10/01780/HYBRID – The Exemplar Site, now known as Elmsbrook, approval for 393 dwellings in full and non-residential uses in outline. The scheme is currently being built out and work is currently ongoing on Phase 3.
  - 14/01384/OUT – Land to the North of the Railway Line for 2600 dwellings and associated development – the application benefits from a resolution for approval subject to conditions and the completion of a S106 made at Committee in March 2015.

- 14/01641/OUT – Land to the South of the Railway Line for 900 dwellings and associated development – the application benefits from a resolution for approval subject to conditions and the completion of a S106 made at Committee in October 2015.
- 14/01968/F – New road infrastructure to realign Howes Lane and to provide a new railway underbridge – granted in August 2019.
- 14/01675/OUT (as varied by 19/00347/OUT and reserved matters granted by 19/00349/REM) – commercial development of up to 53,000sqm of B2 and B8 floorspace, 150 homes and associated infrastructure. Planning permission granted in outline and reserved matters and development commenced in September 2019.

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

- 5.1. Pre-application discussions were carried out prior to the submission of the application but ongoing discussions and negotiations have been carried out whilst the application has been with the Council.

## **6. RESPONSE TO PUBLICITY**

- 6.1. The application has been previously publicised and all relevant responses were reported in previous planning committee reports (appended) or as late updates for those meetings. No further publicity has been undertaken since the application was last considered by the Planning Committee.
- 6.2. All comments received can be viewed in full on the Council's website, via the online Planning Register.

## **7. RESPONSE TO CONSULTATION**

- 7.1. Other than where input has been required from Consultees into the requirements and wording of the S106 (which is related to detailed discussions), no further consultation has been undertaken since the application was last considered by the Planning Committee other than targeted consultation where matters have changed or related to the S106 negotiations. All consultee responses were reported in previous planning committee reports or as late updates for those meetings.
- 7.2. Responses are available to view in full on the Council's website, via the online Planning Register.
- 7.3. One matter not considered in the previous reports relates to local finance considerations. As the application proposes large scale residential development, it is likely that the Council would benefit from New Homes Bonus payments.
- 7.4. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the 1990 Act (as amended) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.
- 7.5. In this particular instance, financial payments are not considered to be material to the decision as they would not make the development acceptable in planning terms.



It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority.

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

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

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

PSD1: Presumption in Favour of Sustainable Development  
SLE1: Employment Development  
SLE4: Improved Transport and Connections  
BSC1: District wide housing distribution  
BSC2: Effective and efficient use of land  
BSC3: Affordable housing  
BSC4: Housing mix  
BSC7: Meeting education needs  
BSC8: Securing health and well being  
BSC9: Public services and utilities  
BSC10: Open space, sport and recreation provision  
BSC11: Local standards of provision – outdoor recreation  
BSC12: Indoor sport, recreation and community facilities  
ESD1: Mitigating and adapting to climate change  
ESD2: Energy Hierarchy and Allowable solutions  
ESD3: Sustainable construction  
ESD4: Decentralised Energy Systems  
ESD5: Renewable Energy  
ESD6: Sustainable flood risk management  
ESD7: Sustainable drainage systems  
ESD8: Water resources  
ESD10: Biodiversity and the natural environment  
ESD13: Local landscape protection and enhancement  
ESD15: Character of the built environment  
ESD17: Green Infrastructure  
Policy Bicester 1 North West Bicester Eco Town  
Policy Bicester 7 Open Space  
Policy Bicester 9 Burial Ground  
INF1: Infrastructure

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

H18: New dwellings in the countryside  
S28: Proposals for small shops and extensions to existing shops outside Banbury, Bicester and Kidlington  
TR1: Transportation funding  
TR10: Heavy goods vehicles  
C8: Sporadic development in the open countryside

C28: Layout, design and external appearance of new development  
C30: Design control

### 8.3. Other Material Planning Considerations

- Eco Towns Supplement to PPS1
- NW Bicester Supplementary Planning Document (February 2016)
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

### 8.4. Council Corporate Priorities

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

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

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

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

## 9. APPRAISAL

9.1. As the purpose of this report is to update Planning Committee on the matters which have changed or progressed since it resolved to grant planning permission in March 2017, it is not proposed to repeat issues covered in the original committee reports. These are attached as appendices to this report (the March 2017 report at Appendix B and the February 2016 report at Appendix C).

9.2. The previous application was resolved to be approved subject to the following:

- i. Finalisation of a programme that has been received by the local authority, agreed and supported by Network Rail and the Local Highway Authority, that provides confirmation that the proposed road and tunnels under the railway at NW Bicester

can be provided 2019/2020 prior to the issue of the planning permission. The reference to 2019/2020 was to the Christmas period.

- ii. The completion of a legal agreement in accordance with the attached Heads of Terms (annex to the Minutes as set out in the Minute Book), including delegation provided to Officers to negotiate the agreement, including the following requirement with regard to phasing;
- iii. The following set of conditions with delegation provided to the Head of Public Protection and Development Management to negotiate final amendments to the wording of conditions following a detailed review by Officers;

9.3. The following paragraphs will provide an update on the above matters, taking each point in turn.

Point i.

- 9.4. The reason for the need for the provision of a programme that provides confirmation that the proposed road and tunnels under the railway at NW Bicester can be provided 2019/2020 prior to the issue of the planning permission was due to the recommended condition allowing no more than 500 dwellings to be occupied prior to the provision of the road and tunnel. The March 2017 Planning Committee report (which was an update to the February 2016 committee report) considered in detail the rationale for the allowance of dwellings on the Himley Village site prior to the delivery of the roads and tunnels where this could have resulted in a risk that the level of development considered acceptable (in terms of traffic impact) across NW Bicester as a whole could have been exceeded, (i.e. which would exceed the number of trips concluded to be acceptable without causing a severe highway impact). If the Council had certainty that the road and tunnel were deliverable within a reasonable timescale (at that point 2019/2020), then it was concluded that the risk of the level of development across NW Bicester being exceeded plus that to be allowed at Himley Village was low.
- 9.5. At that time, the intention was still that the new road and tunnel infrastructure would be developer led and discussions with Network Rail at that time indicated that a Christmas 2019 track possession could have been worked towards. Since then, the intention has changed and Oxfordshire County Council have now taken on the role of leading the process to deliver the infrastructure, initially the tunnels (the main A4095 and the pedestrian underpass), through the Network Rail process. This involves following a programme leading up to a track possession date in April 2021 during the Easter period. As such, the requirements of point i. cannot be met and therefore it requires further consideration.
- 9.6. Given the slower than anticipated progress across the wider NW Bicester site to date (whereby the other large residential outline applications are still outstanding) and development beyond the Exemplar has not commenced (other than very recently the commercial development on the Albion Land site on the corner of Howes Lane and the Middleton Stoney Road), the new programme currently being followed aiming to achieve a track possession date in 2021 does not change the conclusion that the Himley Village site can accommodate a proportion of their development in advance of the delivery and opening of the road and tunnel infrastructure.
- 9.7. Given the current progress, now led by Oxfordshire County Council relating to the delivery of the tunnels, it is now not considered necessary for such a programme to be provided prior to a decision being issued because in effect, the programme is secured and within the control of Oxfordshire County Council to deliver in 2021. The associated condition is however necessary to be retained and this continues to

restrict the level of development on the Himley Village site to no more than 500 dwellings prior to the delivery and opening of the road and tunnel infrastructure to realign the A4095 Howes Lane. The justification for allowing this level of development remains the same as set out in the March 2017 committee report – i.e. the risk of the level of development accepted as being acceptable coming forward prior to the delivery of the realigned road and new tunnel remains low such that it is unlikely there would be a severe highway impact. On this basis, it is considered that point i. is no longer required.

Point ii.

- 9.8. This requires the completion of a legal agreement in accordance with an attached list of Heads of Terms. This allowed for delegation to Officers to negotiate the agreement.
- 9.9. This matter has progressed since the application was reported to Planning Committee and the S106 has reached an advanced stage. The agreement has taken some time to negotiate and there have been some changes to what the agreement secures and in what form since the heads of terms were reported to Planning Committee. As such, this section aims to update Planning Committee on this matter and to secure its agreement to finalised heads of terms.
- 9.10. The original heads of terms document is provided at Appendix A to this report. This set out that it was proposed to require a Framework S106 to secure site wide matters such as the Eco Town Standards and design (i.e. through assessment via an expert panel), contributions and delivery of site wide infrastructure (i.e. to the strategic highway works, secondary school etc) and to ensure comprehensive development, and then to secondly require an application phase S106 to secure the onsite matters such as affordable housing and contributions towards on and offsite infrastructure.
- 9.11. Instead, the S106 nearing finalisation is a site specific agreement, but it generally covers all matters in the heads of terms previously reported other than on a couple of matters.
- 9.12. For the District side, matters have progressed and other than some final amendments required, the applicant has agreed the terms. There are some outstanding matters with regard to Oxfordshire County Council matters but these are progressing and it is expected that matters will have progressed further by the Planning Committee date.
- 9.13. The matters no longer covered by the S106 and the reason for this are:
  - The requirement to utilise the services of an expert panel to meet the required design and building standards. This has not been included as after further consideration it is concluded that there are sufficient safeguards in place in terms of the condition requirements to meet the required standards and ongoing monitoring not to require further detailed consideration as part of the S106. With regard to design, the requirement to not use a design panel does not mean that it can't be – it can still be recommended in the usual way, however the provision of additional design work in response to planning conditions and the assessment of reserved matters enables the Local Planning Authority to retain adequate control.
  - The Framework agreement is not required because the site wide infrastructure contributions and requirements are built into the site specific S106. So, the matters are still secured, just in a slightly different way.

- The achievement of comprehensive development can be achieved by way of the terms of the S106 by timing the payment of contributions appropriately as well as the delivery of on site infrastructure.
- OCC have not pursued a strategic waste management contribution so this is no longer included.
- The option for a Management Company to manage and maintain open space and play areas on the site with secure arrangements for ongoing maintenance.
- For any drainage features within areas of public open space, commuted sums for their maintenance to be provided if transferred to the Local Authority or responsibility to sit with the Management Company if that route is chosen. Highway drainage to be part of the S278 agreement for the site.

9.14. Given the above, which ensures that all those matters expected to be covered by the previous Heads of Terms are covered by the S106 as drafted and as is progressing alongside planning conditions or other controls, Members are asked to re-endorse their decision to support this application subject to the completion of the S106. This will ensure the securing of the necessary infrastructure to make the development acceptable in planning terms, that is directly related to the development and which is fairly and reasonably related in scale and kind to the development.

Point iii.

9.15. The list of draft planning conditions were provided in full in the March 2017 committee report and delegation was provided to Officers to negotiate final amendments to the wording of the conditions following a detailed review by Officers.

9.16. Planning condition wording has progressed following detailed review. The final condition wording is included within the recommendation.

Other matters

9.17. There have been a number of other matters that have changed since the application was previously reported to Planning Committee and it is also necessary to consider legislation and policy updates and to re-consider the Environmental Impact Assessment.

*Changes to the application*

9.18. Through the S106 negotiation and a further review of the school site by Oxfordshire County Council, advice was provided that the school site did not meet the required standards of OCC to achieve acceptable safeguarding standards. The matter of the school site was considered in the February 2016 planning committee report where Officers advised that whilst OCC concerns were noted, on balance, it was appropriate to accept the site due to it being most appropriate in respect of wider design considerations. However, it has subsequently become apparent that OCC would not accept the site unless some amendments were made. In response, the school site was reviewed and amended to be a site that more closely met OCC requirements. This has resulted in some minor changes to the parameter plans to reflect the agreed position and in one area has resulted in the buffer to the listed building being slightly reduced (albeit an enhanced buffer provided elsewhere around the school).

9.19. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...*shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it*

possesses. Therefore significant weight must be given to these matters in the assessment of this planning application.

- 9.20. Given the proposed change and the fact that the buffer was seen as positive in the original scheme, advice was sought from the Council's Conservation Officer and Historic England as to the impact of this change. The Conservation Officer advised that whilst it would be preferable for the buffer zone to be retained as previously proposed, it does not appear to have been based on either historic or current landscape/ boundary features (although historically Himley Farm had a wider area of land associated with the farm compared to now). In addition, the buffer zone was sought to not be less than as agreed so it was increased slightly in another area to make up for that lost. It was acknowledged that there is a heritage benefit to having a school site as opposed to housing in close proximity to the listed buildings as the form of development is less dense. The design and layout, including the boundary treatments would need to be established and would play a role in mitigating the impact on the historic setting. Historic England also raised some concern but gave advice as to how to achieve an appropriate setting to the school within the buffer zone.
- 9.21. In light of the responses, a note is recommended to be added to the permission to advise that buildings should be kept away from the Himley Farm site to ensure that open, green spaces are close to it to help in mitigating the impact upon the listed building and also to advise that buildings closest to the barns should be kept to the lowest height possible to avoid dominating their diminutive size. It is also likely that the school buildings would be located to the north, with the playing field extending to the south, which means that the buildings would be away from the social/ community uses shown in this area and the village green. This would be unfortunate but at this stage the location of development on the site is not set. On the basis that this change was required to ensure that OCC could conclude that the site was allowing for an acceptable school site to be secured, it is considered there is a public benefit to agreeing this change and that its impact can be mitigated through detailed design. It is considered reasonable to accept this amendment to the parameter plans.
- 9.22. The application provides for a parameter plan which sets a range of building heights for specific areas. In the northern part of the site, the parameters allowed for the highest heights on the site and this was originally shown as being for up to 19m. This was considered to be too high and it was agreed that a condition would be imposed to restrict this area of the site to no more than 17m in height taking into account the height of development around it as shown on the other development sites parameter plans. Given the progression of the application and the need to amend the parameter plans anyway, the building height parameter plan has been updated to reflect the 17m height in this area. This avoids the need for a separate condition because the building height parameter would be an approved plan and therefore secured in any event.
- 9.23. Through comparison of the plans when checking amendments, it also became apparent that a change to the location of the newt corridor had been made, probably due to the review of the housing parcels to ensure these were practical and could suitably accommodate development. The newt corridor is no narrower than as originally considered and when viewing the aerial view of the site, it is clear that the corridor does not follow an existing natural feature (such as a hedgerow) as the land is one open agricultural field. Given that the mitigation remains as identified in the environmental statement (i.e. the need for a Great Crested Newt Mitigation Strategy which is a requirement of a recommended planning condition and the newt corridor providing links between the two ponds) and its position is marginally different but the width of the corridor remains as agreed, it is not considered that the proposed

development will have any different impact upon the mitigation and enhancement measures for protected species than the original scheme would have provided..

#### *Legislation and Policy Updates*

- 9.24. Of relevance to this application and since it was considered in March 2017, the NPPF has been updated in February 2019. This continues to set out that the presumption in favour of sustainable development is at the heart of the Framework and it continues to require that development proposals that accord with an up to date development plan are approved without delay. With regard to housing, the Government's objective of significantly boosting the supply of homes remains and for all Local Planning Authorities to maintain a supply of deliverable sites. The new NPPF continues to emphasise the need for good design to achieve well designed places, to conserve and enhance the natural and historic environment, to plan for climate change and to promote sustainable transport.
- 9.25. As the development site forms part of an allocated site in an adopted and up to date Local Plan and as the development continues to meet the overarching topics covered by the February 2019 NPPF, it remains the case that the development meets high standards and represents sustainable development. The February 2019 NPPF does not therefore change the conclusions previously reached.

#### *EIA*

- 9.26. The application is accompanied by an Environmental Impact Assessment. Since the application was last considered, the Environmental Impact Assessment Legislation has been updated, however as the EIA was drafted under the 2011 legislation, this continues to be the basis for the consideration of this application. The main EIA was compiled in December 2014 and addendums provided in September 2015 and October 2016. Given the time that has elapsed without a decision being issued, it is necessary to consider whether the EIA is up to date and therefore sufficient to consider the environmental impacts of the development at the point of the decision.
- 9.27. The EIA covered the following main topics – landscape and visual amenity, ecology, transport, air quality, noise and vibration, water management, ground conditions and contamination, agriculture and soils, built heritage, archaeology, socio economics, human health, waste and cumulative effects. The EIA identifies significant impacts of the development and mitigation to make the development acceptable.
- 9.28. There have been no changes to the physical context of the site to change the baseline landscape and visual position, the listed buildings and their surrounding setting is unchanged and no new heritage features over and above those previously recorded have been identified, there have been no changes to water courses or the provision of new water features to change the water management baseline position and no changes in the baseline for the following topics – ground conditions and contamination, agriculture and soils, archaeology, socio economics, human health or waste.
- 9.29. In respect to transport and related matters such as air quality, noise and vibration, there may have been some changes, however the strategic highway infrastructure proposed (and approved) for NW Bicester is the identified mitigation for the site as a whole and as reported previously matters are moving forward on this to secure its delivery. In addition, until this infrastructure is delivered, the site is restricted from allowing the occupation of any more than 500 dwellings to avoid a severe transport impact. As such, the EIA can be considered to remain up to date in this respect.
- 9.30. In respect to cumulative matters, whilst the position may have moved on from that considered previously (i.e. with development proposals having progressed), the proposed development is a known development proposal, on an allocated site, and

the original consideration of cumulative impacts would have also included a future projection of surrounding development. There has been no significant additional development approved or planned for in the locality since the original consideration.

- 9.31. The EIA is therefore considered to remain sufficient in order to assess the impacts of the development and the identified mitigation must be the subject of planning conditions. The one exception to this and the matter to be considered further is that of ecology.

### Ecology

#### *Legislative context*

- 9.32. 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.
- 9.33. 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.
- 9.34. 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.
- 9.35. 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.
- 9.36. 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*

- 9.37. 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.
- 9.38. 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.
- 9.39. 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.
- 9.40. 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.
- 9.41. 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.
- 9.42. 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.
- 9.43. 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*

9.44. 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')

9.45. The previous application identified the ecological work undertaken which was part of the Environmental Statement and the potential species that could be affected. The surveys have not been updated so they are dated as it stands. However, the existing baseline conditions are unlikely to have significantly changed as the land remains predominantly arable fields with hedgerows forming the boundary of the fields. The Environmental Statement identified that with mitigation measures, the impact of the development on ecology would be negligible and localised and that in the longer term, there would be some minor beneficial effects.

9.46. In the circumstances, it is considered acceptable to require that up-to-date ecological checks are carried out prior to development commencing as a condition of the planning permission and for conditions to be used to ensure protection of the environment and biodiversity to be established through construction management plans and for the mitigation measures identified in the ES to be secured via condition.

9.47. The site includes two ponds which have been recorded to accommodate Great Crested Newts, which are a European Protected Species. The Council have a legal duty under the Conservation of Habitats and Species Regulations 2017, when considering a planning application where protected species are present, whether an offence under the Regulations is likely to be committed. The Local Planning Authority must consider whether Natural England would be likely to grant a licence for the development and therefore whether the three derogation tests (at para 9.35) would met.

9.48. 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.

9.49. In this case, it is known that the site has a high potential to accommodate Great Crested Newts within the two ponds on the site. The ES identifies the need for further surveys to be undertaken in advance of works commencing on site to establish likely populations and for a Great Crested Newt Mitigation Strategy that would be provided to support a Natural England Licence application. The design mitigation identified is for a protection area to be provided around each of the ponds and a newt corridor to be provided linking the two ponds. The ES also identifies the need for suitable aquatic and terrestrial habitat (including hedges) within 250m of the breeding ponds and within any other areas with potential to support GCN within the site to be retained. This presumably excludes agricultural land as residential

land surrounds the buffer zone. The ES then identifies the need for a licence should there be any disturbance/ removal of habitat. In addition, the ES identifies that existing ponds will be enhanced prior to the completion of the development. Whilst existing ponds are being renovated, it is identified that alternative aquatic habitat to minimise disturbance or injury to GCN should be created to provide new breeding habitat with the GCN moved back once the ponds are enhanced. This work would need to be undertaken outside of the breeding season.

- 9.50. Planning conditions are proposed to secure updated protected species surveys and, prior to the commencement of the development, a Great Crested Newt mitigation strategy to ensure that the required mitigation is considered at the earliest stage possible. On the basis of the suggested mitigation at this stage and the requirement for additional information to be sought via planning condition, it is considered that it is likely a compelling case would be made to justify the grant of a licence to enable the works to proceed.
- 9.51. There is also the potential for other protected species on the site and, should this result in development that would require a licence, then this process would need to be followed. Again, it is considered likely that should this be the case, it is likely a case could be made to justify the grant of a licence.
- 9.52. In the circumstances, the proposal is therefore considered to comply with Policy ESD10 of the CLP 2031 Part 1, advice contained in the PPG and Natural England's Standing Advice, and section 15 of the National Planning Policy Framework.

#### Other matters

- 9.53. The previous report considered all matters related to the eco town standards and the compliance of the application with the Development Plan.

#### Human Rights and Equalities

- 9.54. 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.
- 9.55. 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*

- 9.56. 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. 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*

- 9.57. 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*

- 9.58. 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 do 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.
- 9.59. Officers have considered the application and resolved that none of the protected characteristics is affected or potentially affected by the application.

Conclusion and Planning Balance

- 9.60. The application is reported back to Members and it is recommended that Members re-endorse their decision to approve this application with the amendments made since the application was considered in March 2017 as considered through this report. The proposal is considered to continue to comply with the Development Plan policies and guidance listed at Section 8 of this report and that the application continues to be sustainable development and to represent a form of development that will meet the high standards sought at NW Bicester. In accordance with Paragraph 11 of the NPPF, permission should therefore be granted.

## **10. 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 THEIR REORDERING AS TO THE TIMESCALE FOR COMPLIANCE) **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 MATTERS SET OUT AT APPENDIX A.

CONDITIONS

**Time Limits**

1. No development shall commence on any phase until full details of the layout, scale, appearance, access and landscaping (hereafter referred to as reserved matters) for that phase 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 (Development Management Procedure) (England) Order 2015 (as amended).

2. In the case of the reserved matters, application for approval shall be made for the

first residential phase of development not later than the expiration of three years beginning with the date of this permission.

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

3. In the case of all other reserved matters, in respect of subsequent phases, application for approval shall be made not later than the expiration of ten 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 5(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

4. The development to which this permission relates shall be begun not later than the expiration of two years from the approval of the first residential phase reserved matter and for all subsequent phases two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last reserved matters to be approved for that phase.

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 (Development Management Procedure) (England) Order 2010 (as amended).

### **Regulation**

5. Except where otherwise stipulated by condition, the development shall be carried out in accordance with the following plans and documents:
  - Site Boundary Parameter Plan 1 (drawing number 592-PL-101 Rev B);
  - Demolitions Parameter Plan 2 (drawing number 592-PL-102 Rev B);
  - Land Use Parameter Plan 4 (drawing number 592-PL-103 Rev J);
  - Building Heights Parameter Plan 5 (drawing number 592-PL-104 Rev H);
  - Density Parameter Plan 6 (drawing number 592-PL-105 Rev G);
  - Landscape Parameter Plan 3 (drawing number 592-PL-106 Rev H);
  - Movement and Access Parameter Plan (drawing number 1665/75/04);
  - SUDs Parameter Plan (drawing number 1665/75/05 Rev B);
  - Document titled 'Storage Attenuation Volumes of Primary Swales (1665/76) dated July 2015;
  - Tree Survey Report – document reference EED14995-100-R-7-1-3-TA dated January 2015 and accompanying appendices;
  - Sustainability and Energy Statement – document reference PENL2003 dated 17 December 2014
  - Surface Water Drainage Strategy and Flood Risk Assessment dated December 2014 and all additional correspondence relating to Drainage and Flood Risk.

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.

6. Prior to the submission of the first reserved matters application, a phasing plan covering the entire site the subject of this application, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter each reserved matters application shall refer to a phase, phases, or part thereof identified in the approved phasing plan and development shall proceed in accordance with the approved phasing.

Reason: To ensure the proper phased implementation of the development and associated infrastructure in accordance with Policy Bicester 1, SLE4 and INF1 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

7. No more than 1700 dwellings falling within Use Class C3 shall be constructed on the site.

Reason: To ensure that the significant environmental effects arising from the development are mitigated, as set out in the Environmental Statement, and sustainable development is achieved in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

8. No more than 100 dwellings falling within Use Class C2 shall be constructed on the site.

Reason: To ensure that the significant environmental effects arising from the development are mitigated, as set out in the Environmental Statement, and sustainable development is achieved in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

9. No more than a total of 8,000sqm floor space shall be provided for the mixed uses set out in Table 1 and each use shall not exceed the maximum Gross Internal Area for each specified use. These uses shall only be provided within the areas of the site annotated for 'Other Uses' and 'Social/ Community' on 'Land Use Parameter Plan 4' drawing number 592-PL-103 Rev J.

Table 1

<b>Land Use</b>	<b>Maximum GIA (sqm)</b>
Hotel (Class C1)	2,600sqm
Veterinary surgery (Class D1)	2,000sqm
Pub/ Community (Classes A4/ D1)	400sqm
Retail (Classes A1, A2, A3, A4, A5)	700sqm
Office (Class B1)	1,000sqm
Health facility (Class D1)	1,500sqm
Nursery (Class D1)	100sqm
Energy Centre (Sui Generis)	375sqm
Water treatment plant (Sui Generis)	450sqm

The approved uses shall remain within the Use Classes set out above as specified in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or

their equivalent in subsequent enactments or re-enactments) and for no other purpose(s) whatsoever.

Reason: To ensure that the significant environmental effects arising from the development are mitigated, as set out in the Environmental Statement, and sustainable development is achieved in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

10. No individual Retail unit allowed for in Table 1 of condition 9 shall exceed 150m<sup>2</sup> in gross floor internal area with the exception of a single unit up to a maximum of 300m<sup>2</sup> which shall be for uses within Use Class A1 of the Town and Country Planning (Use Classes) Order 1987 (or their equivalent in subsequent enactments or re-enactments). If provided, the single retail unit over 150m<sup>2</sup> for uses falling within Use Class A1 shall remain within that Use Class and it shall be used for no other Use whatsoever. Thereafter retail units shall not be amalgamated.

Reason: To ensure the scheme meets local retail needs in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained in the Eco Towns PPS and the National Planning Policy Framework.

### **Design**

11. Prior to the submission of the first reserved matters application, a site wide Masterplan and Design Code shall be submitted to and approved in writing by the Local Planning Authority. The Masterplan and Design Code shall set out the urban design approach for the site to include a regulating plan and supporting information to include;
- Details to provide continuity with adjacent development
  - A detailed masterplan for the area fronting the Middleton Stoney Road annotated as 'Other Uses' on Land Use Parameter Plan 4 drawing number 592-PL-103 Rev J showing the location of each of the land uses
  - Key approaches to deliver sustainable development that as a minimum meets the Eco Town PPS standards
  - The identification of Character areas and for each, the built form and green spaces to include their key features, density, block layout and principles, structure and permeability
  - Movement network and principles of streetscape including access locations, hierarchy, street type, form and design, cross sections, surface materials and landscaping, cycleways, footways, crossing points, street furniture, bus routes and stop locations
  - Parking strategy including car and cycle parking standards and approach for residential and non-residential uses
  - Public realm
  - Building heights, scale, form, design features materials, architectural details and frontages
  - Boundary treatments
  - Key views, vistas, landmarks
  - Landscape character, landscape types, green infrastructure, amenity spaces, public open space, play areas including their distribution, existing trees and retained hedges and biodiversity measures
  - Provision and details of buffers to retained hedgerows and dark corridors for biodiversity
  - Legibility and diversity of built form and landscape
  - Landscape and boundary treatment principles for the buffer surrounding Himley Farm

- Drainage including sustainable urban drainage features
- Adaptability

All reserved matters applications shall be made and the development shall thereafter be carried out in accordance with the principles of the approved Masterplan and Design Code.

Reason: To secure the delivery of high quality sustainable development in accordance with Government guidance contained within the National Planning Policy Framework and Policies Bicester 1 and ESD15 of the Cherwell Local Plan Part 1 2011-2031. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

12. Each reserved matter submission for built development shall be accompanied by details showing how Building for Life 12 has been used to inform the design process and that the scheme achieves Built for Life™.

Reason: To secure the delivery of high quality sustainable development in accordance with Government guidance contained within the National Planning Policy Framework and Policies Bicester 1 and ESD15 of the Cherwell Local Plan Part 1 2011-2031.

### **Dwellings**

13. Each dwelling hereby approved shall be provided with real time energy and travel information prior to its first occupation. Details of the provision for each phase shall be submitted to the Local Planning Authority and agreed in writing prior to the commencement of construction of dwellings above slab level within that phase. The devices shall thereafter be retained in operational condition.

Reason: To support the delivery of modal shift towards sustainable modes and create high quality, inclusive, sustainable development in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

14. Each reserved matters application shall be accompanied by a statement setting out how the design of buildings and the layout has taken account of future climate impacts, as identified in TSB research 'Future Climate Change Risks for NW Bicester', or any more recent assessment that has been published, and how the proposed development will be resilient to overheating, changing rainfall patterns and higher intensity storm events.

Reason: To address the impacts of climate change in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031, Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

15. Each reserved matters application for a phase shall consider whether any area of that phase is subject to elevated levels of noise, principally from road traffic sources as set out in the Environmental Statement. Any dwellings that are to be constructed in any affected area within that phase shall be identified and confirmation provided that they will be designed and constructed in such a manner that they will contain elements of sound insulation that will ensure that the internal noise levels contained within BS 8233:2014 Table 4 can be achieved.

Reason: To ensure that properties are not subject to high levels of noise in accordance with Policies Bicester 1 and ESD15 of the Cherwell Local Plan 2011-2031, Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance



contained within the National Planning Policy Framework.

16. Noise levels from any mechanical plant and the energy centre shall not exceed the noise emission limits contained within table 10.15 of the Environmental Statement. Any reserved matters submission for the energy centre or for development that will include mechanical plant shall include details of how the noise emission limits for that development will be met.

Reason: To ensure that noise remains within acceptable levels in accordance with Policies Bicester 1 and ESD15 of the Cherwell Local Plan 2011-2031, Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Phase conditions**

17. No dwelling or employment building hereby permitted shall be occupied until that facility has been provided with service connections capable of supporting the provision of high speed broadband from the building to the nearest broadband service connection outside the site.

Reason: To facilitate information provision to homes for energy monitoring, travel and home working in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

18. No phase of development shall commence until a report has been submitted to and approved in writing by the Local Planning Authority outlining how carbon emissions from the construction process and embodied carbon within that phase will be minimised. The phase of development shall thereafter be carried out in accordance with the approved report.

Reason: To ensure the development achieves a reduced carbon footprint in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the Eco Towns PPS. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

19. All services serving the proposed development shall be provided underground unless details of any necessary above ground service infrastructure, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), have first been submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the development that they serve, the above ground services shall be provided on site 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, Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Transport**

20. No more than 500 dwellings shall be occupied until either;
- the development work to realign Howes Lane/ Lords Lane and provide a tunnel under the railway approved under 14/01968/F (or any other such planning permission which may be granted for the Strategic Link Road) has been completed and the road is open to vehicular traffic or,

- once all necessary consents and approvals are in place and there is certainty of the delivery of the work to realign Howes Lane/ Lords Land and provide a tunnel under the railway approved under 14/01968/F (or any other such planning permission which may be granted for the Strategic Link Road), a programme may be provided by the developer for the phasing of the remaining 1200 dwellings and associated infrastructure and other uses approved under this permission. This shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority prior to any development beyond the first 500 dwellings.

Reason – Oxfordshire County Council as Highway Authority have advised that there is a need for a restriction on the quantum of development that can occur at North West Bicester prior to the opening of the Howes Lane/ Lords Lane realignment. The development identified has been agreed on the basis of expected delivery rates such that it is likely that this development, with other committed development would fall within the identified capacity in vehicular movements in advance of the Howes Lane/ Lords Lane realignment. Beyond this level of development and without the realignment, the highways impact of development over the identified capacity would be severe. A restriction on development is therefore necessary until such time that the realigned road is in place and open to vehicular traffic. In the event that there is certainty for the delivery of the realigned road, phasing of the development could be agreed to avoid severe traffic impacts and to mitigate the impact of traffic from the development in accordance with Government Guidance within the Eco Towns PPS and the National Planning Policy Framework.

21. Each reserved matters application for a phase shall include full details of the means of vehicular accesses between the land and the highway, including, position, layout, construction, drainage and vision splays for development within that phase. Thereafter, the approved means of access for that phase 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.

22. Each reserved matters application for a phase shall include full details of the means of footway and cycleway links between the land, the local highway network and adjacent parcels, including, position, layout, construction, drainage, street lighting and a timetable for their provision for that phase. Thereafter, the means of footway and cycleway links for that phase shall be constructed in accordance with the approved timetable 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.

23. Each reserved matter application for a phase shall be accompanied by a Travel Plan setting out how the development will enable at least 50 per cent of trips originating within the development to be made by non-car means, with the potential for this to increase over time to at least 60 per cent, in accordance with the Eco Towns PPS ET 11.2 (a). The Travel Plan shall be submitted to and agreed in writing by the Local Planning Authority prior to any occupations within the relevant phase and the actions of the Travel Plan shall thereafter be delivered in accordance with the Travel Plan.

Reason: To ensure sustainable travel in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

## **Contamination**

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

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

25. If a potential risk from contamination is identified as a result of the work carried out under condition 27, prior to the commencement of the development hereby permitted on the relevant phase, 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 of the phase shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

26. If contamination is found by undertaking the work carried out under condition 28, prior to the commencement of the development of the relevant phase 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 of the phase shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

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

Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

27. If remedial works have been identified in condition 29, the development of the phase shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 29. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

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

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

Reason: To ensure that piling or deep foundations do not mobilise any contamination which may be present on site in order to ensure that controlled water quality is protected as required by Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the Eco Towns PPS and the National Planning Policy Framework.

29. If, during development of any phase, contamination not previously identified is found to be present then no further development of that phase (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy for that phase has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall detail how this unsuspected contamination shall be dealt with and written approval from the Local Planning Authority shall be obtained. The remediation strategy shall be implemented as approved.

Reasons: To ensure that any unexpected contamination encountered is dealt with, such that it does not pose an unacceptable risk to controlled water quality as required by Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the Eco Towns PPS and the National Planning Policy Framework.

30. The development hereby permitted shall not be commenced until such time as a pollution prevention scheme to dispose of contaminated surface water has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented as approved.

Reason - Run off from roads and areas associated with lorry and car parking areas may contain elevated levels of contaminants. Drainage from these areas could contaminate controlled waters. Details of the surface water drainage arrangements which outlines how any contamination risks will be mitigated is required to ensure controlled water quality is protected as required by Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the Eco Towns PPS and the National Planning Policy Framework. This information is required prior to

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

### **Biodiversity**

31. No development shall commence on any phase unless or until an up to date ecological survey has been undertaken to establish changes in the presence, abundance and impact on bio diversity within that phase. The survey results, together with an updated biodiversity mitigation plan and method statement shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development of the phase shall be carried out in accordance with the approved Mitigation Plan and Method Statement.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

32. The retained hedges shall have a buffer a minimum of 20m in width comprising of 10m either side of the retained hedge except where they form part of a dark corridor, as defined in the supporting documents to the NW Bicester Masterplan, where the buffers shall extend to a minimum width of 40m comprising of 20m either side of the retained hedge, and the woodlands shall have a buffer around their perimeter a minimum of 10m in width when measured from the canopy edge, all of which shall be demonstrated on the approved Masterplan/ Design Code unless otherwise agreed in writing by the Local Planning Authority. The hedge and woodland buffers shall be maintained thereafter as public open space and managed to maintain and create bio diversity.

Reason: To protect biodiversity and historic landscape features in accordance with Policies ESD10 and ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

33. No development shall commence on a phase until details of any existing hedgerow, or part thereof, to be removed, and proposals for creation of new compensatory hedgerow, have been submitted to and approved in writing by the Local Planning Authority. The compensatory hedgerow shall be provided in accordance with the approved details. If any tree or hedgerow shown to be retained is cut down, uprooted or destroyed or dies, another tree or hedgerow shall be planted in the same place within the following planting season and that tree shall be of such a size and species as will be first agreed in writing with the Local Planning Authority.

Reason: To protect biodiversity and historic landscape features in accordance with Policies ESD10 and ESD15 of the Cherwell Local Plan 2011-201 and Government guidance contained within the Eco Towns PPS and the National Planning Policy Framework. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

34. No development shall commence on a phase until an Arboricultural Method Statement (AMS) undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions including a scheme for the provision of protective fencing, to prevent damage during construction, for the retained

hedgerows, trees, woodlands, ponds and areas of green space within that phase, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on the phase shall be carried out in accordance with the approved AMS with all tree protection erected prior to development commencing on that phase. If any tree or hedgerow shown to be retained is cut down, uprooted or destroyed or dies, another tree or hedgerow shall be planted in the same place within the following planting season and that tree shall be of such a size and species as will be first agreed in writing with the Local Planning Authority.

Reason: To protect biodiversity and historic landscape features in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the Eco Towns PPS and National Planning Policy Framework. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

35. No development shall commence until a Great Crested Newt mitigation strategy which includes a protection area for Newts, a minimum of 50m in circumference, around the two ponds on the site and the land between them, which shall be provided in accordance with that shown on 'Landscape Parameter Plan 3' drawing number 592-PL-106 Rev H, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Great Crested Newt mitigation strategy. No removal of suitable aquatic and terrestrial habitat within 250m of the breeding ponds shall be carried out unless first agreed in writing by the Local Planning Authority.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

36. Prior to the submission of the first reserved matters application, a Bio Diversity Strategy for the site shall be submitted to and approved in writing by the Local Planning Authority. Each reserved matter application shall be accompanied by a statement setting out how the proposed development will contribute to achieving the Bio Diversity Strategy and net biodiversity gain. The development shall be carried out in accordance with the approved biodiversity strategy.

Reason: To secure net biodiversity gain in accordance with Policies Bicester 1 and ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the Eco Towns PPS and National Planning Policy Framework. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

37. No development shall commence on a phase until a Landscape & Habitat Management Plan (LHMP) for that phase detailing both management and monitoring proposals for green space (excluding building curtilages) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the LHMP shall be implemented in accordance with the approved details.

Reason: To secure net biodiversity gain in accordance with Policies Bicester 1 and ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

38. No development shall take place on any phase, including any works of demolition until a Construction Method Statement for that phase has been submitted to, and approved in writing by the Local Planning Authority. The statement shall provide

for at a minimum:

- a) The parking of vehicles of site operatives and visitors;
- b) The routeing of HGVs to and from the site;
- c) A restriction on construction and delivery traffic during the peak traffic periods
- d) Loading and unloading of plant and materials;
- e) Storage of plant and materials used in constructing the development;
- f) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- g) Wheel washing facilities/ road sweeping;
- h) Measures to control the emission of dust and dirt during construction;
- i) A scheme for recycling/ disposing of waste resulting from demolition and construction works;
- j) Delivery, demolition and construction working hours;
- k) The mitigation measures summarised at Table 5.5 and recommended at paragraphs 6.78, 7.62 – 7.79, 8.130 – 8.133, 9.91, 10.112, 12.78 – 12.80, 13.66 and 14.55 and tables 8.19 and 10.13 of the submitted Environmental Statement (December 2014)

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

Reason - To ensure the environment is protected during construction in accordance with Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

39. No development shall commence on a phase until a Soil Resources Plan that details the soils present, proposed storage locations, handling methods and locations for reuse, within that phase, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved plan.

Reason: To ensure the soil resource is managed on site in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031.

40. No removal of hedgerows, trees or shrubs, 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 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 ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

### **Archaeology**

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

Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

42. Prior to any demolition on the site (other than in accordance with the agreed Written Scheme of Investigation) and prior to the commencement of the development and following the approval of the first stage Written Scheme of Investigation referred to in condition 46, a programme of archaeological evaluation, investigation and recording of the application area shall be carried out by the commissioned archaeological organisation in accordance with the approved first stage Written Scheme of Investigation and shall be submitted to and approved in writing by the Local Planning Authority. The programme shall be followed throughout the construction of the development.

Reason - In order to determine the extent, character and significance of the surviving remains of archaeological interest and to safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

### **Drainage**

43. No part of the development hereby approved shall be occupied until confirmation has been provided that either:

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

Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the/this additional demand in accordance with Policy ESD8 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the Eco Towns PPS and the National Planning Policy Framework.

44. Prior to the commencement of the development, a foul drainage strategy for conveyance and treatment, detailing any on and/or off site drainage works, shall be submitted to and approved by the Local Planning Authority. 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. No dwelling shall be occupied until the foul drainage has been provided in accordance with the approved strategy.

Reason - The development may lead to sewage flooding; to ensure that sufficient capacity is made available to treat and convey foul flows from the new development; and in order to avoid adverse environmental impact upon the community and water environment in accordance with Government guidance contained within the Eco Town PPS and the National Planning Policy Framework. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.



45. Prior to the submission of the first reserved matters application, a full surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, shall have been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:

- Discharge Rates
- Discharge Volumes
- Sizing of features - attenuation volume
- Infiltration in accordance with BRE365
- Detailed drainage layout with pipe numbers
- SUDS - Swales, Ponds, Permeable Paving, Filter Strips, Rain Gardens
- Network drainage calculations
- Phasing

Reason - To mitigate the risk of surface water flooding, protect water quality and biodiversity on the site in accordance with Government guidance contained within the Eco Town PPS and the National Planning Policy Framework. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

46. In addition to the site wide surface water drainage strategy, each reserved matters application for a phase shall be accompanied by a detailed surface water drainage scheme for that phase, to meet the flood risk, water quality, green infrastructure and biodiversity requirements of the site. The detailed surface water drainage scheme shall be in compliance with the approved Flood Risk Assessment, Surface Water Drainage Strategy and the Masterplan Surface Water Drainage Strategy and the approved site wide detailed surface water drainage strategy required under condition 49. The detailed surface water drainage scheme for that phase shall be accompanied by a maintenance plan for all drainage features, which shall include timings of the implementation of the plan, long term objectives, management responsibilities, maintenance schedules and procedures for dealing with the failure of any part of the system. No development of a phase shall commence until the detailed reserved matter surface water drainage scheme has been approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and shall be maintained in accordance with the approved scheme of maintenance thereafter and in perpetuity.

Reason: To mitigate the risk of surface water flooding, protect water quality and biodiversity on the site in accordance with Government guidance contained within the Eco Town PPS and the National Planning Policy Framework. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

47. The residential development shall be constructed so as to meet as a minimum the higher Building Regulation standard for water consumption limited to 110 litres per person per day.

Reason: The site is located in an area of water stress and to comply with Government guidance contained within the Eco Town PPS and the National Planning Policy Framework.

48. No phase of employment development shall commence until details of the

measures to be installed in that phase to minimise water consumption have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. The measures shall thereafter be retained in an operational condition.

Reason: The site is located in an area of water stress and to comply with Government guidance contained within the Eco Town PPS and the National Planning Policy Framework.

49. Prior to the commencement of the development, details of the strategy to work towards water neutrality, in accordance with the Eco Towns PPS shall be submitted to and approved in writing by the Local Planning Authority. Each reserved matters application shall demonstrate how it contributes to and is in accordance with the approved strategy.

Reason: The site is located in an area of water stress and to comply with Government guidance contained within the Eco Town PPS and the National Planning Policy Framework.

### **Waste**

50. Prior to the occupation of any phase of the development, a waste strategy, setting targets above national standards for residual waste levels, recycling levels and landfill diversion and which identifies measures to facilitate waste reduction and recycling for commercial occupiers of that phase shall be submitted to and approved in writing by the Local Planning Authority. The waste reduction measures shall be implemented in accordance with the strategy.

Reason to ensure the appropriate management of waste in accordance with Government guidance contained within the Eco Town PPS and the National Planning Policy Framework.

51. Prior to the commencement of a phase, a Site Waste Management Plan, targeting zero construction waste to landfill for that phase, shall be submitted to and approved in writing by the Local Planning Authority. The approved Site Waste Management Plan shall thereafter be implemented in accordance with the approved details.

Reason - to ensure the appropriate management of waste in accordance with Government guidance contained within the Eco Town PPS and the National Planning Policy Framework.

52. No waste shall be brought to the site for the purpose of use within any future energy centre.

Reason - to ensure the appropriate management of waste in accordance with Government guidance contained within the Eco Town PPS and the National Planning Policy Framework.

### **Notes to Applicants**

1. Before granting this planning permission the Council has taken into account the environmental information relating to the development (within the meaning of the Town and Country Planning (Environmental Impact Assessment) (Regulations) 2011 (as amended).
2. The applicant is advised that appropriate sight lines from the frontage of Lovelynn House along the Middleton Stoney Road must be protected in order to ensure that

the potential future delivery of development on that site is not prejudiced. This matter will be assessed in detail at the reserved matters stage.

3. In accordance with the parameter plans hereby approved, the following shall be :
  - A 20m Green Infrastructure strip (which shall not include residential gardens) shall be provided to the west of the boundary with Lovelynych House;
  - A 20m 'no build' buffer shall be provided to the north of the boundary with Lovelynych House;
  - A 30m 'no build' buffer (narrowing to a 20m along the northern section of the eastern boundary) shall be provided to the east of the boundary with Lovelynych House. This buffer shall include a 10m hedgerow buffer.
4. The design and layout of the sports facilities should comply with the relevant industry Technical Design Guidance, including guidance published by Sport England and the National Governing Bodies for Sport.
5. The off-site works will require a S278 Agreement with Oxfordshire County Council (OCC). If the proposed development is to be offered for adoption to the Local Highway Authority (LHA) a S38 Agreement will be required, alternatively if the development is to remain private a Private Road Agreement will be required between the developer and OCC. For guidance and information on road adoptions and S278 Agreement works please contact the County's Road Agreements Team on 01865815700 or email [Road.Agreements@oxfordshire.gov.uk](mailto:Road.Agreements@oxfordshire.gov.uk). All the associated off-site highway works within NW Bicester will have to go through OCC's Direct Delivery process – if triggered.
6. In respect of the school site, buildings should be located away from Himley Farm to ensure that open, green spaces are close to it and to help in mitigating the impact upon the listed building. In addition, buildings closest to the barns should be kept to the lowest height possible to avoid dominating their diminutive size.
7. Pursuant to the second bullet point of condition 24, should a programme be provided regarding the delivery of the remaining 1200 dwellings prior to the delivery of the strategic link road and tunnel, evidence in the form of a transport assessment would be required to accompany such a submission to demonstrate that the highway impacts of any change to the restriction on development would not result in a severe impact.

CASE OFFICER: Caroline Ford

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Appendix A – Heads of Terms

Appendix B – March 2017 Committee Report

Appendix C – February 2016 Committee Report

# Appendix A

SUMMARY HEADS of TERMS 14/02121/OUT

Committee 24 October 2019

<b>1</b>	<b>Affordable Housing</b>	
	Provide 30% affordable housing in accordance with an agreed phasing and mix. Affordable housing to be provided by a Registered Provider. Affordable Housing scheme to be submitted and approved prior to submission of first residential reserved matter submission identifying the distribution of the affordable housing. Affordable housing to be delivered in clusters of no more than 15 affordable housing units unless agreed. Nomination agreement	
<b>2</b>	<b>GP Surgery</b>	
	Provide financial contribution to the provision of a new GP Surgery or such other interim measure as may be required.	
<b>3</b>	<b>Thames Valley Police</b>	
	Provide financial contribution to neighbourhood policing	
<b>4</b>	<b>Community Hall &amp; Sports Pavilion</b>	
	Financial Contributions towards build cost of hall and sports pavilion south of the railway line along with other applicants south of the railway line. Arrangements for temporary community facilities on the site to support the early residents until a permanent space is provided. The safeguarding of land for a sports pavilion should a sports pavilion on an adjoining site not be forthcoming.	
<b>5</b>	<b>Community Development Worker</b>	
	Financial contribution for the provision of a community development worker(s) to deliver the creation of the new community during the build out of the site.	
<b>6</b>	<b>Community Development Fund</b>	
	Financial contribution to deliver community development	
<b>7</b>	<b>Employment and Training</b>	
	Provide employment and training action plan to include measures to ensure opportunities for local labour and businesses through the development, measures to support home working and to work with the local job club to advertise jobs created through construction on the site.  Delivery of specified number of construction (and related trades ) apprenticeships in accordance with the number of opportunities identified through an agreed provider.	
<b>8</b>	<b>Primary School</b>	
	2.22ha of land at nil cost and provide school or financial contribution sufficient to provide a 1FE Primary School and funding to provide extra accommodation corresponding to the pupil generation (up to a 2 FE School). Timing to be agreed.	
<b>9</b>	<b>Secondary School</b>	
	Financial contribution towards the provision of secondary schools or such other interim measure as may be required. Contribution towards school transport	
<b>10</b>	<b>SEN</b>	
	Provide contribution for the provision of SEN places	

<b>11</b>	<b>Library</b>	
	Contributions to the new Bicester library plus contribution towards core book stock.	
<b>12</b>	<b>Permanent Sport Pitches</b>	
	Provide land to accommodate the required sports pitches south of the railway line and make a proportionate contribution towards the capital and revenue costs of the pitches.	
<b>13</b>	<b>Public Open Space</b>	
	Layout the public open space and transfer it to a Management Company or to CDC with the appropriate commuted sums for maintenance in accordance with an agreed plan and phasing. If a Management Company is chosen, appropriate security around this to be secured.	
<b>14</b>	<b>Other Amenity space</b>	
	Maintenance sums towards woodland, hedges, swales (within areas of public open space), orchards and paths	
<b>15</b>	<b>Allotments</b>	
	Layout the allotments and transfer them to CDC in accordance with an agreed plan and phasing.	
<b>16</b>	<b>Play Areas</b>	
	Layout the NEAPs, LEAPS and LAPS and transfer to a Management Company or to CDC with the appropriate commuted sums for maintenance in accordance with an agreed plan and phasing. If a Management Company is chosen, appropriate security around this to be secured.	
<b>17</b>	<b>Indoor Sport</b>	
	Provide funding for the expansion of the Bicester Sports Centre	
<b>18</b>	<b>Green Space that could be used for a Burial Ground</b>	
	Provide contribution to the provision of a burial ground	
<b>19</b>	<b>Bio Diversity Off Sett</b>	
	Provide funding for off site bio diversity mitigation	
<b>20</b>	<b>Cultural &amp; Wellbeing Strategy</b>	
	Provide a cultural and wellbeing strategy and action plan for delivery across the site	
<b>21</b>	<b>Community Management Organisation</b>	
	Provide funding for the establishment of the CMO and its activities including contributions towards the maintenance of community facilities across the site such as allotments, community farm and community buildings.	
<b>22</b>	<b>Waste Collection &amp; Recycling</b>	
	Provide funding for the provision of domestic bins for waste and recycling Provide funding for the provision of bring bank sites	
<b>23</b>	<b>Strategic Infrastructure</b>	
	Contributions towards the major infrastructure to serve NW Bicester including the realigned Howes Lane and tunnels and the costs related to such delivery including to Network Rail for the rights to construct the tunnels.	
<b>24</b>	<b>Bus Provision</b>	
	Provide funding for the provision of the bus service to serve the site in accordance with agreed phasing	
<b>25</b>	<b>Bus Access Scheme</b>	
	Provide or provide funding for the improvement of Bucknell Road and Field Street to facilitate bus access	
<b>26</b>	<b>Off Site Cycle Way Improvements</b>	
	Provide a contribution towards the following improvements; <ul style="list-style-type: none"> <li>Off-site cycleway along Middleton Stoney Road between Howes Lane and Oxford Road.</li> </ul>	

	<ul style="list-style-type: none"> <li>Off site cycleway and traffic calming scheme on Shakespeare Drive</li> </ul>	
<b>27</b>	<b>Field Path Improvements</b>	
	Fund improvements to Bridleway Bicester 9 and Bucknell 4	
<b>28</b>	<b>Highway Works</b>	
	<p>Contribution to Banbury Road B4100 roundabout improvement</p> <p>Entry into a S38/ S278 agreement as necessary towards Highway Works.</p> <p>Highway works to create up to two vehicular accesses off Middleton Stoney Road</p> <p>Provision of bus stop laybys and pedestrian infrastructure including a link from the edge of the site to connect with the junction of Middleton Stoney Road and Howes Lane (or such part of it that is necessary)</p> <p>Provision of footway/ cycle links to allow sustainable transport options in advance of surrounding development.</p> <p>Facilitation of the delivery of wider site infrastructure including a bus only lane, pedestrian/ cycle links, ability to connect to other roads.</p>	
<b>29</b>	<b>Village Traffic Calming</b>	
	Contribution to funding village traffic calming in Middleton Stoney	
<b>30</b>	<b>Travel Plan</b>	
	Provide funding for travel plan monitoring	
<b>31</b>	<b>Arrangements for non-residential facilities</b>	
	Including timescales for the provision of a principle retail store, ancillary retail store, other uses and arrangements for their marketing. There are also arrangements around the safeguarding of a site for a local health facility should an alternative not be provided and around provision of a nursery.	
<b>32</b>	<b>Monitoring</b>	
	Provide scheme of monitoring eco town standards	
<b>33</b>	<b>Bond/Guarantee</b>	
	Provide bond or guarantee for the delivery of the infrastructure	
<b>34</b>	<b>Monitoring fees</b>	
	Provide a fee for monitoring of legal agreements	
<b>35</b>	<b>On site internal roads/ streets</b>	
	<p>Commuted sums for road adoption will be applicable</p> <p>Agreement to secure internal roads and vehicular, bus only and pedestrian/cycle linkages to adjacent Northwest Bicester sites.</p>	
<b>36</b>	<b>On-site sustainable transport initiatives</b>	
	<p>Travel Plan co-ordinator</p> <p>Electric Vehicle charging points</p> <p>Car club</p>	
<b>37</b>	<b>Zero Carbon</b>	
<b>38</b>	<b>Requirements around building standards (i.e. BREEAM and CEEQUAL)</b>	

# Appendix B

Proposed Himley Village North West Bicester  
Middleton Stoney Road  
Bicester  
Oxfordshire

14/02121/OUT

**Case Officer:** Caroline Ford **Ward(s):** Bicester North And Caversfield

**Applicant:** Portfolio Property Partners Ltd

**Ward Member(s):** Cllr Nicholas Mawer  
Cllr Lynn Pratt  
Cllr Jason Slaymaker

**Proposal:** OUTLINE - Development to provide up to 1,700 residential dwellings (Class C3), a retirement village (Class C2), flexible commercial floorspace (Classes A1, A2, A3, A4, A5, B1, C1 and D1), social and community facilities (Class D1), land to accommodate one energy centre and land to accommodate one new primary school (up to 2FE) (Class D1). Such development to include provision of strategic landscape, provision of new vehicular, cycle and pedestrian access routes, infrastructure and other operations (including demolition of farm buildings on Middleton Stoney Road)

**Committee Referral:** Major

## 1.

- 1.1 This application was reported to Planning Committee in February 2016 with a recommendation of approval. This report is presented at appendix A. That report provides a site description, provides details of the proposal, identifies the relevant planning policy, the range of publicity and consultation responses received to the application and the Officer appraisal of the scheme.
- 1.2 The application was deferred by Members at the February 2016 committee in order to allow for further negotiations and to allow for responses to be provided to Members comments/queries in relation to the following matters:
  - Transport and the deliverability of the proposal;
  - Affordable Housing;
  - Clarification over matters relating to bus stops, play areas, the response from Network Rail and the proposed sports pitches and associated facilities.
- 1.3 This report seeks to update Members on the progress made since the February 2016 committee and provide an updated recommendation. The report does not seek to repeat the issues set out within the earlier report but will provide an overview of the transport issues to provide Members with a comprehensive update.

## **2. Description of Proposed Development**

- 2.1 The proposed development remains as set out within the February 2016 Committee report and which is described at paragraph 1.4 of that report. Since the February 2016 Committee, and particularly due to the transport position set out within that report, the applicant has proposed an 'interim highway scheme' that is described within a Transport Assessment Addendum submitted in October 2016. In summary, this interim highway scheme proposes changes to the Bucknell Road junctions with Lords Lane and Howes Lane by signalling both junctions. The Assessment is accompanied by a range of technical appendices including a Safety Audit of the highway changes that form part of the interim scheme. The submission is also accompanied by an addendum to the Environmental Statement which assesses the Environmental Impacts of the interim scheme.
- 2.2 Further information has also been submitted on the likely rate of delivery of development at NW Bicester to support the applicant's assertion that, within the level of development the County Council has accepted prior to the tunnel under the railway, there is capacity for development at the application site.

### Environmental Statement

- 2.3 The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 Regulation 3 requires that Local Authorities shall not grant planning permission or subsequent consent pursuant to an application to which the regulation applies unless they have first taken the environmental information into consideration, and they shall state in their decision that they have done so.
- 2.4 The NPPG advises 'The Local Planning Authority should take into account the information in the Environmental Statement, the responses to consultation and any other relevant information when determining a planning application'. The information in the ES, the consultation responses and the addendum to the ES has thus been taken into account in considering this application and preparing this report. The ES identifies mitigation and this needs to be secured through conditions and/or legal agreements. The conditions and obligations proposed must incorporate the mitigation identified in the ES.

## **3. Relevant Planning History**

- 3.1 There is no other relevant history for this particular application site; however there is a range of planning applications that have been made across the Masterplan site including Elmsbrook. These are summarised at paragraphs 5.1-5.3 of the February 2016 committee report.

## **4. Response to Publicity**

- 4.1 One additional third party response has been received, raising the following points:
- No need for more commercial facilities to be added to the already massive approved and waiting for approval ones.
  - Howes Lane is overflowing with traffic and it is a Lane so would not cope with more trucks running up and down it.



Barton Willmore in a letter dated 14/11/2016 on behalf of A2 Dominion have commented as follows:

- In principle, A2D support the phased implementation of the NW Bicester Masterplan. There is a need for a pragmatic approach to be taken in respect of the timing of key infrastructure, however this should not be at the expense of creating unacceptable impacts of traffic on the road network nor undermine the ability to provide the required infrastructure for the masterplan.
- Arcadis have reviewed the technical highway work on behalf of A2D and their view accords broadly with the objections of OCC in respect of the highways assessment. It is the view of Arcadis that the addendum has failed to present an appropriate design or to properly assess the likely impacts of the proposals. A number of detailed points relating to the way the proposed interim scheme has been assessed are raised.
- The submission identifies an impact upon Shakespeare Drive but fails to provide any mitigation. The assessment is silent as to the impact upon the Howes Lane/ Middleton Stoney Road/ Vendee Drive junction as well as measures to bring forward the improvements to the Banbury Road roundabout. These junctions are shown to be effected by the interim scheme to a greater extent than assessed by A2D as the traffic signal scheme displaces traffic elsewhere. It also makes no reference to the substandard nature of the existing Howes Lane and the impact the 1700 homes would have on this link.
- The scheme relies upon a signalised junction as an interim scheme with no provision for the realignment of Howes Lane and the removal of the constraint at Howes Lane/ Bucknell Road.
- The interim scheme proposed fails to make adequate provision for pedestrians and cyclists and would result in a detrimental impact upon the local road network.
- At early stages of the masterplan analysis, traffic signalised options were dismissed by Arcadis as not offering an improvement in capacity on the existing layout due to the constraints under the railway bridge.
- A2D would also question whether the scheme would be comprehensive and whether it would be consistent with the masterplan. Would it fetter or undermine the delivery of the masterplan in respect of the wider area of land identified in the masterplan including the proposals submitted by A2D.
- The application makes no provision for secondary education facilities within the master plan area. The master plan requires the provision of a secondary school to be provided on part of the land subject to application 14/01641/OUT. Permission has not been issued for that site and occupations within Himley Village would need to be restricted until such provision is made. OCC has suggested that Himley Village would be required to reserve a site for a secondary school. This would be inconsistent with the masterplan and would require a substantial amendment to the proposals.
- The Council must assure itself that the scheme can be implemented in a way that is consistent with the master plan, takes a comprehensive approach including access and circulation within the masterplan area and would not jeopardise nor fetter the implementation of the remainder of the masterplan scheme.
- The applications submitted on behalf of A2D are consistent with the adopted masterplan and provide for the timely provision of schools as well as the realignment of Howes Lane and the railway underpass. The applications benefit from a resolution to approve and negotiations are ongoing as to the terms of the various S106 agreements. The current proposal is for A2D to provide for the key infrastructure necessary to enable the implementation of the masterplan including not only the bridge and link but also the land for the new schools, energy and

waste provision. The developers of Himley Village and other parts of the masterplan area that are not under the control of A2D will be able to connect to and derive benefit from the key infrastructure but only on terms that prior to implementation they pay to the Council their fair contribution to the cost of that key infrastructure which will be reimbursed to A2D. The grant of permission for Himley Village without such enforceable arrangements in place would jeopardise the implementation of the masterplan.

Barton Willmore (on Behalf of A2 Dominion) have also provided a number of letters dated 06/02/2017 commenting upon the applicant's submissions of the 01/02/2017 and these are summarised as follows:

Regarding A2 Dominion's intentions with regard to delivery of Application 1 [LPA REF 14/01384/OUT], Application 2 [LPA REF 14/01641/OUT] AND Application 3 [LPA REF 14/01968/F]:

- The above referenced applications, inter alia, seek permission to develop some 3,500 new homes out of the local plan allocation of 6000 together with new schools, access and infrastructure. The Council has resolved to grant permission in respect of three of the applications, with the grant of permission dependent on the completion of the relevant S106 agreements.
- The continued development of the site is predicated upon the delivery of a new crossing or bridge below the railway.
- OCC have imposed a limitation of 900 homes across the entire masterplan area until the bridge and link are operational. Permission has been granted for the exemplar phase of 393 dwellings and construction is underway.
- The exemplar is to be built out as follows – Phase 1: first occupations April 2016 (90 dwellings), Phase 2: Construction underway 5 August 2016 (71 dwellings) and Phases 3/ 4: Construction to commence in December 2017 (232 dwellings).
- Work on the local centre has commenced with a forecast completion of 2020, whilst the new primary school has a completion forecast of Summer 2017.
- A2D intend to commence construction on the first phase of Application 1 in tandem with the continuing build out of the exemplar, enabling the expansion of the primary school and for these early phases to benefit from access to the local centre and the efficient and practical extension to the bus service.
- A drawing has been submitted showing the first phase of development providing 507 new homes, the first phase of the burial ground and the first phase of the water treatment centre.
- Assuming the timely grant of permission, A2D anticipates the submission of details pursuant to reserved matters later in 2017 with the commencement of works in January 2019 with first occupations in August 2019. The first phase is forecast for completion at the end of 2021.
- A2D's intention is to provide the site wide key infrastructure in a timely manner to enable the continued provision of new homes. Delivery of the railway underpass is anticipated Christmas 2019.

In response to the Alan Baxter Highway Technical reports, the following comments are made:

- Reference is made to the OCC objection to the scheme dated 09/01/2017 (summarised below).
- The additional submissions and OCC responses have been reviewed by Arcadis on behalf of A2D. Arcadis undertook the strategic assessment of the Masterplan as well as the transport assessments of the impacts of the various applications submitted on behalf of A2D including for 14/01968/F for the new bridge and spine road. This has been resolved to be granted and A2D are progressing the technical approval process with Network Rail.

- Arcadis agree with the conclusions of OCC and maintain their view as set out in the letter dated 14/11/2016 (summarised above).
- It would be useful to have sight of the draft heads of the agreement proposed by the applicants. They appear to rely upon delivery outside of the application site by others. That being the case, and in the event that the Council grants permission notwithstanding the objections of the highway authority, limitations will be required to restrict occupations and development as appropriate until such necessary infrastructure is provided or a mechanism is put in place for the contribution to be made towards wider infrastructure.
- The current proposal is for A2D to provide for the key infrastructure necessary to enable the implementation of the masterplan, including not only the bridge and link but also the land for the new schools, energy and waste provision. The developers of Himley Village and other parts of the master plan area that are not under the control of A2D will be able to connect to and derive benefit from the key infrastructure but only on terms that prior to implementation they pay to the Council their fair contribution to the cost of that key infrastructure, which will be reimbursed to A2D. The grant of permission for Himley Village without such enforceable arrangements in place would jeopardise the implementation of the masterplan.

In response to the submissions by Turley on behalf of the applications relating to housing delivery, the following comments are made:

- Turley seek to argue that due to delays in the rate of delivery at the Exemplar, and in the absence of the grant of permission for applications 1 - 14/01384/OUT and 2 - 14/01641/OUT, that there is 'headroom' in the 900 capacity agreed with OCC before the bridge and link is put in place. Put simply, if this capacity is allocated to A2D in respect of applications 1 and 2, A2D will not build quickly enough to maintain supply in advance of the bridge. The proposed solution is to allow 680 homes to come forward at Himley Village in advance of the bridge and link which can be fast tracked as they will be constructed in a modular form with a factory coming on stream, adjacent to the site (details of permission and construction not provided) which in order to be viable requires 680 dwellings.
- As referred to above, the current proposal for the construction of dwellings in advance of the bridge delivery is to achieve the first phase, beyond the exemplar, by the end of 2021. It is A2D's intention to build out the Exemplar and the first 507 on Application 1 in tandem.
- A2D have instructed Peter Brett Associates to progress the design and approval of the bridge through the GRIP process. A2D are working in partnership with OCC and CDC to conclude the process with Network Rail to facilitate the delivery of the tunnels within the masterplan. This work is at an advanced stage and is ongoing with an anticipated delivery of the tunnel for Christmas 2019.
- Subject to the satisfactory grant of permission (e.g. the apportionment of the 900 capacity to A2D), then A2D will not only seek to secure consent and funding for the bridge and link (and other elements of the key infrastructure) but will deliver as such in accordance with an agreed programme.
- The exemplar phase already benefits from permission without any restriction on occupations. Even if Turley were correct in their assumptions, the available capacity (on the basis of the 900 OCC dwelling threshold before the bridge is in place) is 507.
- The applicant's reliance upon modular construction is noted. It would be useful to see details for the construction/ fit out, consenting programme for the new factory as well as associated labour force and how this relates to the commencement of works. If this is material to the consideration of the application, then the permission will need to secure the use of such modular construction. It is argued that the apportionment of 680 dwellings pre-bridge is required to render the scheme

financially viable. If this is an enabling/ facilitating case, then viability information will be required.

- The transport impact assumptions are queried based upon the baseline situation and the modelling work that is undertaken. No assessment is made of impacts on junctions or links elsewhere beyond the Howes Lane/ Bucknell Road junction.
- It is unclear how suggesting that the situation would be satisfactory in 2019 given a different delivery profile is relevant, given that A2Dominion will be developing 900 homes between 2019 and 2021 prior to the link road.
- The technical note suggests there would be headroom in traffic capacity based on their analysis. However, the modelling work by Arcadis showed the junction to be over capacity with 900 homes and this situation was accepted by OCC as an interim solution, on the basis that it facilitates the delivery of the strategic link road improvements by A2 Dominion.
- The proposed phasing of 507 dwellings enables the logical build out of the development in accordance with the masterplan. This enables development to benefit from the proximity to the primary school and local centre provided under the terms of the Exemplar and the extension of that school. It also provides for a logical extension to the bus services and utilities and infrastructure.
- The short point in dispute is the apportionment of the 507 capacity in advance of the bridge.
- This has been agreed to be apportioned to A2D on the basis that A2D has the ability to fund and deliver. This remains the case and the phasing scheme submitted demonstrates that the full capacity will be delivered in advance of the bridge and maintain a logical and consistent flow of dwellings.
- Turley are silent as to any alternative mechanism to deliver the bridge and other elements of the key infrastructure relying simply upon a contribution to the costs.
- If the 507 capacity is not retained as agreed by Committee, to the benefit of A2 Dominion, then A2D will need to rely upon a similar approach. The result being that the bridge will not be progressed and development will stall at 900 across the master plan until such alternative arrangements are put in place by the Council.

## **5. Response to Consultation**

Bicester Town Council: generally welcomes this application but has concerns regarding access on to the Middleton Stoney Road as there appears to be no access point from Himley Village on to the Middleton Stoney Road plus traffic building up in the area causing pressure on the roundabout at Vendee Drive and Howes Lane. The various classes of commercial units are welcomed but it must be ensured there will be no B8 buildings.

A further set of comments received confirm that Bicester Town Council has concerns that the signalling of the junction through the railway bridge on Bucknell Road will cause further congestion at busy times instead of alleviating traffic flows. The Town Council has concerns that this plan and the number of houses proposed is in conflict with the Local Plan, which restricts development to 900 houses prior to the realignment of Howes Lane complete with the railway underpass.

Middleton Stoney Parish Council: No objection to the proposed interim junction scheme. The Parish Council remain concerned as to the realignment of Lords Lane/ Howes Lane (as reported in the February 2016 committee report) and it is considered that this interim proposal may well become permanent. The Parish Council do object to the Middleton Stoney traffic calming proposals for the following reasons:

- The main access to the Himley Village site is on the Middleton Stoney road and so is bound to adversely affect the village. It would be inappropriate for development traffic to access the M40 through Middleton Stoney and so there should be a clear statement of intent that traffic from NW Bicester must access M40 J9 using Vendee Drive.
- There must be a routing agreement in place to ensure that HGV traffic to and from NW Bicester does not use the B430/ B4030 junction in Middleton Stoney.
- Vehicles often use the village as a diversion route and so mitigation measures for the village must recognise this fact to reduce the level of rat running, particularly HGVs. A northbound weight limits on the B430 for HGVs should be imposed.
- A study of traffic impacts should focus on a complete picture of all new developments in and around Bicester that are set out within the Cherwell Local Plan. The document seems to have adopted a piecemeal approach concentrating on the impact of the Himley Village development only.
- It is unclear what the kerb radii tightening is meant to achieve if it still ensures that HGVs can turn left to Oxford when approaching from Bicester on B4030. It is considered that the level of traffic turning left at this junction when approaching from Bicester is modest when compared to traffic which carries on towards Enstone on the B4030 or turns right towards J10 of the M40 on B430 and where kerb radii tightening would not achieve anything.
- The proposals for traffic calming and speed reduction are appreciated and it is considered that some are viable. However, the impact of traffic when considering the bigger picture of all development, means that it is necessary to consider a more comprehensive suite of measures than those proposed and the Parish wish to be involved with discussions with OCC. Local knowledge must be used alongside desktop modelling.

Chesterton Parish Council: Main concerns are the increase in traffic and the comment that 50% of trips by sustainable modes (cycling and buses) is laudable but will not be implemented in practice. This needs to be enforced, not simply agreed.

#### **Cherwell District Council:**

Ecology: The latest amendments (the addendum to the environmental statement) do not have an ecological aspect or reference to biodiversity therefore no further comments at this stage.

Landscape: Orchards need further consideration. Questions posed in relation to the pedestrian underpass rail crossing.

Environmental Protection: The findings of the Waterman report of October 2016 are agreed with relating to noise and there are no further comments over those already provided.

Waste and recycling: Sufficient provision for waste and recycling storage is required as well as a S106 agreement to secure contributions for waste infrastructure.

#### **Oxfordshire County Council:**

Strategic comments which provide a summary are provided below. Detailed comments are used to inform the assessment in this report and are available in full through the Council's website.

08/11/2016

*This consultation response addresses the additional information submitted in October 2016 which proposes interim junction works and to bring forward the Himley development ahead of the tunnel and realigned road. All points raised in OCCs previous consultation responses dated 16 October 2015 and 20th May 2015 still apply, other than those addressed in the individual team responses within the document.*

*OCC has a transport objection to the developer's proposal to bring forward the entire development ahead of delivery of the strategic road link (Howes Lane Realignment) and tunnels under the railway. On the basis of the information submitted and on further technical work commissioned by OCC, no development at Himley Village should take place until the tunnel and realigned road are in place.*

*Specific transport reasons for objection are:*

- Because of the methodology used to take account of traffic using unsuitable routes in the model such as Shakespeare Drive, the TA Addendum does not demonstrate that the interim mitigation proposed at the junction of Howes Lane/Bucknell Road/Lords Lane will be sufficient to avoid a severe impact at the junction by 2024 if the strategic infrastructure has not been delivered by then. OCC is also concerned over the longer term ability of the interim scheme to mitigate the development if the strategic infrastructure does not come forward.*
- Because of the level of detail of the design work carried out, the applicant has not fully demonstrated the feasibility of the scheme.*

*Further transport concerns are as follows:*

- Potential impact on the delivery of the key strategic infrastructure for NW Bicester.*
- The proposed interim scheme has weaknesses in terms of pedestrian/cycle provision which it may not be possible to overcome through further design; or, in addressing them, the capacity benefits may be eroded so that the scheme is ineffective.*
- Vehicle tracking issues mean that at best, adjustments could be required that would erode the additional capacity provided by the scheme, or that the scheme could be deemed unsafe even after the next stage of design, fail a technical audit and not be granted a S278 agreement.*
- Concern over deliverability of crucial key walking/cycling routes as they cross land outside the applicant's control*
- Concern over walking distances to facilities in advance of key on-site facilities being delivered.*
- Location of proposed bus turning area.*
- Inconsistency with the North West Bicester masterplan/Supplementary Planning Document, Cherwell Local Plan (Policy Bicester 1), and with the basis of decisions on other planning applications, particularly in relation to the triggers and phasing for site-wide infrastructure.*

*If the Himley development were to go ahead early, additional Education requirements would be as follows:*

- Earlier delivery of the primary school*
- A financial contribution will be required towards off-site temporary classrooms to provide early secondary school pupil places generated by the development (a temporary classroom for 30 pupils costs c. £0.25 million) would be required if this*

*development is delivered ahead of the planned new secondary school within application 14/01641/OUT,*

- Until it is confirmed that the planned secondary school within application 14/01641/OUT will be constructed, this development site will need to protect a fully serviced secondary school reserve site of 5 ha. The site must be free from encumbrances and delivered in accordance with Oxfordshire County Council requirements.*
- If the planned secondary school within application 14/01641/OUT is not constructed, this development will need to provide funding for a 600 place zero carbon secondary school, which is approximately £15,931,575 (1Q14).*

*OCC Bicester Members also have the following concerns:*

- Capacity issue with the use of existing Howes Lane: Members report that at times this road is already at capacity and would not be able to take additional traffic from the Himley development. If the Albion Land site were to come forward this would only exacerbate the capacity problem. The strategic infrastructure (tunnel and realigned road) should be in place before this development is allowed to proceed.*
- There should be a restriction on HGVs turning right onto the B4030*

10/11/2016

Based on the information submitted by the applicant and on further technical work commissioned by OCC, our overall assessment is that no development at Himley Village should take place until the tunnel and realigned road are in place.

With regard to theoretical modelling work alone, although there are inherent uncertainties in the level of background growth (which has been based on trajectories in the Annual Monitoring Report), we recognise that the additional work commissioned by OCC indicates that the proposed interim junction operates within acceptable capacity at 2019 with 485 dwellings at Himley Village (para 3.1.16 of the technical report appended to OCC's consultation response). However, after 2019 the junction is over capacity and at this stage there is no certainty that the realigned road and tunnel will be delivered by then. In these circumstances, the interim scheme could not be considered adequate to mitigate the impact of the development after 2019.

Additionally, the feasibility of the interim scheme (in terms of being both safe for all road users and providing sufficient traffic capacity) has not been fully demonstrated and OCC have serious doubts as to whether this will be possible. The scheme has weaknesses in terms of pedestrian/cycle provision which it may not be possible to overcome through further design; or, in addressing them, the capacity benefits may be eroded so that the scheme is ineffective.

OCC recommended that should the application be reported to Planning Committee (December 2016), it should be subject to a number of points requiring further work before planning permission is formally granted.

01/12/2016

The following comments were made on the basis of the a submission in November 2016 which included a general arrangement drawing, a TA Addendum response, drawing number 1665/75/300 and accompanying swept path analysis, which was prepared on the basis of a topographical survey, as requested, to determine whether the scheme was feasible. The topographical survey resulted in a need for changes to the layout, including increases in carriageway width to accommodate large vehicles. A number of concerns are raised and the considered view is that the interim scheme is not acceptable in highway safety terms for the following reasons:

- There is a pinch point in Howes Lane where the footway has been made only 800mm wide. This is too narrow and pedestrians would be hemmed in by the close boarded fence at the back of the footway. This is also on a bend and there is a risk of users meeting head on with consequent safety risk. This is also a barrier for disabled and some elderly pedestrians. This section of footway does not have a high footfall but it is the only access for pedestrians to the Avonbury Business Park.
- There are other changes which would be detrimental to pedestrian safety including the loss of a sort section of footway on the SW side of the Bucknell Road adjacent to the bridge abutment, the position of pedestrians crossing the junction, the lack of the full intervisibility zone.
- Concern over the position of traffic signal heads and signage.
- Concern over the vehicle tracking, which would interfere with the efficient movement of traffic at the junction and dilute the capacity benefits that the scheme may offer.
- Potential concern over pedestrian safety and possible damage to centre islands/ signal equipment and the bridge itself should vehicles have any kind of overhang.
- The carriageway is moved to within 700mm from the bridge abutment. At this point there is uncertainty over whether Network Rail would give permission for the kerbline to be so close to the bridge structure due to the risk of damage.
- If this design were to come forward as a S278 scheme, the Road Agreements team doubt that the Highway Authority would be able to give technical approval. Amendments to address the concerns would reduce the capacity of the junction.
- It is felt that whilst the scheme provides refuges at the signals to allow pedestrians to cross, the pinch points and loss of footway result in an overall deterioration in conditions for pedestrians. It not only causes safety concerns but is at odds with policy to encourage sustainable travel and Bicester's Healthy New Town ambitions.
- There is no identified need for safety improvements and so OCC does not have a duty to address safety concerns with the existing junction arrangement.
- The change to the design proposed via this submission would result in a reduction in capacity and require the modelling to be re-run.
- The revisions result in the carriageway and vehicle movements in close proximity to the garden fences of properties backing onto Howes Lane and the loss of some small trees.

15/12/2016

Concerns made under the following headings:

#### Pedestrian Facilities:

- Concern over the pinch point on Howes Lane in terms of pedestrian safety remains
- Concerns remain over the safety of pedestrians crossing Bucknell Road at the proposed crossing point; in particular west to east the new layout does not result in an improvement for pedestrians. There would be a restricted view of southbound Bucknell Road traffic until close to the kerb. It is agreed that the intervisibility zone to be provided appears to comply with standard. It is agreed that the scheme could create more gaps in the traffic for pedestrians to cross, however the introduction of signals (without pedestrian phases) will change driver behaviour and patterns of accelerating and decelerating, making movements less predictable to the pedestrian, who will not be able to see or make sense of the various signal phases. This could introduce hesitation or over confidence in pedestrian decision making, which could be particularly hazardous at this location due to there being no refuge.
- The report asserts that the proposed interim mitigation scheme represents an improvement over current conditions for pedestrians at the junctions. It is agreed that the introduction of refuges would provide some benefit to pedestrians, although as they are narrow, they do introduce the risk of overhanging pedestrians with bikes or



prams being clipped due to the tight tracking. Concerns about the crossing of Bucknell Road between Howes Lane and Lords Lane are reiterated.

- The overall view is that it is still considered that the scheme with the additional footway is detrimental to pedestrian safety.
- It is not agreed that OCC has a common law duty of care to address existing highway deficiencies. If OCC were to proceed to approve and essentially construct (authorised works by a developer would equate to highway authority construction) highway works of a deficient design, and an accident occurred, there may be grounds for a successful claim against the highway authority. It is for this reason that the Highway Authority are reluctant to agree to a scheme that, in their professional opinion, has a negative impact on road safety. The current layout operates safely with an exceptionally low number of reported injury accidents and there is no reason to suppose that intensification of use will lead to increased safety risk.

#### Signal equipment and traffic signs

- It is likely that the position of signs can be worked around in terms of fitting them into highway areas. OCC are not convinced by the reports assertion that footway widths could be increased to address the concerns.

#### Vehicle tracking issues

- The submitted report acknowledges that there are issues with tracking but concludes that there is scope and space within the limits of the public highway for further refinement of the layout to address these issues. OCC are not convinced and believe that the scheme could fail technical audit at S278 stage.
- The submission dismisses the problem of tracking issues for large vehicles passing one another, OCC consider that as this is an A classified road, in an area likely to experience significant construction traffic and general traffic growth, that large vehicles needing to pass one another will be a common occurrence. The scheme does increase carriageway space; however the signalisation would reduce the flexibility of drivers to negotiate the road space between themselves as they currently do.
- The proposal to use vehicle containment kerbs reinforces the fact that there could be issues with the design and that vehicles need to be constrained to prevent damage both to the highway and to other road users.
- It is not accepted that the risks identified would be mitigated by the low pedestrian footfall, which will in any case increase over time.

#### Increased proximity of carriageway to railway bridge

- The document states that the risk of bridge strikes due to the carriageway moving to a position only 700mm from the bridge structure would be mitigated by the use of containment kerbs. This would need approval from Network Rail and there is no suggestion that Network Rail have been consulted. The feasibility of the scheme could depend on this approval. The bridge has been struck in the recent past and Network Rail will be reluctant to approve anything that unacceptably increased the risk given the serious disruption it can cause to rail travel.

#### Lane Lengths

- The document acknowledges that the changed lane lengths in the new design could affect capacity but that the lane length can be reinstated to that of the previous design on Howes Lane whilst also providing the additional footway on the north side. Modelling would be required.
- The latest design has not been re-modelled in LinSig and the OCC traffic signals team have reviewed the design and found that there would be some slight changes needed to the LinSig parameters to reflect the differences in turning radii.

#### Impact on properties in Howes Lane

- The submission acknowledges that the interim scheme would bring vehicles closer to the existing gardens and fences that back onto Howes Lane. Noise, vibration and air quality impacts would need to be considered by the LPA. A noise impact assessment would be required at S278 stage. The changed way traffic moves through the junction could impact air quality.

#### Conclusion:

- *Overall, the proposed interim scheme has a negative impact on road safety*
- *Proposals have been made to address some of the deficiencies, but these would need to be demonstrated through a further iteration of the design.*
- *The concern over the crossing point under the bridge has not been addressed*
- *Assurance would be needed that Network Rail are content in principle with the scheme.*
- *OCC recommend that the above points are addressed prior to a planning decision being made. As it stands, given the constraints, we are still uncertain as to whether the scheme could be redesigned to meet S278 technical approval. Therefore if required by condition or obligation prior to occupation it may not be possible to discharge, thus preventing occupations from going ahead.*

09/01/2017

This consultation response updates OCC's response of 08 November 2016 which addresses the proposal for interim junction works and bringing forward the Himley development ahead of the tunnel and realigned road. All points raised in OCCs previous consultation responses dated 08 November 2016, 16 October 2015 and 20th May 2015 still apply, other than those addressed in the individual team responses within this document.

Additional information was received from the applicant on 21 December 2016 which sought to overcome concerns previously raised by OCC regarding the proposed mitigation scheme of traffic signalisation at the junction. In response to this information:

- OCC maintains its objection to the proposed interim scheme because the submission does not demonstrate that previously identified problems can be remedied. Space at the junction is so constrained that it would not pass a technical and safety audit and as a result the interim scheme is not feasible. Full details are set out in the Transport response below.
- With regard to road network capacity, advice from OCC's consultants is that the latest changes to the proposals would not have a significant impact on the capacity.
- OCC maintains the transport objection to the developer's proposal to bring forward the entire development ahead of delivery of the strategic road link (Howes Lane Realignment) and tunnels under the railway because this would result in a severe traffic impact at the Howes Lane/Bucknell Road/Lords Lane junction.
- OCC also wish to reiterate that it is critical that the tunnel and realigned road scheme are delivered and that the applicants are required to commit to paying their share of this strategic infrastructure.

OCC recommend that no development should take place before the road and tunnel are in place. However, if members of CDC's planning committee are minded to grant planning permission this should be subject to agreed phasing that is linked to the delivery of the road and tunnel.

03/02/2017 (in response to a technical note submitted on the 01/02/2017):

- OCC welcome that P3 Eco are now concentrating on the delivery of the tunnel and realigned road to unlock a key capacity constraint – the county council as Highways

Authority sees this as the critical piece of transport infrastructure that the NW Bicester masterplan area needs to deliver.

- OCC reiterate that the agreed trigger point for the critical infrastructure being required is 900 houses and 4 hectares of employment land. Based on their modelling work, which OCC have not fully signed off but which is in part based on the recently updated Bicester Transport Model, P3 Eco has shown that the traffic impact (in terms of numbers of vehicles) of this quantum of development, assuming all the housing to be north of the railway, would be greater in 2021 than in the original scenario of 2024 on which the trigger point was based. This makes it all the more important that we do not increase the trigger point overall.
- Placing a restriction on A2D to restrict them to less than 900 homes north of the railway including the exemplar site, would jeopardise their ability to secure the funds to deliver the strategic infrastructure (strategic link road and tunnel) which is vitally important for the whole of Bicester, and without which it would not be possible to deliver the NW Bicester strategic site.
- OCC support the principle that, subject to a S106 being in place that secures the funding for the tunnel and realigned road, the Himley Village planning application could take up any slack in the delivery of the 900 houses (although it is assumed that replacing employment delivery with further housing would not be a preference). We also accept that development south of the railway has a lesser impact on the critical junction than development to the north. However, the problem arises in recommending individual conditions which restrict the amount of development that can come forward before the tunnel: to protect against severe transport impact the caps should not add up to more than 900 homes plus 40% of employment, but for commercial reasons the developers need to demonstrate the possibility of delivering more, whether or not they actually could.
- Based on advice received from CDC regarding possible development trajectories for the NW Bicester application sites, we share the district council's view that there is likely to be considerable slack, and also that the Himley Village development would, in practice, be developed out more slowly than they claim it can be. Between an optimistic and a realistic scenario, there is significant risk that traffic flows at the critical junction would be higher than the 900 homes plus 40% of employment scenario, creating a temporary severe impact of congestion and unsuitable routing of until the tunnel is delivered. During this time there would be the additional burden of large volumes of construction traffic on the town, although we would seek wherever possible to route this away from the critical junction.
- Whilst allowing any development at Himley Village prior to the tunnel would mean an increase over the 900 trigger point, reducing the amount allowable at Himley Village to a lesser sum than 680 would go towards mitigating the risk. However, at the moment there are too many unknown factors to recommend what that lesser sum might be: we have no confirmed delivery date for the tunnel and no certainty of trajectories, which could vary considerably. It is worth pointing out that we have no evidence of delivery rates for modular housing.
- The Highway Authority needs to protect the road network and recommend a course of action that does not jeopardise the delivery of the critical infrastructure necessary for Bicester's transport network, so whilst we understand the benefits of bringing more employment to Bicester through a modular housing factory, we cannot recommend that 680 homes are permitted to be built at Himley Village prior to the tunnel.

#### **Other External Consultees:**

Historic England: The application should be determined in accordance with national and local policy guidance and on the basis of your specialist conservation advice.

Network Rail: No further comments to add to their original submission (summarised in the February 2016 report).

## **6. Relevant National and Local Planning Policy and Guidance**

6.1 The range of relevant National and Local Policy and Guidance is provided at paragraphs 4.1-4.10 of the February 2016 Committee report. All documents and policies identified remain relevant, however there is one update as follows:

### **6.2 NW Bicester Supplementary Planning Document**

The NW Bicester SPD provides site specific guidance with regard to the development of the site, expanding on the Bicester 1 policy in the emerging Local Plan. The NW Bicester SPD was adopted by the Council on Monday 22 February 2016. The SPD is based on the A2Dominion master plan submitted in May 2014 and seeks to embed the principle features of the master plan to provide a framework to guide development.

The SPD sets out minimum standards expected for the development, although developers will be encouraged to exceed these standards and will be expected to apply higher standards that arise during the life of the development that reflect up to date best practice and design principles.

## **7. Appraisal**

7.1 As described, the full range of relevant considerations, as well as the appraisal of each matter is included within the February 2016 Committee report. This report therefore seeks to provide an update to Members in relation to the specific matters that were the reasons for deferring the consideration of the application in February 2016. In these terms, the relevant matters are:

- Transport and the deliverability of the proposal;
- Affordable Housing;
- Clarification over matters relating to bus stops, play areas, the response from Network Rail and the proposed sports pitches and associated facilities.

### Transport and deliverability of the proposal

7.2 The first matter to be discussed in this report is the issue of transport. Before providing an overview of the proposed interim scheme and the issues surrounding this, Officers consider it necessary to provide an overview to Members of the position taken with regard to Transport considerations to date.

### Background

7.3 As Members will be aware, there has been recognition for a number of years that there is a need to improve the junction of Howes Lane and Bucknell Road where it passes under the railway and improve Howes Lane. These improvements are required for planned growth around Bicester, including North West. Policy Bicester 1 identifies that a key infrastructure need will be the need for *proposals to include appropriate crossings of the railway line to provide access and integration across the North West Bicester site. Changes and improvements to Howes Lane and Lords Lane to facilitate integration of new development*

*with the town.* This requirement has been incorporated within the Masterplan for the site, now established within the North West Bicester Supplementary Planning Document (February 2016). The SPD identifies the provision of a new tunnel, to the west of the existing, beyond the Avonbury Business Park and Thames Valley Police premises. This enables a straight crossing under the rail line and an improved junction to the north. Linked to this improvement, is the realignment of the existing Howes Lane, from the Middleton Stoney Road roundabout to the new underpass. This work provides the necessary transport capacity and has further benefits in terms of its design, including incorporating footpaths, cyclepaths, sustainable drainage, avenue planting and crossings as well as improving the living conditions for existing residents that back onto Howes Lane by realigning the road away from their rear fences. Planning permission has been resolved to be approved for the development to provide the tunnel and realigned highway infrastructure under application 14/01968/F.

- 7.4 Given the constraints of the existing junction, Oxfordshire County Council (OCC) have advised that there is a limitation on the number of additional traffic movements through the junction before it fails to adequately function. This capacity was identified through work undertaken by Hyder Consulting (now Arcadis) in relation to application 14/01384/OUT (an application at NW Bicester for development to the north of the railway line) in December 2014. This work used the Bicester SATURN model and traffic modelling results for a Local Development Plan Interim Year of 2024 (which therefore factors in expected growth by 2024 on a number of allocated sites for housing and employment around the town). The work concluded that at 900 homes at NW Bicester, the Bucknell Road/ A4095 Howes Lane would be over capacity but that the capacity issues would not be significantly worsened compared to the situation consented for the Exemplar but that beyond this, there would be a severe impact upon the existing junction until the new infrastructure were in place. It is on this basis that the capacity for development at NW Bicester in advance of the strategic road infrastructure has been determined, which has been equated to 900 dwellings (including 393 already permitted on the Exemplar site) and 40% of the proposed employment land.
- 7.5 Given this restricted level of development available across the Masterplan site, in advance of the new transport infrastructure, Officers have given consideration to how this capacity could be used taking into account the following criteria: how could the capacity be used by development best able to deliver the necessary tunnel, what development could be achieved whilst still meeting the policy requirements for being sustainable and whether the development is deliverable. The highway infrastructure is critical to the development of NW Bicester beyond the capacity agreed above.
- 7.6 A2 Dominion is the applicant for three applications across the masterplan site – 14/01384/OUT (2600 dwellings), 14/01641/OUT (900 dwellings) – both including associated infrastructure and 14/01968/F (for the realignment of Howes Lane and the tunnel). A2 Dominion also produced the Masterplan for the site and commissioned the technical reports that were used to establish the Masterplan. In relation to the highway infrastructure and tunnel, the planning application submitted by A2 Dominion has been negotiated, such that it now has a resolution to approve. In terms of the delivery of the tunnel and realigned road, A2 Dominion has sought funding through the Homes and Communities Agency. This would be in the form of a loan, of which A2 Dominion would look to share the cost of the provision across the NW Bicester development based upon the amount of residential development in each application (legal agreements would be required to secure the necessary contributions from other application sites to ensure their proportionate contribution to the infrastructure and to

enable A2 Dominion to take the risk in terms of taking out a loan). The provision of the tunnel also requires technical approval from Network Rail and this is known as the GRIP process. The GRIP process will also confirm the costs in terms of construction as well as the cost of what Network Rail term 'shared value' and the cost of any future liability that may be incurred as a result of a new structure under the railway line. The GRIP process has commenced and it is expected that Phase 1 will be complete Spring 2017 such that by then, costs will have been established, any issues with regard to the design will have been highlighted and greater certainty around when the tunnel could be delivered would be gained.

- 7.7 Based upon the above, Officers consider that there is a route to deliver the road and tunnel and that good progress has been made in moving this forward with Network Rail by A2 Dominion. Therefore, by allocating early development, within the identified capacity on application site 14/01348/OUT submitted by A2 Dominion, this would aid in supporting the delivery of the necessary highway infrastructure. Additionally, by restricting the 507 dwellings to be constructed adjacent to Elmsbrook, there would be advantages in terms of access to facilities, services and the transport links such as footway, cycle links and the bus service allowing the development to meet the policy requirements for being sustainable. Officers also understand that 507 dwellings in this location are deliverable. On this basis, Officers have worked to advise Committee that the available capacity, in terms of the number of dwellings available in advance of the highway infrastructure, would be most suitably accommodated on the application site north of the railway line (14/01384/OUT) providing progress is made in terms of the GRIP process so that development across the site is not stalled. For completeness, Officers have advised committee that some of the development on land to the south east of the site (the land set aside for employment purposes) (application 14/01675/OUT) could benefit from the trips allocated to the equivalent of 40% of the employment land. This application includes land that is critical for the delivery of the realigned Howes Lane. In addition this area of land is adjacent to the existing western edge of Bicester therefore the services and facilities to the west of Bicester are within a reasonable distance and therefore accessible by walking and cycling. Application 14/01675/OUT was refused at Planning Committee in June 2016 therefore the capacity identified that would be equivalent to the 40% of the employment land is not yet committed through a resolution to grant planning permission but should a scheme for employment development and/ or housing be approved on that site, Officers consider this would be appropriate for a level of that to proceed early given that site includes land required for the realigned road and which is close to the existing town as described. It has therefore been the case that development identified elsewhere, including the A2 Dominion applications (beyond the first 900 dwellings – including 393 at Elmsbrook) would be recommended to be controlled by Grampian conditions and/ or legal agreements to restrict development until such time that the road and tunnel are in place.
- 7.8 The applicant for Himley Village advises that the Hyder assessment using the SATURN model was based upon development across the entire Masterplan site with some of the 900 units south of the railway (408 units) and some to the north (494 units – including 393 units at the Exemplar). This forms the basis for the impact of the development on existing junctions. The applicant advises that based upon outputs from the Bicester SATURN model, development to the south of the railway introduces proportionately less traffic to the congested Howes Lane/ Bucknell Road junction than development to the north. The applicant therefore considers that positioning 900 homes to the north of the railway will have a greater impact upon the junction than has been modelled and that decisions have therefore been taken without the full impact

being known. Oxfordshire County Council however does not raise an objection in relation to the location of development agreed in advance of the road infrastructure, recognising the support that early development should bring to the delivery of the critical road infrastructure. Oxfordshire County Council have however accepted that development to the south of the railway would be likely to have less impact upon the junction due to less vehicles heading north through the route.

- 7.9 Overall, Oxfordshire County Council raised no objections to the Himley Village application when it was previously reported subject to conditions and completion of a satisfactory S106 agreement applicable to the application site and broader North West Bicester site. This is on the basis that development is restricted on the site by way of a Grampian condition until such time that the road and tunnel are in place given the robust position taken in relation to the limited available capacity in advance of the provision of this infrastructure. This position has now moved on as can be seen within the responses of Oxfordshire County Council as the Highway Authority summarised earlier in this report and explained in the following sections.
- 7.10 This position was reported at the February 2016 Committee and based upon the suggested use of a Grampian condition, Members deferred the application for further consideration as to the use of such a condition. The applicant is also aggrieved by the suggestion of a Grampian condition due to the restriction it would place on early delivery.

#### Interim scheme

- 7.11 Since the February 2016 Committee, matters have moved on further and specifically, the applicant has carried out detailed work in an attempt to respond to the capacity issues so as to allow development to commence on the Himley Village site whilst negotiations continue with Network Rail. In October 2016, the applicant formally submitted a proposal which involves the provision of an interim highway scheme at the Howes Lane/ Bucknell Road/ Lords Lane junction. The scheme would involve the removal of the Bucknell Road/ Lords Lane roundabout, the introduction of traffic signals to both the Howes Lane and Lords Lane junctions with Bucknell Road linked by a single signal phasing plan (albeit with no specific pedestrian phase), other associated alterations including the relocation of the existing Lords Lane junction to the north and its realignment to provide additional storage for vehicles between the Lords Lane and Howes Lane junctions. The proposal would also involve the introduction of footways, crossings and pedestrian refuges. A pedestrian footway link further along Howes Lane is also proposed to enable sustainable transport options at the early stages of the development, all be it that this link is outside of the applicant's control. The addendum includes an updated transport assessment to support the interim proposals, drawings showing the interim scheme and swept path analysis, a Stage 1 Road Safety Audit and detailed outputs from the modelling work. The submission purports to provide sufficient additional capacity to provide for the whole of the Himley Village site to be developed in advance of the provision of the permanent infrastructure. Following initial comments from the Highway Authority, there have been a number of further submissions from the applicant in the form of technical highway notes and responses from the Highway Authority, all of which are available in full via the Council's website.

#### Feasibility of the interim scheme at the Lords Lane/ Bucknell Road/ Howes Lane junction

- 7.12 The proposed interim scheme raises 2 issues; firstly whether there is sufficient width within the highway to provide the scheme in a form satisfactory to the highway authority and secondly how much additional capacity the scheme would release and over what period and how this relates to the number of additional dwellings that could be accommodated.
- 7.13 The applicant's initial submission showing a proposed interim highway scheme and an accompanying Stage 1 Road Safety Audit was assessed by the Highway Authority. The response advised that the level of detail of the design work carried out at that stage was not sufficient to demonstrate the feasibility of the scheme. A number of technical concerns were also raised, and further it was considered that in the process of these being resolved, there could be reductions in any such additional capacity that could be provided. The technical concerns relate predominantly to weaknesses in terms of pedestrian/ cycle provision and vehicle tracking due to issues around the carriageway space available resulting in narrow pavements and carriageway widths.
- 7.14 On the basis that the initial submission drawings had been based upon OS data, it was recommended that a topographical survey be undertaken to enable the proposed interim junction arrangements to be overlain in order to assess whether the scheme is feasible in terms of fitting within the space available within the highway.
- 7.15 The topographical survey was subsequently completed and used to inform a further iteration of the design, which responded to the topographical data and the issues, raised by both OCC and the Stage 1 RSA. This was further assessed by the Highway Authority and further detailed concerns were raised. Subsequently, there has been ongoing correspondence in the form of technical highway notes and responses from the Highway Authority which are detailed and available in full via the Council's website. Essentially the Highway Authority continue to object to the interim scheme advising that it would have an overall negative impact upon road safety and that OCC are not convinced that the scheme could achieve a technical S278 approval. Given this is a scheme within the existing public highway, a S278 is crucial and without this, the scheme could not progress.

#### Highway Capacity

- 7.16 Given the above, it is unclear whether there is an achievable interim highway scheme or, if there is, what capacity it is likely to provide given that any alterations to the scheme, in order to achieve technical S278 approval could reduce any additional capacity that is established.
- 7.17 The applicant has submitted a transport assessment to support the interim scheme (based upon the October 2016 submission). This models a level of development at NW Bicester (including the Exemplar, 507 dwellings on the application 1 site area – 14/01384/OUT, the whole of Himley Village – 1700 dwellings and a proportion of employment floor space) to test the impact of development at 2024. The addendum concludes that the junction remains within capacity with levels of queuing comparable to those agreed in the 900 home scenario and with allowance provided for an additional 1700 homes for no worsening in congestion. The report also suggests that the interim scheme would provide spare capacity for at least an additional 16% of traffic above the 2600 homes development scenario.
- 7.18 With regard to the level of capacity offered by the Interim Scheme, OCC have commissioned WYG to advise on the trigger point at which the interim scheme can no longer accommodate traffic growth in the area. The work concludes that the proposed interim scheme would not



work in 2024 with background growth plus the phased development at NW Bicester contrary to what the applicant's work suggests. The WYG assessment suggests that for the most likely background development scenario, the junction scheme operates within acceptable capacity at 2019 but is over capacity after this. The 2019 assumption is equivalent to 485 dwellings at Himley Village. It is therefore concluded that given the relatively short timescale that the interim scheme would be on the ground before alternative highway improvements would be required, it is considered that the interim scheme is unlikely to offer sufficient benefits to allow development to commence at Himley Village. OCC have also confirmed that changes required to the interim scheme to make it feasible, would likely reduce its capacity still further. OCC also raised concern in relation to the potential for vehicles re-routing onto less suitable cut through routes.

- 7.19 This work has however established that the critical year in terms of the capacity of the junction is 2019 based upon the tested scenario which includes 393 dwellings at the Exemplar, 507 dwellings on the application 1 site, 485 dwellings at Himley Village and development on the Albion Land site equivalent to 40% commercial movements as well as background development assumptions considered the most likely scenario by 2024. It is at this point that the junction would be over capacity if development is provided at the level predicted.

#### Environmental Statement

- 7.20 Due to the submission of updated information to support the application, the applicant has provided an addendum to the Environmental Statement. The addendum assessment finds that with regard to transport, the overall magnitude of the effects remains similar in the 2024 interim scenario and the completed mitigation scenario, once mitigation is taken into consideration. The likely residual effects of the 2024 Interim Scenario range from minor adverse to minor beneficial. The effects of the completed development scenario remain as set out in the 2014 ES due to no changes having been made. With regard to noise, the addendum finds that the change in road traffic noise levels for the 2024 interim scenario as a result of the proposed development is predicted to be comparable to those predicted for the completed development. With regard to air quality, the changes proposed would mean that the air quality effect of the development is insignificant. Overall, it can be concluded that the proposal to include an interim junction scheme does not result in significant environmental impacts over and above those identified for the completed development and which are to be mitigated for.
- 7.21 Notwithstanding the above conclusions reached by the applicant, OCC have raised some concern in relation to the level of congestion at the existing junction and the likely rat running that could result through less suitable routes and the ES does not reflect this. The ES addendum relates to the proposed interim scheme and as this scheme is not part of the current proposal (explained later in this report); the conclusions of the main ES remain relevant in relation to the scheme put before Members for consideration. Officers generally consider the conclusions of the ES to be adequate for the purpose of considering this application.

#### Capacity at the existing junction

- 7.22 Taking into account the continued objections of the Highway Authority in relation to the interim scheme, the applicant has looked at delivery rates in order to assess the likely level of development that will have occurred by the time the tunnel and road are in place (currently

assumed 2020 based on the tunnel being provided over the 2019 Christmas period). This work has looked at build out rates to determine whether the 900 homes agreed would have been constructed by 2019/20. Their work takes into account historic delivery rates at Elmsbrook, information submitted by Barton Willmore (on behalf of A2Dominion) in relation to delivery of the later phases of Elmsbrook, and assumptions have then been made for delivery of the 507 units and commercial development on the Albion Land site (based upon an optimistic and an alternative scenario).

- 7.23 The applicants have used their work around delivery to predict the level of traffic impact, at 2021, should all the development agreed in advance of the tunnel and road have been delivered to give an indication of the number of vehicles using the junction. This is referred to as the baseline scenario. They have then tested the assumed optimistic and alternative development scenarios (which assume a level of development of the 507 units and commercial development on the Albion Land site but not all of it) with the applicant's first proposed phase of 680 homes at Himley Village. They conclude that in the likely event that the baseline scenario is not achieved by 2019 due to a slower rate of delivery, that the provision of 680 homes at Himley Village would have a less serious traffic impact than the baseline scenario would result in. As such, it is concluded on behalf of the applicants that there is sufficient capacity available, based upon the likely delivery rates for a 680 home phase at Himley Village to be accommodated by the end of 2019.
- 7.24 Barton Willmore, on behalf of A2Dominion has commented upon the applicant's current submission and has provided an update in respect to the timescales for delivery that is currently anticipated by A2D. This is set out under section 4 of this report. Based on this, it is clear that A2D do not intend to commence construction of the 507 dwellings until the start of 2019. That being the case, it is highly unlikely that all 507 dwellings will have been delivered by the end of 2019 (in fact it is anticipated that the full 507 will be delivered by the end of 2021). On the basis that by that time the road and tunnel should have been delivered (on the basis of no unexpected delays), then it can be concluded that there is likely to be headroom within the scope of the 900 dwellings agreed in advance of the road and tunnel for some development at Himley Village.
- 7.25 Officers have also looked at build out rates taking into account the Council's latest AMR from December 2015 and the Trajectory to the Local Plan. Based upon delivery occurring at the rate that all developers have said, more than 900 dwellings could be in place, plus 40% of the employment land. However, Officers consider that the rate of delivery is likely to be optimistic across all the sites at NW Bicester, taking into account the time needed to prepare and service a site, the need for the completion of legal agreements, the demand for development (including commercial) and, in respect to Himley Village, the need to obtain planning permission for a factory, its construction and then the delivery of dwellings ready for occupation.
- 7.26 On this basis, Officers consider it is necessary to continue to allow A2Dominion the ability to deliver 507 dwellings to secure their commitment to the road and tunnel and it is possible that some development could emerge on the employment site, which would enable the delivery of the realigned road. However, what is clear is that delivery rates are unlikely to be such that all that development will have been delivered by the end of 2019. It is very difficult to model rates of housing delivery as many factors influence the rate at which building occurs. It is not possible to quantify exactly what level of development will have been provided, and thus what

level of capacity will be available. However evidence of historic rates of delivery can provide an indication of likely delivery.

#### Delivery

- 7.27 The ability of the applicant to deliver dwellings early is also an important consideration. There are a number of issues that relate to this and need further consideration as follows:
- 7.28 Firstly, the applicant is working with Consortium Partners to secure a modular factory for the production of modular homes to be utilised on Himley Village. The applicant's agent has advised that the Partner's decision as to whether to bring a factory to Bicester is subject to the securing of a resolution for the first two phases of 680 homes to be delivered prior to the strategic link road and tunnel becoming available in 2020/2021. Discussions are underway in connection with two potential sites for a factory. The intention is for the proposed factory to be made operational for the construction of the first homes to be completed at Himley Village during 2018. The applicant has confirmed that the modular homes are provided with full guarantees and are mortgageable.
- 7.29 Secondly, the applicant has confirmed that their interests in the application site land could be utilised quickly upon the grant of planning permission for development of the land and that utilities can be provided to the site with capacity having been reserved.
- 7.30 Thirdly, the applicant has confirmed that the general thrust of the S106 matters is agreed and that following committee, they would hope to move quickly to the completion of an agreement. This would include an appropriate and reasonable contribution to the strategic infrastructure. As discussed above, matters with Network Rail are progressing such that it is anticipated costs will be established, which is required in order to allow these to be built into the S106 for the site to allow for the completion of agreements during the course of 2017.
- 7.31 In the view of Officers there is, subject to a factory proposal being realised, a reasonable prospect of some development at Himley Village being deliverable in advance of the road and tunnel and before the end of 2019. In terms of timing, there will be significant work to be undertaken in drafting a legal agreement and then time to put together an Urban Design Framework, then Design Codes (including the necessary Design Review), and then latterly reserved matters applications, with the discharge of any necessary planning conditions all before development could commence on site. Site preparation and servicing would also be required prior to the commencement of the construction of dwellings. The implication of delivery at Himley Village in advance of the road and tunnel in highway terms is explained later in this report within the section titled 'Conclusion and recommendation in relation to Highway Matters'.

#### Sustainability of Himley Village

- 7.32 It is also necessary to consider how the early delivery of dwellings at Himley Village could be delivered in a sustainable way. The development could be the first development south of the railway line and due to its location, it would, in the short term, represent a disconnected parcel of development positioned at its closest point, approximately 350m from the existing edge of Bicester. The following paragraphs will therefore consider the sustainability of an early phase of development particularly with regard to walking and cycling connections and facilities on site.

- 7.33 The applicant proposes the early delivery of walking and cycling routes and has identified two key connections, which reflect links that would be required as part of the wider masterplan. The northern most link would be a traffic free walking and cycling route that would be delivered in Phase 1. Given that the existing Howes Lane would remain in use then there would be a requirement for a toucan crossing on Howes Lane to connect the new walking and cycling route with the existing town. The delivery of this route would require the agreement of the Thames Valley Police Authority who own the land at an earlier stage than predicted by the Masterplan. A second interim connection would be provided along the northern side of the Middleton Stoney Road in line with the Masterplan; however, this link may need to be delivered within the highway boundary in the absence of development on the Albion Land (commercial site) and would involve the existing ditch being culverted due to the restricted area available. This connection is also proposed to be delivered in Phase 1 and would also involve a crossing of Howes Lane to connect to the rest of the town.
- 7.34 The Highway Authority have raised some concern with regard to the deliverability of key walking and cycling routes due to them crossing land outside the applicant's control, as well as the distances between the site and existing facilities in advance of key on site facilities being delivered. Whilst concerns over deliverability are understood, it will be for the applicant to ensure that matters that are required to be delivered early and which will be sought and secured through the S106 agreement can be provided as required. The delivery of these matters would be linked to the occupation of dwellings and therefore occupations would be restricted in the event that the pedestrian/ cycle links could not be delivered. It is also important to note that the provision of toucan crossings over the existing Howes Lane would result in the need for the reduction in speed limit and the removal of vegetation to provide forward visibility.
- 7.35 The developer also proposes a bus strategy in the interim period, in advance of the development of the strategic link road and the proposed bus route that will eventually serve the area of the site to the south of the railway line. This strategy involves the provision of new bus stops on the Middleton Stoney Road to make use of the existing bus service 25A and the provision of a new bus route that would enter and exit the site from the Middleton Stoney Road in order to provide a bus service for new residents on the site itself at a frequency of a bus every 20 minutes initially. The Highway Authority has confirmed that this level of bus service would be required and that funding to support the service would be required and secured through the legal agreement.
- 7.36 The applicant plans, as part of their phase 1, to provide a range of day to day facilities to support the residents of the site. This includes the school, local shops, offices, health facilities, nursery, a veterinary surgery, hotel and the playing fields. The pub/ community centre are proposed during the second phase of development. This level of facilities was not envisaged on the Himley Village site in the NW Bicester masterplan which proposes a local centre adjacent to the realigned Howes Lane. This local centre forms part of application 14/01641/OUT. The provision of an additional local centre raises a concern that there may not be sufficient trade in the long term to support two local centres. In addition it is important that the centre does not attract uses away from the town centre, undermining its viability and vitality. It is therefore proposed to control the level of non-residential uses by way of planning condition 9, which sets an overall limit of 8,000sqm floor space for such uses of which none shall exceed the types of uses set out in the table within the condition (for example, retail must not exceed 700sqm floorspace).

- 7.37 The provision of facilities, services and walking and cycling routes is important to enable development on the site to be accommodated sustainably providing basic facilities to meet residents day to day needs without having to drive to other locations and also, where trips to Bicester are undertaken that there are attractive walking, cycling and public transport routes to encourage a modal shift to sustainable modes. This includes in the long term as well as the short term if development is provided at Himley Village in advance of other development. In the view of Officers, careful phasing of the delivery of supporting infrastructure is required in order to deliver what is required at the right time whilst also keeping the development viable. It is clear however that the early delivery of the matters indicated, could support the provision of sustainable development on Himley Village.

#### Conclusion and recommendation in relation to Highway Matters

- 7.38 Taking into account the above assessment, and taking into account likely delivery rates, the level of development that will be achieved by 2019, is unlikely to have exceeded the level agreed by the County Council prior to the delivery of the tunnel and road (900 homes and 40% of the employment land) and therefore, on this basis, the traffic impact will be less than predicted at that point. Although it must be noted that this could not be guaranteed if permissions had been granted. There is also greater certainty emerging with regard to the delivery of the tunnel and road, given the scheme is progressing through the GRIP process, which will allow costs to be established and track possession to be booked to allow delivery of the tunnel (restricted to a Christmas period and likely to be either Christmas 2019 or 2020). Further progression through the GRIP process to finalise costs is required in advance of the completion of legal agreements relating to this application and it is anticipated that by the time legal agreements are drafted, greater certainty over delivery for the road and tunnel, including the date for track possession will have been established.
- 7.39 In these terms, based on the 900 units and 40% employment floor space accepted by OCC, there is likely to be transport capacity available at the critical junction for some development at Himley Village that, in terms of impact, would not exceed the County Council's limit by 2019. The delivery of housing is an important consideration and priority for the Council and allowing a phased commencement of development at Himley Village would support housing delivery in the District and town. There is also the potential to support the provision of a factory in Bicester to allow for the production of modular housing and thus the delivery of housing at a faster pace than normally achieved. However Members should note that this application does not include the factory or guarantee its delivery and therefore this factor should be given only very limited weight in reaching a decision on this application.
- 7.40 The assessment above has also considered how an early phase of development at Himley Village could be sustainably accommodated. Officers are content that subject to suitable controls by way of planning conditions, legal obligations and careful phasing of the provision of infrastructure, that development could be accommodated on the site in a sustainable way.
- 7.41 As set out above, the applicant wishes to secure approval for 680 dwellings prior to the road and tunnel being delivered by the end of 2019. The most recent Highway Authority response does raise concern and reiterates the view that the cap of 900 homes plus 40% of the employment should not be exceeded, however the view is expressed that based upon the information available and likely development progress, that there is likely to be some slack in the delivery of housing that could be taken up by development on Himley Village. It is

confirmed that allowing any development at Himley Village prior to the tunnel would mean an increase over the 900 trigger point, reducing the amount allowable at Himley Village to a sum less than 680 would go towards mitigating the risk. OCC do not define what this lesser sum might be given the uncertainties at this stage.

- 7.42 It is therefore recommended that in the circumstance that the development at Himley Village progresses as quickly as predicted by the applicant and that delivery of development across the rest of the site progresses at a 'normal' pace, it is the view of Officers that a first phase of development of 500 homes could be accommodated on the site without a transport impact beyond that already accepted by 2019. This number sits below 680, which as the Highway Authority suggest would help to mitigate the risk, represents a first phase that could be provided by the applicant's intended factory and is just above the 485 dwellings that emerged from the WYG work referred to in paragraph 7.18 (albeit this related to the interim scheme – but if development does not progress as quickly as that work anticipated, provides an indication of the level of development that could be agreed in the view of Officers).
- 7.43 It is therefore the advice of Officers that clauses are built into the S106 agreement that would allow no more than 500 homes to be occupied on the Himley Village site in advance of the provision of the tunnel and road and it being opened to traffic. However, flexibility is also intended to be built in such that in the circumstances that 500 homes have been provided and occupied at Himley Village before the road and tunnel have been provided, but that there is a clear programme for its delivery, that a programme for the phased delivery of further dwellings at Himley Village, might be agreed. This might cover the circumstances which may occur if there is delay in the delivery of the road and tunnel but certainty over the time scales within which it would be provided or delay in the delivery of housing on other parts of the site.
- 7.44 The benefit of this approach is that greater certainty can be provided to the applicant in terms of the delivery of housing on this site, but that it is still fully linked to the delivery of the road and tunnel, which is critical. This also takes the form of a phased delivery of development, with a level of development allowed for in advance of the tunnel and road, which would take advantage of highway capacity thus avoiding severe highway impacts. Beyond the first phase of 500 dwellings, certainty over the provision of the tunnel and road will be required before development could progress further, again, to avoid severe highway impacts.
- 7.45 For the avoidance of doubt, given the inherent uncertainties with regard to the interim highway scheme, both in relation to whether such a scheme is feasible and the level of additional highway capacity it would actually provide, this proposal does not form part of the recommendation.
- 7.46 In the view of Officers, the likely delivery rates (although not guaranteed) across the site could allow for the phased commencement of development at Himley Village in advance of the road and tunnel and providing that this can be delivered by 2019, this would assist in the delivery of housing on an allocated site. As such, it is recommended that the commencement of development be carefully controlled and phased relating to the delivery of the tunnel and road but that a restricted number of 500 homes could be delivered in advance of the infrastructure. Officers would advise however that this position does not remove the commitment to A2 Dominion benefitting from 507 units so as to ensure that their commitment to deliver the strategic infrastructure is not affected. It is also advised that this level of development would also be additional to a level of development equivalent to 40% of the commercial land. There

is a risk that if for any reason the road and tunnel were delayed or build out rates increased beyond those normally achieved, that the 900 dwelling threshold accepted by OCC could be exceeded. This risk relates to increased congestion at the junction and the potential diversion of traffic onto less suitable routes within the area. On balance it is considered that the potential benefits in terms of housing delivery outweigh the risk taking into account anticipated delivery rates.

#### Affordable Housing

- 7.47 Affordable Housing is discussed at paragraphs 5.43-5.49 of the February 2016 Committee report. The Local Policy requirements as well as the Framework advice are provided. The assessment detailed the discussions that had been undertaken between the applicant and Council Officers at the time with regard to the provision of affordable housing as a 'Rent to Buy' product. The report discussed Officer concerns with this approach and Members were similarly concerned with this approach to the provision of affordable housing. Officers were subsequently advised that the offer of Rent Plus providing affordable housing as the rent to buy model was provided as an option rather than a proposal.
- 7.48 Since the February 2016 Committee, Officers have discussed the affordable housing provision with the applicant. The response received is that the applicant would intend to provide affordable housing in line with the Council's Policy requirement set out at Policy BSC3 and therefore represent a 30% provision (split between 70% affordable/ social rent and 30% as other forms of intermediate housing). Officers would therefore seek to secure this provision by way of the S106 agreement reflecting the Council's normal approach, providing the scheme is viable. The provision of affordable housing is therefore a significant benefit of the scheme. It is noted that the original comments from the Strategic Housing Team (outlined at para 3.9 of the February 2016 committee report) set out the requirements for the provision of affordable housing and that the approach now to be secured through the S106 will meet the requirements set out.

#### Clarification over matters relating to bus stops, play areas, the response from Network Rail and the proposed sports pitches and associated facilities

- 7.49 With regard to bus stops, additional information has been provided by the applicant as part of their interim proposals indicating the provision of bus stops along the Middleton Stoney Road and within the site in the event that development commences in advance of the permanent bus service serving the southern part of the NW Bicester masterplan site. The proposed final bus route is also indicated showing that the interim bus route can be adapted into the final route. Officers are satisfied that the provision for bus services in principle can be accommodated from an early stage, both if development commences at Himley Village in advance of other development south of the railway and in the long term. It is proposed that bus services be secured through the S106 agreement to secure an appropriate service to ensure that targets around modal shift can be met.
- 7.50 With regard to play areas, at the February 2016 committee, Members raised concern with the type of play areas provided. The desire is for larger play spaces to be provided rather than lots of small areas. The applicant's Landscape Parameter plan indicates the provision of 7 play spaces distributed through the site. It would be the intention of Officers to secure play throughout the site (potentially unequipped) to be accessible space for smaller children (the

Council's SPD indicates that a LAP, suitable for toddlers be provided within 400m/ a 5 minute walk from each home) and additionally, given the requirement for 40% Green Infrastructure across the site, green spaces will be distributed through the site, which will also aid in creating an open, landscaped environment.

- 7.51 The application was also deferred taking into account the Network Rail response set out in the February 2016 report. The response from Network Rail refers to the construction of the underpasses and recommends conditions relating to development close to the railway boundary. The Himley Village development is situated away from the railway boundary and no part of its construction would be within proximity to the railway. The suggested detailed planning conditions are not therefore recommended. Additionally, with regard to the construction of the underpasses, these fall to be delivered by a third party – A2 Dominion, with the applicant for Himley Village required to contribute to the delivery of this infrastructure. This will be secured through the appropriate S106 for the site.
- 7.52 The proposal sets aside land for sports pitches to serve the wider development across the NW masterplan site. As referred to within the February 2016 report, the Masterplan identifies the need for the pitches to be in one location in order to enable higher standard provision and to facilitate long term management and maintenance. The intention is for the land and contributions to be secured from this site and others through the S106 agreements to enable the Council to deliver the pitches. In these terms, the suggested conditions of Sport England are unlikely to be required as the applicant could not comply with them; however this requires some further discussion with Sport England to allow their objection to be removed and to satisfy them of the mechanism to secure the provision of the pitches. Additionally, Members expressed concern with regard to the need for a pavilion. The Masterplan proposal is for a pavilion to be provided as part of the A2 Dominion application (14/01641/OUT) adjacent to the sports pitches and the approved parameter plans for that application demonstrate where this provision is proposed. Like the proposals for the pitches, the intention for the pavilion is for serviced land to be provided to the District Council, with contributions secured via the applications south of the railway line towards the provision of the pavilion. In this regard, Officers advise Members that the provision of pitches and a pavilion will be secured through the necessary legal agreements.

Other implications if the Himley Village Development were to commence in advance of the strategic link road

- 7.53 As referred to by Oxfordshire County Council, should development at Himley Village progress in advance of other development, there is likely to be additional education requirements in the form of the timing of the delivery of the primary school on site (coming in an early phase), potential need for additional contributions towards off site secondary school temporary classrooms, the need for this development to provide a reserve 5ha secondary school site and funding towards its provision (until it is confirmed that the planned secondary school within application 14/01641/OUT will be constructed – in a timely manner to meet the needs of the development).
- 7.54 There have also been other identified matters that may require earlier/ additional provision on the Himley Village site if the development were to commence quickly and in advance of other development across the Masterplan site. This includes a reserve site for a GP surgery, the



provision of the sports pavilion on this site (instead of on the application 14/01641/OUT site) as well as the phasing of open space, play provision and allotments.

- 7.55 The timing of offsite highway works, provision of bus services and infrastructure and the payment of contributions towards Highway matters are all also likely to be required earlier than otherwise anticipated and will need to be secured. It is also worth highlighting that the applicant continues to be required to pay their proportionate contribution to the key NW site wide infrastructure scheme.
- 7.56 These matters are proposed to be secured through the legal agreement and Officers intend to commence these negotiations should the application receive a positive recommendation at committee. Officers have commenced consideration of the timing of such matters; however this will require further work in order to secure a S106 legal agreement that secures the appropriate infrastructure and contributions at the right time according to the phasing of the development.

## **8. Planning Balance and Conclusion**

- 8.1 This report aims to provide an update to Members in respect to development at Himley Village, originally reported to Planning Committee in February 2016. At that time, the report advised Members that in the long term, development at Himley Village would be acceptable, sustainable and in compliance with Planning Policy and the NW Bicester Masterplan. It did however suggest to Members that in advance of the provision of the key infrastructure (tunnel and road), that development should not commence on the Himley Village site on the basis that this, along with other development would result in a severe transport impact. It has always been concluded that allowing a limited level of development elsewhere across the site that would be linked to supporting the delivery of the key infrastructure, that this in turn would open the site up for development with no major highway constraint.
- 8.2 The overall purpose of the Planning system is to seek to achieve sustainable development as set out within the Framework. The three dimensions of sustainable development must be considered, in order to balance the benefits against the harm in order to come to a decision on the acceptability of a scheme.
- 8.3 The provision of housing across the site is an important consideration, albeit, this cannot be at the expense of causing an unacceptable highway impact. Oxfordshire County Council have been very clear as to an appropriate level of development that could be accommodated in advance of that key infrastructure (900 homes and 40% employment floor space).
- 8.4 The applicant has however sought to demonstrate that taking into account delivery rates; it is unlikely that the capacity agreed by Oxfordshire County Council will have been reached. Officers would agree with this sentiment given the information available and likely delivery rates across the sites at NW Bicester. As such, Officers advise that there is likely to be some headroom available in order to allow the commencement of some development at Himley Village in advance of the key infrastructure without breaching the agreed threshold. Officers have concluded that this should be limited to 500 dwellings as explained above. Notwithstanding this conclusion, it must be borne in mind that development at Himley Village itself may progress slower than anticipated given the work required following a resolution

before development could commence on site. Based on the applicant's programme however and their intentions with regard to a factory (albeit which is not proposed to be secured through this permission), it is possible that development could commence at Himley Village resulting in occupied homes prior to the end of 2019 and delivery of the road and tunnel.

- 8.5 In the circumstances, Officers recommend that development at Himley Village be approved subject to clauses to be built into the legal agreement with regard to the delivery of development and phasing. This would allow a limited level of development at the site in advance of the key infrastructure, allowing the commencement of house building on the site with there being no restriction once the key infrastructure is delivered. Officers also recommend that suitable S106 clauses will be required in relation to the delivery of infrastructure, services and facilities to support the site and the early delivery of development given its isolated nature in advance of other development. On this basis, the application is recommended for approval as set out below.

## **9. Recommendation**

Approval; subject to:

- Finalisation of a programme that has been received by the local authority, agreed and supported by Network Rail, that provides confirmation that the proposed road and tunnels under the railway at NW Bicester can be provided 2019/2020 prior to the issue of the planning permission.
- The following set of conditions with delegation provided to the Head of Public Protection and Development Management to negotiate final amendments to the wording of conditions following a detailed review by Officers;
- The completion of a legal agreement in accordance with the attached Heads of Terms (at appendix B), including delegation provided to Officers to negotiate the agreement, including the following requirement with regard to phasing;
  1. No more than 500 dwellings shall commence and be occupied until either;
    - a) The realigned Howes Lane and tunnel under the railway (as permitted under application 14/01968/F or such other application for the road and tunnel that has been approved) has been provided and is open to all traffic or;
    - b) The realigned Howes Lane and tunnel under the railway (as permitted under application 14/01968/F or such other application for the road and tunnel that has been approved) is subject to all necessary consents and approvals, such that there is certainty over the programme for its delivery and agreement is in place between the applicant and Cherwell District Council as to the phasing of the remaining 1200 dwellings and associated infrastructure the subject of application 14/02121/OUT

### Conditions

#### Time Limits

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

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country

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

2. In the case of the reserved matters, application for approval shall be made for the first residential phase of development not later than the expiration of five 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 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

3. In the case of all other reserved matters, in respect of subsequent phases, application for approval shall be made not later than the expiration of seven 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 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

4. The development to which this permission relates shall be begun not later than the expiration of two years from the approval of the first residential phase reserved matter and for all other matters two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last reserved matters to be approved.

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 2010 (as amended).

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

- Site Boundary Parameter Plan 1 (drawing number 592-PL-101 Rev B);
- Demolitions Parameter Plan 2 (drawing number 592-PL-102 Rev B);
- Land Use Parameter Plan 4 (drawing number 592-PL-103 Rev E);
- Building Heights Parameter Plan 5 (drawing number 592-PL-104 Rev D);
- Density Parameter Plan 6 (drawing number 592-PL-105 Rev D);
- Landscape Parameter Plan 3 (drawing number 592-PL-106 Rev C);
- Movement and Access Parameter Plan (drawing number 1665/75/04);
- SUDs Parameter Plan (drawing number 1665/75/05 Rev B);
- Document titled 'Storage Attenuation Volumes of Primary Swales (1665/76) dated July 2015;
- Tree Survey Report – document reference EED14995-100-R-7-1-3-TA dated January 2015 and accompanying appendices;
- Sustainability and Energy Statement – document reference PENL2003 dated 17 December 2014
- Surface Water Drainage Strategy and Flood Risk Assessment dated December 2014 and all additional correspondence relating to Drainage and Flood Risk.

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.

6. Prior to the submission of the first reserved matters application, a phasing plan covering the

entire site the subject of this application, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter each reserved matters application shall refer to a phase, phases, or part thereof identified in the approved phasing plan and development shall proceed in accordance with the approved phasing.

Reason: To ensure the proper phased implementation of the development and associated infrastructure in accordance with Government guidance contained within the National Planning Policy Framework.

7. No more than 1700 dwellings falling within Use Class C3 shall be erected within the site.

Reason: To ensure that the significant environmental effects arising from the development are mitigated, as set out in the Environmental Statement, and sustainable development is achieved in accordance with Government guidance contained within the National Planning Policy Framework.

8. No more than 100 dwellings falling within Use Class C2 shall be erected within the site.

Reason: To ensure that the significant environmental effects arising from the development are mitigated, as set out in the Environmental Statement, and sustainable development is achieved in accordance with Government guidance contained within the National Planning Policy Framework.

9. No more than a total of 8,000sqm floor space shall be provided for the mixed uses set out in Table 1 and each use shall not exceed the maximum Gross Internal Area for that specified use. These uses shall only be provided within the areas of the site annotated for 'Other Uses and 'Social/ Community' on 'Land Use Parameter Plan 4' drawing number 592-PL-103 Rev E.

Table 1

Land Use	Maximum GIA (sqm)
Hotel (Class C1)	2,600sqm
Veterinary surgery (Class D1)	2,000sqm
Pub/ Community (Classes A4/ D1)	400sqm
Retail (Classes A1, A2, A3, A4, A5)	700sqm
Office (Class B1)	1,000sqm
Health facility (Class D1)	1,500sqm
Nursery (Class D1)	100sqm
Energy Centre (Sui Generis)	375sqm
Water treatment plant (Sui Generis)	450sqm

The approved uses shall remain within the Use Classes set out above as specified in the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 and for no other purpose(s) whatsoever.

Reason: To ensure that the significant environmental effects arising from the development are mitigated, as set out in the Environmental Statement, and sustainable development is achieved in accordance with Government guidance contained within the National Planning Policy Framework.

10. No individual retail unit shall exceed 150 sq m in gross floor internal area with the exception of a single unit of a maximum of 300 sq m for a convenience store. Thereafter retail units shall not be amalgamated such that any individual unit exceeds 150 sq m or 300 sq m respectively.

Reason: To ensure the scheme meets local retail needs in accordance with Government guidance contained in the Eco Towns PPS and the National Planning Policy Framework.

## Design

11. Prior to the submission of the first reserved matters application, an Urban Design Framework shall be submitted to and approved in writing by the Local Planning Authority. The Urban Design Framework shall set out the urban design approach for the site to include a regulating plan and supporting information to include;
- Details to provide continuity with adjacent development
  - Key approaches to deliver sustainable development that as a minimum meets the Eco Town PPS standards
  - Character areas for built form and green spaces and their key features
  - Indicative block size, structure and permeability
  - Movement network and streetscape including bus routes and stop locations
  - Public realm
  - Density and open space
  - Building heights
  - Key views, vista, landmarks, landscape character, trees and retained hedges
  - Legibility and diversity of built form and landscape
  - Adaptability
  - Play provision in accordance with Adopted Cherwell Local Plan Policy BSC 11

No reserved matters shall be submitted until the urban design framework has been approved in writing by the Local Planning Authority. All reserved matters applications and development shall thereafter be in accordance with the approved Urban Design Framework.

Reason: To secure the delivery of high quality sustainable development in accordance with Government guidance contained within the National Planning Policy Framework.

12. Prior to the submission of the first reserved matters application, a detailed masterplan for the area fronting the Middleton Stoney Road annotated as 'Other Uses' on Land Use Parameter Plan 4 drawing number 592-PL-103 Rev E, shall be submitted to and approved in writing by the Local Planning Authority. Reserved Matter applications for the area covered by the Masterplan shall be in accordance with the approved Masterplan. The masterplan shall show the location of each of the land uses, access and parking locations, key frontage and public space conditions and landscape principles.

Reason: To ensure the creation of a high quality design for the local centre in accordance with Government guidance in the NPPF.

13. Prior to the submission of the first reserved matter in each of the character areas containing built form, identified in the approved Urban Design Framework, a design code shall be provided for the whole of that character area which shall include;
- Street types, materials and details
  - Block Principles
  - Landscape, materials and details
  - Boundary treatments
  - Building types and Uses
  - Building heights
  - SUDS, parks and open spaces
  - Building Materials and Details

- Highway design details
- Parking Strategy

No reserved matters shall be submitted for that character area until the design code has been approved in writing by the Local Planning Authority. The development in the character area shall thereafter be in accordance with the approved design code.

Reason: To secure the delivery of high quality sustainable development in accordance with Government guidance contained within the National Planning Policy Framework.

14. Each reserved matter submission for built development shall be accompanied by details showing how Building for Life 12 has been used to inform the design process and that the scheme achieves Built for Life™.

Reason: To secure the delivery of high quality sustainable development in accordance with Government guidance contained within the National Planning Policy Framework.

15. In accordance with the parameter plans hereby approved, the following shall be provided:
  - A 20m Green Infrastructure strip (which shall not include residential gardens) shall be provided to the west of the boundary with Lovelynch House;
  - A 20m 'no build' buffer shall be provided to the north of the boundary with Lovelynch House;
  - A 30m 'no build' buffer (narrowing to a 20m along the northern section of the eastern boundary) shall be provided to the east of the boundary with Lovelynch House. This buffer shall include a 10m hedgerow buffer.

Reason - To safeguard the privacy and amenities of the occupants of the adjoining premises and to comply with Policy C30 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

## Dwellings

16. Prior to the submission of a reserved matters application for residential development a schedule of the market housing to be provided to meet local housing needs in each phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The market housing shall thereafter be provided in accordance with the approved schedule (and detailed reserved matter approval) unless otherwise agreed in writing by the Local Planning Authority.

Reason - To secure the delivery of high quality housing to meet local needs in accordance with Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

17. All dwellings shall be provided with real time energy and travel information prior to occupation unless otherwise agreed in writing by the Local Planning Authority. Details for each phase shall be submitted to the Local Planning Authority and agreed in writing prior to the commencement of construction of dwellings.

Reason: To support the delivery of modal shift towards sustainable modes and create high quality, inclusive, sustainable development in accordance with Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

18. Each reserved matters application shall be accompanied by a statement setting out how the design of buildings and the layout has taken account of future climate impacts, as identified

in TSB research 'Future Climate Change Risks for NW Bicester', or any more recent assessment that has been published, and how the proposed development will be resilient to overheating, changing rainfall patterns and higher intensity storm events.

Reason: To address the impacts of climate change in accordance with Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

19. Prior to the commencement of each phase, those areas of the site that are subject to elevated levels of noise, principally from road traffic sources as set out in the Environmental Statement, shall be identified and the dwellings that are constructed in these areas must be designed and constructed in such a manner that they contain elements of sound insulation that will ensure that the internal noise levels contained within BS 8233:2014 Table 4 can be achieved.

Reason: To ensure that properties are not subject to high levels of noise in accordance with Government guidance contained within the National Planning Policy Framework.

20. Noise levels from any mechanical plant and the energy centre shall not exceed the noise emission limits contained within table 10.15 of the Environmental Statement. Any reserved matters submission for the energy centre or for development that will include mechanical plant shall include details of how the noise emission limits for that development will be met.

Reason: To ensure that noise remains within acceptable levels in accordance with Government guidance contained within the National Planning Policy Framework.

#### Phase conditions

21. All phases of development shall be provided with high speed broad band (not less than 100mbs); such that on occupation of each building on the phase the occupiers can secure a high speed broad band connection.

Reason: To facilitate information provision to homes for energy monitoring, travel and home working change in accordance with Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

22. No development shall commence on construction of any development approved by a reserved matter until a report has been submitted outlining how carbon emissions from the construction process and embodied carbon have been minimised. No work shall commence until the report has been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the plan.

Reason: To ensure the development achieves a reduced carbon footprint in accordance with Planning Policy Statement 1: Eco Towns.

#### Transport

23. Each reserved matters application shall include full details of the means of vehicular accesses between the land and the highway, including, position, layout, construction, drainage and vision splays. 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.

24. Each reserved matters application shall include full details of the means of footway and

cycleway links between the land and the local highway network, including, position, layout, construction, drainage and street lighting. Thereafter, the means of footway and cycleway links 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.

25. The pedestrian and cycle routes shall be signed in accordance with details to be submitted to and agreed in writing by the Local Planning Authority prior to the first occupation of any dwellings. The signage shall then be provided for each route prior to its first use.

Reason To support sustainable travel in accordance with Government guidance contained within the Eco Towns PPS and National Planning Policy.

26. No development shall commence on a phase until a Construction Traffic Management Plan providing full details of the phasing of the construction of that phase has been submitted to and approved in writing by the Local Planning Authority (in consultation with the Local Highway Authority). This plan is to include wheel washing facilities, a restriction on construction & delivery traffic during the peak traffic periods and an agreed route for HGV traffic to the development site. The approved Plan shall be implemented in full during the entire construction period of the phase.

Reason – In the interests of highway safety and to safeguard the residential amenities of local residents in accordance with Government Guidance in the NPPF.

27. Each reserved matter application shall be accompanied by a Travel Plan setting out how the development will enable at least 50 per cent of trips originating within the development to be made by non-car means, with the potential for this to increase over time to at least 60 per cent, in accordance with the Eco Towns PPS ET 11.2 (a). The Travel Plan shall be submitted to and agreed in writing by the Local Planning Authority prior to any occupations and the actions of the travel plan shall thereafter be delivered in accordance with the Travel Plan.

Reason: To ensure sustainable travel in accordance with Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

#### Contamination

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

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

29. If a potential risk from contamination is identified as a result of the work carried out under condition [28], prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of



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

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

30. If contamination is found by undertaking the work carried out under condition [29], 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 Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

31. If remedial works have been identified in condition [30], the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition [30]. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

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

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

Reason: To ensure that piling or deep foundations do not mobilise any contamination which may be present on site in order to ensure that controlled water quality is protected as required by PPS1 Policy ET17 and the NPPF.

33. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy has been submitted to the local planning authority. The remediation strategy shall detail how this unsuspected contamination shall be dealt with and written approval from the local planning authority shall be obtained. The remediation strategy shall be implemented as approved.

Reasons: To ensure that any unexpected contamination encountered is dealt with, such that it does not pose an unacceptable risk to controlled water quality as required by PPS1 Policy ET17 and the NPPF.

34. The development hereby permitted shall not be commenced until such time as a pollution prevention scheme to dispose of contaminated surface water has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason - Run off from roads and areas associated with lorry and car parking areas may contain elevated levels of contaminants. Drainage from these areas could contaminate controlled waters. Details of the surface water drainage arrangements which outlines how any contamination risks will be mitigated is required to ensure controlled water quality is protected as required by Local Plan Policy Bicester 1 and the NPPF.

#### Biodiversity

35. No development shall commence on a phase unless or until an up to date ecological survey has been undertaken to establish changes in the presence, abundance and impact on bio diversity within that phase. The survey results, together with any necessary changes to the mitigation plan or method statement shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

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

36. The retained hedges shall have a buffer a minimum of 20m in width comprising of 10m either side of the retained hedge except where they form part of a dark corridor where the buffers shall extend to a minimum width of 40m comprising of 20m either side of the retained hedge, and the woodlands shall have a buffer around their perimeter a minimum of 10m in width when measured from the canopy edge, unless otherwise agreed in writing by the Local Planning Authority. The hedge and woodland buffers shall be maintained as public open space and managed to maintain and create bio diversity.

Reason: To protect biodiversity and historic landscape features in accordance with Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

37. No development shall commence on a phase until details of any existing hedgerow, or part thereof, to be removed, and proposals for creation of new compensatory hedgerow, have been submitted to and approved in writing by the Local Planning Authority. The compensatory hedgerow shall be provided in accordance with the approved details.

Reason: To protect biodiversity and historic landscape features in accordance with Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

38. No development shall commence on a phase until a scheme for the provision of protective fencing, to prevent damage during construction, for the retained hedgerows, trees, woodlands, ponds and areas of green space, has been submitted to and approved in writing by the Local Planning Authority. The approved fencing shall be installed in accordance with the approved plans prior to work commencing on site.

Reason: To protect biodiversity and historic landscape features in accordance with Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

39. A protection area for Newts, a minimum of 50m in circumference, around the two ponds on the site and the land between them shall be provided in accordance with that shown on 'Landscape Parameter Plan 3' drawing number 592-PL-106 Rev C. No removal of suitable aquatic and terrestrial habitat within 250m of the breeding ponds shall be carried out unless otherwise agreed in writing by the Local Planning Authority.

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

40. Prior to the submission of the first reserved matters application, a Bio Diversity Strategy for the site shall be submitted and approved in writing by the local planning authority. Each reserved matter application shall be accompanied by a statement setting out how the proposed development will contribute to achieving the Bio Diversity Strategy and net biodiversity gain. The development shall be carried out in accordance with approved the biodiversity statement.

Reason: To secure net biodiversity gain in accordance with Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

41. No development shall commence on a phase until a Landscape & Habitat Management Plan (LHMP) for that phase detailing both management and monitoring proposals for green space (excluding building curtilages) has been submitted to and approved in writing by the Local Planning Authority and thereafter the LHMP shall be implemented in accordance with the approved details.

Reason: To secure net biodiversity gain in accordance with Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

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

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

43. No development shall commence on a phase until a Soil Resources Plan that details the soils present, proposed storage locations, handling methods and locations for reuse, within that phase, shall be submitted to and approved in writing by the local planning authority and

thereafter the development shall be carried out in accordance with the approved plan.

Reason: To ensure the soil resource is managed on site in accordance with Adopted Cherwell Local Plan policy Bicester 1.

44. No development shall commence on a phase until details of existing and proposed levels for that phase have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved levels.

Reason: To ensure high quality design and sustainable development in accordance with Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

45. Prior to the commencement of a phase, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions including details of tree protection shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS with all tree protection erected prior to development commencing on that phase.

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

#### Archaeology

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

Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Government guidance contained within the National Planning Policy Framework

47. Prior to any demolition on the site (other than in accordance with the agreed Written Scheme of Investigation) and prior to the commencement of the development and following the approval of the first stage Written Scheme of Investigation referred to in condition [46], a programme of archaeological evaluation, investigation and recording of the application area shall be carried out by the commissioned archaeological organisation in accordance with the approved first stage Written Scheme of Investigation.

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

#### Outdoor Sport (The requirement for these conditions is being checked with Sport England)

48. No development shall commence until details for the phasing of the provision of the sports pitches has been submitted to and approved in writing by the Local Planning Authority [after consultation with Sport England]. The development hereby permitted shall not be carried out

other than in accordance with the approved details.

Reason: To ensure the satisfactory quantity, quality and accessibility of sports facility provision for the occupiers of the proposed development and to accord with Cherwell Local Plan Policy R12 and Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

49. No development shall commence on the provision of the sports pitches until details of the design and layout of the sports facilities serving that phase have been submitted to and approved in writing by the Local Planning Authority [after consultation with Sport England]. The sports facilities shall not be constructed other than substantially in accordance with the approved details.

Reason: To ensure the development is fit for purpose and sustainable and to accord with Cherwell Local Plan Policy R12 and with Government guidance contained within the Eco Towns PPS and National Planning Policy Framework

50. The playing field/s and pitch/es shall be constructed and laid out in accordance with the standards and methodologies set out in the guidance note "Natural Turf for Sport" (Sport England, 2011), and shall be made available for use in accordance with the agreed phasing unless agreed in writing by the Local Planning Authority.

Reason: To ensure the quality of pitches is satisfactory and they are available for use and to accord with Cherwell Local Plan Policy R12 and with Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

#### Drainage

51. Prior to the commencement of development impact studies of the existing water supply infrastructure shall be submitted to, and approved in writing by, the local planning authority (in consultation with Thames Water). The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point.

Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the/this additional demand.

52. Prior to the commencement of the development, a foul drainage strategy for conveyance and treatment, detailing any on and/or off site drainage works, shall be submitted to and approved by the local planning authority. 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. No dwelling shall be occupied until the foul drainage has been provided in accordance with the approved strategy.

Reason - The development may lead to sewage flooding; to ensure that sufficient capacity is made available to treat and convey foul flows from the new development; and in order to avoid adverse environmental impact upon the community and water environment (as required by ET17 of PPS1).

53. Prior to the submission of the first reserved matters application, a full surface water strategy for the application site, in accordance with the Flood Risk Assessment hereby approved, shall be submitted to and approved in writing by the Local Planning Authority (in consultation with Oxfordshire County Councils Drainage Team & Natural England). The development shall be carried out in accordance with the approved Drainage Strategy.

Reason - To mitigate the risk of surface water flooding, protect water quality and biodiversity on the site and to protect the adjacent railway in accordance with Government guidance

contained within the Eco Town PPS and the National Planning Policy Framework

54. In addition to the site wide detailed surface water drainage strategy, each reserved matters application shall be accompanied by a detailed surface water drainage scheme, to meet the flood risk, water quality, green infrastructure and biodiversity requirements of the site. The detailed surface water drainage scheme shall be in compliance with the approved Flood Risk Assessment, Surface Water Drainage Strategy and the Masterplan Surface Water Drainage Strategy and the approved site wide detailed surface water drainage strategy. No development shall commence until the detailed reserved matter surface water drainage scheme has been approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

Reason: To mitigate the risk of surface water flooding, protect water quality and biodiversity on the site in accordance with Government guidance contained within the Eco Town PPS and the National Planning Policy Framework

55. The development shall be constructed so as to achieve a demand for potable water that does not exceed 110 l/p/d and details of measures to be used to achieve this demand shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of each phase. The development shall be carried out in accordance with the details so approved.

Reason: The site is located in an area of water stress and to comply with Government guidance contained within the Eco Town PPS.

56. Prior to the commencement of the development, details of the strategy to work towards water neutrality, in accordance with the Eco Towns PPS shall be submitted to and approved in writing by the Local Planning Authority. Each reserved matters application shall demonstrate how it meets the approved strategy.

Reason: The site is located in an area of water stress and to comply with Government guidance contained within the Eco Town PPS.

#### Employment

57. All non residential buildings shall be constructed to BREEAM Excellent.

Reason: To ensure sustainable buildings in accordance with Government guidance contained in the Eco Towns PPS and the National Planning Policy Framework.

#### Waste

58. Prior to the commencement of a phase, a Site Waste Management Plan, targeting zero waste to landfill, shall be submitted to and approved in writing by the Local Planning Authority. The approved Site Waste Management Plan shall thereafter be implemented in accordance with the approved details.

Reason - to ensure the appropriate management of waste in accordance with Government guidance contained within the Eco Town PPS and the National Planning Policy Framework.

59. No waste shall be brought to the site for the purpose of use within any future energy centre.

Reason - to ensure the appropriate management of waste in accordance with Government guidance contained within the Eco Town PPS and the National Planning Policy Framework.

#### Notes to Applicants

1. If a deliverable interim solution is identified, permitted and funded that would enhance the capacity of the existing Howes Lane/Bucknell Road and Lords Lane/Bucknell Road junctions then the Council will be open to a section 73 application to amend this condition to allow development to commence/be occupied earlier.
2. The applicant is advised that appropriate sight lines from the frontage of Lovelynch House along the Middleton Stoney Road must be protected in order to ensure that the potential future delivery of development on that site is not prejudiced. This matter will be assessed in detail at the reserved matters stage.
3. Informative: The applicant is advised that the design and layout of the sports facilities should comply with the relevant industry Technical Design Guidance, including guidance published by Sport England and the National Governing Bodies for Sport. Further information can be found at: <http://www.sportengland.org/facilities-planning/tools-guidance/design-and-cost-guidance/>
4. Informative: The off-site works will require a S278 Agreement with Oxfordshire County Council (OCC). If the proposed development is to be offered for adoption to the Local Highway Authority (LHA) a S38 Agreement will be required, alternatively if the development is to remain private a Private Road Agreement will be required between the developer and OCC. For guidance and information on road adoptions and S278 Agreement works please contact the County's Road Agreements Team on 01865815700 or email [Road.Agreements@oxfordshire.gov.uk](mailto:Road.Agreements@oxfordshire.gov.uk). All the associated off-site highway works with NW Bicester will have to go through OCC's Direct Delivery process – if triggered.

**CONTACT OFFICER:** Caroline Ford

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# Appendix C

**Proposed Himley Village North West Bicester**  
**Middleton Stoney Road**  
**Bicester**  
**Oxfordshire**

**14/02121/OUT**

**Case Officer:** Caroline Ford

**Ward(s):** Caversfield

**Applicant:** Portfolio Property Partners Ltd

**Ward Member(s):** Councillor Ian Corkin

**Proposal:** OUTLINE - Development to provide up to 1,700 residential dwellings (Class C3), a retirement village (Class C2), flexible commercial floorspace (Classes A1, A2, A3, A4, A5, B1 and C1), social and community facilities (Class D1), land to accommodate one energy centre and land to accommodate one new primary school (up to 2FE) (Class D1). Such development to include provision of strategic landscape, provision of new vehicular, cycle and pedestrian access routes, infrastructure and other operations (including demolition of farm buildings on Middleton Stoney Road)

**Committee Date:** 18.02.2016

**Recommendation:** Approval

**Committee Referral:** Major

## **1. Site Description and Proposed Development**

- 1.1 The land sits to the north west of Bicester, north of Middleton Stoney Road and west of Howes Lane and which forms part of the wider NW Bicester Eco Town area within the extent of the site allocated by Policy Bicester 1. The land sits detached from the existing western extent of the town and is separated from it by Howes Lane as well as an area of land which forms part of the allocated site and which is subject to an application which appears elsewhere on the agenda. To the south of the site is the Middleton Stoney Road and a property called Lovelynch House, which sits outside the site boundary but within the overall allocated site and is a private residence.
- 1.2 The land extends to approximately 90.3ha and is currently agricultural land divided by field hedgerows. There are also blocks of woodland to the east of the site as well as two ponds on site. Agricultural land forming part of the wider Eco Town surrounds the site to the north and west. The site includes Himley Farm and Himley Farm House within it. Two buildings at Himley Farm are designated as Grade II listed and are to be retained. The majority of hedgerows and woodland located within the site area are proposed to be retained. The land slopes with approximately an 11m fall from North West to South East across the site.
- 1.3 The site has the following recorded constraints. There are listed buildings present on the site, a public bridleway runs to the north of the site, a SSSI site is within proximity and protected/ notable species have been recorded within proximity, the site has some archeological interest and it has the potential to be contaminated.
- 1.4 The proposals seek outline planning permission with all matters reserved for the provision of up to 1,700 homes (including affordable), up to 100 retirement units (within use class C2), land for commercial and community uses including a new local centre, land for a two form entry primary school, the retention of the majority of



existing trees and hedgerows and the provision of strategic landscaping, open space (including a central village green, informal pitches and play areas), a network of Green Infrastructure and new footpaths and cycle routes. The proposed homes are to be constructed to high environmental standards, to meet Lifetime Homes Standards and commercial buildings are proposed to be constructed to achieve BREEAM Excellent. The development is proposed to be constructed to be zero carbon and there is also land proposed to accommodate an energy centre. The applicant aspires to water neutrality, including the provision of land for a waste water treatment plant. The existing buildings at Himley Farm are proposed to be retained and incorporated into the wider development. The provision of land for commercial and community uses is proposed to be to a maximum area of up to 8,000sqm (falling within the land use classes proposed and within the areas of the site indicated on the parameter plans centrally and close to Himley Farm and along the Middleton Stoney Road).

- 1.5 The application is accompanied by a set of parameter plans and sets some development principles in relation to how the site could develop whilst allowing flexibility. Access is proposed to be taken from the Middleton Stoney Road.

## **2. Application Publicity**

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 12th October 2015.

6 letters have been received. The following issues were raised

- S106 must secure the delivery of streets in a timely manner to allow for wider development (such as secondary school)
- RE 'Development Principles for Approval' 40% GI: CDC will need to ensure that each phase of the development makes adequate contribution to the overall quantum and types of green infrastructure without undermining the viability and deliverability of later phases of the site.
- Land Use Parameter Plan is unclear in its intent to be either proposed amounts or maximum parameters
- The number of residential units per each parcel at this and other parcels submitted for outline consent is queried in relation to the overall amount of development across the site. Each land parcel needs to deliver a sufficient level of uses to be viable.
- The site is significant both locally and nationally and the Council should be encouraging the development to come forward comprehensively to equalise the opportunity over the total development area and avoid the possibility of ransom. The developers will need to be obligated to deliver the roads and infrastructure in a timely manner to enable the wider area to be developed successfully.
- Social disruption to existing residents in terms of the following:
  - Location of large play area directly opposite the junction of Shakespeare Drive and Howes Lane
  - A series of allotments and public foot/cycle path on the parts of the Howes Lane that is proposed to be closed.
  - Possible increase in traffic in either direction on Shakespeare Drive once Howes Lane is closed
  - Multi-year building and phases of the overall plan, meaning residents will face significant long running disruption (road vibration, noise and air pollution) along Howes Lane
- Concerns if adjacent applications (Howes Lane re-alignment and Distribution Centre) are granted, as it will cause subsequent traffic.
- Concerns regarding the suitability of development types adjacent to each other

The following detailed comments were received on behalf of the owner of Lovelynych House on 26/01/15:

- Parameter Plan 3 'Landscape; and other plans within the Design and Access Statement, show only a slim hedgerow corridor / landscaping buffer to the north east and east of Lovelynych House. Request that an amended Parameter Plan is submitted that provides a substantial landscape buffer, comparable to that proposed along the western boundary.
- Parameter Plan 4 'Land use' suggests that there will be flexibility in the mix of uses. The flexibility of land use is of great concern, especially given the limited landscape buffer, and the potential for certain uses to adversely impact on the owners enjoyment at Lovelynych House. The landscape buffer should be widened along the eastern boundary of Lovelynych House, and the land use in the vicinity of Lovelynych House limited to compatible residential development.
- Parameter Plan 5 'Building Heights' suggests that building heights surrounding Lovelynych House could be developed with a maximum height of 13m and 16m. Such buildings would be wholly unacceptable on land immediately adjoining Lovelynych House, particularly to the east. There would be significant overlooking and overshadowing and would adversely impact on the amount of sustainable energy generated via the ground based photovoltaic generation plant located 5m of the eastern boundary. Request for an amended plan to show a maximum building height of 10m in the vicinity of Lovelynych House.
- Parameter 6 'Density' suggests a range of development densities surrounding Lovelynych House. Request for an amended plan to show lower densities in the vicinity of Lovelynych House (i.e. 20 to 35 dwellings per hectare)
- Take into account the two existing access from Lovelynych House when considering the primary street junction. Support would be given to move the junction further east.
- The Masterplan includes a proposed link road running up to the boundary of Lovelynych House. The Council should seek to ensure that provision is made for the future integration of any development on the Lovelynych House land.
- It is essential to ensure that the infrastructure to be provided at Himley Village has sufficient capacity and connection opportunities to service any further possible development within the grounds of Lovelynych House.

Additional comments made on behalf of the owner of Lovelynych House 22/11/15: to confirm that the above detailed previous objections to application 14/02121/OUT are withdrawn – but on the proviso that the following parameters, as agreed with Turley and P3Eco, are explicitly conditioned (rather than simply relying upon the relevant submitted parameter plans):

#### **Western Boundary to Lovelynych House**

- In accordance with the intention of amended Parameter Plan 3 'Landscape' (Dwg no. 592-PL-106C) a 20m Green Infrastructure strip (hedgerow / hedgerow buffer) must be provided to the west of the Lovelynych House boundary.
- Turley have confirmed that this Green Infrastructure strip cannot be used for gardens and therefore any built development to the west of Lovelynych House would need to be set back more than 20m from the Lovelynych House boundary. Beyond the 20m buffer, there would then be back gardens (most likely), or an access and front amenity space (less likely) before any built development (that must be of no more than 10m in height, as confirmed in the amended Parameter Plan 5 'Building Heights' (Dwg no. 592-PL-104D)).

#### **Northern Boundary to Lovelynych House**

- In accordance with the intention of amended Parameter Plan 3 'Landscape'

(Dwg no. 592-PL-106C) and Parameter Plan 5 'Building Heights' (Dwg no. 592-PL-104D) a 20m 'no build' buffer must be provided to the north of the Lovelynych House boundary. This is to comprise a 10m hedgerow and a further 10m of soft/hard landscaping.

- Turley have confirmed that there is also a need to make provision for a SUDS corridor (in the form of a primary swale) to the north of Lovelynych House, which is secured by amended Parameter Plan 3 'SUDS' (Dwg no. 1665/75/05). Further, Turley have confirmed that the primary swale to the north of Lovelynych House would be logically located within the 10m 'no-build' zone, and would form part of the aforementioned landscape corridor.
- Beyond the 20m 'no build' buffer, any immediate built development would need to be no more than 13m in height, as confirmed in the amended Parameter Plan 5 'Building Heights' (Dwg no. 592-PL-104D).

#### **Eastern Boundary to Lovelynych House:**

- In accordance with the intention of amended Parameter Plan 3 'Landscape' (Dwg no. 592-PL-106C) a 10m hedgerow buffer must be provided along the full extent of the eastern boundary of Lovelynych House. Beyond this, in accordance with the intentions of Parameter Plan 5 'Building Heights' (Dwg no. 592-PL-104D) a 20m 'no build' zone must be provided, narrowing to a 10m 'no-build' zone along the northern section of the eastern boundary to Lovelynych House.
- For complete clarity, the 'no build' zone to the east of Lovelynych House will be 30m in total (hedgerow buffer and 'no build' zone), narrowing to 20m, along the northern section of the eastern boundary to Lovelynych House.
- Beyond the 30m/ 20m 'no build' zone, any immediate built development would need to be no more than 13m in height, as confirmed in the amended Parameter Plan 5 'Building Heights' (Dwg no. 592-PL-104D).

#### **Access into Lovelynych House:**

- We believe it is imperative that in moving forward, the proposals for Himley Village should allow for the future development and integration of new housing on the Lovelynych House site. This is particularly relevant in terms of pedestrian, cyclist and vehicular access.
- In accordance with the wider masterplan for the NW Bicester area, we believe it is essential to ensure that the new infrastructure delivered as part of Himley Village has sufficient capacity (and connection opportunities) to service any possible future development within the grounds of Lovelynych House.

### **3. Consultations**

- 3.1 **Bicester Town Council (21/01/15):** Generally welcomes this application but has concerns regarding access on to the Middleton Stoney Road as there appears to be no access point from Himley Village on to the Middleton Stoney Road plus traffic build up in the area causing a lot of pressure on the roundabout at Vendee Drive and Howes Lane.

**Bicester Town Council's Second response (23/09/15):** Same comments as above, plus the additional point that they welcome the various classes of commercial units but it must be ensured that there will be no B8 buildings.

- 3.2 **Middleton Stoney Parish Council (22/01/15):** Have concerns regarding the traffic implications for the village of Middleton Stoney, summarised as follows:
- Appears to be no viable transport route to bypass Bicester to the west. The current Howes Lane/ Lords Lane route is an important strategic route which accomplishes this at present. Reducing the speed and capacity of this route will have serious consequences.

- The proposed tree lined boulevard through the site at 30mph and presumably with traffic calming is flawed. The road proposed at Howes Lane will be virtually useless for traffic wishing to bypass Bicester to the west, especially the significant amount of HGV traffic which currently uses Howes Lane/Lords Lane. It is suggested that a semi-fast perimeter or orbital road with a speed limit of 40/50 mph should be required. Alternatively, rather than re-aligning Howes Lane, serious consideration should be given to widening it.
- With many new developments in and around Bicester the Oxfordshire County Council and Cherwell District need to ensure that there are robust conditions in place for developers to build roads to the appropriate highway standard and this applies particularly to the Howes Lane realignment.
- There is concern that the main access to the Himley Village site is on the Middleton Stoney Road and this is bound to adversely affect the village of Middleton Stoney. Within the NWB Supplementary Planning documents (Para 2.4 – Site context) it states *“Middleton Stoney Road is a fast rural road linking Bicester and Middleton Stoney and the M40 J10 via B430”*. There appears to be a supposition therefore that the main access to M40 should be along the B4030 to the crossroads at Middleton Stoney village centre and thence via B430 north through Ardley (another small village) to J10 of M40. Accommodating further west bound traffic as well encouraging M40 bound traffic from NWB to access M40 via J10 is wholly inappropriate.
- When the expected increase in traffic from the current and proposed developments at Heyford Park to the west of Middleton Stoney is taken into consideration then the crossroads at Middleton Stoney, which already operate at capacity at peak times, will come under further pressure. Accommodating further west bound traffic at these crossroads will be extremely difficult without adding to the problems by encouraging M40 bound traffic from NWB to access M40 via J10. There should be a clear statement of intent that traffic from the NWB site must access M40 via J9 using Vendee Drive.
- It is suggested that a robust and enforceable routing agreement is agreed to ensure that HGV traffic (including all construction and delivery vehicles) to and from NWB (including this application site) does not use the B430/B4030 junction in the village of Middleton Stoney.

**3.3 Middleton Stoney Parish Council second response (09/10/15):** Overall view has not changed but have added the following comments:

- It is now time for Oxfordshire County Council and Cherwell District Council to ensure that there are robust infrastructure plans and conditions in place for developers to build roads to the appropriate highway standard and this applies particularly to the Howes Lane realignment.
- The Cherwell Local Plan 2011 – 2031 now proposes that a new settlement at Heyford Park will be built which will ultimately provide for 2600 residential properties and also attendant commercial infrastructure. This will see significantly increased traffic West/East and East/West through the village of Middleton Stoney with little prospect of any meaningful ‘mitigation’ measures to alleviate the pressure on the crossroads which already operate at or beyond capacity at peak times.
- The statement in the NWB Supplementary Planning document demonstrates a total lack of awareness of the wider picture and especially the traffic implications for the expanding Bicester. There should be a clear statement of intent that traffic from the NWB site must access M40 via J9 using Vendee Drive.

**3.4 Caversfield Parish Council (22/01/15):** No comments for current application. However, as with the A2 Dominion application (reference 14/01384/OUT), the Councillors did request that the plans for the Howes Lane re-alignment be finalised before any further work is agreed on the development. The Parish Council has concerns about the impact that the current road proposals will have on villagers

travelling to Chesterton and beyond.

- 3.5 **Bucknell Parish Council (15/10/15):** Make the following comments:  
The impact of the development in terms of visual amenity, light and noise pollution, and traffic does not appear to be in relation to the surrounding countryside or Bucknell.
- 3.6 **Chesterton Parish Council:** Object to this development going forward at this time due to poor road infrastructure.

#### **Cherwell District Council Consultees**

- 3.7 **Planning Policy Officer:** No comments received.
- 3.8 **Urban Design:** A substantial amount of work has gone into understanding the site and developing an appropriate masterplan and design response. Whilst there are some reservations about key principles which are being applied to areas of residential development, it is clear that the brief for the site is appropriate in terms of the proposed amounts and uses and that the masterplan framework is, for the most part, robust.

The outline proposals have taken into account the character of the existing landscape and setting and how these elements can be used to enrich the quality of the urban environment. In particular, the following areas have been particularly well considered:

- The integration and enhancement of existing hedgerow and green structures
- The development of SUDs which responds to the topography and hierarchy of place
- The role in landscape features in providing a solid focus to the character of different areas across the site.
- The strong emphasis on green routes, to encourage walking and cycling across the site
- The concept of integrating the listed barns that form part of Himley Farm close to the school site and central green.

Whilst the foundations to the site design are strong, there are a number of design principles which are unlikely to produce a high quality environment and if pursued are likely to undermine the quality of the scheme. In particular, the combination of green routeways/ communal gardens are of particular concern in some areas. This conceptual approach creates two public faces to residential development, limiting privacy and duplicating the investment in the public realm. While there are examples on the continent where this concept has been successful, it has predominantly been in high density areas, apartment development, where the development intensity can fund long term management of public spaces and residents of apartments make good use of semi private communal spaces. Examples of Radburn layouts closer to home in Bicester have been less successful. Many of these places have confusing access arrangements where finding the front door of a property is difficult and what should be public streets have become low quality access routes defined by close boarded fencing, creating an unattractive, insecure and poorly defined public realm in many areas. This approach may be viable in a couple of high density spaces, the majority of the site is proposed at traditional suburban densities making the successful long term implementation of this approach challenging.

Whilst the concept of green routes for pedestrians and cyclists are good, there are a number of locations where the priority of these areas over streets has led to situations where opportunities for the most direct connects for cyclists and pedestrians has been lost and detours of over 100m will often need to be made.

Concern is expressed in relation to the building heights being proposed to the north of

the site. Buildings of 19m are of a far higher scale than most buildings in Bicester, including the town centre. Whilst there is a role for higher density development on this site, this should be limited to 4-5 storey rather than potentially 7-8 storeys high and located along main routes and around local centres.

It is crucial that detailed design parameters are established in relation to the grade II listed buildings in order for surrounding development to positively address the heritage asset of Himley Barns rather than just to rely on a green buffer. The boundary treatment and landscaping of the barns will need careful consideration. The balance will need to be struck between mitigating the impact of the new development and providing privacy to the owners, whilst still allowing positive sight lines to be provided to the barns allowing them to function as a positive asset within the development.

North West Bicester is an area where positive innovation is important and encouraged. The outline application demonstrates that the site brief and strategic masterplan for the area are robust. Whilst there are reservations about some design principles being applied to the housing layout, it is possible for this and other issues to be amended/ resolved at a later reserved matters stage.

- 3.9 **Housing Officer:** This outline application for up to 1700 homes falls within the NW Bicester emerging SPD boundary and therefore should confirm to the principles outlined within this document. As such there is a requirement that 30% of the residential units should be secured as affordable housing, having a required tenure split of 70% Affordable Rent and 30% shared ownership or other low cost home ownership product to be agreed with the local authority. The unit types should follow those identified in the masterplanning process which provides for a range of house types from 1 beds to 4 bed properties. The affordable housing will also need to provide 50% of the affordable rented to lifetime homes standards with 2% meeting full wheelchair standard. The properties should meet the HCA's Design and Quality Standards including the necessary HQI requirements. There is an overall environmental standard across the whole masterplan area and therefore the affordable housing should adhere to these standards as well. There will be a requirement for some elderly housing provision although this will be in the form of non-specialist and rather will be age restricted with some form of support unit. This is to ensure that there is a provision for a mixed and sustainable community as well as, catering for the increase in demand for affordable housing for the elderly. There is also a requirement across NW Bicester for the provision of specialist housing which the Council will work with the County Council over, this site should look to provide a proportional number of these specialist housing units. The affordable housing should be transferred to an RP that must be agreed with the local authority. The affordable housing should be dispersed throughout the application area in clusters of no more than 15 units. The detail of the unit types provided will be agreed at reserved matters application stage. The affordable properties should be indistinguishable as far as reasonably possible.

- 3.10 **Anti Social Behaviour Manager:**  
The EIA correctly identifies that noise and vibration arising from construction activities will have the potential to impact on existing noise sensitive receptors. The nature of these impacts are classified as temporary as once the project has been completed they will no longer be present and will cease to have an effect. A range of mitigation techniques are proposed that would mitigate these effects and it is further proposed that these issues will be addressed through the development of a Construction Environmental Management Plan (CEMP). The preparation and submission for approval of such a plan must be a condition of any planning approval which may be granted. Mention is made of vibration and the existing farm steads of Himley Farm and Lovelynych House are considered sensitive receivers for this factor during the execution phase of the proposed construction. Monitoring at these locations is

recommended and this is another issue that must be included in the CEMP. The potential for construction traffic to cause adverse effects to existing receptors should also addressed through the CEMP.

The EIA indicates that in terms of general environmental noise impact the area of land is considered suitable for the proposed mainly residential use however it suggests that dwellings on the south, east and western boundaries of the site may require some mitigation. It is proposed that these matters are dealt with at the detailed design stage of the development. This approach is reasonable and accordingly the identification of those properties at risk and the specification of the mitigation required can remain an matter reserved for the detailed submission.

Other potential sources of noise likely to affect the proposed dwellings on the site are considered. These include the proposed sports pitches and noise from fixed plant or equipment associated with other features of the development such as the energy centre. Again it is proposed that these measures be dealt with through reserved matters and I would agree with that approach. Beyond the general observations in relation to environmental noise no further observations are made. Of concern would be the proposed B1/B2/B8 development to be located at the SE corner of the site. This particular feature, in my view, requires including in the assessment but provided it is recognised at this stage detailed mitigation can follow. The issue of during construction dust generation is addressed in the air quality section of the EIA. It is proposed to include the mitigation and control strategies within the CEMP. I would find this proposal acceptable.

3.11 **Environmental Protection Officer:** No objection subject to conditions to ensure contaminated land and air quality are adequately considered and impacts mitigated. The conditions would be in relation to:

- Air Quality: submitting a Construction Environment Management Plan (to mitigate impact to air quality through construction), a Low Emission Strategy (to compliment the travel plan and ensure this development facilitates meeting the improvements in vehicle emissions and mitigating any potential adverse impacts); and
- Ground Conditions and Contamination: submitting a comprehensive intrusive investigation report (in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals), and land contamination remediation scheme and a verification report (that demonstrates the effectiveness of the remediation carried out).

3.12 **Environmental Protection Officer second response:** No further comments, earlier comments still apply

3.13 **Landscape Officer:** Generally agrees with the results of the LVIA, however raises the following issues:

- Implications of Bignall Park Historic landscape receptor has not been addressed in the LVIA.
- In visual terms the dense tree line to Middleton Stoney Road completely screens the park from this road, but in terms of construction it impacts on the tranquillity of the park and this is an important issue. The 'other uses' need to be clarified in this regard.
- Agree that the highest sensitivity for visual receptors is shown on the bridleway viewpoints 5, 6 and 7, but intervening housing applicable to Application 2 will present an even greater impact and effect on the receptor. The Himley Village development will actually be hidden by this development. This does not appear to be mentioned in the LVIA.
- Concerned around the proposal to limit the planting pallet.
- The implications of trees (light reduction and shade issues) and structural

damage should be considered in the woodland/building integrated areas.

- The illustrated Masterplan is encouraging in terms of landscape/GI quality. It appears the proposed woodland buffer indicated west of Himley Farm, originally shown on the Farrells NW Bicester Masterplan – Green Infrastructure, no longer exists.
- The standard landscape, landscape maintenance and management planning conditions apply, along with the usual tree and hedgerow retention, POS and play areas.
- The eastern boundary to the Warehousing business should really have a wider woodland buffer than shown. It is recommended that a depth of 20m is required, in order to visually mitigate the huge warehouse unit adjacent to this boundary.
- Orchard planting with localised shelterbelts of native species where flowering will encourage insects for pollination of orchard trees, is welcomed. However it is questioned whether or not the extensive orchard planting is feasible in terms of the extensive management implications i.e. pruning twice a year.

3.14 **Landscape Officer second response:** Comments have been made on the amended plans, summarised as follows:

- Concern over the removal of residential parkland corridors and housing in woodland setting. Although potential issues (shade, light reduction, leaf litter, etc...) were initially highlighted; these problems can be minimised through design. An integration of housing and parkland/woodland is a greatly improved environment. (Although contradicting this, the Illustrative Masterplan shows the residential parkland corridors and housing in woodland setting retained)
- An arboricultural consultant's response is required for the additional breaks in hedgerows to reflect proposed network of routes.
- Use of land to west of Lovelynch House modified 'Housing/Other Uses' to 'Residential' (C3) should ideally be residential parkland corridors and housing in woodland setting, however is not clear with the cross hatch band.
- Question over if the LVIA results are to be revised in respect of density?

3.15 **Arboricultural Officer:** Raises a few comments regarding the high percentage of orchard areas throughout the site, essentially that the fruit trees selected are grown and managed to produce a regular healthy and accessible crop until they reach the end of their productive and safe useful life expectancy. In order to achieve this, regular annual maintenance will be required in order to ensure that the various types of fruit trees achieve their potential for benefit of the community.

More details include:

- A number of the orchard areas will be in areas prone to soil compaction due to maintenance vehicles or pedestrian usage. To prevent soil compaction and maintain a healthy soil, it will be necessary to provide mulch beds beneath and around fruit trees.
- Where possible orchard areas should be integrated into stormwater management systems or water sensitive design schemes to maintain levels of irrigation and reduce such maintenance costs.
- When appropriate, it would be beneficial to have the maintenance regimes and costs identified for the various fruit types / orchard trees clearly specified within an agreed 'Orchard Management Plan'.
- Aside from the desire to produce and manage an annual fruit crop of apples (dessert and cookers), plums, pears, damsons, mulberries etc I would like to see the list of crop species expanded to include long-term crops; walnut for example, planted in designated 'orchard areas' not only managed to reap the rewards of an annual crop of walnuts but with additional consideration toward developing a long-term financial return through timber sales. A potentially small but nonetheless useful source of on-site income to be returned back to the community.



- The green-routes and buffer zones proposed throughout the site are very welcome. Obvious consideration must be shown regarding species diversity of not only native species but non-native plantings in preparation of the potential influences of climate change. Consideration regarding the positioning and proximity of tree planting including potential influences on adjacent dwellings, buildings, footpaths, lighting, CCTV operations, allotments etc must be shown.
- Highway and footpath verge widths must provide ample allocation of space sufficient to allow the full crown and root development of tree species selected for their significant contribution for biodiversity, air quality and aesthetics.

3.16 **Ecology Officer:** In a broad agreement with comments made by BBOWT dated 27/03/15 and suggests that further evidence is submitted to address the summarised points below:

- Net gain for biodiversity has not been clearly evidenced
- Without off site compensation for farmland birds it is unlikely that an overall net gain for biodiversity could be said to be possible
- There is little cross reference to the overall Biodiversity Strategy throughout
- No mention is yet made of biodiversity within the built environment (except for green roofs being considered). Provision within the built environment is vital for ensuring opportunities for wildlife are maximised and helping to achieve a net gain for local biodiversity. Bird, bat, invertebrate bricks and boxes, green roofs and green walls should all be included.

In general the illustrative layout shows reasonable connectivity with the wider landscape and across the site with proposals for green space, orchards, green corridors.

As long as surveys are carried out sufficiently in advance of any demolition or site clearance to allow adjustment of mitigation and plans as needed then it is considered that no issues with the level of current ecological information provided for the site at this stage. Some surveys will need updating however to inform layouts as well as for the CEMP.

3.17 **Waste and Recycling Manager:** The waste and recycling manager neither objects nor supports the planning application. It is commented that waste storage and collection needs to be addressed before permission is granted. Furthermore a Section 106 contribution of £67.50 per property is required, which makes £114,750 for 1700 dwellings.

### **Oxfordshire County Council Consultees**

Oxfordshire County Council have provided two responses to this application. The following sets out a summary of the responses received on each occasion.

3.18 **Strategic Comments/ Overall View**  
**20/05/15**

- No transport objection subject to conditions, as well as further mitigation at certain junctions and roads
- Bicester members have concerns over the accesses onto Middleton Stoney road but Transport Development Control consider there is no technical reason to object to this.
- Ecology objection based on failing to demonstrate a net gain in biodiversity and on inconsistency with the off-site compensation agreed as part of the masterplan.
- Have serious concerns about the uncertainty of delivering key infrastructure across the wider masterplan site caused by the piecemeal nature in which applications are coming forward. The funding and phasing of infrastructure across the site is dependent on if and when individual site applications come forward and are implemented. Further, with the absence of a Community

Infrastructure Levy in Cherwell, it is unclear how the County will be able to seek contributions to county wide schemes that will be put under strain by this development. This puts the County Council at significant financial risk.

- Until it is clear how infrastructure will be delivered across the masterplan site, OCC maintains a holding objection.

#### 16/10/15

- Drainage team has no objection to the proposed swale layout changes
- Bicester Members maintain concerns over the accesses onto Middleton Stoney road
- The additional information does not address OCC ecology objection
- Concerns are still raised in relation to how infrastructure will be delivered across the masterplan site.

3.19 **Transport 20/05/15:** No objection subject to conditions and the completion of a satisfactory S106 Agreement applicable to the application site and broader North West Bicester site, Local Plan Allocation Bicester 1. Conditions are requested in relation to full details of the means of vehicular accesses between the land and highway, full details of the means of footway and cycleway links between the land and the local highway network, drainage design and a Construction Traffic Management Plan. In addition, legal requirements are required to secure Section 278 Highways Act - Works in the Highway and Section 38 Highways Act - Highway Adoption.

#### Key issues:

- The development must support, through financial contributions and highway works, the provision of high quality sustainable travel infrastructure and travel planning measures to promote sustainable travel that will ensure achievement of relevant targets of the PPS1 Supplement. This includes direct mitigation specific to this site and wider schemes associated with the development of North West Bicester. Whilst many of these issues are discussed within the submitted Transport Assessment detailed schemes and the mechanism for delivery have not been determined.
- Further investigation and proposals for mitigation are required at, inter alia, Shakespeare Drive, Field Street/Bucknell Road junction, Middleton Stoney Village and cycle scheme along Middleton Stoney Road.
- Traffic Impact - due to the impact on the current Howes Lane / Bucknell Road junction, the strategic link road is required by the 900 homes (across entire allocation site and including Exemplar)
- The proposed vehicular accesses include two junctions to Middleton Stoney Road which subject to detailed design would not lead to any significant delay or harm to highway safety.
- Three other points of vehicular access link to new highway infrastructure beyond the application site boundary and will be reliant upon 'third party' provision.

It is imperative that the site contributes towards provision of essential highway infrastructure, including the new vehicular tunnel under the railway at Bucknell Road and a proportional amount towards other peripheral route schemes within the town where there is a level of impact. While such mitigation measures are discussed within Transport Assessment, details are inadequate and will be required within the Heads of Terms. Due to the expected congestion, this key piece of infrastructure is required prior to the 900th residential occupation of the allocation site. (NB this figure includes those dwellings constructed at the Exemplar site). In addition the realigned Howes Lane will provide access to the secondary school, which I understand is required at a similar stage in the development.

Given the distance from the Town Centre and transport hubs, the provision of

attractive pedestrian and cycle routes will be essential and again greater detail will be required within the Heads of Terms. Mixed land uses will aid containment of trips and further reduce the need to travel, especially by private motor car.

Public transport routes and stops have been identified within the site; however the delivery of a commercially sustainable bus service to this development is a more complex matter due to a number of factors. The severance of the allocation site by the Birmingham-London railway results in a two-route solution, with consequent operational inefficiencies and cost implications for service delivery. The initial bus service from the first completion would commence with a single vehicle and then the frequency of the service would be increased at agreed trigger-points, to a two-bus service and so on.

Use of sustainable transport modes will be encouraged through travel planning. The target for the allocation site is that 50% of all trips originating from the site will be made by non-car modes. As it is a stretching target, the developer will need to monitor and provide relevant surveys, typically bi-annually, to show that the travel plan objectives are being achieved and that the actions have been updated to take in to account the survey results.

The proposals include two new vehicular accesses to Middleton Stoney Road, classified route B4030, facilitated by priority junctions with separate right turning provision. The submitted plans and junction analysis provide sufficient confidence that these junctions could operate in a safe and convenient manner without causing undue delay along the important arterial route. Consideration is needed for pedestrian and cycle provision along Middleton Stoney Road, and links to the proposed realigned Howes Lane beyond the development boundary.

The illustrative layout of the site displays an appropriate street hierarchy with a high level of permeability for those on foot or cycle, through attractive lit and overlooked routes. Bus services are an essential element of sustainable merits of the site and it is imperative they are not delayed through the site. Appropriate consideration to the movement of buses must be included within the detailed design of the street and junction layouts.

A full surface water drainage design with full calculations needs to be submitted and approved by the Lead Flood Authority (Oxfordshire County Council) prior to the development commencing on site. It is noted that in recent years there has been some flooding near to this site and therefore run-off rates must be minimised to an appropriate level.

#### **Additional Transport comments of the 16/10/15**

The CC drainage team has no objection to the proposed changes to the swale layout.

- 3.20 **Archaeology 20/05/15:** No objection subject to conditions. The site contains a number of archaeological features identified through geophysical survey and a trenched archaeological evaluation. A condition requiring that a programme of archaeological investigation be undertaken ahead of the development will need to be attached to any planning permission for the site.
- 3.21 **Property 20/05/15:** No objection subject to conditions.

The County Council considers that the impacts of the development proposal (if permitted) will place additional strain on its existing community infrastructure.

The following housing development mix has been used in the following contribution calculations:

- 168 no. x One Bed Dwellings

- 680 no. x Two Bed Dwellings
- 568 no. x Three Bed Dwellings
- 284 no. x Four/+ Bed Dwellings

It is calculated that this development would generate a net increase of:

- **4080 additional residents including:**
- 3011 residents aged 20+
- 518 residents aged 65 +
- 339 residents aged 13-19

A legal agreement is therefore required to secure:

- Bicester New Library - £187,884
- Central library - £76,786
- Waste Management - £442,000
- Adult health and wellbeing day care - £109,956
- Total £816,626

Justification for each of these requirements is provided within the full response.

Administration and Monitoring fee of £20,000

A planning condition is suggested in relation to fire hydrants and the fire and rescue service recommends that new dwellings should be constructed with sprinkler systems.

Primary schools

Guidance is provided in relation to the design and requirements of school sites.

25 units of **specialist housing** are required across the NW Bicester site.

If this application is given permission The County Council would support provision of a Changing places Toilet in Bicester Town Centre to help meet the needs of this new community's use of the Bicester town's central amenities.

The development will bring maintenance pressures upon highways depots as a consequence of the increased highway network. The provision of highways depots is under review in order to meet the increased demands which could result in the need for contributions.

**Property second response 16/10/15:** Same as previous comments except change in waste management cost, plus additional comments:

A change in the Waste management cost – see bold

A legal agreement is therefore required to secure:

- Bicester New Library - £187,884
- Central library - £76,786
- Waste Management - £261,120
- Adult health and wellbeing day care - £109,956
- Total £635,746

Justification for each of these requirements is provided within the full response and further advice in relation to the school site is provided.

The school location has changed from that demonstrated in the original overall ecotown masterplan and the layout presented at this stage does not comply with the basic school dimension/ shape requirements for a primary school site. The site shape and dimensions demonstrated will not be conducive to an economical layout or a best value solution to meet OCCs educational, safeguarding and management

requirements. The concern relates to the school site not being rectangular in shape and with the main frontage of the school not less than 110m long to enable the school site to be laid out to meet requirements, the building height parameters set out and the location of swales around the school site.

Comments in relation to specialist housing, the changing places toilet and highways depots are repeated.

- 3.22 **Education 20/05/15:** Approval subject to conditions, related to a satisfactory agreement to secure the resources required for the necessary expansion of education provision. This section of the eco-town development is estimated to generate 405 primary school pupils, 328 secondary school pupils, and 8.2 pupils attending special educational needs provision (SEN).

Furthermore, this section of the eco-town development is to include a primary school, and to contribute towards the cost of primary, secondary and SEN school provision. The mechanism for apportioning costs towards these services between the separate applications which comprise the eco-town development is to be agreed.

A new secondary school and a further three primary schools are proposed across the wider site. In relation to this application an acceptable site area for a 2 form entry primary school is suggested of 2.22ha. The education specification for this school has not yet been consulted on or finalised and the exact nature of the school will depend upon the academy sponsor selected. A proportionate share of the cost of secondary school provision would be £7,765,400, calculated from 328 pupils. For SEN provisions, across Oxfordshire 1.11% of pupils are taught in special schools and all housing developments are expected to contribute proportionately toward expansion of this provision and this would amount to £863,624 by a total of 8.2 pupil places (@1Q14).

- 3.23 **Minerals and Waste 16/10/15:** No objection subject to conditions

The energy centre does not specify the fuel to be used, therefore it would be advisable to include a condition to prevent waste being brought to the proposed energy centre – to ensure that the energy centre cannot become a waste management facility without proper consideration being sought.

- 3.24 **Ecology 20/05/15:** Objection on the following grounds:

- Application does not appear to be following the Masterplan approach for the NW Bicester Eco Town site or the Biodiversity Strategy.
- Application fails to demonstrate that it would deliver a net gain in biodiversity (in line with the NPPF para. 9, 109 & 118 as well as follow the NW Bicester Masterplan approach). This proposal does not use the recognised biodiversity metric to demonstrate net biodiversity gain.
- Application does not reference to the need for off-site farmland bird compensation or for contributions to this for all developments on the NW Bicester ecotown. I consider that each application within the NW Bicester Ecotown should be providing a proportionate contribution by area for off-site compensation as part of the Masterplan approach. The work for the Eco Town concluded that the impact on farmland birds could not be mitigated on the Eco Town and that therefore offsite compensation was necessary.

#### **Ecology 16/10/15**

Objection still applies and the comments made on 19<sup>th</sup> January 2015 are repeated.

- 3.25 **Waste Management 20/05/15:** No objection

Reference made to waste management facilities and the need for contributions which

are identified and justified within the Property response.

The provision of a heat network for the development is supported and essential to enable connection to the Ardley ERF in the future if this is demonstrated to be feasible. The energy strategy for the proposed development states that a site wider district heating network will be installed served by an on site energy centre. This also refers to the possibility of connection to the Ardley ERF for the supply of heat should this be feasible. This is supported and implementation of the development should be carried out in a way that keeps this possibility open should this be demonstrated to be technically and financially feasible in the future.

#### **Waste Management 16/10/15**

No objection still remains.

- 3.26 **County Councillor Catherine Fulljames:** Objects to the application due to the volume of traffic that will be accessing/egressing on to the Middleton Stoney Road.

#### **Other Consultees**

- 3.27 **English Heritage:** Offer general observations, rather than a detailed response: At the heart of the proposed development is Himley Farm. The farm is comprised of two late 18<sup>th</sup>/ early 19<sup>th</sup> century Grade II listed barns along with other associated outbuildings. Surrounding two Grade II listed barns with extensive development would cause some harm to the significance of both buildings. It would no longer be possible to fully appreciate the way in which the barns functioned as buildings at the heart of an agricultural holding due to urbanisation.

That said the harm entailed by the proposal is mitigated to an extent by planning for large areas of open space to the north and north-west of the buildings and by providing a small green buffer around the site as a whole. It is suggested that at reserved matters comments above are taken into account for the landscaping and detailed design of buildings around the Grade II listed buildings.

- 3.28 **Historic England second response:** Offer general observations, rather than a detailed response: Historic England welcomes the decision to provide additional green space around the Grade II listed barns at Himley Farm (shown in amended Parameter Plan 3) as this would help reinforce an understanding of the buildings historic relationship to the surrounding agricultural field system.

However, this amendment would not and cannot hope to completely offset the residual harm that will inevitably arise from the loss of the wider agricultural landscape setting currently afforded to the buildings at Himley Farm. That said the impact of the new development could be mitigated (as highlighted by Paragraph 129 of the NPPF) through the detailed design of landscaping close to the listed barns. This should reference the character of the existing landscape (as an agricultural holding) as far as possible. We would also suggest the scale of new development close to the barns should be kept to the minimum necessary to avoid the possibility of large buildings overwhelming the more diminutive scale of the barns.

It is suggested that at reserved matters comments above are taken into account for the landscaping and detailed design of buildings around the Grade II listed buildings.

- 3.29 **Environment Agency:** Object to this planning application as it has not been demonstrated that the development as proposed will not increase flood risk on and off site. This is a requirement of the NPPF (paragraph 103) and policy ET18 of PPS1.

In the absence of an acceptable Flood Risk Assessment (FRA) we object to the grant of planning permission.

The FRA submitted with this application (Surface Water Drainage Strategy and Flood Risk Assessment, Alan Baxter, December 2014), does not comply with the requirements set out in paragraph 9 of the Technical Guide to the NPPF. The FRA does not therefore provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

In particular, the submitted FRA fails to satisfactorily demonstrate that there are viable outfall locations for surface water discharging from the site. The FRA states that culverts under the A4095 and B4030 have been identified as probable points of discharge from the site to nearby watercourses, but states that the capacity, condition and ownership of these culverts is unknown. Prior to determination of this application we recommend further work is completed to confirm that surface water can be drained via these culverts.

Further information is required to be provided on how and where the required 27,000m<sup>3</sup> of surface water attenuation will be provided on the site. The outline drainage strategy based around a network of swales and a range of other sustainable drainage techniques, including source control measures is welcomed. However, it is not clear from the plans that sufficient storage is being provided within the indicative layout, especially during early phases of the development.

It is advised to submit a FRA which covers the deficiencies highlighted above and demonstrates that the development will not increase risk elsewhere and where possible reduces flood risk overall.

The use of SUDS is not only critical to ensure flood risk is not increased on or off-site. SUDS are needed to protect water quality and associated biodiversity. This is particularly important to protect the features of special interest for which Wendlebury Meads and Mansmoor Closes SSSI and Otmoor SSSI are notified. The SUDS on site are also needed to contribute to the sites green infrastructure, biodiversity gain and to meet Water Framework Directive (WFD) requirements.

The maintenance of surface water drainage features on the site in perpetuity is critically important to ensure their long term functionality. The preparation of a S106 to establish a Management Company to ensure the long term maintenance, management and adoption of SUDs features is supported.

Oxfordshire County Council as Lead Local Flood Authority must be satisfied with any ground water flood risk issues on this site.

Should the flood risk objection be overcome, it is anticipated that a set of planning conditions would be requested to ensure that the environment is protected and enhanced as required by the NPPF.

We also bring to your Authorities attention that on its own, this planning application does not meet a number of the PPS1 policy requirements. Within the remit of the Environment Agency this includes policy:

- ET14 Green infrastructure (GI) and ET 16 Biodiversity – no reference to the concept of delivering a net biodiversity gain or the use of biodiversity offsetting metrics as a way of assessing the impacts on ecology, and therefore demonstrating that ecological objectives are achieved. A long-term management of this application is also absent.
- ET17 Water- appraised upon Thames Water Ltd consultation response (19/01/15) and the application documents:
  - There is an inability in the existing waste water infrastructure to accommodate the needs of the development which may lead to sewage flooding and adverse impacts to the community and

environment. They also state that the receiving sewer in Bicester may not have capacity to accommodate foul flow increases proposed from the development and that there is the potential for overloading of the existing infrastructure. There is no discussion of the options given in relation to accommodating this constraint.

- Also the existing water supply infrastructure has insufficient capacity to meet the additional demands of the proposed development and that upgrades are needed.
- The Masterplan WCS appraises a number of water resource and waste water disposal options and concludes that there are feasible options available. However, there is no commitment to which option or strategy will be taken forward at this site. Your Authority will need to have confidence at this Outline planning application stage that the options being discussed can be delivered and we recommend that the detailed strategies for water supply and disposal are agreed before development begins.
- The timely provision of new water infrastructure, or upgrades to existing water infrastructure is of vital importance in order to protect the environment and meet the requirements of PPS1 Policy ET17 and the NPPF.
- In relation to water efficiency, it is pleasing to see the commitment at Section 3.11 of the Sustainability and Energy Statement that the detail of residential and non residential properties within the Himley Village application will conform to the design standards discussed in the Masterplan WCS. It is essential that a detailed strategy to achieve the 80l/p/d potable water per capita consumption design standard in homes and non-residential buildings on the Himley Village site is agreed before development on site begins. This is to ensure that the design standard is understood ahead of construction, especially if achieving the required standard relies on the provision of property level or neighbourhood solutions.
- More details to ensure there are no risks to surface water and groundwater quality are required.
- Although the 80l/p/d potable water per capita consumption design standard if delivered in homes and non-residential development is considered a high water efficiency standard, it does not constitute water neutrality. A strategy to achieve water neutrality at the Himley Village and the wider North Water Bicester site should be in place before detailed design begins. If water neutrality is achieved this would be the first development in the Country to meet such high standards in water demand management on such a large scale, putting Himley Village and the North West Bicester Eco Town site at the forefront of high sustainability standards.
- ET18 Flood risk management - It has not been demonstrated that this development will not increase flood risk on and off site as detailed above.
- ET7 - Zero carbon - We fully support the proposal of future proofing of the energy strategy to incorporate advances in technology. This includes the potential connection to waste heat from the Ardley energy from waste facility and the wider energy centres proposed at the North West Bicester site.

### 3.30 **Environment Agency second response (12/10/15)**

Based on the additional drainage information provided, the previous flood risk objection has been removed. The information provided in relation to the culverts suggests that these are viable discharge points and the SUDs parameter plan shows the extent of proposed swales across the site and the associated table shows that the volume of surface water can be contained within the proposed swales. This is based on discharge rates to be limited to below 2l/s/ha.



It is suggested to attach conditions in relation to contamination and pollution prevention (including a pollution prevention scheme, verification report and other risk assessments and site investigation schemes).

It is also noted that the applicant investigates and consults OCC regarding the spring and pond as these areas may be very shallow and therefore may mean that infiltration drainage is not feasible across the whole site.

Conditions in terms of GI and Biodiversity are advised to ensure the policy requirements of Local Plan Policy Bicester 1 standards are met across the whole North West Bicester site.

The applicant have concluded that the biodiversity assets are neutral, however it is recommended to show how this site contributes to the overall achievement of the Biodiversity Strategy for the entire North West Bicester site.

Views on PPS policy requirements highlighted in the response dated 02/02/15 still remain and it is advised that adequate planning controls are in place to deliver required standards. Furthermore, planning controls should be consistent across all North West Bicester planning applications.

- 3.31 **Thames Water (19/01/15):** Thames Water has identified an inability of the existing waste water infrastructure to accommodate the needs of this application. Should the Local Planning Authority look to approve the application, a 'Grampian Style' condition to require a drainage strategy detailing any on and/ or off site drainage works to be submitted and agreed.

The existing water supply infrastructure has insufficient capacity to meet the additional demands for the proposed development. Thames Water therefore recommend a condition be imposed to require an impact study of the existing water supply infrastructure, prior to commencement.

The receiving sewer may not have sufficient spare capacity to accommodate the calculated net foul flow increase from the proposed development. Thames Water request that an impact study be undertaken to ascertain, with a greater degree of certainty, whether the proposed development will lead to overloading of existing infrastructure, and, if required, recommend network upgrades.

**Thames Waters Second response:** same comments as those outlined above.

- 3.32 **Natural England:** Natural England would encourage the incorporation of 40% GI into the development. Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement.

The application has designated a total of 1.5ha to allotments and the incorporation of orchards. Given that the application site is designated as moderate (20-60%) likelihood of best and most versatile agricultural land (BMV), Natural England supports the inclusion of allotments and productive sites within the application.

Given the size of the proposal, and the inability of existing infrastructure to incorporate the associated increased water demands, Natural England considers that the application should specify how greywater and blackwater are to be treated and disposed of, and if this is to be onsite, paying particular attention to any potential effects on downstream Sites of Special Scientific Interest (SSSI's).

It is noted that detailed Sustainable Urban Drainage System (SuDS) techniques have been incorporated into the application for the onsite management of stormwater.

Natural England recommends that the maintenance of SuDS infrastructure should be addressed to ensure that it remains efficient in future.

With regard to protected species, you should apply the Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

If the proposal site is on or adjacent to a local wildlife site, eg Site of Nature Conservation Importance (SNCI) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local wildlife site, and the importance of this in relation to development plan policies, before it determines the application.

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application.

This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature.

3.33 **BBOWT:** Objection on grounds as follows:

1. Lack of compensation for impacts on UK priority farmland bird species, contrary to paragraphs 117 and 118 of the NPPF
2. Failure to demonstrate a net-gain in biodiversity, contrary to NPPF paragraphs 9 and 109 and Eco Towns Planning Policy Statement PPS1.
3. Lack of apparent compliance with measures in the Eco Town Masterplan, including standards for buffering of hedgerows and for biodiversity in the built environment.

The Overall Masterplan site is supported by two key documents relating to biodiversity: the GI Masterplan and Appendix 6J – Biodiversity Strategy. These documents have been used to assess the overall impact of the NW Bicester development and to describe the necessary measures to ensure that adverse biodiversity impact is avoided, mitigated or compensated and that a net gain in biodiversity is achieved. This application has been brought forward without including these two documents and does not appear to be adhering to the commitments made in these documents in terms of – offsite bird compensation for priority farmland bird species, use of an accepted biodiversity impact assessment metric to demonstrate a net gain in biodiversity, standards for buffering of hedgerows and standards for biodiversity in the built environment.

Documents submitted with this application do not make any provision for off-site compensation for farmland birds. This application should be making a proportionate contribution by area of development towards the proposed sum for off-site compensation so that the masterplan as a whole can compensate for the loss of breeding territories for linnet, skylark and yellow hammer and other farmland bird species as detailed in the masterplan.

The ES plans to reverse the loss of breeding habitat by planting new hedgerows and gardens, however such measures are not suitable for farmland species which require open habitats for foraging, and undisturbed areas for breeding. Off-site compensation for farmland birds, as outlined in the Biodiversity Strategy, is the only effective way to address the loss of habitat and impact of domestic pets.

There are discrepancies between the assessments provided to support this application and those conducted in relation to the Masterplan area.

As it stands this application is contrary to the NPPF (paragraphs 117 and 118) on the grounds of uncompensated adverse impact on UK priority farmland bird species. The applicant must commit to a proportionate contribution by area to the off-site compensation for farmland bird species for the whole masterplan area, prior to approval of this application.

The Biodiversity Strategy and 'NW Bicester Masterplan GI and Landscape Strategy Report' details a commitment to achieving a net gain in biodiversity, and includes the calculation of a Biodiversity Impact Assessment metric to demonstrate how this net gain in biodiversity is to be achieved. By not including the Biodiversity Strategy in the application, and not providing any other form of evidence to show net gain, this application is not demonstrating a net gain in biodiversity, as required by the NPPF (paragraphs 9 and 109) and ET16.1 of PPS1 Eco Towns Planning Policy Statement.

The ES makes a brief reference to the expansion and maturation of the network of gardens, hedgerows, creation of species-rich grasslands and the creation of swales resulting in a minor beneficial effect (paragraph 7.107 Conclusion, on page 28 of the Ecology section of the ES). Clear evidence of a net gain in biodiversity needs to be submitted prior to any approval of this application.

It is unclear in this application if the developers are following the standards set out in the Biodiversity Strategy and masterplan for buffering of hedgerows, woodlands, dark corridors and ponds, and provision of biodiversity in the built environment. The Himley Village application site includes the Great Crested Newt ponds, for which the Biodiversity Strategy states a 50m boundary is required, as well as linkage between the ponds and culverts under roads. It is not clear if the standards are being met. Therefore prior to any approval it is suggested that developers provide evidence of following the standards of these two documents. As part of the Bicester Eco Town development this application should adhere to the masterplan commitments.

Appropriate management and monitoring of the site is vital to achieving a net gain in biodiversity. Each reserved matters application must be accompanied by an LHMP (Landscape & Habitat Management Plan) as indicated in Section 9 of the Biodiversity Strategy. This should include both management and monitoring proposals. The management may need to be modified according to the results of the monitoring work.

It is noted that every effort should be taken to maximise the species richness of the ecological and dark corridors and hedgerow buffers through the use of appropriate species rich seed mixes with a combination of wild flowers as well as grasses. Hedgerow management should consider the differing needs of both black and brown hairstreak butterflies. These rare butterflies are important in the local area so a commitment to consider them in the management of the hedgerows is important. Newly planted hedgerows should include a significant component of blackthorn to support these butterflies. Cutting cycles for hedgerow management to ensure the most value for biodiversity should be provided in a future LHMP.

Green Infrastructure should be designed to provide a network of interconnected habitats, enabling dispersal of species across the wider environment. Suggestions are made with regard to biodiversity enhancement measures that should be sought. Open spaces within developments should be linked to biodiversity in the wider countryside, including any designated sites, priority habitats and CTAs. Green Infrastructure should also be designed to provide ecosystem services such as flood protection, microclimate control and filtration of air pollutants.

As well as providing flood control SUDS can provide significant biodiversity value if biodiversity is taken into account in the design, construction and management of SUDS features. This should be required of any development and details will be needed at the Reserved Matters stage.

**BBOWT second response 01/10/15:** Maintains an objection due to a failure to demonstrate a net-gain in biodiversity, contrary to NPPF paragraphs 9 and 109 and Eco Towns Planning Policy Statement PPS1, and also a lack of apparent compliance with the Masterplan standards for buffering great crested newt breeding ponds.

Whilst the Defra metric has been applied, it has not been applied to demonstrate that the site will achieve a net gain in biodiversity overall. Furthermore, no reference is made within the documents for the need for a 50m buffer for the newt ponds.

However due to the additional documents (addendum to the Environmental Statement), removes objections in relation to:

- Lack of compensation for the impacts on UK priority farmland bird species, contrary to paragraphs 117 and 118 of the NPPF
- Lack of apparent compliance with Masterplan standards for buffering of hedgerows

Planning conditions are suggested to ensure the specified buffer and dark corridor standards are secured.

At this stage, a planning application for the land to the west of the application site has not been made; it is within this area of the Masterplan that space has been set aside to provide a nature reserve. The nature reserve will make a significant contribution to the achievement of a net gain in biodiversity across the Masterplan area and assurance is sought to demonstrate that delivery of the nature reserve will be secured to support the applications currently coming forward within the Masterplan site.

3.34 **Thames Valley Police, Property Services (12/01/15):** Thames Valley Police request developer contributions, due to the overall impact of the proposed development upon policing in Bicester. To that end it is request that this proposed development of 1700 units should contribute a total of **£266,900** towards the provision of Police Infrastructure.

3.35 **Crime Prevention Design Advisor, Thames Valley Police:** Objects to this application as elements proposed within it are of fundamental concern and based upon independent research will give rise to crime and disorder opportunity.

- From the illustrative plan there appears to be excessive permeability on this development. Reduction in the amount of pathways which are not overlooked leading through the development would reduce the risk of crime and antisocial behaviour.
- There are concerns regarding the number of plots with exposed rear boundaries into the public realm. Properties should have a secure boundary treatment provided. There are concerns that if no fence is installed then residents will remove or cut back hedging to increase the size of their garden and fit their own fence for privacy retrospectively.
- It is unclear from the illustrative masterplan whether properties have defensible space and it should be provided for each plot in some form.
- Provision of lighting is an area that is often overlooked, however, can have a dramatic effect in reducing crime, the fear of crime and anti-social behaviour. There are concerns that the application does not seem to provide any details as to how the development, communal areas, parking courtyards areas and any other non-adopted public realm will be lit. If planning approval is given, it is requested that a condition is imposed on the applicant to ensure that the

parking areas and non-adopted areas of public realm are lit to the BS5489 standard.

- The Design and Access statement states that 'Physical protection measures will be incorporated into the scheme through the detailed design development.' However it does not provide any information as to how this will be done and whether SBD is looking to be achieved. Therefore it is suggested that a condition is imposed on this application to ensure the Secured by Design accreditation standards are achieved.
- The use of active windows has also been noted and requests that the applicant at the reserve matters stage provides house types and where active rooms will be positioned to allow further comment.

3.36 **Thames Valley Police (CPDA):** Continues to raise concerns in relation to the layout and design proposed for this development may unduly impact on the crime, anti social behaviour and fear of crime within this location due to rear accesses backing onto publicly accessible open spaces/ footpaths, the excessive permeability of the site with narrow through routes and alleys and the need for the development to meet the principles and physical security standards of Secured by Design.

3.37 **Highways Agency:** Offers no objection for this application

3.38 **Network Rail:** Our present concern will be how the developer proposes to construct the underpasses without disturbing our support embankment or track and associated assets/materials. We therefore would state that the developer should continue to consult with the Network Rail Asset Protection Engineer and provide said (below) information to them.

Conditions have been suggested in relation to submitting a risk assessment and method statement (RAMS); submitting full details of ground levels, earthworks and excavations to be carried out near to the railway boundary; a method statement and details of the use of any vibro-compaction machinery / piling machinery or piling and ground treatment works which are to be undertaken as part of the development; details of proposed scaffolding works to the Network Rail Asset Protection Engineer for review and approval.

Network Rail provide advice in relation to the need for the future proposal both during construction, and after completion of works on site, should not affect the safety, operation or integrity of the operational railway, Network Rail land and its infrastructure or undermine or damage or adversely affect any railway land and structures. They provide advice to the applicant on what would be required during construction work.

Network Rail advises that there is a potential for any noise/ vibration impacts caused by the proximity between the proposed development and the existing railway. Therefore it is strongly recommend that all future residents are informed of the noise and vibration emanating from the railway, and of potential future increases in railway noise and vibration. Network Rail will not be held liable for any noise and vibration from the railway. As the applicant has chosen to develop a proposal adjacent to the railway then they must provide funding for all noise and vibration mitigation measures.

If not already in place, the Developer must provide, at their own expense, a suitable trespass proof steel palisade fence of at least 1.8m in height adjacent to Network Rail's boundary and make provision for its future maintenance and renewal without encroachment upon or over-sailing of Network Rail land. Network Rail's existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein be damaged, undermined or

compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must not be disturbed. Any fencing installed by the applicant must not prevent Network Rail from maintaining its own fencing/boundary treatment. If acoustic fencing was chosen, this would raise concern for Network Rail and any acoustic fencing should be set back from the boundary with Network Rail by 1m.

Network Rail would request that no trees are planted next to the boundary with our land and the operational railway. Furthermore, Network Rail would request that only evergreen shrubs are planted and we would request that they should be planted a minimum distance from the Network Rail boundary that is equal to their expected mature growth height.

No works on site should commence until they have been approved by the Network Rail Asset Protection Team. A BAPA may be required in order to facilitate the works. Network Rail requests that the developer ensures there is a minimum 2 metres gap between the buildings and structures on site and our boundary fencing.

**Network Rail Second response:** Nothing further to add to the comments above.

- 3.39 **Sport England 03/03/15:** Note that the application is not to be considered in isolation and that the submitted plans generally accord with the Masterplan Framework contained within the North West Bicester Supplementary Planning Document. It is unclear what is meant by the term "informal pitches". Playing pitches need to be properly constructed and formally laid out in order to be fit for purpose for sport. The time that the sports facilities will be delivered, in relation to a specific phase of the development, is not stated. However, a potential phasing scenario is set out in the Design and Access Statement (p.190) indicating that the community playing fields will be provided in the first phase of the development. The application does not refer to an up to date Sports Facility Strategy, Playing Pitch Strategy or other relevant needs assessment to justify the amount of provision for sport as part of the wider scheme for North West Bicester. There is a need for football and hockey provision. The Local Planning Authority should make an up to date and robust assessment of needs. Sport England considers it necessary for the Local Planning Authority to secure contributions towards sports pitches and built facilities to meet the increased demand from the additional population. As the development appears to be in accordance with the Draft SPD, Sport England raises no objections subject to the use of a conditions to agree details of the phasing of the development to meet sports facility provision and to secure details of design and layout are to be submitted prior to commencement.
- 3.40 **Sport England second response:** No further comments as the revised information appears to contain no changes in respect of either playing pitches or built sports facilities.
- 3.41 **NHS England:** Regarding the health needs for the North West Bicester site:  
Summary
1. The Bicester area will undergo substantial housing growth in the coming years. There are 7 key strategic housing development sites which jointly will deliver 9,764 new homes for the period 2014 – 2031 and on the basis of the adopted occupancy rates for the respective developments this will equate to a population increase of approximately 22,786. The 4 main development sites within Bicester (to be developed in phases) are; South West Bicester (known as Kingsmere); NW Bicester EcoTown; Graven Hill; South East Bicester
  2. An assessment of capacity within the local primary care infrastructure was carried out and it was concluded that an additional 10,000 new patients could be absorbed using the current facilities. The latter may require some modifications / adjustments to the existing premises, but it was felt that this could be achieved.

3. Any further patients above the 10,000 threshold would necessitate the provision of a new GP facility. Specifically, the North West Bicester site will generate 13,457 population (5607 dws x 2.4 h/hold size) which justifies a new surgery to be provided on the site.
4. On the basis of the housing growth trajectory, it is anticipated that the new facility would not be required until 2020. Clearly, if the growth were to accelerate then the facility would be required a little earlier and if it slows down then the date for this requirement would be pushed back further.
5. Following a meeting of the North East Locality Group on 18 September 2013, a request was made for Cherwell District Council to secure the following S106 provisions in order to safeguard the future expanded primary care services:
  - a. Secure land to enable building of a new GP surgery (to accommodate 7 GP's), on the NW Bicester Eco Town site
  - b. Secure the capital costs of this expansion from the developers (for the sum of £1,359,136)

It is NHS England's firm position that where a new health facility is required as a direct result of major housing growth, that a site to provide a new facility should be provided at either no cost or at the commercial rate for healthcare premises and that a financial contribution towards the funding of the new facility should be made in addition.

Various assessments of the capacity of local health facilities have recently been undertaken, and the need for new premises in this location is a direct requirement of the new population resulting from the NW Bicester development as set out above. The financial contribution that has been requested is directly related to needs of the population that will occupy the new development.

The impact of non-recurrent and recurrent infrastructure costs to NHS England is very significant and is a key concern in the delivery of new healthcare facilities. NHS England should not be burdened with the full cost of both delivering the new facility and/or the recurrent cost of providing the facility, where the requirement for the new facility is a direct result of identified housing growth.

It is acknowledged that the provision of a site within a development to allow the delivery of a new health facility is a suitable approach. This allows a reduction in the capital cost associated with providing the new facility in another location, and would also locate the new facility directly where the new population will be located.

It is important to note however, that NHS England does not have the capital available to fund infrastructure projects arising as a direct consequence of housing growth. Without a financial contribution towards healthcare infrastructure in addition to the provision of a site, there would be a significant financial burden placed on the delivery of the premises, which could delay or prevent the delivery of the service to the new population.

The financial contribution would be used for the sole purpose of providing healthcare facilities and the investment would be protected to ensure that the S106 monies are not used for the benefit of the property owner. In the event that a practice wished to finance the development of these new premises, any S106 monies that contribute to the building of this facility will result in a reduction in the Notional Rent reimbursement received by the practice. This reduction would be proportionate to the level of S106 funding, for up to a 15 year period (minimum). In other words a practice would not benefit from having a rental income for space that has been funded by S106 monies. The latter is all set out in the provisions made by the National Health Service (General Medical Services – Premises Costs) Directions 2013.

Due to the financial commitment that a practice would need to undertake to finance the building of a brand new surgery, this model is now becoming less common and

practices are more likely to appoint a third party developer to build a facility and then enter into a leasing arrangement with the developer. If the premises are developed / owned by a third party developer, the landlord would equally not benefit from the S106 monies that have been invested. This could be managed in a number of ways including a charge against the property, or an agreement whereby the GP Practice pays a reduced rent. The reduced level of rent is not something that the GP practice would profit from in any way. This reduction however would have a direct benefit to NHS England as it is the latter who ultimately pay for GP lease rents via the rent reimbursement scheme (again as set out in the Premises Directions). The reduced rent, and therefore levels of reimbursement to the practice, means that NHS England is able to reduce the financial burden placed on it in having to provide additional healthcare infrastructure necessitated by housing growth. The reduced levels of rent would be reflected in the lease and the reduction would be proportionate with the enhancement of the property provided for by the S106 monies. The NHS would ensure that the reduced rent period is granted on a long term basis, 25 years for example and that the rental figure is verified by the Valuation Office Agency to ensure that the appropriate reductions have been made. This approach is fairly common within the NHS when dealing with S106 monies and there are a number of other house developments in the area where S106 monies have already been secured and the same approach will be applied when using those funds.

The reason for requesting S106 monies as well as the provision of the site is to lessen the financial impact placed on the NHS as a result of infrastructure required due to housing growth and to ensure that the facilities needed to provide good quality healthcare can be put in place for the benefit of the residents of these developments. This facility has been necessitated as a direct consequence of the housing growth and the failure to provide this contribution would undermine the overall sustainability of the proposed house development.

3.42

**Bioregional:**

Bioregional are a charitable organisation who work to promote sustainability to ensure that we live within the natural limits of our one planet. Bioregional are supporting Cherwell District Council in the NW Bicester project as well as A2 Dominion in its role as a major housing provider on the site. They have been involved in NW Bicester development plans since 2010, advising both Cherwell DC and A2Dominion on eco-credentials and sustainability.

Bioregional comment that there is not enough information provided in the application to support it, particularly around GI, biodiversity and the energy strategy.

We are pleased to see the incorporation of the following points within this application:

- Overarching awareness and commitment to the Eco towns PPS principles
- Commitment to 'True Zero Carbon target' as defined by the ET PPS
- All homes to achieve Code 5 of the Code for Sustainable Homes
- Employment areas to achieve BREEAM Excellent
- Connection to site-wide district heating network and an understanding of the future potential to connect to Ardley ERF Facility
- Inclusion of sustainable transport solutions such as electric vehicle charging points, car club and employment of a travel plan coordinator
- Details of a proposed community governance model to establish a Community Land Trust (referred to as the Himley Farm Land Trust) to take on the long-term operation of the landscape and community assets.
- Significant work and detail on creating a 'productive landscape' and encouraging local food growing

Energy

Additional information is required to explain the energy baselines within the Sustainability and Energy Statement. The baseline energy demand appears to be too



low and the baseline heat demand appears to be quite high. The energy reduction targets for 'lean' improvements would appear to be hard to achieve. The predicted heat demand is significantly higher than the standard on the Exemplar and so additional information is sought in relation to these predicted demands and the FEES level that is being targeted.

Concerns that the energy generation solution seems oversized in comparison to the total heat demand. It is queried whether this is to meet heat demands from other parts of the masterplan site or whether alternatively, this is indicating large distribution losses, very low efficiencies from the biomass and gas plants or simply too much heat in the system. Details are sought to address these queries. The energy statement is unclear in relation to the timing and phasing of zero carbon for this phase and for the entirety of the development. We would expect zero carbon to be achieved before the 200th home is built and on an ongoing basis. Information is also needed in relation to the indicative roof areas for the installation of PV to ensure there is sufficient area around the edge of the roofs.

#### Transport

The modal shift ambitions within the TA do not currently meet the PPS requirements. Further information should be provided in relation to which offsite connections will be provided and the timescale for this. The lower standard for car parking is welcomed but further details should be provided in relation to how unallocated parking would be managed. The commitments in relation to cycle parking is also welcomed but this should be at the front of all properties to ensure convenience.

#### Urban design

The landscape led approach is welcomed, but there are concerns in relation to the safety of green routes where homes back onto them. Further information as part of design codes in relation to the character areas would be welcomed.

At the detailed design stage, proposals should look to mitigate impacts upon Himley Farm and the listed buildings there by considering the detailing and scale of dwellings closest.

#### Landscape and Green Infrastructure

The application does not include a land use schedule that confirms how 40% of the site will be Green Infrastructure.

The provision of allotments and at a higher level than is sought by Policy is welcomed. Could this be higher still in line with that provided at the Exemplar, which would be of benefit given demand for allotments and that they contribute to a sustainable food strategy. It would be beneficial to understand the reasons for the placement of the allotments.

A clear rationale for the positioning of play space should be provided in the DAS. It is not currently clear why play areas are positioned where they are.

#### Biodiversity

A site-specific biodiversity strategy has not been submitted and there is no reference within the Design and Access Statement to a Biodiversity Net Gain target. A Defra metric calculation should be carried out in line with the NW Bicester masterplan.

The application does not include any reference to an offset/compensation scheme for farmland birds. The application should be looking to contribute towards a compensation scheme to compensate for the loss of breeding habitat for farmland bird species such as the yellowhammer as identified within the baseline habitat surveys that support the NW Bicester Masterplan.

There is a commitment on page 109 of the Design and Access Statement that existing hedgerows will be enhanced with a 10m wide buffer. However, we could not find detail of the creation and protection of dark corridors.

Additionally, there is no mention of how the Great Crested Newt Ponds will be protected and enhanced.

We would welcome the inclusion of a 'hedgerow removal and break' map to understand the amount of hedgerow to be removed and how this will be mitigated. In particular, can these breaks be minimised by narrowing and arches and will hedgerow loss be compensated by translocation or new planting?

#### Water

Policy ET 17.5 of the ET: PPS1 states that areas of serious water stress (such as Bicester) should aspire to achieve water neutrality. The 80l/p/d target for residential and non-residential set out within the Energy and Sustainability Statement is a positive step towards this. However, nothing further is provided within the environmental statement or within the NW Bicester Masterplan Water Cycle Study on how ultimately water neutrality can be achieved on this site but also across the entirety of NW Bicester.

It is recommended that the following matters be addressed before outline permission is granted:

1. Justification for the assumed energy demands in the energy strategy
2. Indicative performance specification and efficiency data for the CHP plant, biomass boiler and back up boilers
3. A detailed carbon balance for the overall energy solution and for the final and interim phases
4. Achievement of the biodiversity net gain target through the DEFRA metric
5. A robustly planned offset scheme for farmland bird habitat
6. Options for more ambitious modal shift targets
7. Commitments around the delivery of offsite walking and cycling connections
8. Full land use schedule to understand the mix of green spaces and compliance with the 40% GI standard
9. A discussion around the principles of how green space is used on the front and back of homes
10. More detailed brief for the different buffer zones and location of hedgerow breaks
11. An understanding for the inclusion of commercial uses along Middleton Stoney Road which could threaten the viability of local centres on NW Bicester

## **4. Relevant National and Local Policy and Guidance**

### **4.1 Development Plan Policies**

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:

### **4.2 Cherwell Local Plan 2011 - 2031 Part 1**

Sustainable communities

PSD1: Presumption in Favour of Sustainable Development

SLE1: Employment Development

SLE4: Improved Transport and Connections

- BSC1: District wide housing distribution
- BSC2: Effective and efficient use of land
- BSC3: Affordable housing
- BSC4: Housing mix
- BSC7: Meeting education needs
- BSC8: Securing health and well being
- BSC9: Public services and utilities
- BSC10: Open space, sport and recreation provision
- BSC11: Local standards of provision – outdoor recreation
- BSC12: Indoor sport, recreation and community facilities

#### Sustainable development

- ESD1: Mitigating and adapting to climate change
- ESD2: Energy Hierarchy and Allowable solutions
- ESD3: Sustainable construction
- ESD4: Decentralised Energy Systems
- ESD5: Renewable Energy
- ESD6: Sustainable flood risk management
- ESD7: Sustainable drainage systems
- ESD8: Water resources
- ESD10: Biodiversity and the natural environment
- ESD13: Local landscape protection and enhancement
- ESD15: Character of the built environment
- ESD17: Green Infrastructure

#### Strategic Development

- Policy Bicester 1 North West Bicester Eco Town
- Policy Bicester 7 Open Space
- Policy Bicester 9 Burial Ground

#### Infrastructure Delivery

- INF1: Infrastructure

### 4.3 Cherwell Local Plan 1996 (Saved Policies)

- H18: New dwellings in the countryside
- S28: Proposals for small shops and extensions to existing shops outside Banbury, Bicester and Kidlington
- TR1: Transportation funding
- TR10: Heavy Goods Vehicles
- C8: Sporadic development in the open countryside
- C28: Layout, design and external appearance of new development
- C30: Design Control

### 4.4 **Other Material Policy and Guidance**

**The Non Stat Cherwell Local Plan** proceeded to through the formal stages towards adoption, reaching pre inquiry changes. However due to changes in the planning system the plan was not formally adopted but was approved for development control purposes. The plan contains the following relevant policies;

- H19: New Dwellings in the Countryside
- H3: Density
- H4: Types of Housing
- H5: Housing for people with disabilities and older people
- H7: affordable housing
- TR3: A Transport Assessment and Travel Plan must accompany development proposals likely to generate significant levels of traffic
- TR4: Mitigation Measures
- R4: Rights of Way and Access to the Countryside

EN16: Development of Greenfield, including Best and Most Versatile Agricultural Land  
 EN22: Nature Conservation  
 EN28: Ecological Value, Biodiversity and Rural Character  
 EN30: Sporadic Development Countryside  
 EN32: Coalescence of Settlements  
 D9: Energy Efficient Design

#### 4.5 **National Planning Policy Framework**

The National Planning Policy Framework (NPPF) was published in March 2012 and sets out the Government's planning policies for England. It contains 12 Core Principles which should underpin planning decisions. These principles are relevant to the consideration of applications and for this application particularly the following;

- Plan led planning system
- Enhancing and Improving the places where people live
- Supporting sustainable economic development
- Securing high quality design
- Protecting the character of the area
- Support for the transition to a low carbon future
- Conserving and enhancing the natural environment
- Promoting mixed use developments
- Managing patterns of growth to make use of sustainable travel
- Take account of local strategies to improve health, social and cultural wellbeing.

#### 4.6 **Eco Towns Supplement to PPS1**

The Eco Towns supplement was published in 2009. The PPS identified NW Bicester as one of 4 locations nationally for an eco-town. The PPS sets 15 standards that eco town development should achieve to create exemplar sustainable development. Other than the policies relating to Bicester the Supplement was been revoked in March 2015.

#### 4.7 **NW Bicester Supplementary Planning Document**

The NW Bicester SPD provides site specific guidance with regard to the development of the site, expanding on the Bicester 1 policy in the emerging Local Plan. The draft SPD is based on the A2Dominion master plan submitted in May 2014 and seeks to embed the principle features of the master plan into the SPD to provide a framework to guide development. The SPD has been reported to the Council's Executive in June 2015 and has been approved for use on an interim basis for Development Management purposes. Following the adoption of the Cherwell Local Plan and further consultation, the document was approved by the Council's Executive and will be reported to Full Council for adoption in March 2016. The document is therefore at an advanced stage but does not yet carry full weight until such time that it is adopted. The SPD is therefore a material consideration.

The SPD sets out minimum standards expected for the development, although developers will be encouraged to exceed these standards and will be expected to apply higher standards that arise during the life of the development that reflect up to date best practice and design principles.

#### 4.8 **One Shared Vision**

The One Shared Vision was approved by the Council, and others, in 2010. The document sets out the following vision for the town;

To create a vibrant Bicester where people choose to live, to work and to spend their leisure time in sustainable ways, achieved by

- Effecting a town wide transition to a low carbon community triggered by the new eco development at North West Bicester;

- Attracting inward investment to provide environmentally friendly jobs and commerce, especially in green technologies, whilst recognising the very important role of existing employers in the town;
- Improving transport, health, education and leisure choices while emphasising zero carbon and energy efficiency; and
- Ensuring green infrastructure and historic landscapes, biodiversity, water, flood and waste issues are managed in an environmentally sustainable way.

#### 4.9 **Draft Bicester Masterplan**

The Bicester masterplan consultation draft was produced in 2012. It identifies the following long term strategic objectives that guide the development of the town, are:

- To deliver sustainable growth for the area through new job opportunities and a growing population;
- Establish a desirable employment location that supports local distinctiveness and economic growth;
- Create a sustainable community with a comprehensive range of social, health, sports and community functions;
- Achieve a vibrant and attractive town centre with a full range of retail, community and leisure facilities;
- To become an exemplar 'eco-town', building upon Eco Bicester – One Shared Vision;
- To conserve and enhance the town's natural environment for its intrinsic value; the services it provides, the well-being and enjoyment of people; and the economic prosperity that it brings;
- A safe and caring community set within attractive landscaped spaces;
- Establish business and community networks to promote the town and the eco development principles; and,
- A continuing destination for international visitors to Bicester Village and other tourist destinations in the area.

The aim is for the masterplan to be adopted as SPD, subject to further consultation being undertaken. The masterplan is at a relatively early stage and as such carries only limited weight.

#### 4.10 **Planning Practice Guidance**

### 5. **Appraisal**

The key issues for consideration in this application are:

- Relevant Planning History
- Environmental Statement
- Planning Policy and Principle of Development
- Five Year Housing Land Supply
- Adopted Local Plan and NW SPD
- Eco Town PPS Standards
- Zero Carbon
- Climate Change Adaptation
- Homes
- Employment
- Transport
- Healthy Lifestyles
- Local Services
- Green Infrastructure
- Landscape and Historic Environment
- Biodiversity

- Water
- Flood Risk Management
- Waste
- Master Planning
- Transition
- Community and Governance
- Design
- Conditions and Planning Obligations
- Other matters
- Pre-application community consultation & engagement

### **Relevant Planning History**

- 5.1 Land at North West Bicester was identified as one of four locations nationally for an eco-town in the Eco Town Supplement to PPS1.
- 5.2 Following this, a site to the North East of the current site (North of the Railway line) was the subject of an application for full planning permission for residential development and outline permission for a local centre in 2010 (10/01780/HYBRID). This permission, referred to as the Exemplar, and now being marketed as 'Elmsbrook', was designed as the first phase of the Eco Town and meets the Eco Town Standards. The scheme is currently being built out.
- 5.3 Four further applications have been received for parts of the NW Bicester site:

14/01384/OUT – OUTLINE - Development comprising redevelopment to provide up to 2600 residential dwellings (Class C3), commercial floorspace (Class A1 – A5, B1 and B2), social and community facilities (Class D1), land to accommodate one energy centre, land to accommodate one new primary school (up to 2FE) (Class D1) and land to accommodate the extension of the primary school permitted pursuant to application [ref 10/01780/HYBRID]. Such development to include provision of strategic landscape, provision of new vehicular, cycle and pedestrian access routes, infrastructure, ancillary engineering and other operations.

This application benefits from a resolution to grant planning permission subject to the completion of a S106 legal agreement. This resolution was made at Planning Committee in March 2015.

14/01641/OUT – Outline Application - To provide up to 900 residential dwellings (Class C3), commercial floor space (Class A1-A5, B1 and B2), leisure facilities (Class D2), social and community facilities (Class D1), land to accommodate one energy centre and land to accommodate one new primary school (up to 2 FE) (Class D1), secondary school up to 8 FE (Class D1). Such development to include provision of strategic landscape, provision of new vehicular, cycle and pedestrian access routes, infrastructure, ancillary engineering and other operations

This application benefits from a resolution to grant planning permission subject to the completion of a S106 legal agreement. This resolution was made at Planning Committee in October 2015.

14/01968/F – Construction of new road from Middleton Stoney Road roundabout to join Lord's Lane, east of Purslane Drive, to include the construction of a new crossing under the existing railway line north of the existing Avonbury Business Park, a bus only link east of the railway line, a new road around Hawkwell Farm to join Bucknell Road, retention of part of Old Howes Lane and Lord's Lane to provide access to and from existing residential areas and Bucknell Road to the south and a one way route northbound from Shakespeare Drive where it joins with the existing Howes Lane with priority junction and associated infrastructure.

This application appears elsewhere on the agenda.

14/01675/OUT – OUTLINE - Erection of up to 53,000 sqm of floor space to be for B8 and B2 with ancillary B1 (use classes) employment provision within two employment zones covering an area of 9.45ha; parking and service areas to serve the employment zones; a new access off the Middleton Stoney Road (B4030); temporary access of Howes Lane pending the delivery of the realigned Howes Lane; 4.5ha of residential land; internal roads, paths and cycleways; landscaping including strategic green infrastructure (G1); provision of sustainable urban systems (suds) incorporating landscaped areas with balancing ponds and swales. Associated utilities and infrastructure.

This application appears elsewhere on this agenda.

The plan attached at appendix A shows the area to which each of the applications relates.

#### **Environmental Statement**

- 5.4 The Application is accompanied by an Environmental Statement (ES). It covers landscape and visual, ecology, transport, air quality, noise and vibration, water management, ground conditions and contamination, agriculture and soils, built heritage, archaeology, socio economics, human health, waste and cumulative effects. The ES identifies significant impacts of the development and mitigation to make the development acceptable. An Addendum to the ES was submitted for landscape and visual impacts, ecology, socio economics and waste.
- 5.5 The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 Reg 3 requires that Local Authorities shall not grant planning permission or subsequent consent pursuant to an application to which this regulation applies unless they have first taken the environmental information into consideration, and they shall state in their decision that they have done so.
- 5.6 The NPPG advises 'The Local Planning Authority should take into account the information in the Environmental Statement, the responses to consultation and any other relevant information when determining a planning application'. The information in the ES and the consultation responses received have been taken into account in considering this application and preparing this report.
- 5.7 The ES identifies mitigation and this needs to be secured through conditions and/or legal agreements. The conditions and obligations proposed incorporate the mitigation identified in the ES.

#### **Planning Policy and Principle of the Development**

- 5.8 Section 38(6) of the Planning and Compulsory Purchase Act 2004 advises that;
- 'If regard is to be had to the Development Plan for the purposes of any determination under the Planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise'.
- 5.9 The Development Plan for the area is the Adopted Cherwell Local Plan 2011-2031, which was adopted in July 2015 and the saved policies of the Adopted Cherwell Local Plan 1996.

#### **Adopted Cherwell Local Plan 2011 – 2031 (ACLP)**

- 5.10 The newly Adopted Cherwell Local Plan 2011-2031 includes Strategic Allocation Policy Bicester 1, which identifies land at NW Bicester for a new zero carbon mixed use development including 6,000 homes and a range of supporting infrastructure. The current application site forms part of the strategic allocation in the local plan. The

policy is comprehensive in its requirements and the consideration of this proposal against the requirements of Policy Bicester 1 will be carried out through the assessment of this application.

- 5.11 The Plan includes a number of other relevant policies to this application including those related to sustainable development, employment, transport, housing, community infrastructure, recreation, water, landscape, environment and design. These policies are considered further below in this appraisal.

**Adopted Cherwell Local Plan 1996**

- 5.12 The Cherwell Local Plan 1996 includes a number of policies saved by the newly adopted Local Plan, most of which relate to detailed matters such as design and local shopping provision. The Plan includes Policy H18, which relates to new dwellings in the open countryside. Whilst the proposal would conflict with this particular policy, the fact that the site forms part of an allocation in the newly adopted Plan is a material consideration. The policies of the adopted Cherwell Local Plan will be considered in further detail below.

- 5.13 The policies within both the Adopted Cherwell Local Plan 2011-2031 and those saved from the adopted Cherwell Local Plan 1996 are considered to be up to date and consistent with the National Planning Policy Framework having been examined very recently.

**Non Statutory Cherwell Local Plan**

- 5.14 The NSCLP was produced to replace the adopted Local Plan. It progressed through consultation and pre inquiry changes to the plan, but did not proceed to formal adoption due to changes to the planning system. In 2004 the plan was approved as interim planning policy for development control purposes. This plan does not carry the weight of adopted policy but never the less is a material consideration. There are a number of relevant policies as set out, which will be considered in further detail in this assessment.

**NW Bicester SPD**

- 5.15 The Eco Towns PPS and the ACLP both seek a master plan for the site. A master plan has been produced for NW Bicester by A2Dominion and this has formed the basis of a supplementary planning document for the site. The SPD amplifies the local plan policy and provides guidance on the interpretation of the Eco Towns PPS standards for the NW Bicester site. The SPD was reported to the Council's Executive in June 2015 and approved for use on an interim basis for Development Management purposes. Following a further round of consultation, the SPD was been reported to the Council's Executive on the 01 February 2016 and has been approved for recommendation to the Full Council that the document be approved. The does not yet carry full weight until such time that it is adopted however it is a material consideration.

**Eco Towns Supplement to PPS1**

- 5.16 The Eco Towns PPS was published in 2009 following the governments call for sites for eco towns. The initial submissions were subject to assessment and reduced to four locations nationally. The PPS identifies land at NW Bicester for an eco-town. The PPS identifies 15 standards that eco towns are to meet including zero carbon development, homes, employment, healthy lifestyles, green infrastructure and net biodiversity gain. These standards are referred to throughout this report. This supplement was cancelled in March 2015 for all areas except NW Bicester.

**NPPF**

- 5.17 The NPPF is a material consideration in the determination of the planning application. It is stated at paragraph 14, that 'At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be



seen as a golden thread running through both plan making and decision taking'. For decision taking this means<sup>1</sup> approving development proposals that accord with the Development Plan without delay. The NPPF explains the three dimensions to sustainable development being its economic, social and environmental roles. The NPPF includes a number of Core Planning Principles including that planning should proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the Country needs. The NPPF also states at paragraph 47 that Local Planning Authorities should boost significantly the supply of housing and in order to do this, they must ensure that the Local Plan meets the full, objectively assessed needs for market and affordable housing and identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer (5 or 20%) to ensure choice and competition in the market for land.

### **Five Year Housing Land Supply**

- 5.18 The Council's most recent Annual Monitoring Report (December 2015) considered by the Council's Executive in January 2016 concludes that the District has a 5.3 year supply for the five year period 2015-2020 which will rise to a 5.6 year supply of deliverable housing sites for the five year period 2016 to 2021 (commencing on the 1<sup>st</sup> April 2016). This is based on the housing requirement of the adopted Local Plan 2011-2031 Part 1 which is 22,840 homes for the period 2011-2031 and is in accordance with the objectively assessed need for the same period contained in the 2014 SHMA (1,140 homes per annum of a total of 22,800). The five year land supply also includes a 5% buffer.
- 5.19 The five year land supply position has recently been tested at appeal at Kirtlington (14/01531/OUT), where the Inspector stated that the Council could demonstrate a five year supply of deliverable housing sites with a 5% buffer and that the relevant policies for the supply of housing in the Local Plan are up to date (paragraph 55 of the appeal decision). This position has also been accepted in relation to recent appeal decisions at Hook Norton and Chesterton.

### **Conclusion on the principle of the development**

- 5.20 The site is part of a much larger site identified in the newly adopted Cherwell Local Plan for a mixed use development including 6000 residential dwellings. As such, the general principle of development on this land complies with adopted Local Policy. The NPPF advises that development proposals that comply with the Development Plan should be approved without delay. It is therefore necessary to consider the details of the proposal; its benefits and impacts and consider whether the proposal can be considered to be sustainable development.

### **Zero Carbon**

- 5.21 The Eco Towns PPS at standard ET7 states;  
The definition of zero carbon in eco-towns is that over a year the net carbon dioxide emissions from all energy use within the buildings on the eco-town development as a whole are zero or below. The initial planning application and all subsequent planning applications for the development of the eco-town should demonstrate how this will be achieved.
- 5.22 This standard is higher than other national definitions of zero carbon as it includes the carbon from the buildings (heating and lighting = regulated emissions) as with other definitions, but also the carbon from the use of appliances in the building (televisions, washing machines, computers etc = unregulated emissions). This higher standard is being included on the exemplar development which is being referred to as true zero carbon.

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<sup>1</sup> Unless material considerations indicate otherwise

- 5.23 The NPPF identifies at para 7 that environmental sustainability includes prudent use of natural resources and the mitigation and adaptation to climate change including moving to a low carbon economy. Para 93 identifies that 'Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.'
- 5.24 The ACLP policy Bicester 1 seeks development that complies with the Eco Town standard. Policy ESD2 seeks carbon emission reductions through the use of an energy hierarchy, Policy ESD3 seeks all new residential development to achieve zero carbon and for strategic sites to provide contributions to carbon emission reductions Policy ESD4 encourages the use of decentralised energy systems and ESD5 encourages renewable energy development provided that there is no unacceptable adverse impact.
- 5.25 The NW Bicester SPD includes 'Development Principle 2: 'True Zero Carbon Development'. The Principle requires the achievement of zero carbon and the need for each application to be accompanied by an energy strategy to identify how the scheme will achieve the zero carbon targets and the phasing.
- 5.26 The Cherwell Local Plan policy Bicester 1 identifies a number of standards relating to the construction of dwellings at NW Bicester reflecting the provisions of the Eco Town PPS. For example the policy seeks homes to be constructed to Code for Sustainable Homes Level 5, meet lifetime homes standards and provide reduced water use. The determination of a planning application should be in accordance with adopted policy unless material considerations indicate otherwise.

The government has undertaken a review of housing standards following which the following documents have been published;

- i. Ministerial Statement: Planning Update March 2015 ("the Planning Update statement");
  - ii. DCLG Policy Paper 2010 to 2015 Government Policy: energy efficiency in buildings (updated 8 May 2015) ("the energy efficiency in buildings policy paper"); and
  - iii. Fixing the Foundations: creating a more prosperous nation 10 July 2015 ("the Treasury Statement").
- 5.27 These documents are material considerations in the determination of the current application. They set out the government's intent to deal with matters relating to housing standards through building regulations rather than through the planning system to reduce the burden on house builders. The NPPF paragraph 95 which says that, "to support the move to a low carbon future, local planning authorities should...when setting any local requirement for a building's sustainability, do so in a way consistent with the Government's zero carbon buildings policy and adopt nationally described standards." The Government has advised that it is no longer intending to implement the requirement for all new dwellings to be zero carbon in 2016 but is to keep the matter under review. The Code for Sustainable Homes has also been withdrawn. The Planning Update advises , "we would expect local planning authorities to take this statement of the government's intention into account in applying existing policies and not set conditions with requirements above Code level 4 equivalent".
- 5.28 The Planning Update Statement also sets out that from the 1st October 2015 that additional optional building regulations can be applied in relation to water and access where there is a planning policy to support the need for them. Space standards can

be applied where there is a planning policy to reflect the national standards. These changes relate to individual dwellings rather than the specific policy requirement for the development as a whole at NW Bicester to achieve zero carbon development as defined by the Eco Towns PPS and seek to achieve water neutrality. These requirements have been supported by the Inspector in the recent examination of the local plan and were an important rationale for the eco towns, that are to be exemplars of best practice. The work on the Exemplar development at NW Bicester has shown that the delivery of zero carbon development with reduced water use and the achievement of the eco town standards is feasible and achievable.

- 5.29 The application is accompanied by an energy statement, which explains that the development of the site will embody the eco town principles and adhere to the minimum standards set out within the PPS1 supplement, the NW Bicester masterplan and the emerging SPD for NW Bicester. It is set out that the proposal is to follow the energy hierarchy of be lean, be clean and be green and details are provided of this. Essentially, the proposal includes the provision of a site wide District Heating Network providing low temperature heating and hot water to all homes and the majority of non-domestic buildings within the Development. At this stage the application anticipates that this would require the construction of a single on-site Energy Centre with gas fired Combined Heat and Power (CHP) engine within the Development boundary. This Energy Centre would be able to function independently as a standalone system for Himley Village or could form part of the wider NW Bicester decentralised energy strategy through connection to other Energy Centres proposed within the wider NW Bicester eco-town area. It is anticipated that the remaining carbon reductions required to achieve the target Zero Carbon standard in accordance with the PPS1 Supplement will be achieved through the installation of roof mounted renewable Solar Photovoltaic (PV). Furthermore, design will contribute to optimising energy efficiency including that all homes will be designed with a fabric first approach, consideration of orientation to optimise daylight, consideration of materials, the incorporation of Real Time display energy monitors and to build to high standards of air tightness.
- 5.30 The commitments made in relation to meeting the zero carbon targets are very positive and the approach proposed is considered to be a viable way in meeting these ambitious targets. The specific detailed elements of the energy baseline and the sizing of the heat solution have been queried by Bioregional and in response, the applicant's Sustainability Consultants have provided an additional paper responding to each point albeit also confirming that as this is an outline application, with the applicant having made the commitment to zero carbon. In the view of Officers, whilst there are outstanding matters in relation to the detailed considerations, the applicant's commitment to meeting zero carbon is positive and it is therefore considered that S106 obligations/ conditions are used to carefully control this development such that additional energy information is required to be submitted and considered and the government's direction of travel with regard to housing standards has been reflected. The conditions do not therefore seek compliance with requirements such as Code for Sustainable Homes, particularly as the Code for Sustainable Homes has been withdrawn presenting a practical difficulty in seeking compliance. The requirements regarding reduced water use are recommended to reflect the higher building regulation standard now introduced.

#### **Climate Change Adaptation**

- 5.31 The Eco Towns PPS at ET8 advises;  
*Eco-towns should be sustainable communities that are resilient to and appropriate for the climate change now accepted as inevitable. They should be planned to minimise future vulnerability in a changing climate, and with both mitigation and adaptation in mind.*
- 5.32 ACLP policy ESD1 seeks the incorporation of suitable adaptation measures in new development to make it more resilient to climate change. Policy Bicester 1 requires all

buildings requires all new buildings to be designed incorporating best practice in tackling overheating.

- 5.33 The NW Bicester SPD includes 'Development Principle 3 - Climate Change Adaptation'. The principle requires planning applications to incorporate best practice on tackling overheating, on tackling the impacts of climate change on the built and natural environment including urban cooling through Green Infrastructure, orientation and passive design principles, include water neutrality measures, meet minimum fabric energy efficiency standards and achieve Code for Sustainable Homes Level 5. The principle also expects applications to provide evidence to show consideration of climate change adaptation and to design for future climate change.
- 5.34 Work was undertaken by Oxford Brookes University and partners, with funding from the Technology Strategy Board (now innovate UK), in 2011/12 looking at future climate scenarios for Bicester to 2050. Climate Change impacts are generally recognised as;
- a) Higher summer temperatures
  - b) Changing rainfall patterns
  - c) Higher intensity storm events
  - d) Impact on comfort levels and health risks
- The Design for Future Climate project identified predicted impacts and highlighted the potential for water stress and overheating in buildings as being particular impacts in Bicester. Water issues are dealt with separately below. For the exemplar development consideration of overheating led to the recognition that design and orientation of dwellings needed to be carefully considered to avoid overheating and in the future the fitting of shutters could be necessary to avoid overheating.
- 5.35 The application addresses this issue in that there is a commitment to support long term resilience to climate change including:
- Incorporating best practice on tackling overheating and the impacts of climate change on the built and natural environment including through the inclusion of SUDs, urban cooling through green infrastructure (at least 40%) and through passive design principles.
  - Locating development outside of the 1:100 year plus climate change and 1:1000 year flood zones.
  - Retention of existing hedgerows and woodland plus the creation of interconnecting green and blue corridors east to west and opportunities to provide shade and shelter, manage water.
  - Incorporating design led adaptive features to ensure the resilience of homes, the landscape and biodiversity to climate change.
  - Commitment to zero carbon development making a positive contribution to mitigating future climate change.
- 5.36 At the detailed design stage it will be necessary for the design to show that it has addressed the issue of climate change and the potential for overheating.

### **Homes**

- 5.37 Eco towns PPS ET9 sets requirements for new homes at NW Bicester. It states homes in eco-towns should:
- a) achieve Building for Life 9 Silver Standard and Level 4 of the Code for Sustainable Homes 10 at a minimum (unless higher standards are set elsewhere in this Planning Policy Statement)
  - b) meet lifetime homes standards and space standards
  - c) Have real time energy monitoring systems; real time public transport information and high speed broadband access, including next generation broadband where possible. Consideration should also be given to the potential use of digital access to support assisted living and smart energy management systems

- d) provide for at least 30 per cent affordable housing (which includes social rented and intermediate housing)
- e) demonstrate high levels of energy efficiency in the fabric of the building, having regard to proposals for standards to be incorporated into changes to the Building Regulations between now and 2016 (including the consultation on planned changes for 2010 issued in June 2009 and future announcements on the definition of zero carbon homes), and
- f) achieve, through a combination of energy efficiency and low and zero carbon energy generation on the site of the housing development and any heat supplied from low and zero carbon heat systems directly connected to the development, carbon reductions (from space heating, ventilation, hot water and fixed lighting) of at least 70 per cent relative to current Building Regulations (Part L 2006).

- 5.38 The NW Bicester SPD includes 'Development Principle 4 - Homes'. This principle includes the requirement that applications demonstrate how 30% affordable housing can be achieved, ensure that residential development is constructed to the highest environmental standards, involve the use of local materials and flexibility in house design and size as well as how development will meet design criteria. 'Development Principle 4A - Homeworking', which requires applications to set out how the design of the homes will provide for homeworking. This includes referring to the economic strategy as to how this will contribute to employment opportunities for homeworking.
- 5.39 ACLP Policy Bicester 1 states 'Layout to achieve Building for Life 12 and Lifetime Homes Standards, Homes to be constructed to be capable of achieving a minimum of Level 5 of the Code for Sustainable Homes on completion of each phase of development, including being equipped to meet the water consumption requirement of Code Level 5 and it also requires the provision of real time energy monitoring systems, real time public transport information and superfast broadband access, including next generation broadband where possible'.
- 5.40 The proposal seeks to establish the principle of residential development across this part of the masterplan and the parcels identified for this use broadly accord with the overall Masterplan for North West Bicester. Officers are satisfied that the principle of residential development on the parcels identified is acceptable all be it there is some discrepancy between the western boundary of the application site and that shown in the local plan allocation, however the application boundary is consistent with the masterplan boundary. The applicant seeks to provide a range of dwelling types and forms appropriate to the location and market demand and seeks to establish neighbourhoods within the site. Over all the level of residential development proposed on this site exceeds that anticipated through the masterplan which took a standard site coverage and density to establish the likely number of dwellings. However it has been demonstrated that the site will still deliver 40% green space and sufficient information has been provided to indicate that the site could accommodate the number of dwellings proposed. Consideration has also been given to the impact on proposed infrastructure. Sufficient land has been identified for schools to accommodate the population that is likely to arise from the site and no objection has been raised with regard to the provision of other infrastructure such as the road capacity. Given the need to deliver housing there is not considered an objection in principal to the provision of additional dwellings within the site provided other standards are met and a satisfactory design is achieved.
- 5.41 The application commits to achieving Code for Sustainable Homes level 5 (the use of this target is addressed above), Building for Life 12 and Lifetime Homes standards. Building for Life is a scheme for assessing the quality of a development through place shaping principles. This will be relevant as the scheme moves forward and to ensure the applicant's commitment can be met, a planning condition can be used. Lifetime homes standards were developed by the Joseph Rowntree Foundation to ensure

homes were capable of adaptation to meet the needs of occupiers should their circumstances change, for example a family member becoming a wheelchair user. The standards are widely used for social housing. At this stage the application is in outline with no detail of the design of dwellings is included and therefore this requirement will be covered by condition. Nationally set space standards were published in March 2015 and are a matter for the Local Planning Authority (it was not incorporated into the Building Regulations unlike other aspects of the Housing Standards Review).

- 5.42 Real time energy monitoring and travel information is a requirement of the PPS and Policy Bicester 1 and is being provided as part of the Exemplar development being constructed through the provision of tablet style information portals in every home. The applicant for Himley Village has also committed to the installation of real time display energy monitors for each home and non domestic building. This is an area where there is technical innovation and it would be inappropriate to specify a particular approach at this point in time and again this is a matter for detailed designs. A condition is therefore proposed to ensure future detailed proposals address this requirement.

#### Affordable Housing

- 5.43 Not only does the eco town PPS set out a requirement for affordable housing but Policy BSC3 of the ACLP sets out a requirement for 30% affordable housing for sites in Bicester (expected to provide 70% as affordable/ social rented dwellings and 30% as other forms of intermediate affordable homes) whilst Policy BSC4 seeks a mix of housing based on up to date evidence of housing need and supports the provision of extra care and other specialist supported housing to meet specific needs. Policy BSC3 emphasises that Cherwell has a high level of need for affordable housing and confirms that the Council's Housing Strategy seeks to increase the supply of and access to affordable rented housing. Securing new affordable housing on site as part of larger developments is the most significant way in which homes can be provided and policy BSC3 therefore seeks to achieve this so that the supply of new homes reflects the high level of need.

- 5.44 The NPPF advises that local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework. The NPPF at para 50 goes on to advise;

'To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should:

- plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes);
- identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand; and
- where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.'

- 5.45 The provision of 30% affordable housing can be secured by condition and/or S106 agreement provided the scheme is viable and the provision of affordable housing is a significant benefit of the scheme. The detailed housing mix will also need to be

agreed for both affordable and market housing to ensure that it meets local need and again a condition and/or S106 agreement are proposed to address the issue of the housing mix.

- 5.46 In this case, the applicant has proposed affordable housing provision by way of an early phase of the development that would be essentially the whole of the affordable housing provision in two or three 'villages' as an offer by Rent Plus, a provider of 'rent to buy' housing. The applicant considers this to be a huge opportunity with Rent Plus being a model which provides an affordable model for households who aspire to home ownership within a period of 20 years and which is a privately funded alternative to the private rented sector. Housing Officers have considered the Rent Plus model and have expressed concerns about this model for the whole of the affordable housing provision. These concerns relate to the long term ability to retain the units as affordable and their accessibility to people on the housing register.
- 5.47 The Rent Plus model is based on all the homes being sold in 5 year tranches with all reverting to market dwellings within 20 years, unless purchased by a registered provider. This would leave no long term Affordable Housing on the site if Rent Plus deliver the whole of the affordable housing element of the scheme. Rent Plus would intend to enter into a Memorandum of Understanding to provide a 1 for 1 replacement for every unit sold, however this would potentially mean the need to secure additional sites for this product and would not see a net increase in the number of affordable housing. This may also lead to procurement issues for the Council. The government are currently consulting on changes to the definition of affordable housing to provide further support for home ownership, however at this point there have been no changes to the affordable housing as defined by the NPPF.
- 5.48 Concerns are also raised in relation to the affordability of this product. Due to the criteria for being eligible to be on the Cherwell Housing Register for the Affordable rented housing, virtually no one on the register would be in a position to buy a home through this type of scheme and many require some form of subsidy for rented accommodation. It has been indicated that people in receipt of housing benefits would be unlikely to be able to access a Rent Plus Home and as such this product would not meet the Council's Statutory requirement to provide affordable housing to meet local need. It has been suggested that tenants of some existing affordable housing may wish to move to the site freeing up their existing properties for those on the housing waiting list but it is not known the extent to which such an opportunity would be attractive to people who might also be able to purchase their existing properties under right to buy. Never the less it is recognised that the product could assist some people into home ownership and therefore it is seen as a suitable route to deliver the 30% intermediate housing which is more normally provided through shared ownership.
- 5.49 A further concern with the proposal is the scale of the proposed villages such that this would be contrary to the Council's clustering policy and furthermore the untested nature of a Rent to Buy Village (Rent Plus have not delivered affordable housing on this scale elsewhere to date). This proposal would be a significant variation to the usual affordable housing provision that this Council seeks and Officers have concerns about how this model would comply with the Council's newly adopted policies or the NPPF in relation to meeting the whole affordable housing provision and create a mixed community across the Himley Village site. The applicant has submitted justification for the proposal, which Housing Officers are currently considering and are taking legal advice in relation to. Officers hope to be able to more firmly confirm their recommendation in relation to this matter at committee.

Fabric energy efficiency and carbon reduction

- 5.50 The PPS sets specific requirements for dwellings in terms of fabric energy efficiency and carbon reduction. The zero carbon energy strategy confirms the proposed

approach to be taken with regard to energy efficiency and carbon reduction. This will ensure low carbon and energy efficient homes are delivered through a fabric first approach to design and construction in combination with connection to a low carbon district heating network to meet all the Development's heating and hot water needs and the provision of roof mounted Solar PV to generate on-site renewable energy.

- 5.51 The application makes provision for market housing and the detail of this will be established through reserved matter submissions guided by the requirements of conditions and agreements attached to any outline permission. These conditions will ensure the housing meets the PPS standards and delivers high quality homes as part of a sustainable neighbourhood as sought in the NPPF. The application also seeks to make provision for affordable housing, however in a way that is of concern to Officers currently. Negotiations will continue in relation to this matter and it is likely that Officers will recommend that Members reconsider this proposal at a later date.

### **Employment**

- 5.52 The Eco Towns PPS sets out the requirement that eco towns should be genuinely mixed use developments and that unsustainable commuter trips should be kept to a minimum. Employment strategies are required to accompany applications showing how access to work will be achieved and set out facilities to support job creation in the town and as a minimum there should be access to one employment opportunity per new dwelling that is easily reached by walking, cycling and/or public transport.
- 5.53 The NPPF identifies a strong, responsive and competitive economy as a key strand of sustainable development (para 7) and outlines the Government's commitment to securing economic growth (para 18). The NPPF identifies offices, commercial and leisure development as town centre uses and advises a sequential test to such uses that are not in a town centre (para 24) and where they are not in accordance with an adopted plan. This policy is designed to protect the vitality of town centres and this has been an important consideration in developing the proposals for NW Bicester. Local retail, leisure and employment provision is sought to serve the needs of the new development and reduce the need to travel but the scale and mix of uses is such that they will not compete with the town centre so for example the proposals do not include large scale supermarkets or retail provision. The benefit of mixed use development for large scale residential development is recognised, and a core principle of the NPPF is to promote mixed use development and in other paragraphs such as para 38 the benefit of mixed use for large scale residential development is recognised.
- 5.54 The Adopted Cherwell Local Plan makes it clear that there is an aim to support sustainable economic growth and Policy SLE1 requires employment proposals on allocated sites to meet the relevant site specific policy. Policy Bicester 1 seeks:
- a minimum of 10 ha, comprising business premises focused at Howes Lane and Middleton Stoney Road
  - employment space in local centres
  - employment space as part of mixed use centres
  - 3000 jobs, approx. 1000 B class jobs on the site (within the plan period)
  - A carbon management plan produced to support applications for employment developments
  - An economic strategy demonstrating how access to work will be achieved and to deliver a minimum of 1 employment opportunity per dwelling easily reached by walking, cycling or public transport
  - Mixed use local centre hubs to include employment
  - Non-residential buildings to be BREEAM very good and capable of achieving excellent
- 5.55 The NW Bicester SPD includes 'Development Principle 5 - Employment'. This



principle requires employment proposals to address a number of factors and for planning applications to be supported by an economic strategy, which is consistent with the masterplan economic strategy and to demonstrate access to one new employment opportunity per new home on site and within Bicester. Each application should also include an action plan to deliver jobs and homeworking, skills and training objectives and support local apprenticeship and training initiatives.

- 5.56 An Economic Strategy was prepared to inform the Masterplan for the site and a subsequent strategy for the current application has been submitted. The Masterplan Economic Strategy looked at the opportunities for employment on the NW site in the context of Bicester and the employment allocations elsewhere in the town. The strategy identified the opportunity for some 4600 jobs on site within B1 business park, B2/B8 business park, an eco-business centre, local centre employment, education and employment in retained farmsteads, homeworking and long term construction jobs. Around 1000 local service jobs would also be created in Bicester to serve the demands of residents of the development and many of these would be in the town centre and 400 jobs in firms in the target sectors of the development but location on other employment sites in the town. The economic strategy is supported by an action plan to include ways to support job creation (e.g. through apprenticeships schemes), in addition to the provision of employment land, which will support wide employment growth in the town.
- 5.57 The current application provides an economic statement as part of the Planning Statement. This estimates that 2,847 jobs from the Himley Village development are expected to be generated comprising approximately 66 office jobs, 122 commercial and community based jobs, 30 jobs at the proposed retirement village, 75 jobs from the proposed school and nursery, 304 jobs from those working from home and 2,250 construction jobs throughout the construction period. The proposal makes provision for a range of non-residential uses including a primary school, local shopping and community facilities and a range of commercial uses and the parameter plans suggest these will be provided centrally within the site close to Himley Farm and adjacent to the Middleton Stoney Road. Provision is also made to facilitate home working and the provision of superfast broadband to all dwellings will support this. Off site jobs would also be created as a result of the proposed development primarily as a result of the extra demand for local services by virtue of the increase in population and because of employment generated by other businesses attracted to the eco town ethos and Bicester Garden City.
- 5.58 Officers are concerned in relation to the number of construction jobs predicted on this site compared to those predicted in the Masterplan for the whole development, however notwithstanding this, it is clear that the development would make a contribution to the total employment numbers across the site and therefore contribute to the adopted Cherwell Local Plan requirements. In addition, the Council is currently considering an application for the main employment site, which was deferred from the last committee meeting. It is therefore part of the recommendation that an economic strategy action plan is required to further refine the job numbers, through a legal agreement, to be submitted and implemented for this application to support job creation to meet the PPS standard.
- 5.59 It is considered that the NW development as a whole will meet the local plan target for jobs and is capable of meeting the PPS standard. It is appropriate for this standard to be met across the site to ensure appropriate distribution of uses including viable local centres. For this application it is important that it contributes as set out in the strategy and through proactive work on the action plan not just by the applicants but by other organisations with a stake and role to play such as Cherwell through its economic development work, Oxfordshire County Council through its work on skills, Bicester Vision and Chamber through their work to promote opportunity in the town and businesses as well as education providers around skills and training.

### **Transport and Highway Safety**

- 5.60 The Eco Towns PPS sets out that Eco Towns should 'support people's desire for mobility whilst achieving the goal of low carbon living'. The PPS identifies a range of standards around designing to support sustainable travel, travel planning and travel choice, modal shift targets, ensuring key connections do not become congested from the development and ultra low emission vehicles. The PPS seeks homes within 10 mins walk of frequent public transport and local services. The PPS recognises the need for travel planning to achieve the ambitious target of showing how the town's design will enable at least 50 per cent of trips originating in the development to be made by non-car means, with the potential for this to increase over time to at least 60 per cent.
- 5.61 The NPPF has a core principle that planning should;  
'actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.'  
The NPPF also advises that the transport system needs to be balanced in favour of sustainable transport giving people a real choice about how they travel (para 29). It is advised that encouragement should be given to solutions that support reductions in greenhouse gas emissions and reduce congestion (para 30). Transport assessments are required (para 32). The ability to balance uses and as part of large scale development have mixed use that limits the need to travel is also identified (para 37 & 38). The PPS advises that account should be taken of improvements that can be undertaken within the transport network that cost effectively limit the significant impacts of the development and that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe (para 32).
- 5.62 The Adopted Cherwell Local Plan policy SLE4 requires all development to 'facilitate the use of sustainable transport, make fullest use of public transport, walking and cycling'. Encouragement is given to solutions which support reductions in greenhouse gas emissions and reduce congestion. New development is required to mitigate off site transport impacts.
- 5.63 Policy Bicester 1 relates to the NW Bicester site and requires proposals to include appropriate crossings of the railway line, changes and improvements to Howes Lane and Lords Lane, integration and connectivity between new and existing communities, maximise walkable neighbourhoods, provide a legible hierarchy of routes, have a layout that encourages modal shift, infrastructure to support sustainable modes, accessibility to public transport, provide contributions to improvements to the surrounding road networks, provision of a transport assessment and measures to prevent vehicular traffic adversely affecting surrounding communities.
- 5.64 The Interim Draft SPD includes 'Development Principle 6 - Transport, Movement and Access'. This principle requires movement to be addressed within planning applications with priority to be given to walking and cycling through improvements to infrastructure and ensuring that all new properties sit within a reasonable distance from services and facilities, the need to prioritise bus links and with other highway and transport improvements to the strategic road network.
- 5.65 'Development Principle 6A - Sustainable Transport - Modal Share and Containment', seeks to achieve the overall aim that not less than 50% of trips originating in eco towns should be made by non car means. This supports providing attractive routes and connections through the development, providing connections to on and off site destinations including schools and local facilities, enhanced walking routes, the provision of primary vehicular routes but which do not dominate the layout or design of the area, the provision of bus infrastructure, the use of car sharing and car clubs

and with parking requirements sensitively addressed. The SPD also advises applications should demonstrate how these matters can be provided for as well as include travel plans to demonstrate how the design will enable at least 50% of trips originating in the development to be made by non car means.

Development Principle 6B – Electric and low emission vehicles requires proposals to make provision for electric and low emission vehicles through infrastructure and support in travel plans.

Development Principle 6C – Proposed Highways infrastructure – strategic link road and proposed highway realignments considers the benefits of realigning Bucknell Road and Howes Lane to provide strategic highway improvements, whilst creating a well-designed route that will accommodate the volumes of traffic whilst providing an environment that is safe and attractive to pedestrians, cyclists and users of the services and facilities used.

Development Principle 6D – Public Transport requires public transport routes to be provided that include rapid and regular bus services, with street and place designs to give pedestrians and cyclists priority as well as bus priority over other road vehicles. The location of the internal bus stops should be within 400m of homes and located in local centres where possible. Bus stops should be designed to provide Real Time Information infrastructure, shelters and cycle parking.

#### Application

- 5.66 The application is in outline and all matters are reserved. The application is accompanied by a movement and access parameter plan for the application site and this shows a principle access to the site from Middleton Stoney Road which would then join up with the internal spine road that runs to the realigned Howes Lane through land in other ownerships. A secondary access is also shown on to Middleton Stoney road and two further links to the development to the east and the realigned Howes Lane. The Design and Access statement, in addition provides indicative cross sections and illustrations of the road types, traffic calming and parking provision.

#### Transport Assessment

- 5.67 The application is accompanied by a transport assessment and framework travel plan. The transport assessment concludes;  
'The provision of mitigation measures and/or contribution to measures will address the impacts of NW Bicester on the road network as well as support improvements to the town's infrastructure. The Himley Village development will support the measures in proportion to the scale and traffic impact of the development as part of the NW Bicester masterplan. The measures supported will assist the County Council in addressing a range of town wide transport issues which are identified in the LTP3. The provision of high quality sustainable travel infrastructure, together with the travel planning measures to promote sustainable travel will ensure that the PPS1 Supplement targets are met. This will help make NW Bicester a reality.'
- 5.68 OCC as highway authority have not raised an objection subject to further details of the mitigation and that no more than 900 homes are built prior to the tunnel being provided under the railway to address the impact on the existing Howes Lane/Bucknell Road junction. Bicester Members have expressed concern over additional accesses on to Middleton Stoney Road and the response advises;  
'Whilst the County Council would prefer not to see further accesses onto this arterial route, Transport Development Control consider there is no technical reason to object to this.'
- 5.69 A Transport Technical Note was also provided in June 2015 a Technical Note 1 in December 2015 and an addendum in February 2016. These address the impact of the proposals on the Howes Lane/Bucknell Road junction and the phasing of

development.

The impact of the proposal on Howes Lane and the wider network are considered further below.

#### Walking and Cycling

##### 5.70 Layout

The NW Bicester Masterplan has been developed to promote sustainable travel whilst also making provision for vehicular traffic so people have a choice in the way they travel. This application is broadly consistent with the masterplan in that it provides for the primary road connections that will link to other parts of the NW Bicester site. A second access to Middleton Stoney Road is proposed that is not part of the NW Masterplan proposals. The Masterplan shows footpath/cyclepath links, including one running along the western perimeter landscape buffer and the others connecting east west and north south through the site. A further route for pedestrians and cyclists along the Middleton Stoney Road frontage has also been identified. The application parameter plans do not specifically identify the walking and cycling routes but the transport assessment identifies that provision will be a combination of segregated and unsegregated routes. The unsegregated routes will be along the green corridors crossing the site.

- 5.71 The NW Bicester Masterplan also includes local facilities such as schools, shops and community halls that will provide for the needs of residents and employees on the development, reducing the need to travel beyond the site. The masterplan identifies the provision of a primary school and sports pitches on this application site together with an area in the south east corner for care home/hotel/other use. Local retail facilities are proposed to the east of the application site within the application 14/01641/OUT which is the subject of a resolution to grant planning permission. The application includes the primary school and sports pitches generally as per the masterplan, but also includes the opportunity for other uses on the Middleton Stoney Road frontage including hotel, veterinary surgery, nursing home, pub, community facility, retail, office, nursery, health facility. If these facilities are provided they will provide a further opportunity to access local services for residents through walking and cycling.

#### Wider Walking & Cycling Network

- 5.72 Off site walking and cycling links have been identified as potential off road cycling provision and traffic calming along Shakespeare Drive, the improvement of the route from Bucknell Road to Queens Avenue and the provision of off road cyclepath along Middleton Stoney Road. All three applications south of the railway line are being asked to make a proportionate contribution to these provisions. Contributions have also been sought to the improvement of the existing bridleway where it runs beyond the site.
- 5.73 The pedestrian cycle link under the railway at NW, west of the Howes Lane realigned tunnel is excluded from the current applications with the Council but is included in the NW Bicester Masterplan. It has been proposed to require its provision through the use of Grampian conditions to restrict the extent of development until the tunnel is in place on application 14/01384/OUT and contributions to the cost secured from other applications.
- 5.74 The application would provide good walking and cycling provision both within the site, secured as part of detailed applications, and connecting to the existing town and its facilities when adjacent parcels of land are developed. If the site were to be developed in advance of land to the east, walking and cycling to local facilities would not be possible except along the Middleton Stoney Road. The phasing of development can be controlled by planning conditions and legal agreements.

#### Public Transport

- 5.75 To provide a choice in ways to travel attractive public transport is necessary. The NW Bicester masterplan included proposals for bus services to be provided through the site in two loops, to the North and the south of the railway line, to provide a regular service to the town centre and stations. This would provide for the majority of properties to be located within 400m of the bus route. To implement this service the parcels of land to the east and north (14/01675/OUT and 14/01641/OUT) would need to be developed.
- 5.76 The transport assessment outlines the proposed loop for buses through the development south of the railway line. The transport assessment advises;  
'In the early phases of development it is proposed that the frequency of buses is proposed every 15 minutes from the occupation of an agreed number of units. Once the 15 minute service is commercially viable, frequencies may increase to every 10 minutes'. When the proposed road structure is in place south of the railway line the envisaged service can be run, although it may require subsidy initially and this would be secured through the legal agreement.
- 5.77 In a letter from the applicant's agent of 3<sup>rd</sup> February 2016 it is stated that funding towards an interim bus service to ensure new communities are suitably-served by local facilities and capable of adopting sustainable travel patterns from the outset would be provided. The Transport Assessment identifies that a 15 minute service would be run from the end of phase 2 of the development (490 dwellings) with access from Middleton Stoney Road. It is not clear what provision could be provided to serve any earlier development.

#### Rail

- 5.78 Bicester is well served by rail and with the improvements to services to Oxford and the proposals to extend services eastwards, make this is an attractive mode of travel and makes the town an attractive location to live and work. The off site improvements for walking and cycling and bus service provision will support the links to the stations in the town via the town centre.

#### Vehicle Movements

- 5.79 The scope of the transport assessment has been agreed with OCC as highway authority. Although there are ambitious modal shift targets for the site the transport assessment has been carried out using standard trip rates for the whole of the masterplan and therefore assuming a worst case scenario. The assessment is of the traffic impact agreed to be based on the full development at NW Bicester at 2031.

The Transport Assessment identifies the following mitigation for the NW Bicester development;

- Signalisation of the Exemplar southern access
- Replacement of the B4100 Banbury Road/A4095 roundabout with traffic signals
- Traffic management measures on the B4100 Banbury Road/Caversfield unnamed road to reduce traffic levels and accident issues
- Traffic calming in Bucknell and Caversfield to reduce through traffic
- Measures to further reduce traffic and assist walkers and cyclists in the Shakespeare Drive area

- 5.80 In addition contributions to wider transport improvements in Bicester were anticipated. These improvements are necessary to enable development of the NW Bicester masterplan site and are being secured through the legal agreements relating to the applications on the site. In addition the County Council has identified the need for traffic calming at Middleton Stoney and is seeking contributions to such works from the applications south of the railway.

- 5.81 For a number of years it has been recognised that there is a need to improve the junction of Howes Lane and Bucknell Road where it passes under the railway and improve Howes Lane. The planned growth around Bicester, including the NW development, require these improvements. An interim scheme has been undertaken, secured through the Exemplar development at NW Bicester, but major change is required to accommodate the growth now planned for the town. The rail line at the junction runs on an embankment at an angle to the road and to improve the junction a new bridge is required and this requires third party land. It is proposed to address this constraint by relocating the junction to the west, beyond the Avonbury Business Park and Thames Valley Police premises. This enables a straight crossing under the rail line and an improved junction to the north. Linked to this improvement the realignment of the existing Howes Lane, from the Middleton Stoney Road roundabout to the new underpass is proposed as part of the A2D Masterplan and the whole of the proposed road and the rail crossing are the subject of a separate full planning application (14/01968/F) which appears elsewhere on the agenda. Outline applications 14/01384/OUT and 14/01641/OUT, (which have resolutions to grant permission) include sections of the realigned road and relate to land either side of the proposed tunnel. The remainder of the realignment is within the application 14/01675/OUT which was deferred at the last meeting of the planning committee. The realignment of Howes Lane is sought to address the impact of the existing road on the existing houses and to improve its design and capacity and enable the provision of footpaths and cyclepaths, sustainable drainage, avenue planting, crossings and improved urban design.
- 5.82 Given the constraints of the existing junction OCC have advised that there is a limitation on the number of additional traffic movements through the junction before it fails to function adequately. This has been equated to 507 dwellings (900 in total including the 393 dwellings already permitted on the exemplar site) and 40% of the proposed employment on the NW Bicester site. This capacity was identified through work undertaken by Hyder consulting in relation to application 14/01384/OUT.
- 5.83 Through the transport technical notes supporting the application the case that the original assessment to identify the capacity of the Howes Lane Bucknell Road junction assumed an even distribution of development and therefore it assumed approximately half the development would be south of the railway line. Furthermore development south of the railway line results in less impact through the junction and the development of 1700 dwellings at the application site would have a similar impact to 900 dwellings north of the railway line. They therefore argue that early development should be on the Himley Village site. The comments of Oxfordshire County Council on the latest technical note are awaited and will be reported at the meeting.
- 5.84 In considering the applications 14/01384/OUT and 14/01641/OUT, which are subject to resolutions to grant, 2 submitted by A2Dominion, it was clear from the highway advice that the proposed tunnel under the railway would be needed before either application could be built out. In considering how the limited capacity should be allocated between all the current applications on the NW Bicester site consideration was given to;
- a) how could the capacity be used by development best able to deliver the necessary tunnel, and
  - b) what development could be achieved whilst still meeting the policy requirements for being sustainable
  - c) is the development deliverable
- 5.85 A2Dominion have sought funding through the Homes and Community Agency (HCA)

to deliver the realigned Howes Lane and the tunnel under the railway. The HCA have confirmed they are willing to support the scheme. The funding would be in the form of a loan and A2D would look to share the cost of the provision across all the NW development based on the amount of residential land in each holding. A2Dominion have also confirmed that they would pursue the technical approval of the tunnel design through the GRIP process with Network Rail. A2Dominion have therefore identified a route by which the tunnel and realigned Howes Lane could be delivered early in the development and are willing to forward fund the costs of doing so.

- 5.86 In the light of arguments being made by other applicants on the NW Bicester site each was asked to identify how development on their site could meet the objectives identified above. The applicants (letter 3<sup>rd</sup> February 16) have indicated that they would provide a proportionate contribution to the provision of the tunnel and the link road. They do own or have control over land required for the road or tunnel, although they would expect to be able to work with adjoining land owners to ensure the land was brought forward and they are willing and able to commission and project manage the GRIP process. They note that the HCA is making a loan available and assume that is not being made exclusively available for A2Dominion's use. Whilst the applicants have shown a willingness to support the delivery of the road and the tunnel our view is that the delivery of the infrastructure through this application is less certain and less advanced than the proposals by A2Dominion.
- 5.87 With regard to how an early phase of development could be delivered in a sustainable form the applicant's identify that development could commence on the southern fields, adjacent to Middleton Stoney Road and that alongside residential development it is proposed to bring forward supporting uses and infrastructure. Phasing has been indicated but it is unclear the timing of facilities beyond the primary school which would be available by completion of 680 dwellings. The application site is divorced from the existing built up limits of the town and the application 14/01675/OUT (Albion Land) occupies land between the site and the town. If development commenced in isolation at the Himley Village site, with access from Middleton Stoney Road, it would not benefit from any existing facilities within walking distance and as such it is likely to encourage journeys by private car as opposed to reducing them. Development north of the railway line adjacent to the Elmsbrook site in contrast could take advantage of the primary school under construction, bus service that has been commissioned and local centre facilities that have detailed planning permission as well as connections to the existing town.
- 5.88 The letter indicates that development on the application site could commence and a first phase be substantially complete within 2 years of receiving an unfettered planning consent.
- 5.89 Careful consideration has been given to enabling development on the NW site as a means for securing the road and tunnel that are necessary for the build out of the site. Based on the current advice of the Highway Authority with regard to capacity it is proposed that the 507 dwellings are permitted north of the railway line adjacent to the Elmsbrook development. Development elsewhere would be controlled by a Grampian conditions and/or legal agreements provided that the Highway Authority consider it necessary.
- 5.90 The National Planning Practice Guidance advises;  
'Conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability. It may be possible to achieve a similar result using a condition worded in a negative form (a Grampian condition) – i.e. prohibiting development authorised by the planning permission or other aspects linked to the planning permission (e.g. occupation of premises) until a specified action has been taken (such as the provision of supporting infrastructure). Such conditions should

not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission.'

- 5.91 In this case Network Rail have raised no technical objection to the proposed work and negotiations are underway. On the evidence that we have seen to date A2D appear committed to deliver the infrastructure and negotiations are taking place that makes sure that they are bound to an appropriate programme. The provision of funding for the works from the HCA is available and therefore it is considered reasonable to use a Grampian approach in these circumstances.
- 5.92 There have been concerns expressed regarding the Howes Lane realignment, as well as support for moving traffic away from existing residential properties affected traffic on the existing road. The primary concern raised is whether the proposed realigned road will adequately function as a perimeter road to the town. The design of the realigned road has been the subject of extensive discussion with Highway Officers who have not raised objections. Whilst these concerns are recognised it is considered that the realignment of the road offers significant advantages. The existing Howes Lane has no footpaths or cyclepaths and runs immediately at the rear of properties. As the town grows improvement to the route and access from it is required. The relocation of the route provides the opportunity to remove traffic impacts from existing dwellings and design a route that has really good provision for pedestrians and cyclists, accommodates sustainable drainage, allows for landscaping and access as well as accommodating the vehicular traffic. It is officers view that it provides a better solution for the long term growth of the town than improvements to the existing Howes Lane.

#### Travel Plans

- 5.93 The PPS has an ambitious target to secure modal shift and the NPPF and Local Plan promote sustainable travel. The application is supported by a draft travel plan which identifies the target of 50% of all trips originating from Himley Village will be non car modes. The Eco Towns PPS sets this target but suggests it should rise to 60% where the development is adjacent to a higher order settlement. The travel plan identifies further targets that show a commitment to sustainable travel. The travel plan identifies how sustainable travel will be achieved including through the range of uses within the site and homeworking, marketing and branding, travel planning, parking strategy, car club, electric vehicles, public transport, walking and cycling routes, cycle parking and facilities.
- 5.94 The targets for modal shift on the site are ambitious and as such will require active measures to support the modal shift. The framework travel plan reflects the PPS target for modal shift and outlines a range of measures to achieve targets.

#### Conclusion

- 5.95 The application is supported by information that shows that the travel and transport aspects of the proposal have been assessed and that with mitigation the proposed development would be acceptable. The primary constraint identified in relation to the current application is the junction at Howes Lane/Bucknell Road. The resolution of the capacity issues is the construction of a new tunnel under the railway which forms part of the master plan for the development but is outside the current application site. As explained above it is proposed that capacity for development prior to the tunnel is used north of the railway line, with commitments to deliver the tunnel, and further development is restricted until the tunnel is in place provided that the Highway Authority consider it necessary to do so.

#### Healthy Lifestyles

- 5.96 The Eco Town PPS identifies the importance of the built and natural environment in improving health and advises that eco towns should be designed to support healthy and sustainable environments enabling residents to make healthy choices. The NPPF



also identifies the importance of the planning system in creating healthy, inclusive communities. The ACLP identifies the need for a 7 GP surgery which is supported by information provided by NHS England.

- 5.97 The NW Bicester SPD includes 'Development Principle 7 – Healthy Lifestyles', which requires health and wellbeing to be considered in the design of proposals. Facilities should be provided which contribute to the wellbeing, enjoyment and health of people, the design of the development should be considered as to how it will deliver healthy neighbourhoods and promote healthy lifestyles through active travel and sustainability. The green spaces should provide the opportunity for healthy lifestyles including attractive areas for sport and recreation as well as local food production.
- 5.98 The overall site would include a generous provision of open space (36.1ha) in different forms and in addition, facilities on the wider site include a county park, a community farm and allotments. The application site provides open space as well as walking and cycling routes and play space (in formal and informal opportunities) providing opportunities for residents and to encourage healthy and active lifestyle choices. The site would also include the provision of a range of amenities, social and community buildings within close walking distance of the homes to be provided, as well as being close to employment opportunities on the large employment site to the south east of the site and to the amenities provided elsewhere on the site including the secondary school and GP practice. The proposal also seeks to provide a network of private and public allotments enabling local food production. These are located along the main movement corridors and within ease of access from residential areas and in combination with private gardens will encourage local food production. It is considered the proposal would comply with the PPS in this regard.

#### **Local Services**

- 5.99 The PPS identifies the importance of providing services that contribute to the wellbeing, enjoyment and health of people and that planning applications should contain an appropriate range of facilities including leisure, health and social care, education, retail, arts and culture, library services, sport and play, community and voluntary sector facilities. The NPPF advises that to deliver social, recreational, cultural and services to meet the communities needs that you should plan positively to meet needs and have an integrated approach to the location of housing economic uses and community facilities and services (para 70). The ACLP Policy Bicester 1 identifies the following infrastructure needs for the site: education, burial ground, green infrastructure, access and movement, community facilities, utilities, waste infrastructure and proposals for a local management organisation. BSC 12 seeks indoor sport, recreation and community facilities whilst BSC 7 supports the provision of schools in sustainable locations and encourages co location.
- 5.100 The NW Bicester SPD contains 'Development Principle 8 – Local Services'. This principle requires facilities to meet the needs of local residents with a range of services located in accessible locations to homes and employment.
- 5.101 This development includes proposals for a number of local services including local shops, a school, a public house, a health centre, an extra care facility and other community and commercial services. The site also includes sports pitches which are provided for the benefit of the whole Masterplan site and, other facilities such as a GP practice are provided on other parts of the Masterplan site but still within an accessible location. A cultural strategy has also been developed that would seek to ensure that culture and the arts are incorporated into development proposals and some infrastructure provision is more sensibly made off site such as the expansion of the new library in the town centre and the existing sports centre and swimming pool.
- 5.102 The work done on planning for social and community infrastructure will result in the PPS standard being achieved and compliance with the advice in the NPPF and

ACLP.

**Green Infrastructure**

- 5.103 The PPS requires the provision of forty per cent of the eco-town's total area should be allocated to green space, of which at least half should be public and consist of a network of well-managed, high quality green/open spaces which are linked to the wider countryside. A range of multi-functional green spaces should be provided and particular attention to providing land to allow the local production of food should be given.
- 5.104 The NPPF advises at para 73 that access to high quality spaces and opportunities for sport and recreation can make an important contribution to the health and wellbeing of communities. It also emphasises that Local Planning Authorities should set out a strategic approach in their local plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure (para 114).
- 5.105 Adopted Cherwell Local Plan Policy BSC11 sets out the minimum standards that developments are expected to meet and it sets out standards for general green space, play space, formal sport and allotments. Furthermore, site specific, Policy Bicester 1 requires the provision of 40% of the total gross site area to comprise green space, of which at least half will be publicly accessible and consist of a network of well-managed, high quality green/ open spaces which are linked to the countryside. It specifies that this should include sports pitches, parks and recreation areas, play spaces, allotments, the required burial ground and SUDs.
- 5.106 The NW Bicester SPD includes 'Development Principle 9 – Green Infrastructure and Landscape'. This principle requires green space and green infrastructure to be a distinguishing feature of the site making it an attractive place to live. Planning applications should demonstrate a range of types of green space that should be multi-functional, whilst preserving natural corridors and existing hedgerows as far as possible. Furthermore it emphasises that 40% green space should be demonstrated.
- 5.107 The application proposes green infrastructure in a range of forms including woodlands, public green space, playing fields, SUDs, school playing fields, newt protection areas, allotments and hedgerow buffers. The applicant has submitted a table showing that based upon existing green infrastructure to be retained as well as that proposed, the total green infrastructure across the site amounts to 40.2% of the site area. Much of this area would be publicly accessible although the land for the school playing fields may not be. The application complies with Policy in this regard.
- 5.108 The applicant proposes Green Infrastructure in a number of ways through the site, including by way of a village green at the heart of the development, a network of swales and attenuation ponds, high quality interconnected green spaces linked to the wider ecotown area and surrounding countryside, the protection of hedgerows and the inclusion of 10m landscape buffers on either site, the retention and enhancement of the broadleaved woodland to the east of the site and the planting of new woodland. A range of climate change adaptation measures are also supported through new GI including the creation of suitable green buffers to increase flood resilience, street trees and shading with vegetation.
- 5.109 The application has also been considered against Policy BSC11 which is the minimum standard that most developments are expected to meet. The policy sets out standards for general green space, play space, formal sport and allotments. For this application, the policy seeks around 12.1ha of general amenity space, 3.45ha of play space, 4.99ha of outdoor sport provision and 1.6ha for allotments. The application indicates a greater area of allotments and outdoor sport provision than required by the Policy, which is a significant benefit to the scheme. The outdoor sport pitches in

particular serve the wider masterplan site and are in one position (on this site) in order to enable higher standard provision and to facilitate long term management and maintenance. This element of the proposal therefore has wider benefits than just the Himley Village scheme. A total of 3.17ha of play provision is provided and it would appear from the calculations that sufficient general amenity space would be provided. Sufficient space is available for the proposal to comply with Policy BSC11 in this regard.

### **Landscape and Historic Environment**

- 5.110 The Eco Town PPS advises that planning applications should demonstrate that they have adequately considered the implications for the local landscape and historic environment to ensure that development compliments and enhances the existing landscape character. Measure should be included to conserve heritage assets and their settings. The NPPF recognises the intrinsic character and beauty of the countryside (para 17). The NPPF advises that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality.
- 5.111 Adopted Cherwell Local Plan Policy Bicester 1 requires ‘a well-designed approach to the urban edge which related development at the periphery to its rural setting’ and development that respects the landscape setting and demonstrates enhancement of wildlife corridors. A soil management plan may be required and a staged programme of archaeological investigation. Policy ESD13 advises that development will be expected to respect and enhance the local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided.
- 5.112 The NW Bicester SPD contains ‘Development Principle 9A – Tree Planting’, requires native trees and shrubs should be planted on the site to reflect the biodiversity strategy. Sufficient space should be allocated for tree planting to integrate with the street scene and adjacent street furniture, highways infrastructure, buildings and any associated services.

‘Development Principle 9B – Development Edges’ seeks to ensure that development on the edge of the site is likely to be more informal and rural in character and that this will be reflected in the nature of the green spaces to be provided whereas formal open spaces and sports pitches will have a different character.

‘Development Principle 9C – Hedgerows and Stream Corridors’ requires applications to explain green infrastructure in relation to the way it fits with the housing and commercial developments. Hedgerow losses should be minimised and mitigated for and hedgerows to be retained should be protected and enhanced with buffer zones and additional planting. A minimum 60m corridor to the watercourses should be provided to create a strong landscape feature in the scheme and secure the opportunity for biodiversity gain. Dark corridors to provide connectivity between habitats and ecosystems must be planned and protected.

‘Development Principle 9D – Sports Pitches’, requires that sufficient quantity and quality of an convenient access to open space, sport and recreation provision is secured through ensuring that proposals for new development contribute to open space, outdoor sport and recreation provision commensurate to the need generated by the proposals.

- 5.113 The Environmental Statement for the application assesses the landscape and visual effects of the proposal. The assessment finds that the site is not within any specific landscape designation but that in terms of local character assessments, the site sits within the Wooded Estatelands’ Landscape Character Type as set out within the Oxfordshire Wildlife and Landscape Study 2004. This character type has the following key characteristics:

- Rolling topography with localised steep slopes
- Large blocks of ancient woodland and mixed plantations of variable sizes
- Large parklands and mansion houses
- A regularly shaped field pattern dominated by arable fields.
- Small villages with strong vernacular character

Within the Cherwell District Landscape Assessment, the site forms part of the Oxfordshire Estate Farmlands character area and within the local landscape character areas of the NW Bicester Masterplan, the site is characterised as Himley Farm Slopes, characterised by a grid of existing hedgerows. The ES finds that the site includes landscape elements and features that are of value to local distinctiveness and that the site has been developed to respond to this context. During the construction phase of development, the likely effects range from negligible to moderately adverse. Once complete, the assessment finds a permanent, minor adverse residual effect on the setting of Himley Farm due to the change in landscape character. All other effects are likely to be negligible to moderately beneficial once the development is completed. Similarly, the completed development is likely to have a permanent negligible to moderately adverse residual visual effect.

- 5.114 The assessment finds that the development of Himley Village has taken into account potential landscape effects and aims to wholly incorporate and maintain landscape elements and features to improve the local landscape character, quality and sense of place. The parameter plans and development principles seek to set the basis for a development that responds directly to the surrounding site context to minimise the adverse effects. The proposal seeks to retain, protect and enhance the majority of hedgerows and trees across the site and incorporate these into the development.
- 5.115 The Landscape Officer generally agrees with the conclusions of the LVIA raising a number of comments. Taking into account changes made to the plans through the processing of the application, including the building heights parameter plans, an addendum to the ES was submitted which also assessed Bignell Park and Lovelynch House receptors. This addendum found that there would be no change in effects previously identified during the construction phase. Once complete, the assessment found a minor adverse residual effect on the setting of Bignell Park Historic Landscape and a negligible to minor adverse effect on the residential setting of Lovelynch House. There were no other changes identified to other assessed landscape receptors and no change to the assessment of effects on visual amenity.
- 5.116 It is considered that the proposals to integrate the development into the landscape including the protection and incorporation of landscape features is acceptable and appropriate. Care will need to be taken at the reserved matters stage in relation to the detailed design, particularly close to sensitive receptors and in relation to building heights taking into account the established parameters and detailed planning conditions. Trees and hedgerows would require adequate protection where they are to be retained.
- 5.117 The assessment also considers the historic landscape and it is identified that the key features are the hedgerow boundaries. It is found that 26 of the 39 hedgerows on site are considered 'important' in line with the hedgerow regulations. The hedgerows serve as a visual reminder of the character of the historic landscape and the proposals have been developed to respect the landscape and includes the retention of historic field boundaries, watercourses and woodland.
- 5.118 The Environmental Statement considers built heritage and in particular the two barns at Himley Farm, which are grade II listed. The ES identifies that the barns have architectural importance as an example of hand threshing barns, archaeological importance as evidence of historic farming processes and historical importance

because they demonstrate the continuation of agricultural traditions in the area. The residual construction stage impact is considered to be negligible as the barns would be protected. Once complete, the significance of effect is considered to be moderate/minor adverse due to the setting of the barns changing from fields to suburban development.

- 5.119 In this context, it is necessary to consider S66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires that, in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. It is clear that some harm would be caused to the setting of the listed buildings due to the change in the setting of the buildings that would be caused by the change from agricultural land to a suburban extension. In the context of the Framework, this harm is judged to be less than substantial and the test to be applied by para 134 is that this harm should be weighed against the public benefits of the proposal. As is identified by Historic England, the proposal seeks to mitigate the harm to the setting of the listed buildings by way of the design parameters set (including in their amended form) which seeks to establish landscape buffers around the farm and areas of open space nearby. It is considered that in this context and considering the wider public benefit of this proposal, which forms part of a large allocated site, providing housing in a highly sustainable form, the harm to the significance of the listed buildings can be carefully controlled. It will be important that future design documents and detailed design considerations consider issues such as building heights and ensuring the incorporation of the open space to ensure the harm to the buildings is limited and mitigated in line with the ES as far as possible.
- 5.120 With regard to archaeology, the County Archaeologist has identified some potential and so recommends planning conditions to require further work before development commences. These are considered reasonable and will be recommended.
- 5.121 The ACLP suggests a soil management plan may be required. The ES covers agriculture, soils and land use. The land has been identified as grade 3 agricultural land with most of the land falling within grade 3b. The ES suggests the adoption of a soil management plan and the incorporation of green open space or woodland buffers between new urban development and remaining surrounding areas of agricultural land to minimise the potential adverse effects of the construction and operation of this development.

#### **Biodiversity**

- 5.122 The Eco Town PPS requires that net gain in local biodiversity and a strategy for conserving and enhancing local bio diversity is to accompany applications. The NPPF advises the planning system should minimise impacts on bio diversity and providing net gains where possible, contribute to the Government's commitment to prevent the overall decline in bio diversity (para 109) and that opportunities to incorporate bio diversity in and around developments should be encouraged (para 118). The ACLP Policy Bicester 1 identifies the need for sports pitches, parks and recreation areas, play spaces, allotments, burial ground and SUDs and for the formation of wildlife corridors to achieve net bio diversity gain. Policy ESD10 seeks a net gain in bio diversity.
- 5.123 The NW Bicester SPD includes 'Development Principle 9E – Biodiversity', requires the preservation and enhancement of habitats and species on site, particularly protected spaces and habitats and the creation and management of new habitats to achieve an overall net gain in biodiversity. Open space provision requires sensitive management to secure recreation and health benefits as well as biodiversity gains. Proposals should demonstrate inclusion of biodiversity gains and all applications

should include a biodiversity strategy.

Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that “every public authority must in exercising its functions, must have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity” and;

Local planning authorities must also have regards to the requirements of the EC Habitats Directive when determining a planning application where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”.

Articles 12 and 16 of the EC Habitats Directive are aimed at the establishment and implementation of a strict protection regime for animal species listed in Annex IV(a) of the Habitats Directive within the whole territory of Member States to prohibit the deterioration or destruction of their breeding sites or resting places.

Under Regulation 41 of Conservation Regulations 2010 it is a criminal offence to damage or destroy a breeding site or resting place, but under Regulation 53 of Conservation Regulations 2010, licenses from Natural England for certain purposes can be granted to allow otherwise unlawful activities to proceed when offences are likely to be committed, but only if 3 strict legal derogation tests are met which include:

- 1) is the development needed for public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature (development).
- 2) Is there any satisfactory alternative?
- 3) Is there adequate mitigation being provided to maintain the favourable conservation status of the population of the species?

Therefore where planning permission is required and protected species are likely to be found to be present at the site or surrounding area, Regulation 53 of the Conservation of Habitats and Species Regulations 2010 provides that local planning authorities must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions and also the derogation requirements (the 3 tests) might be met. Consequently a protected species survey must be undertaken and it is for the applicant to demonstrate to the Local planning authority that the 3 strict derogation tests can be met prior to the determination of the application. Following the consultation with Natural England and the Council's Ecologist advice given (or using their standing advice) must therefore be duly considered and recommendations followed, prior to the determination of the application.

- 5.124 The application is accompanied by a 'Note of a Phase 1 Survey for Himley Farm'. The purpose of this was to update the earlier surveys undertaken by Hyder for the wider Masterplan. The note identifies the habitats present including arable fields, improved grassland, hedgerows, native broadleaved plantation woodland, ponds, mature trees and a list of species are noted. Otherwise, the applicant relies on the earlier surveys from 2010 and 2011 and the conclusions reached including the species likely to be present and affected by the site wide development. In particular, these surveys found two ponds within the southern half of the site which supported a medium population of Great Crested Newts, bats and breeding and overwintering birds. The Environmental Statement further considers the impact upon ecology and suggests mitigation measures. The ES generally finds the ecological impact of the development would be negligible with some limited minor adverse impacts but that with mitigation, the overall impacts would be acceptable. The ES suggests that

updated surveys would be required prior to any work commencing to enable mitigation strategies for protected species to be prepared.

- 5.125 In terms of enhancements, the proposal will include the provision of 40% green space, native planting, artificial nest boxes, street trees, new hedgerows, trees and ponds, SUDs which would have beneficial impacts on biodiversity and the provision of a newt protection area between the two ponds known to accommodate GCN as well as features such as green roofs and walls.
- 5.126 The Ecology section of the ES has been updated as part of an addendum, which considered the proposed amendments. These changes would result in modest increases in the areas of hedgerows, woodland and swales but overall the ES addendum did not consider that the proposed amendments would have any greater significant impact than that assessed and it did not identify any need for additional mitigation.
- 5.127 The ES addendum further confirms that dark corridors will be provided in line with the Eco Town Masterplan (40m) and that hedgerows would be buffered by 10m either side of the existing hedges. The applicant further submitted a calculation using the Defra metric to consider and demonstrate net biodiversity gain. Some concerns have been raised with regard to whether this site would achieve a net gain in bio diversity. It is considered that the extent of green infrastructure provides an opportunity to deliver a net gain in bio diversity and that this can be secured through the use of suitable conditions.
- 5.128 Although most bio diversity is proposed to be mitigated on site farmland birds cannot be as there will not be the scale of open fields that they require and similarly brown hare, although it is not evident that the site is currently of importance for this species. As a result it has been accepted that these species will need to be mitigated off site. The ES addendum acknowledges this matter and confirms that off site mitigation is required and which would need to be part of an agreement with the Local Planning Authority. An approach has been agreed that would allow either a farm scheme or the funding to be used for the purchase of land to secure mitigation for farmland birds. This would be secured through a legal agreement.
- 5.129 Subject to securing the protection of habitats and the achievement of net bio diversity gain through conditions or legal agreements the application proposals will achieve a net gain in bio diversity meeting the requirement of the PPS, NPPF and ACLP. In protecting habitats and protected species sites section 40 of the NERC act and the requirements of the Habitat Directive are satisfied.

#### **Water**

- 5.130 The Eco Towns PPS states 'Eco Towns should be ambitious in terms of water efficiency across the whole development particularly in areas of water stress. Bicester is located in an area of water stress. The PPS requires a water cycle strategy and in areas of serious water stress should aspire to water neutrality and the water cycle strategy should;
- (a) the development would be designed and delivered to limit the impact of the new development on water use, and any plans for additional measures, e.g. within the existing building stock of the wider designated area, that would contribute towards water neutrality
  - (b) new homes will be equipped to meet the water consumption requirement of Level 5 of the Code for Sustainable Homes; and
  - (c) new non-domestic buildings will be equipped to meet similar high standards of water efficiency with respect to their domestic water use.
- 5.131 The NPPF advises at para 99 that when new development is brought forward in areas that are vulnerable care should be taken to ensure risks can be managed

through suitable adaption measures, including through the planning of green infrastructure. The ACLP Policy ESD8 advises 'Development will only be permitted where adequate water resources exist or can be provided without detriment to existing uses.' Policy Bicester 1 requires a water cycle study and Policy ESD 3 requires new development to meet the water efficiency standard of 110 litres/person/day.

- 5.132 The NW Bicester SPD includes 'Development Principle 10 – Water'. This principle requires water neutrality to be achieved which means the total water used after a new development is not more than the total water used before the new development. Applications should be accompanied by a Water Cycle Strategy that provides a plan for the necessary water services infrastructure improvements. This should incorporate measures for improving water quality and managing surface water, ground water and local watercourses to prevent surface water flooding and incorporate SUDs designed to maximise the opportunities for biodiversity.
- 5.133 The applicant has submitted the overall site wide Masterplan Water Cycle Study, which shows that there will be an increase in demand for drinking water as a result of the development. The application advises that the proposed water demand will be sought to be reduced through the use of water efficient fittings within all properties on the site and that rainwater and grey water recycling is proposed to further reduce water requirements. The application confirms that the minimum design standard for all new dwellings will be that water efficient fixtures and fittings are specified to reduce average per capita consumption to at least 105l/p/d and that non-residential buildings will be designed with water efficient fixtures and fittings so as to reduce whole building potable water use by at least 55% from the baseline demand in accordance with BREEAM Excellent rating. Furthermore, on-site water recycling technologies including rainwater and grey water recycling will also be used locally to supplement domestic supplies, and reduce demand for potable water further to less than 80 l/p/d and meet Code for Sustainable Homes Level 5 mandatory water standards.
- 5.134 The submission further emphasises that the SUDs that will be incorporated within the scheme will enhance water quality with them being sized to provide the required attenuation storage for the 1% AEP plus a 30% allowance for climate change. With regard to waste water arising from the development, the considerations are currently that the will connect directly into the existing Bicester Waste Water Treatment Works (albeit upgrades may be required as per the advice received from Thames Water). Alternatively, the applicant is considered the use of an onsite water treatment works to treat foul effluent in a local treatment plant located within the development. This potential on site treatment works does not form part of the scope of the current application and would require a separate application in the future should this proposal be progressed.
- 5.135 It is positive that the applicant is aspiring to high water efficiency targets; however these targets do not confirm how the target of water neutrality can be achieved on this site. It is considered that a condition requiring the higher building regulation standards for water efficiency is required. Subject to conditions, it is considered that the proposal can comply with the PPS and SPD.

#### **Flood Risk Management**

- 5.136 The Eco towns PPS advises that the construction of eco towns should reduce and avoid flood risk wherever practical and that there should be no development in Flood Zone 3. The NPPF advises that inappropriate development in areas of flood risk should be avoided (para 100) and that development should not increase flood risk elsewhere (para 103). The ACLP policy ESD6 identifies that a site specific flood risk assessment is required and that this needs to demonstrate that there will be no increase in surface water discharge during storm events up to 1 in 100 years with an allowance for climate change and that developments will not flood from surface water



in a design storm event or surface water flooding beyond the 1 in 30 year storm event. Policy ESD 7 requires the use of SUDs.

- 5.137 The NW Bicester SPD includes 'Development Principle 11 – Flood Risk Management', which requires the impact of development to be minimised by ensuring that the surface water drainage arrangements are such that volumes and peak flow rates leaving the site post development are no greater than those under existing conditions. The aim is to provide a site wide sustainable urban drainage system (SUDs) as part of the approach and SUDs should be integrated into the wider landscape and ecology strategy. Applications should demonstrate that the proposed development will not increase flood risk on and off the site and take into account climate change.
- 5.138 The FRA shows that the site falls within flood zone 1 and is consequently at low risk of flooding. The FRA considers existing conditions, including details of the existing drainage features, which are formed from drainage ditches connecting to existing watercourses. The surface water drainage strategy for the site is to manage surface water runoff and to include a network of above ground attenuation incorporated within the green infrastructure across the Development. Surface water is to be managed through a Sustainable Drainage System which will achieve greenfield run off rates from the Site. This will include swales located within the green corridors which will act as key pathways for surface water to flow through the site and will also act to attenuate water by using a series of check dams and detention basins integrated in to the landscape where the natural topography can provide additional storage.
- 5.139 The Environment Agency originally objected to the scheme on the basis that the FRA failed to satisfactorily demonstrate that there are viable outfall locations for surface water discharging from the site (in particular that further work was required to confirm that surface water can be drained via identified culverts) and how and where the required 27,000sqm<sup>3</sup> of surface water attenuation will be provided on the site (it was considered unclear that sufficient storage is being provided within the indicative layout, especially during early phases of the development). Additional information has been submitted in relation to swale volumes and drainage layouts as well as the existing outfalls and this has been reconsidered by the Environment Agency and The Oxfordshire County Council drainage team. Both parties have removed their objection on flood risk grounds. In the view of Officers, sufficient information has been provided at this stage to demonstrate that the risk from flooding is limited and that a scheme to deal with surface water can be reached. It is therefore considered that with suitable conditions to agree a full drainage strategy, the application can be considered to comply with the PPS, NPPF and the ACLP with regard to flood risk.

### **Waste**

- 5.140 The Eco Towns PPS advises that applications should include a sustainable waste and resources plan which should set target for residual waste, recycling and diversion from landfill, how the design achieves the targets, consider locally generated waste as a fuel source and ensure during construction ensure no waste is sent to landfill. The National Waste Policy identifies a waste hierarchy which goes from the prevention of waste at the top of the hierarchy to disposal at the bottom. The National Planning Practice Guidance identifies the following responsibilities for Authorities which are not the waste authority;
- promoting sound management of waste from any proposed development, such as encouraging on-site management of waste where this is appropriate, or including a planning condition to encourage or require the developer to set out how waste arising from the development is to be dealt with
  - including a planning condition promoting sustainable design of any proposed development through the use of recycled products, recovery of on-site material and the provision of facilities for the storage and regular collection of waste

- ensuring that their collections of household and similar waste are organised so as to help towards achieving the higher levels of the waste hierarchy
- 5.141 The NW Bicester SPD includes 'Development Principle 12 – Waste', which sets out that planning applications should include a sustainable waste and resources plan covering both domestic and non-domestic waste and setting targets for residual waste, recycling and landfill diversion. The SWRP should also achieve zero waste to landfill from construction, demolition and excavation.
- 5.142 The application is accompanied by a Sustainable Waste and Resources Plan, which sets targets for residual waste and recycling along with mechanisms for monitoring and achieving these targets. This provides details of the areas existing waste management systems and the anticipated waste streams from the development. Targets are set for the reduction of residual waste (diversion of 95% waste from landfill) and for 70% of the total waste collected to be reused, recycled or composted and includes details for how this level of performance can be realistically achieved. The Environmental Statement assesses that there would be a negligible impact upon waste both at the construction stage and once the development is occupied given the targets set for diverting waste from landfill and for recycling, reuse and composting. Conditions and/ or legal agreements will be used to ensure measures to achieve the targets will be put in place.
- Master Planning**
- 5.143 The Eco Towns PPS sets out that 'eco-town planning applications should include an overall master plan and supporting documents to demonstrate how the eco- town standards set out above will be achieved and it is vital to the long term success of eco towns that standards are sustained.' The PPS also advises there should be a presumption in favour of the original, first submitted masterplan, and any subsequent applications that would materially alter and negatively impact on the integrity of the original masterplan should be refused consent.
- 5.144 The ACLP Policy Bicester 1 states 'Planning Permission will only be granted for development at North West Bicester in accordance with a comprehensive masterplan for the whole site area to be approved by the Council as part of a North West Bicester Supplementary Planning Document.'
- 5.145 A masterplan and supporting documents have been produced by A2Dominion in consultation with the Council and other stakeholders. This masterplan has been the subject of public consultation. The development at NW Bicester will take place over a number of years and as such it was considered important that the key components of the masterplan are enshrined in planning policy and therefore the Council has produced a draft SPD. The SPD emphasises that in order to ensure a comprehensive development, all planning applications will be required to be in accordance with the framework masterplan for the site. Applications should provide a site specific masterplan to show how that site fits with the overarching masterplan and demonstrate the vision and principles set out in the site wide masterplan and the SPD.
- 5.146 The NW Bicester site identified in ACLP is large and it is important that development is undertaken in such a way as to deliver a comprehensive development. A masterplan is an important tool in achieving this particularly when there is not a single outline application covering the site as in this case. The application has been submitted with a masterplan and parameter plans, which demonstrate that the proposals for Himley Village have been prepared having regard to the submitted masterplan and generally accord with it in relation to the overall proposal for the site. Whilst there are minor variations from the masterplan, which are considered elsewhere in this report, these are generally considered to be acceptable and are justified and Officers are content that critical access points can be negotiated to

ensure the site is a comprehensive development. Notwithstanding this, it will be important that appropriate triggers are included within legal agreements to ensure that the development is linked to the provision of infrastructure, including the provision of the re-aligned road and tunnel to ensure that the wider development provides infrastructure at the right time and to support the masterplan approach to delivery.

- 5.147 The Eco Towns PPS, the A2D masterplan and the emerging SPD provide a framework for securing a comprehensive development. Although the SPD is not yet approved it has progressed to an advanced stage and been informed by consultation of the A2D masterplan and the draft SPD and as such can be given some weight in the consideration of the current application.

#### **Transition**

- 5.148 The Eco Towns PPS advises that planning applications should set out;
- a) the detailed timetable of delivery of neighbourhoods, employment and community facilities and services – such as public transport, schools, health and social care services, community centres, public spaces, parks and green spaces including biodiversity etc
  - b) plans for operational delivery of priority core services to underpin the low level of carbon emissions, such as public transport infrastructure and services, for when the first residents move in
  - c) progress in and plans for working with Primary Care Trusts and Local Authorities to address the provision of health and social care
  - d) how developers will support the initial formation and growth of communities, through investment in community development and third-sector support, which enhance well-being and provide social structures through which issues can be addressed
  - e) how developers will provide information and resources to encourage environmentally responsible behaviour, especially as new residents move in
  - f) the specific metrics which will be collected and summarised annually to monitor, support and evaluate progress in low carbon living, including those on zero carbon, transport and waste
  - g) a governance transition plan from developer to community, and
  - h) how carbon emissions resulting from the construction of the development will be limited, managed and monitored.
- 5.149 The timing of the delivery of community services and infrastructure has been part of the discussions that have taken place with service providers in seeking to establish what it is necessary to secure, through legal agreements, to mitigate the impact of development. This has included working with Oxfordshire County Council on education provision and transport, NHS England, Thames Valley Police and CDC's Community Development Officer. The application is accompanied by a phasing plan demonstrating the delivery of the proposed land uses. It is considered that the timing of the provision of infrastructure can be negotiated through the S106 process in order to meet the needs at the correct time.
- 5.150 The monitoring of the development is important and will allow the success of the higher sustainability standards to be assessed and inform future decision making. A monitoring schedule has been developed for the Exemplar development that is currently under construction. This was secured through the legal agreement accompanying the application and a similar approach is proposed for the current application.
- 5.151 The limiting of carbon from construction has been addressed on the Exemplar application by measures such as construction travel plans, work on reducing embodied carbon and meeting CEEQUAL (sustainability assessment, rating and

awards scheme for civil engineering). It is proposed that this same approach would be taken on subsequent applications for the wider site and so this would be relevant for the current application. Conditions and/ or the legal agreement would seek to address this point.

- 5.152 The requirements for transition arrangements can therefore be met and secured as part of any planning permission that might be granted.

#### **Community and Governance**

- 5.153 The Eco Towns PPS advises that planning applications should be accompanied by long term governance structures to ensure that standards are met, maintained and evolved to meet future needs, there is continued community involvement and engagement, sustainability metrics are agreed and monitored, future development meets eco town standards and community assets are maintained. Governance proposals should complement existing democratic arrangements and they should reflect the composition and needs of the local community. ACLP Policy Bicester 1 requires the submission of proposals to support the setting up of a financially viable local management organisation.
- 5.154 The NW Bicester SPD includes 'Development Principle 13 – Community and Governance', requires planning applications to show how they support the work to establish a Local Management Organisation (LMO) as the long term governance structure and seek to achieve a seamless approach across the site in terms of community led activities and facilities.
- 5.155 The applicant has submitted details of a proposed Land Trust model (to be known as Himley Farm Land Trust) within their design and access statement. Their intention would be that this would take on the long term operation of the landscape and community assets within the proposed development and they see the potential to extend this role to the wider NW Bicester Eco Town.
- 5.156 Officers have raised concern with the principle of such an approach, given the work that has been ongoing with a group of local stakeholders, A2 Dominion and CDC officers in relation to the setting up of a LMO. This work has demonstrated there is a local appetite for such an organisation and helped to inform the role the LMO could play in future management of the development. The LMO model has therefore progressed and it is hoped that this model would be embraced across the site. It would be of concern to have different models being established and utilising different management practices across this site and so this has been raised with the applicant and their Agent has confirmed that the applicant would be happy to progress with the LMO approach rather than the CLT at this stage. It should be noted that currently the LMO has not identified a desire to manage large areas of open space.
- 5.157 There has been good progress in progressing the LMO through the work on the Exemplar application and to ensure the PPS and ACLP requirements are met. Given the applicants current intention in relation to progressing with the LMO route, it is intended that details of the setting up of the LMO and funding for it so that it can be sustainable in the long term will be included in legal agreements for the site and this matter would therefore form part of the S106 discussions moving forward.

#### **Design**

- 5.158 The NPPF advises 'The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people' (para 56). The NPPF encourages consideration of the use of design codes, design review and advises great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area. The Eco Towns PPS seeks the achievement of Building For Life as a measure

of the quality of the development.

- 5.159 The ACLP policy ESD 15 on the character of the built and historic environment sets out 17 requirements for new development whilst Policy Bicester 1 has a further 33 design and place shaping principles. These requirements include contributing to the areas character, respect traditional patterns and integrate, reflect or re-interpret local distinctiveness, promote permeability, take a holistic approach to design, consider sustainable design, integrate and enhance green infrastructure, include best practice in overheating, enable low carbon lifestyles, prioritise non car modes and support sustainable transport, providing a well-designed approach to the urban edge, respect the landscape setting, visual separation to outlying settlements, provision of public art.
- 5.160 The NW Bicester SPD includes guidance on design and character areas. It sets a number of design principles, including the need for sustainability to be a key driver in the design of the eco town, creating a character, being integrated into the site and the surrounding town and countryside, creating a legible place, with filtered permeability that allows for efficient movement within and around the place, utilises a townscape led approach and which responds to its landscape setting. It includes information as to what information should be demonstrated through each planning application and the design principles that need to be complied with.
- 5.161 The application is accompanied by a set of parameter plans and a design and access statement, both of which have been updated and clarified since submission to respond to Officer comment. This amendment has related to the extent of the area set aside for mixed uses along the Middleton Stoney Road (essentially to contain it such that the impact can be assessed and controlled). This area of the site sits adjacent to the Albion Land site and extends to the main site access just to the east of Lovelynych House (albeit up to a maximum floor area of 8,000sqm, which can be controlled by condition). The overall height parameter in this area demonstrates a maximum height of 16m adjacent to the land part of application 14/01675/OUT. The amendments have also considered further the parameters close to Lovelynych House (and it is clear that the amendments have generally overcome the concerns of the owner of the property subject to suggested conditions, which Officers consider would be appropriate in establishing the parameters to that property). The applicant has also sought to overcome and justify concerns relating to rear gardens onto public spaces. It will be important that these parameter plans are secured by way of condition and they generally accord with the Masterplan framework including the connections that are provided, the positioning of the sports pitches and the primary school. The maximum height of the development adjacent to the pitches has resulted in some concern (up to 19m) and the applicant's agent has indicated that a condition restricting this height to 17m and Officers consider a condition is necessary here. The applicant's intention is to embed the PPS1/ eco town principles into the design of the site to seek to arrange the development around green infrastructure (including the existing hedgerows) and walking and cycling routes to give these priority with vehicular routes having a secondary role.
- 5.162 It is clear from the view of the Council's Urban Designer that the proposal has been considered and that the parameter plans provided set an appropriate baseline for further design work. It is envisaged that this will involve the production of design documents such as an Urban Design Framework and then Design Codes to set the overall design principles that reserved matter applications would follow. There are a number of design intentions set out within the DAS that have raised some concern by both the Urban Designer and the Thames Valley Police Crime Prevention Advisor and these concerns are appreciated notwithstanding the additional justification provided by the applicant. Given this is an outline application however, it is considered that future design work can address these detailed points. Notwithstanding the view above, Officers have raised some concern with the

parameter plan relating to height and particularly where the maximum height of 19m is proposed around the sports pitches. An amended parameter plan has not been received but it is considered that a condition could adequately deal with this matter.

- 5.163 The school location is broadly compliant with the Masterplan, albeit it has moved slightly south with the associated movement of a road, which means that it is not proposed close to the side of Himley Farm. OCC Education Officers have raised concern that the resulting site does not meet their requirements with particular regard to its shape. Whilst Officers note the concern, the overall design approach, including the position of the school is considered to be on balance the most appropriate place for it taking into account wider design considerations as well as the fact that the shape of the site is not obscure; rather it is a 'L' shape rather than a rectangle. Officers are therefore minded to accept the position of the school, albeit detailed consideration of the school site will be undertaken by OCC Officers as part of the S106 negotiations.
- 5.164 Given the unique nature of the site it is proposed that a design review process is required for all detailed proposals going forward to make sure that they achieve high quality design as well as the high sustainability standards required. It is anticipated that sustainability will lead the design for the development and therefore it is likely to have a unique character. Never the less it will need to also be routed in the location and appropriate for the area.
- 5.165 The framework plan provides a sound basis, all be it at a high level, on which further detailed design can be based. Design will need to be developed and this can be secured through the imposition of conditions to fulfil the requirements of the policies in the ACLP.
- 5.166 A further comment from the owner of Lovelynch House requested a planning condition to safeguard the access and land for future development. Officers are not convinced that planning conditions would be reasonable in this case, but would intend to recommend a planning note to ensure that this point is noted by the Applicant.

#### **Conditions and Planning Obligations**

- 5.167 The NPPF advises that LPAs should consider whether otherwise acceptable development could be made acceptable through the use of conditions or obligations. Obligations should only be used where it is not possible to use a planning condition (para 203). Paragraph 204 advises planning obligations should only be sought where they meet the following tests;
- necessary to make development acceptable in planning terms
  - directly related to the development and
  - fairly and reasonably related in scale and kind to the development.

Conditions should only be imposed where they are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects (para 206). The NPPF also advises at para 205 that where obligations are being sought LPAs should 'take account of changes in market conditions over time' and 'be sufficiently flexible to prevent planned development being stalled'.

- 5.168 Planning obligations need to meet the requirements of Community Infrastructure Levy (CIL) regulations section 122 which states 'A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—
- a) necessary to make the development acceptable in planning terms;
  - b) directly related to the development; and
  - c) fairly and reasonably related in scale and kind to the development.'

In addition from April 2015 CIL reg 123(3) limits the number of planning obligations to 5 that can be used to secure a project or type of infrastructure if that obligation is to

be taken into account as a reason for approval. It is believed that the obligations identified in the Heads of Terms in Appendix 1 all meet the Regulation 122 and, as far as relevant, the Regulation 123(3) tests and can be taken into account as part of the justification for the grant of consent.

- 5.169 This large scale development proposal will require a legal agreement to secure the mitigation and infrastructure necessary to make the development acceptable. The planning obligation is proposed in two parts, the first to seek to ensure those elements required to secure a high quality of design and sustainability and that the scheme contributes to securing a comprehensive development of the NW site. The second will deal with the site specific requirements, as with other developments, including schools, highway mitigation, affordable housing, open space laying out and maintenance, community halls and community development, public transport and contributions for a doctors surgery, Thames Valley police and other matters.
- 5.170 Planning obligations must be negotiated with developers. This application is both large scale and complex and therefore the matters to be secured by planning obligation have been identified by CDC and OCC with the relevant Heads of Terms provided to the applicant. The applicant has indicated their acceptance to meeting any reasonable S106 contribution required to secure satisfactory mitigation for the Himley Village development including a contribution to site-wide infrastructure. As discussed earlier, the applicant has committed to an early provision of affordable housing through the rent plus model, although concerns have been raised by the Council's Housing Investment and Growth Manager, and it has been confirmed that a S106 would hope to be finalised as soon as possible following a positive resolution so that development can commence at the earliest opportunity. Notwithstanding this commitment, Officers have not been provided with any viability work to demonstrate that the financial obligations requested can be met and so Officers are not in a position to confirm to Members that the mitigation required by this development can be provided. Never the less additional work is required on the detail of contributions being sought including the timing of requirements, the detail of provision and links to the application North of the railway line and the overarching Framework agreement for the site wide infrastructure and discussions on these matters will continue. Whilst Officers would have preferred to have gained greater certainty prior to reporting this proposal to committee, it is common for work to negotiate a S106 to continue following a positive resolution including an assessment of viability and it is Officers intention to continue with this work. Should Officers not be able to negotiate an appropriate package to meet the identified mitigation following more detailed work, it would be necessary to report the application back to committee for further consideration.
- 5.171 One matter that remains outstanding is discussions with Network Rail as to whether they will seek a payment for allowing the connection under the railway. They have no technical objection but do seek to secure value for allowing works that enable development to take place. Network Rail has appointed a surveyor to advise them regarding the matter. If a financial payment has to be made to Network Rail it could impact on the viability of the scheme. If this resulted in significant changes to the Heads of Terms attached then this also may mean it is necessary to return the application to the committee for further consideration in the light of changed circumstances.
- 5.172 In addition to a planning obligation a range of planning conditions are required to secure acceptable development. Conditions will need to control the timing of development taking place particularly in relation to the provision of the road under the railway. These conditions are known as 'Grampian' conditions and the NPPG advise such conditions 'should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission'. Other conditions are identified throughout this report and a full set of draft conditions will

follow the publication of the committee agenda.

**Other matters**

- 5.173 Although the above sections cover most matters, the ES does include the following matters; air quality, noise, and contamination.
- 5.174 The NPPF at para 109 identifies one of the roles of the planning system is 'preventing new or existing development from contributing to or being out at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability. The CLP ENV12 requires adequate measures to deal with any contaminated land whilst the NSCLP Policy EN5 advises that regard will be had to air quality, Policy EN6 seeks to avoid light pollution whilst Policy EN7 looks to avoid sensitive development in locations affected by high levels of road noise and Policy EN17 deals with contaminated land. CDC has identified that Kings End/ Queens Avenue in Bicester should be declared an Air Quality Management Area.
- 5.175 With regard to air quality, the ES identifies the potential for dust impacts during construction and identifies that these are only likely to be experienced within 200m of the site. In order to minimise or prevent dust, it is suggested that a range of measures would be set out within a CEMP. Consideration has been given to air pollutant emissions and the likely effect of future road traffic and heating plant emissions associated with the site. The results find that the proposal would not have any significant impact on local air quality.
- 5.176 In relation to noise and vibration, the ES finds there is potential for noise and vibration nuisance to be caused to the closest sensitive receptors whilst works are undertaken close by and it suggests a number of measures to minimise the effects and which would be included within an agreed CEMP. Should any piling be required, it is recommended that monitoring be undertaken to identify any necessary mitigation. Additional vehicles on the road network may give rise to some moderate adverse effects on receptors and a traffic management scheme is recommended as part of the CEMP. Once complete, the assessment finds that the majority of the site can achieve the recommended internal and external noise levels, however should properties be identified as being subjected to greater noise levels then suitable insulation, glazing and ventilation can be implemented to achieve the required noise levels. There is unlikely to be a significant effect from the playing fields to be provided upon existing sensitive receptors, however there could be some minor adverse impacts upon any future property situated within 35m of any pitch. This will be a consideration at the detailed design stage. Items of fixed mechanical and building services plant, including the proposed energy centre have the potential to cause noise and suitable noise level limits are proposed to ensure that noise does not cause future disturbance. Non residential uses can be controlled through facade design in order to reduce noise impacts and implementing management measures to control the timing of deliveries to these uses can be implemented.
- 5.177 Ground conditions and contamination have been assessed and has identified some potentially contaminative uses. A preliminary site investigation has been undertaken and further assessment work would be undertaken prior to any demolition and construction works commencing with any necessary mitigation being implemented. Additional best practice measures would be implemented within the CEMP to protect construction workers and to ensure that contamination risks to underlying soils and groundwater would be reduced as far as possible. On completion, there would be limited risks posed by contamination to future residents.
- 5.178 In relation to each of these considered environmental matters and subject to the inclusion of suitable conditions to secure mitigation, the proposals would comply with the NPPF and ACLP policies. This approach is accepted by the Council's Environmental Protection and Anti Social Behaviour Officers as well as the



Environment Agency who suggest conditions relating to these particular matters.

### **Pre-application community consultation and engagement**

- 5.179 The NPPF advises that 'early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre application discussion enables better coordination between public and private resources and improved outcomes for the community' (para 188). The applicant carried out pre-application engagement with Officers as well as carrying out a public exhibition. The application has been informed and reinforced by engagement with the local community, the council and other relevant stakeholders.

### **Engagement**

- 5.180 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged as Officers have worked with the applicant to negotiate the application and progress it in order for it to be reported to Members.

### **Conclusion**

- 5.181 The application proposals accord with the development plan being a part of an allocated site and this allocated site is supported by the Eco Towns PPS and the NPPF. Planning decisions should be in accordance with the Development Plan unless material considerations indicate otherwise.
- 1.582 Policy Bicester 1 and the Eco Towns PPS identify North West Bicester as a location of an Eco Town. Both policy requirements set standards for eco town development in order for the proposal to be an exemplar, incorporating best practice and to provide a showcase for sustainable living. A Masterplan for the site has been submitted and are due to be incorporated into an SPD for the site. The application proposals have gone some way in meeting each of the standards set out within the policy documents and the Interim draft SPD, providing a proposal that exceeds the normal standard of development and with the potential to be a national exemplar of sustainable development subject to planning conditions to seek further information to secure these standards.
- 5.183 The application proposes a significant amount of housing, including affordable housing albeit as set out there are some Officer concerns with the current proposal, however Officers would continue to negotiate a suitable affordable housing proposal in line with the usual requirements. This housing will contribute to the rolling requirement to achieve a five year housing land supply and this weighs in favour of the proposal. In addition the scheme would deliver employment and sports pitches, which are critical for the overall site. The NPPF seeks to support sustainable economic development and the mixed use nature of this proposal weighs in its favour.
- 5.184 The proposals relate to green field land and the NPPF recognises the importance of the protection of the countryside, although the site is not the subject of any specific designations. The Adopted Cherwell Local Plan identifies the site for development having considered how best to meet the growth needs of the district and therefore accepts as necessary the loss of the countryside. The application proposals incorporate areas of green space, incorporate and maintain features of bio diversity value and show how they can achieve a net biodiversity gain. This weighs in favour of the proposal. Whilst the loss of countryside weighs against the proposal the protection of bio diversity and the proposals for a net gain weigh in its favour.
- 5.185 The residents of this large scale proposal will need to travel and the TA has assessed the impact of the proposals. The application proposes measures to encourage and support the use of sustainable modes as well as setting ambitious targets on mode

share. The proposals also would need to contribute to offsite highway improvements, although the construction of the rail underpass to relieve the Howes Lane/Bucknell Road junction is not included in the application and is required at an early stage. To prevent congestion that could occur if this provision was not made a Grampian condition is proposed to limit the extent of development that could be undertaken prior to the underpass being in place. The measures relating to sustainable transport and mitigation of the off site impacts weigh in favour of the proposal.

- 5.186 The application proposals include a range of community infrastructure to support the establishment of a sustainable place, including a school, sports pitches and play and sport provision. The proposal will also support off site provision, primarily within the town, such as the expansion of the sports centre and new library provision. The application is currently in outline with all matters reserved but the framework parameter plan will provide the basis for more detailed proposals. The application provides the basis for an exemplar sustainable development, continuing the approach of the Exemplar development that is currently under construction. The sustainability features of the proposal, which go beyond what is commonly provided and which can be secured by condition, weigh in favour of the proposal.
- 5.187 The current application does not cover the whole of the NW site and as such it is necessary to consider whether it is capable of delivering comprehensive development. Given the size of the application it is able to provide for a sustainable neighbourhood on site and in an appropriate way. The only areas where this is not the case, is with regard to the secondary school. Separate applications that have been submitted do include this provision. This applicant would be required to provide a proportionate contribute to the secondary school and would be negotiated through the S106 process. Through the use of conditions and agreements it is considered that a comprehensive approach to development can be secured in this case and as such the harm that would arise from piecemeal development can be addressed.
- 5.188 The application proposals would provide sustainable development and on balance would not give rise to significant and demonstrable harm that outweighs the benefits of the granting of planning permission. The application is therefore recommended for approval as set out below.

#### **Environmental Impact Assessment Determination**

- 5.189 Regulation 24 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 requires;
- 24.—(1) Where an EIA application is determined by a local planning authority, the authority shall—
- (a) in writing, inform the Secretary of State of the decision; .
  - (b) inform the public of the decision, by local advertisement, or by such other means as are reasonable in the circumstances; and .
  - (c) make available for public inspection at the place where the appropriate register (or relevant section of that register) is kept a statement containing— .
    - (i) the content of the decision and any conditions attached to it; .
    - (ii) the main reasons and considerations on which the decision is based including, if relevant, information about the participation of the public; .
    - (iii) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the development; and .
    - (iv) information regarding the right to challenge the validity of the decision and the procedures for doing so.
- 5.190 It is therefore **recommended** that this report and the conditions and obligations proposed for the development are treated as the statement required by Reg 24 C (i) - (iii). The information required by Reg 24 C (iv) will be set out on the planning decision notice.

**6. Recommendation**

**Approval**, subject to:

- a) Delegation of the negotiation of the S106 agreement to Officers in accordance with the summary of the Heads of Terms attached at appendix B and subsequent completion of S106 agreements and;
- b) the following conditions with delegation provided to the Development Services Manager to negotiate any reasonable alterations to the conditions to reflect the finalised proposal:

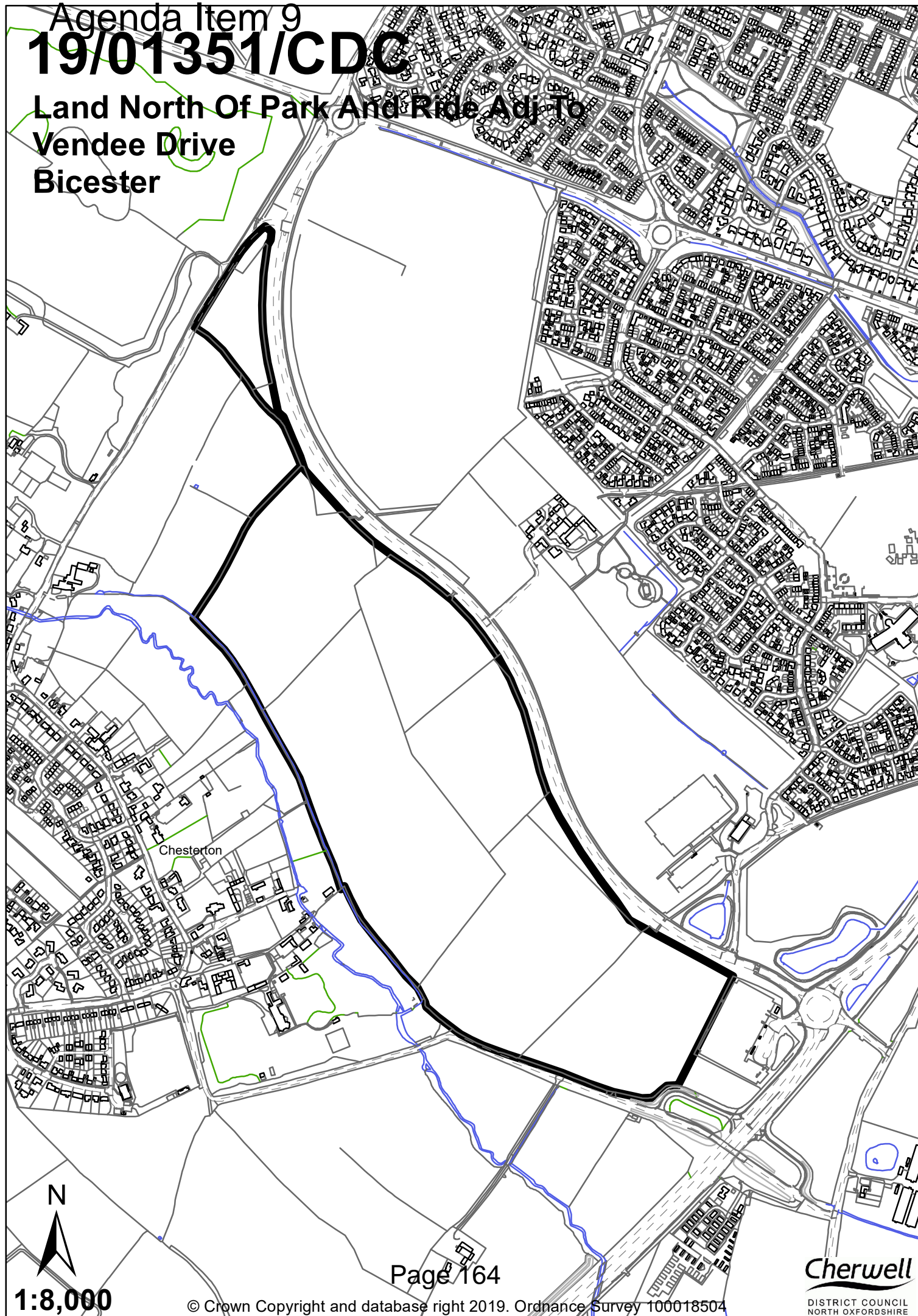
TO FOLLOW

**STATEMENT OF ENGAGEMENT**

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way to progress the application and to resolve concerns.

Agenda Item 9  
**19/01351/CDC**

**Land North Of Park And Ride Adj To  
Vendee Drive  
Bicester**



1:8,000

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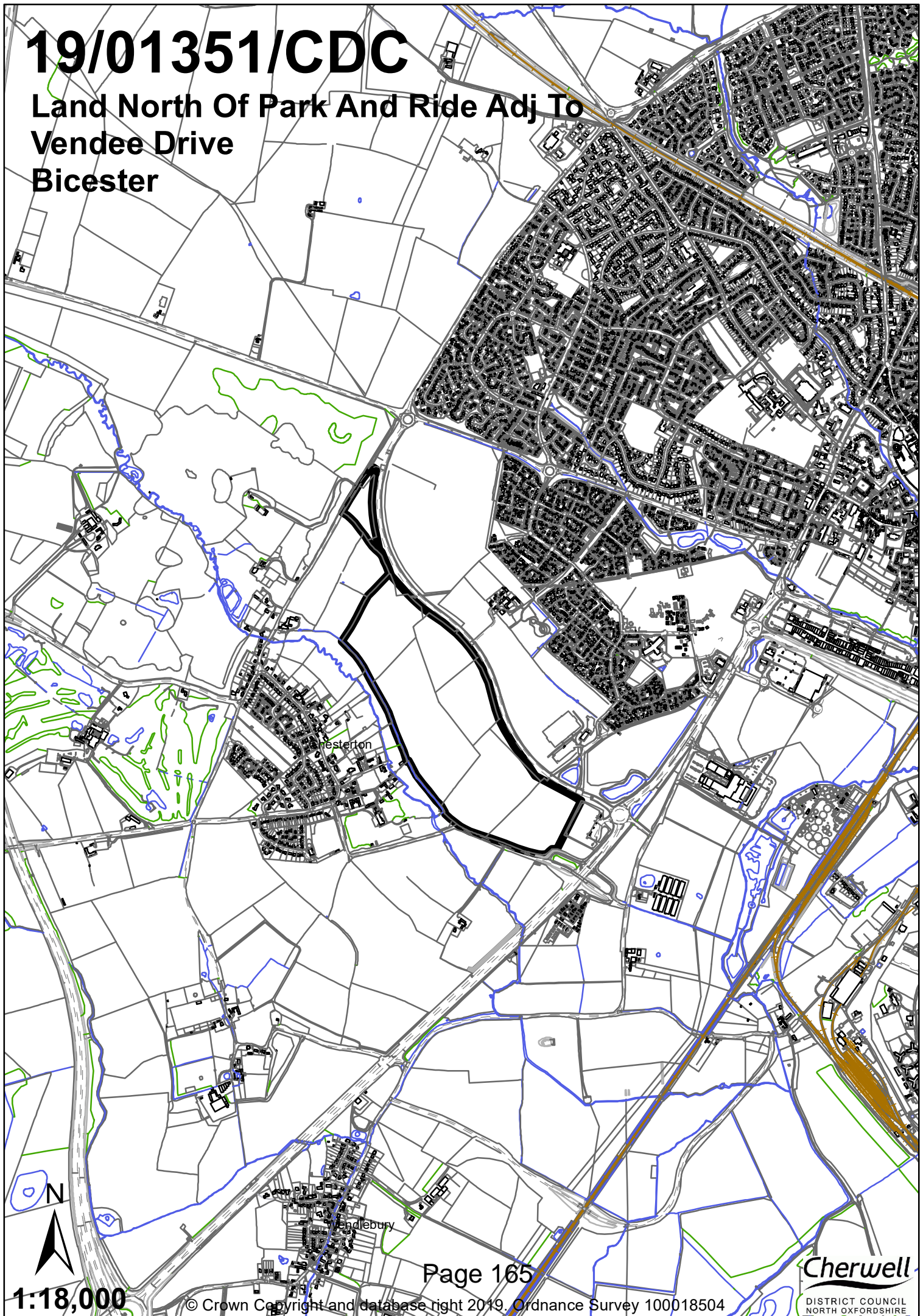
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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE



# 19/01351/CDC

Land North Of Park And Ride Adj To  
Vendee Drive  
Bicester



1:18,000

**Case Officer:** Linda Griffiths

**Applicant:** Cherwell District Council

**Proposal:** Change of use from agricultural (arable) to informal recreation with public access.

**Ward:** Fringford And Heyfords

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

**Reason for**

**Referral:** Major development and the Council is the applicant

**Expiry Date:** 28 October 2019

**Committee Date:** 24 October 2019

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**EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

**RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS**

**Proposal**

The application seeks a change of use of the land from agricultural use to recreation purposes and for the creation of a community woodland. It is proposed that in the first instance, a minimum level of works will be put in place to facilitate its use for informal recreation, these being the provision of mown paths, installation of galvanised steel maintenance and mobility kissing gates, the installation of dog and litter bins and interpretation boards by the access gates. Culverts and footbridges will also be constructed over ditches to facilitate public access.

**Consultations**

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

- OCC Drainage

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

- OCC Highways, OCC Archaeology, OCC Rights of Way, Natural England

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

- Councillor Corkin Local member

1 letter of support has been received.

**Planning Policy and Constraints**

The site is within an archaeological constraint area and the Chesterton Conservation Area lies to the west of the site. Gagle Brook runs close to the western boundary between the site and Chesterton Village. Two public rights of way cross through the site to the northern and southern parts of the site, these being footpath numbers 161/2/10 and 161/1/10. The site constraints have also identified that the site could be potentially contaminated and lies within a minor aquifer. A number of protected species may also be present within the site. The land is classified best and most versatile category 2 and 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
- Design and impact on the character of the area
- Heritage
- Ecology
- Access
- Drainage
- Human Rights

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

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

## **MAIN REPORT**

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

- 1.1. The application site is located on the south west side of Bicester between Chesterton Village and the B4030 (Vendee Drive), directly north of Bicester Park and Ride. It comprises 44 hectares of agricultural land. The site is reasonably level but falls away towards the south and south west, while rising towards the northern most part of the site. The site is generally bounded by mature deciduous hedgerow. The Kingsmere development is situated to the east of the application site on the opposite side of Vendee Drive.
- 1.2. A small area of CPRE (Campaign to Protect Rural England) managed woodland (0.7ha) is located at the north west corner of the site, and a balancing pond which has been created in respect of the SUDS drainage infrastructure for the Phase 2 development is also situated in the northern part of the site.

### **2. CONSTRAINTS**

- 2.1. The application site is within an archaeological constraint priority area and the Chesterton Conservation Area lies immediately to the west of the site. Gagle Brook runs close to the western boundary between the site and Chesterton Village.
- 2.2. Two public rights of way cross through the site, to the north and the southern parts of the site, these being footpath numbers 161/2/10 and 161/1/10.
- 2.3. The site constraints have also identified that the site could be potentially contaminated and lies within a minor aquifer. A number of protected species may also be present within the site. The land is classified best and most versatile category 2 and 3 agricultural land.

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

- 3.1. The application currently seeks a change of use of the land from agricultural to recreation purposes and for the creation of a community woodland. It is proposed that as a first stage, a minimum level of works will be put in place to facilitate its use for informal recreation, these being the provision of mown paths, installation of

galvanised steel maintenance and mobility kissing gates and the installation of dog and litter bins and interpretation boards by the access gates. Culverts and footbridges will also be constructed over ditches to facilitate public access.

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

- 4.1. The site forms part of the South West Bicester Phase 2 development which was granted outline planning permission in May 2017 (reference 13/00847/OUT). Phase 2 is a strategic allocation in the Cherwell Local Plan 2011-2031 under Policy Bicester 3 and has consent for up to 709 dwellings. The Section 106 Agreement attached to the outline consent secures the transfer of this land to the District Council on first occupation of the dwellings on Phase 2 Kingsmere for recreation purposes and the creation of a community woodland.

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
13/00847/OUT	Residential development	Approved

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

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

<u>Application Ref.</u>	<u>Proposal</u>
18/00205/PREAPP	Use of land for community woodland including public access

- 5.2. Principle of the use of the site for community woodland/informal recreation purposes acceptable.

#### **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 5<sup>th</sup> September 2019 although comments received after this date and before finalising this report have also been taken into account.

- 6.2. The comments raised in support of the proposal by a third part, with the following suggestions, are summarised as follows:

- Maximise environmental sustainability
- Re-design circular access route to reflect multiple different uses
- Separate dog-free areas
- Re-route footpath to avoid cutting through two established hedges
- Design should enable zero carbon emission maintenance
- Vehicle free access but allowing disability access
- Reduction in mown grass path to 1m
- Environmentally friendly culverts as alternative to concrete



- Wooden gates rather than galvanised steel
  - Separate recycling/waste bins
- 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. BICESTER TOWN COUNCIL: **no comments received**

- 7.3. CHESTERTON PARISH COUNCIL: **comment in summary as follows:**

- Parking is surely critical as this involves access to recreational facilities, are there no longer plans to use the park and ride parking facility?
- Recognise cannot be finalised until the full archaeological survey is completed
- Covering proforma is not suitable for this type of application so there are a number of anomalies
- Trees will help lower the water table, so help with drainage
- Siting of allotments is omitted
- No means of access from Chesterton, only Bicester

### CONSULTEES

- 7.4. OCC HIGHWAYS: **no objections** but future applications that provide facilities to increase the usage of the site should consider enhancement of pedestrian access. Needs to enable safe crossing, upgrading of the public right of way surface to ensure they are useable all year round, cycle parking next to the shared path at the site entrances and provision of car parking and appropriate signage to it.
- 7.5. OCC DRAINAGE: **objection** – no drainage information is provided to enable a full technical audit of the proposal
- 7.6. OCC ARCHAEOLOGY: **No objection** - the small scale proposals covered by this application are unlikely to impact on archaeological deposits. If ground levelling or topsoil stripping is required, these are likely to have a negative impact on the surviving deposits, these however are outside the scope of the application.
- 7.7. OCC RIGHTS OF WAY: **No comments** as long as the application follows our standard criteria and the Chesterton footpath 1 and 2 are maintained on the correct legal line as shown on the definitive map and subject to the imposition of a number of conditions.

- 7.8. OCC LOCAL MEMBER: **Supportive of the application.** It will become a very useful informal green space offering a range of recreational activities and help create a green buffer for the rural community of Chesterton.
- 7.9. CDC BUILDING CONTROL: **no comments** as it is a change of use
- 7.10. CDC ARBORICULTURAL OFFICER: no comments received to date
- 7.11. CDC ECOLOGY: no comments received to date
- 7.12. CDC LANDSCAPE OFFICER: **no comments**
- 7.13. THAMES VALLEY POLICE DESIGN ADVISER: no comments received to date
- 7.14. BBOWT: no comments received to date
- 7.15. NATURAL ENGLAND: **no objection**
- 7.16. OPEN SPACES SOCIETY: no comments received to date
- 7.17. RAMBLERS ASSOCIATION: no comments received to date
- 7.18. CPRE: no comments received to date
- 7.19. KINGSMERE RESIDENTS ASSOCIATION: no comments received to date

## **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
- Policy Bicester 3 – South west Bicester Phase 2
- Policy Bicester 7 – Meeting the need for open space, sport and recreation
- PSD1 – Presumption in favour of sustainable development
- Policy BSC10: Open space, outdoor sport and recreation provision
- ESD1 – Mitigating and adapting to climate change
- ESD10 – Protection and enhancement of biodiversity and natural environment
- ESD13 – Local landscape protection and enhancement
- ESD17 – Green infrastructure

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

- C28 – Layout, design and external appearance of new development
- C32 – Provision of facilities for disabled people

### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)
- Bicester Healthy New Town Programme

### 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
- Heritage
- Ecology
- Access
- Drainage
- Human Rights

## Principle of Development

### *Policy Context*

- 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 purpose of any determination to be made in accordance with the development plan unless material considerations indicate otherwise. This is also reflected in the National Planning Policy Framework (NPPF) at paragraph 12 which makes it clear that the starting point for decision making is the development plan.
- 9.3. Section 2 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 notes that there are 3 overarching objectives within sustainable development – economic, social and environmental. The social and environmental objectives are particularly relevant to this application.
- 9.4. Section 8 of the NPPF concerns the planning system's role in promoting healthy and safe communities. Paragraph 91 states that planning policies and decisions should aim to achieve healthy, inclusive and safe places which promote social interaction, and enable and support healthy lifestyles, for example, through the provision of safe and accessible green infrastructure. Paragraph 92 also notes that planning policies and decisions should take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community.
- 9.5. Paragraph 96 notes the importance to the health and well-being of communities of being able to have access to a network of high-quality open spaces and opportunities for physical activity.
- 9.6. Policy PSD1 of the Cherwell Local Plan 2011-2031 accords with the NPPF's requirement for 'sustainable development' stating that planning applications that accord with the policies in the statutory development plan will be approved without delay unless material considerations indicate otherwise.
- 9.7. The site forms part of the South West Bicester Phase 2 development which was granted outline planning permission in May 2017 (13/00847/OUT refers). Phase 2 is a strategic allocation in the adopted Cherwell Local Plan 2011-2031 for the erection of 709 dwellings (Policy Bicester 3 refers). The land in question is due to be transferred to the District Council through the Section 106 Agreement upon first occupation of the development for recreation purposes for use as a community woodland.
- 9.8. Policy Bicester 7 of the Cherwell Local Plan states that as part of the measures to address current and future deficiencies in open space, sport and recreation in Bicester, the Council will seek to establish a community woodland between Chesterton village and Vendee Drive.

### *Assessment*

- 9.9. The provision of a Community Woodland as a concept was envisaged more than 10 years ago with the development of the Phase 1 South West Bicester development. A briefing paper in respect of the Community Woodland Project was produced by

Chesterton Parish Council in 2007. A survey of Chesterton village residents in 2012 indicated an overwhelming response in agreement with the provision of a Community Woodland. Following on-going dialogue between the District Council, Chesterton Parish Council and the landowners Countryside Properties (Bicester) Ltd, as part of negotiations during the consideration of Kingsmere Phase 2, Countryside agreed to transfer the land to CDC as part of the Section 106 package. A report was taken to the Council's Executive Committee in July 2014 where it was agreed that in terms of retaining this land as an undeveloped buffer between Bicester and Chesterton and securing a significant recreational asset for the District that the land should be transferred.

### *Conclusion*

- 9.10. Central to the benefits of this proposal is that the proposal will ensure the delivery of this land at the earliest opportunity, following its transfer to the District Council, for the use by the general public for informal recreation purposes. As such the proposal therefore accords with the above mentioned development plan policies and the NPPF in seeking to deliver sustainable development and in the interests of the health and well being of the local population.

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

- 9.11. The application is accompanied by a layout plan. This is a high-level plan which indicates the routes of the proposed mown footpaths which will form a circular route around the site and link the two public rights of way through the site. There are a number of drainage ditches running alongside hedges and between field boundaries. Where these are crossed the ditches will be culverted and pedestrian access provided over. Small sections of existing hedgerow will also need to be removed to facilitate access through the site. This first stage of the project seeks a change of use of the land only at this time to provide informal public access. As the project develops and moves forward, where planning permission is required further planning applications will be submitted for future facilities etc that may be provided.
- 9.12. Policy ESD13 of the Cherwell Local Plan states that opportunities will be sought to secure the enhancement of the character and appearance of the landscape, particularly in urban fringe locations, through the restoration, management or enhancement of existing landscapes, features or habitats and where appropriate, the creation of new ones, including the planting of woodlands, trees and hedgerows.
- 9.13. Policy ESD17 of the Cherwell Local Plan sets out the measures through which the District's green infrastructure network will be maintained and enhanced. These include 'pursuing opportunities for joint working to maintain and improve the green infrastructure network whilst protecting sites of importance for nature conservation'.
- 9.14. Initially, the proposal will entail little alteration to the appearance of the land and will therefore have no adverse impact on the character and appearance of the open countryside and will seek to retain this green buffer between Bicester and Chesterton village. It is considered that the change of use of the land proposed accords with policies ESD13 and ESD17 of the Cherwell Local Plan and is therefore acceptable in this respect.

### Heritage Impact

#### *Legislative and policy context*

- 9.15. A small part of the application site abuts the boundary of the Chesterton Conservation Area.

- 9.16. 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.*
- 9.17. 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.
- 9.18. This application seeks a change of use of the land only for informal recreation purposes and it is considered therefore that the development will not have any adverse impact upon the setting or appearance of the Chesterton Conservation Area and is therefore acceptable in this respect.
- 9.19. The site is located in an area of known considerable archaeological interest immediately north of the scheduled Roman Town of Alchester. The Roman Road north from the town, Akeman Street, forms the southern boundary of the site. An archaeological evaluation during the A41 widening recorded a significant amount of extra mural settlement immediately south east of the proposed development area consisting of stone building foundations, roadways, pits and ditches. A cemetery was found immediately to the north of this site on the northern side of the A41, adjacent to this proposal.
- 9.20. As part of this submission, the applicants have commissioned a geophysical survey which has recorded a number of possible archaeological deposits. These appear to form a road or trackway heading towards Alchester from the north with roadside settlement along the sides of the trackway. Although these cannot be dated from geophysical survey alone, it is likely that they will be of Iron Age or Roman date.
- 9.21. Evidence of Iron Age settlement was also recorded along with archaeological features dating to the post Roman period. It is likely that archaeological deposits related to this settlement site and the associated cemetery could survive along the line of the trackway/road identified from the geophysical survey.
- 9.22. Further archaeological features related to Iron Age and Roman settlement were recorded during excavations ahead of the South West Bicester development immediately north east of this proposed development. This includes archaeological deposits along the north-eastern boundary of the site. Following the results of the geophysical survey and discussions with the County Archaeologist, the applicant is in the process of commissioning further archaeological investigations in the form of trial trenching to validate the findings from the geophysical survey. Once the results of these investigations are known, a tree planting plan will be prepared which avoids as far as possible areas of archaeological interest at the site.
- 9.23. It is accepted that the small scale and relatively non-intrusive proposals included in this change of use are unlikely to impact on the above, however if the proposals to create access for the public along paths was to require ground levelling or topsoil stripping, this could have a negative impact on these surviving deposits. It is recommended therefore that a condition to address the residual risk to archaeological deposits is included accordingly.

## Ecology Impact

### *Legislative context*

- 9.24. 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.
- 9.25. 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.
- 9.26. 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.
- 9.27. 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.
- 9.28. 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*

- 9.29. 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.

- 9.30. 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.
- 9.31. 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.
- 9.32. 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.
- 9.33. 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.
- 9.34. 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.
- 9.35. 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*

- 9.36. 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')

9.37. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site is close to a stream and there are a number of mature trees and hedgerows within and adjacent the site, and therefore the site has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles, great crested newts, water voles and invertebrates.

9.38. 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.

9.39. 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.

9.40. Following the initial submission of the application, a Preliminary Ecological Appraisal was commissioned by the applicant. To fulfil the brief an ecological desk study and walkover survey (in accordance with Phase 1 Habitat Survey methodology) were undertaken in August 2019. The desk study exercise identified no European statutory sites within 5km of the survey area, one UK statutory site within 2km and four non-statutory sites within 1km. The ecological report identifies a number of recommendations with respect to habitat retention and protection, biodiversity and lighting. It is recommended that a condition be imposed which requires compliance with the recommendations within the report.

9.41. Officers are satisfied that in the absence of any objection from Natural England to the recommendations within the ecological report, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

#### Access

9.42. There are currently two public rights of way that cross the site. It is intended that the route of these will remain unaltered and will be actively maintained and managed as 3m wide mown paths to ensure they are more easily accessible to the public. These two public rights of way will also be connected by the creation of a circular mown path around the whole site, as indicated on the submitted layout plan. No objections have been raised by OCC's Rights of Way Officer provided the footpaths are maintained on the correct legal line shown on the definitive plan and subject to the imposition of a number of conditions below.

- 9.43. Four points of public access to the site will be created where the public rights of way meet the site boundary, the two on the north east side align with informal crossing points on Vendee Drive. In addition, the 2 existing agricultural access points at the extreme south of the site and also at the north end of the site will be used to provide maintenance access into the site.
- 9.44. In line with previous concerns expressed by OCC, there is no access proposed between the site and the adjacent Park and Ride. Should any additional access points be created and/or dedicated parking considered, it is proposed that these will be the subject of further planning applications. Whilst it is accepted that there is a risk that levels of public usage may in time justify provision of a dedicated car park, Cherwell District Council as land owner in this case has sufficient control to bring forward proposals to address this should it be required. The usage of the recreation land should therefore be carefully monitored.
- 9.45. OCC as highway authority and rights of way authority have assessed the submission. The public rights of way connect to the outskirts of Chesterton. However there are currently no footways to these access points from Chesterton. The provision of pedestrian access from Chesterton village itself would reduce the need for car parking, particularly on the southern side of the proposed site. Whilst this application only seeks a change of use of the land for informal access by the general public for recreation purposes, the intention of the applicant is to bring forward further proposals at a future date that will increase the attractiveness of the site and consequently increase usage. OCC consider that these future proposals must seek to enhance connectivity with the existing pedestrian infrastructure by providing pedestrian islands along Vendee Drive, an informal crossing along the A4095 where public footpath 161/1 meets with the carriageway which could take the form of dropped kerbs and tactile paving and footpath access to both of the access points from Chesterton village.
- 9.46. Given the proximity, it is envisaged that the recreation land is likely to be used by Kingsmere residents and that the two most used accesses will be the informal crossings over Vendee Drive. The northern Vendee Drive access point that links the footpath north of Whitelands farm is subject to being upgraded to a toucan crossing as part of the Kingsmere Phase 2 development. However, there are currently no plans to upgrade the crossing further south and pedestrians wishing to access the site will be required to find a gap across two busy lanes of traffic. In order to enhance the safety of a crossing point here it will be necessary for future access proposals to provide a pedestrian crossing facility with refuge island across Vendee Drive.
- 9.47. To encourage multimodal access that does not involve motorised travel, it is also suggested that future applications which result in increased usage of the site should also provide Sheffield cycle stands at entrance points in order to facilitate safe storage/parking of cycles for those wishing to cycle. In the first instance Sheffield stands should be provided near both of the Vendee Drive site entrances to encourage cycling over driving.
- 9.48. All of the above recommendations are noted, but are not considered necessary to secure now in order to make the proposed change of use acceptable in planning terms. Instead, they will be drawn to the applicant's attention by way of an informative on the decision notice.

#### Drainage

- 9.49. This application relates to a change of use only and therefore does not include drainage details. The drainage team at OCC as Lead Flood Authority have

assessed the proposal and raised an objection on the basis that no drainage information has been provided to enable a full technical audit of the proposal.

- 9.50. As stated above, this application seeks a change of use of the land only to allow access to the general public for recreation purposes, no engineering works are proposed, nor any drainage works at this time. Any drainage proposals for future uses or other works to the land will be agreed at that time. It is therefore considered that to require full drainage details at this stage would be unreasonable and is not necessary.

#### Human Rights and Equalities

- 9.51. 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.
- 9.52. 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*

- 9.53. 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*

- 9.54. 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.
- 9.55. Officers have considered that, in the event that the application is granted planning permission, there will not be any discrimination (or potential discrimination) on neighbours.

#### *Duty under The Equalities Act 2010*

- 9.56. 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.

- 9.57. 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 overall purpose of the planning system is to seek to achieve sustainable development as set out in the NPPF. The three dimensions of sustainable development must be considered in order to balance the benefits against any harm and to come to a decision about the acceptability of the scheme. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise.
- 10.2. In terms of economic benefit, the proposals will generate some economic benefit during any construction works for the creation of this recreation facility.
- 10.3. In terms of social benefit, the scheme will ensure the provision of an area of land for informal recreation on the edge of Bicester for local residents. It will also support the objectives of the Bicester Healthy New Town Programme which aims to encourage physical activity and improve peoples' mental wellbeing and encouraging more time spent outdoors.
- 10.4. In terms of environmental, the scheme through proposed mitigation measures, increased tree planting etc, will ensure the protection of ecology and net biodiversity gain. The provision of such a facility on the edge of Bicester will also reduce the need for residents to travel elsewhere by car.
- 10.5. The proposed change of use will present a significant opportunity to increase both the amount and variety of greenspace within this part of the District for local residents and visitors. Although this first phase of the project focuses on the minimum works that are needed to create a safe and accessible green recreation space, it has potential over time to become a greatly valued and interesting recreational facility which will support all ages and abilities to pursue more healthy lifestyles.
- 10.6. Accordingly it is considered that the proposed change of use is in accordance with the development plan and the NPPF and should therefore be approved.

## **11. RECOMMENDATION**

**RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND 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. 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: Planning Statement; Ecological Appraisal Report; Geophysical Survey Report; Indicative Phase 1 Site layout Plan, drawing number ES/LS/001 and red line site location plan.

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.

### **Temporary Obstructions**

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

Reason – To ensure the public right of way remains available and convenient for public use, to comply with Policy ESD15, ESD17 and Bicester 3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the NPPF.

### **Route Alterations**

4. No changes to the public right of way direction, width, surface, signing or structures shall be made without prior permission approved by the Countryside Access Team at Oxfordshire County Council or necessary legal process.

Reason – To ensure the public right of way remains available and convenient for use, to comply with Policy ESD15, ESD17 and Bicester 3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the NPPF.

### **Vehicle Access (Occupation)**

5. No vehicle access (including for construction and demolition purposes) may be taken along or across a public right of way to residential or commercial sites without prior permission and appropriate safety and surfacing measures approved by the Countryside Access Team at Oxfordshire County Council. Any damage to the surface of the public right of way caused by such use will be the responsibility of the applicants, their contractors to put right/make good to a standard required by the Countryside Access Team.

Reason – To ensure the public right of way remains available and convenient for public use, to comply with Policy ESD15, ESD17 and Bicester 3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the NPPF.

### **Gates/Right of way**

6. Any gates provided shall be set back from the public right of way or shall not open outwards from the site across the public right of way.

Reason – To ensure that gates are opened or closed in the interests of public right of way user safety, to comply with Policy ESD15, ESD17 and Bicester 3 of

the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the NPPF.

#### **Details of Gates**

7. Details of the proposed new maintenance gates and pedestrian kissing gates, together with a timeframe for their provision shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of their installation. Thereafter the development shall be completed in accordance with the approved details prior to the first use of the site for recreation purposes.

Reason – In the interests of the visual amenities of the locality and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

#### **Protection of Archaeology**

8. There shall be no regrading of the land or removal of topsoil without the written express consent of the Local Planning Authority.

Reason – In order to protect the archaeological interests of the site in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

#### **Dog/litter Bins and Interpretation Boards**

9. Prior to their installation, details of the dog and litter bins and interpretation boards, together with their locations shall be submitted to and agreed in writing by the Local Planning Authority. These shall be installed in accordance with the approved details prior to the site being first brought into use and retained as such thereafter.

Reason – To ensure the satisfactory appearance of the development and the proper arrangements for the disposal of litter and waste, to comply with Policy ESD15 of the Cherwell Local Plan and Government guidance within the National Planning Policy Framework.

#### **Footbridges/Culverts**

10. Prior to the site being first brought into use, full details of the proposed pedestrian bridges over the ditches shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason – To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

#### **Nesting Birds**

11. No removal of hedgerows, trees or shrubs shall take place between 1<sup>st</sup> March and 31<sup>st</sup> 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 the site, together with details of measures to protect the nesting bird interest on the site.

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.

**Carry Out in accordance with Survey**

12. The development hereby approved shall be carried out in accordance with the recommendations set out in section 7 of the Preliminary Ecological appraisal report carried out by Middlemarch Environmental dated September 2019 Reference RT-MME-150493-01 submitted with this application.

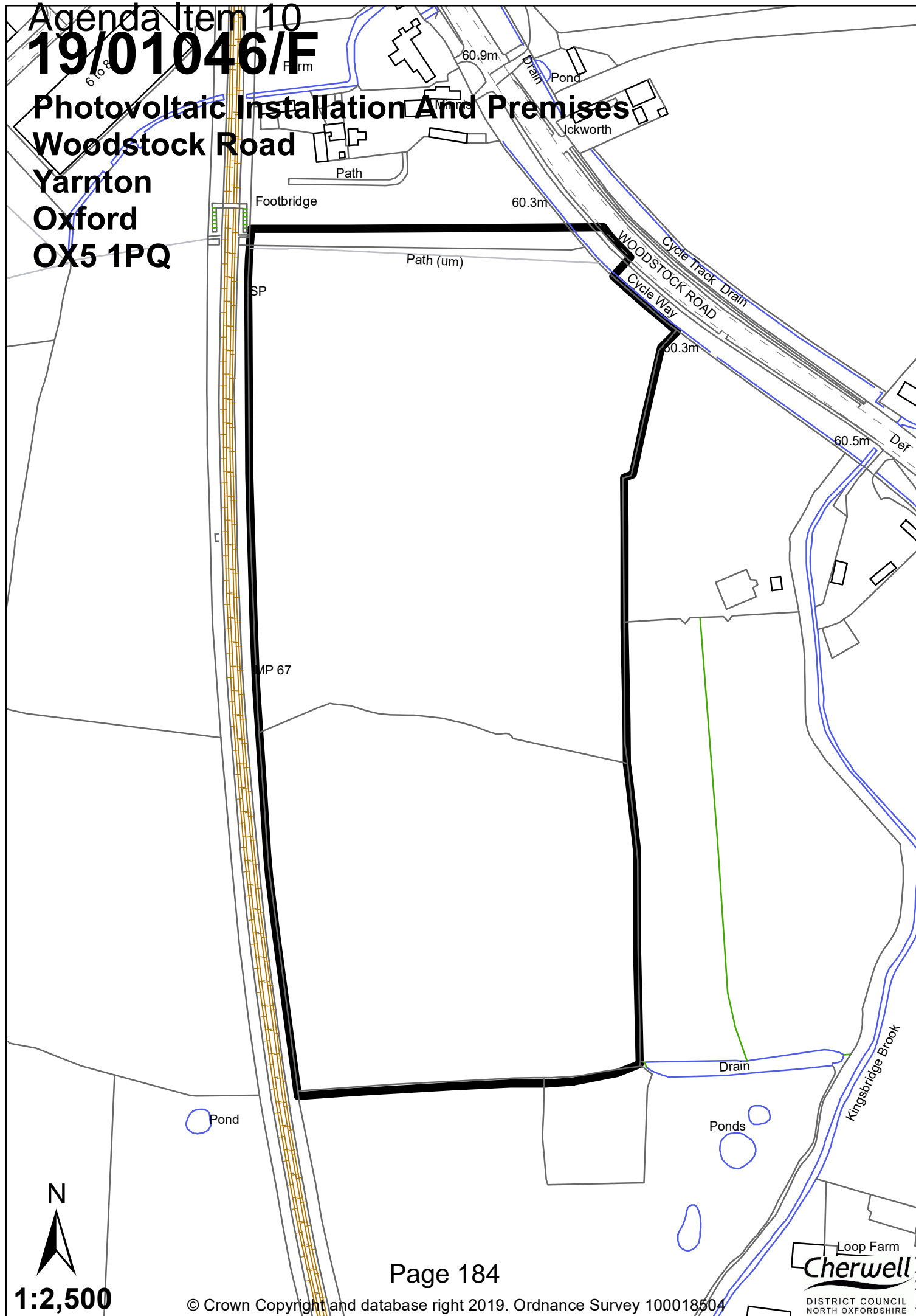
Reason – To ensure that the development does not cause harm to any protected species or their habitats in accordance with policy ESd10 of the Cherwell local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Linda Griffiths

TEL: 01295 227998

Agenda Item 10  
**19/01046/F**

**Photovoltaic Installation And Premises**  
**Woodstock Road**  
**Yarnton**  
**Oxford**  
**OX5 1PQ**





**19/01046/F**

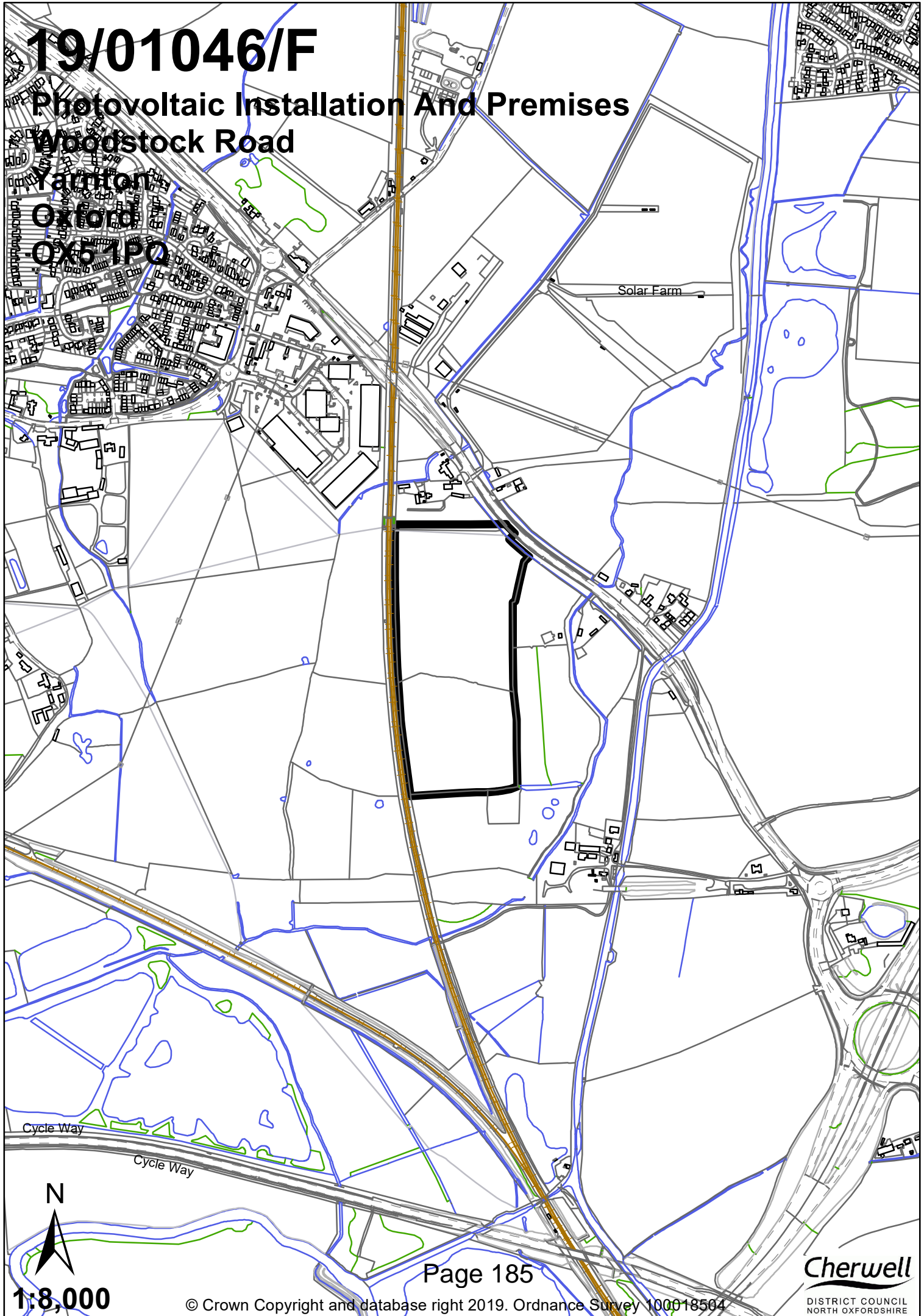
**Photovoltaic Installation And Premises**

**Woodstock Road**

**Yarnston**

**Oxford**

**OX5 1PQ**



Solar Farm

Cycle Way

Cycle Way

N

**1:8,000**

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**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Case Officer:** Shona King

**Applicant:** Generale Du Solaire

**Proposal:** Development of a ground mounted solar park incorporating the installation of solar PV panels, associated infrastructure and new access

**Ward:** Kidlington West

**Councillors:** Cllr Copeland, Cllr Rhodes and Cllr Tyson

**Reason for Referral:** Major development

**Expiry Date:** 30 October 2019

**Committee Date:** 24 October 2019

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

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

#### **Proposal**

The proposal is for the installation of ground mounted solar PV panels along with a transformer and substation within an agricultural field. A new access from the A44 and internal tracks are proposed with new planting to the northern boundary of the site.

#### **Consultations**

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

- Yarnton Parish Council, OCC Rights of Way

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

- CDC Landscape Officer, CDC Environmental Protection, OCC Highways, OCC Minerals and Waste, Thames Valley Police

The following consultees have not commented on the application:

- CDC Ecology, CDC Finance, Campaign to Protect Rural England.

One letter of objection has been received.

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

The application site is within located within the Oxford Green Belt. A public footpath runs from west to east along the northern boundary of the site. The site lies within Flood Zone 2 and parts of the site are within Flood Zone 3. It is also situated within a minerals consultation area and is noted to be Grade 4 (poor quality) 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 including Green Belt
- Impact on the character and visual amenities of the area
- Highway safety
- Ecology

- Flooding

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

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

## **MAIN REPORT**

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

- 1.1. The application site is located to the south of Yarnton to the west of the A44. It comprises a relatively level, 9.6 hectare site currently in agricultural use. The main Banbury to Oxford railway line runs along the western boundary of the site and a public right of way, with footbridge over the railway, runs along the northern boundary of the site. The eastern and southern boundaries consist of mature hedgerows, the northern boundary is currently marked by a post and wire fence, and the western boundary to the railway by a post and wire fence with sparse hedges and mature trees.

### **2. CONSTRAINTS**

- 2.1. The application site is within the Oxford Green Belt and lies within Flood Zone 2 with parts of the site within Flood Zone 3. It is also situated within a minerals consultation area and is noted to be Grade 4 (poor quality) agricultural land. As stated above a public right of way (PROW) runs along the northern boundary.

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

- 3.1. Planning permission is sought for the installation of ground mounted solar PV panels with associated infrastructure (transformers, substation and access tracks) and a new access onto the A44. The solar panels are to generate 5MW of energy and are to be in a fixed position facing south on an east west axis with each array measuring approximately 2.8 metres in height. The two proposed transformer/substation buildings would be approximately 2.6m in height.
- 3.2. The proposals have been amended during this application with the repositioning of the access and internal tracks within the site so that the existing PROW is now unaffected by the development.

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

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

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

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

<u>Application Ref.</u>	<u>Proposal</u>
15/00016/PREAPP	Solar park including new access from Woodstock Road and ancillary infrastructure

- 5.2. It was concluded that insufficient information was provided with the enquiry to enable a definitive view to be given. However, it was recommended that any application was supported with information setting out *very special circumstances* to justify such development in the Green Belt and to address ecological, flooding landscape/visual impacts and highway safety issues.

## 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 (amend as appropriate). The final date for comments was 25<sup>th</sup> July 2019, although comments received after this date and before finalising this report have also been taken into account.

- 6.2. The Oxford Green Belt Network has commented on the proposal and their comments are summarised as follows:

- Impact on the openness of the Green Belt
- Encroachment into the countryside
- Inappropriate development in the Green Belt where *very special circumstances* do not overcome the harm
- Open spaces should be protected for mitigating climate change
- Cumulative impact on the Green Belt landscape with the solar farm on the opposite side of Woodstock Road
- Growing pressure on Green Belt

- 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. YARNTON PARISH COUNCIL: **Objects.** The development is within green belt land, would cause loss of visual amenity from PROW and would cause loss of natural wildlife habitat and restrict free-roaming mammal wildlife. The parish has also requested that if the application is permitted, the parish is compensated for loss of amenity through Section 106/CIL to provide positive benefit to the community and that the PROW is maintained as a separate path from that of any access requirement.

### CONSULTEES

- 7.3. OCC HIGHWAYS: **No objection subject to conditions** relating to access details, vision splay protection and a revised Construction Traffic Management Plan.

- 7.4. OCC RIGHTS OF WAY: **Objects** to the planning application unless conditions are met. These relate to the relocation of the access off the PROW, the surfacing of the footpath to remain unchanged and the route maintained unobstructed, no site traffic to use the PROW, no enclosure of the PROW without prior consent and the maintenance of a minimum width of 3m. Additional conditions are also recommended and these are set out in the consultation response.
- 7.5. OCC MINERALS AND WASTE: **No objection** on mineral sterilisation grounds, provided that the permission is limited to a period of 25 years and the land is restored to its current state by the end of the 25 year period.
- 7.6. CDC LANDSCAPE OFFICER: **Comments** relating to need to address cumulative harm afforded to the development along with the solar farm on the north of Woodstock Road and need for a landscape masterplan and mitigation landscaping.
- 7.7. CDC ENVIRONMENTAL PROTECTION: **No objections** relating to noise, contaminated land, air quality, odour and light
- 7.8. CDC ECOLOGY: **No comment to date**
- 7.9. CDC FINANCE: **No comment to date**
- 7.10. THAMES VALLEY POLICE: **Comment** that the applicants should refer to the principles and standards of the police's Secured by Design (SBD) scheme.
- 7.11. CAMPAIGN TO PROTECT RURAL ENGLAND: **No comment to date**
- 7.12. OXFORD AIRPORT: Not consulted. The Airport would only be consulted on development proposals exceeding 45 metres in height. The Airport was consulted on the pre-application enquiry, and replied with a request for conditions to be imposed in relation to glare and measures to prevent increased bird activity.

## **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)

- ESD5 – Renewable Energy
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD14 – Oxford Green Belt
- ESD15 – The Character of the Built and Historic Environment

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

- C8 – Sporadic Development in the Countryside
- C28 – Layout, design and external appearance of new development

### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Climate Change Act 2008

## 9. APPRAISAL

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

- Principle of development
- Principle of development in the Green Belt
- Impact on the character and appearance of the area
- Highway safety
- Ecology
- Flooding

#### Principle of development

- 9.2 Paragraph 12 of the NPPF notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.
- 9.3 The National Planning Policy Framework (NPPF) provides positive encouragement for renewable energy projects. Paragraph 148 of the NPPF states that the planning system should support the transition to a low carbon future and should support renewable and low carbon energy and associated infrastructure. Paragraph 154 of the NPPF states that when determining applications for renewable and low carbon development local planning authorities should approve such applications if its impacts are or can be made acceptable.
- 9.4 Policy ESD5 of the CLP 2031 states that renewable and low carbon energy provision will be supported wherever adverse impacts can be addressed satisfactorily. The potential local environmental, economic and community benefits of renewable energy schemes will be a material consideration in determining planning applications.
- 9.5 In principle, therefore, there is policy support for development of this nature. However, the overall acceptability of development is dependent on other material considerations, including the principle of the development in the Green Belt.

#### Principle of development in the Green Belt

- 9.6 The site lies within the Oxford Green Belt and so the proposed development is assessed against Green Belt policy.
- 9.7 Paragraph 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 of the NPPF states that: *“When considering any planning application, Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness,*

*and any other harm resulting from the proposal, is clearly outweighed by other considerations.”*

- 9.8 Paragraph 147 of the NPPF states that when located in the Green Belt elements of many renewable energy projects will comprise inappropriate development and if projects are to proceed developers will need to prove *very special circumstances* such as the wider environmental benefits associated with increased production of energy from renewable sources. All development in the Green Belt needs to preserve the openness of the Green Belt and not conflict with the purpose of including land within it.
- 9.9 Policy ESD14 of the CLP 2031 states that development within the Green Belt will only be permitted if it maintains the Green Belt’s openness and does not conflict with the purposes of the Green Belt or harm its visual amenities.
- 9.10 The proposed development constitutes inappropriate development in the Green Belt as it is not one of the exceptions set out at paragraph 145 of the NPPF and as highlighted in Paragraph 88, substantial weight is given to such harm.
- 9.11 An assessment is required into the impact of the development upon the openness of the Green Belt and on the purposes of including land within it, and then whether the harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify development.
- 9.12 In relation to the purposes of the Green Belt, paragraph 79 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the most important attribute of Green Belts is their openness and permanence. This built development would clearly have an impact upon the openness of the Oxford Green Belt. Furthermore, the proposal conflicts with one of the five purposes of including land within Green Belts as stated in paragraph 80 of the NPPF, in that the proposed development would encroach into the open countryside.
- 9.13 Overall, the harm to the openness of the Oxford Green Belt and the harm by reason of conflict with one of the purposes of including land within the Green Belt as well as the harm to the visual amenities of the Green Belt add to the substantial harm by reason of inappropriateness in relation to the proposed development.
- 9.14 The proposed development is contrary to Green Belt Policy and the NPPF and is by definition harmful. As such *very special circumstances* need to be demonstrated to seek to outweigh the harm to the Green Belt.

#### Very Special Circumstances

- 9.15. The local planning authority concluded that very special circumstances were demonstrated in the case of the solar farm on the eastern side of Woodstock Road proposed under application 14/00786/F. These were: the contribution the solar farm would make towards renewable energy targets, the well screened nature of the site and the low quality of the surrounding landscape with industrial buildings, the railway, pylons and the main road nearby. The Planning Officer in the committee report stated that “significant weight can be attributed to the sustainability credentials and the limited harm to the surrounding landscape”. This decision followed an appeal in 2012 at Rowles Farm near Heathfield (application 13/01027/F) for a solar farm, again within the Green Belt. The Planning Inspector for that appeal considered that there would be harm to the Green Belt but that the harm was temporary and that the visual impact could be mitigated by planting. The Inspector

stated that the benefits of the significant scale in terms of the production of renewable energy along with the temporary nature of the development outweighed the harm to the Green Belt.

- 9.16. In respect of the proposed site and development the applicant's agent has, in the Planning Statement accompanying the application and further clarified in a letter dated 8<sup>th</sup> October 2019, advanced what it considers are very special circumstances. They have argued that: as a temporary consent is sought the harm to the landscape and Green Belt would be temporary, up to 5MW of renewable energy could be produced, the site is in close proximity to a substation with capacity for connections and energy generation and is close to the existing solar farm to the east of Woodstock Road enabling the sharing of infrastructure. In addition, the category of the land is poor quality agricultural land (Grade 4) and this is amongst the poorest agricultural land in this part of the district.
- 9.17. In the letter dated 8<sup>th</sup> October the applicants have provided evidence in support of their site selection. This states that Oxfordshire has some of the highest solar irradiation in the UK; that if irradiation levels are too low then it is economically unviable for solar development such as this to take place, within the current market; the capacity of individual substations in the area have been provided and this is the only one of those put forward that currently has any capacity.
- 9.18. The applicants have also set out that the proposal represents a community energy project, with Oxfordshire-based social enterprise Low Carbon Hub (LCH) being directly involved in the scheme, alongside the applicants Générale du Solaire, and with the scheme forming part of the nationally significant Project LEO (Local Energy Oxfordshire). They have advised that Project LEO takes a very community centric approach to implementing new energy projects across the County. Paragraph B.197 of the Cherwell Local Plan 201-2031 advises of the Council's support for renewable energy where appropriate and Paragraph B.199 states that in line with the UK Renewable Energy Strategy the community ownership of wind power and other renewable energy schemes such as this is encouraged within Cherwell.
- 9.19. In your Officer's opinion it is considered that the VSCs that weigh in favour of the development are the proximity to a substation that has capacity for both connections and energy generation along with the potential sustainable sharing of infrastructure with the existing solar farm to the east of Woodstock Road, its temporary nature, and that the solar farm is a community enterprise.
- 9.20. In addition, it is noted that in the case of the solar farm at the east of Woodstock Road the officer concluded that proposal's limited harm to the landscape in terms of its character and its visual amenities, and that this type of energy development is afforded support from Local and National Planning Policies, also amounted to contributory very special circumstances, and there is no reason to which can officers can point to now reach a different conclusion in respect of the current proposal.
- 9.21. It is also considered that the consent for the solar farm to the east of Woodstock Road is a material consideration in the determining of this application as the sites are similar in that they are in an area with an urban influence, they are both visible in public views and the harm to the landscape is considered to be limited.
- 9.22. On balance, officers consider that the harm caused by this proposal by reason of inappropriate development in the Green Belt is outweighed by the very special circumstances pertaining to the development as set out above.

Impact on the character and appearance of the area



9.23. Guidance in determining applications for renewable and low carbon energy projects is set out in the Planning Practice Guidance (PPG). The PPG advises that “the need for renewable or low carbon energy does not automatically override environmental protection and that cumulative impacts require particular attention, especially the increasing impact that such developments can have on landscape and local amenity as the number of turbines and solar arrays in an area increases”. It continues that “particular factors a local planning authority will need to consider include:

- where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.
- that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;
- the proposal’s visual impact, the effect on landscape of glint and glare (see guidance on landscape assessment) and on neighbouring uses and aircraft safety;
- the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;
- the need for, and impact of, security measures such as lights and fencing;
- the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;
- the energy generating potential, which can vary for a number of reasons including, latitude and aspect.”

9.24. Policy ESD 13 of the Cherwell Local Plan 2011-2031 states that development will be expected to respect and enhance local landscape character securing appropriate mitigation where damage to local landscape character cannot be avoided.

9.25. The site is relatively flat and is currently in agricultural use. It is well screened from the A44 by mature hedges. However, the development would be visible from the railway and the PROW along the northern boundary of the site. As previously stated there is a footbridge over the railway line and the site would be clearly visible from there. The application includes proposals to screen views of the site from the PROW and footbridge with hedge/tree planting along the northern boundary and when this planting has matured the views of the site would be lessened.

9.26. The Council’s Landscape Officer has assessed the Landscape and Visual Impact Assessment submitted with the application and a subsequent addendum to this. It is considered that the proposals would not have a significant impact on the landscape character or visual amenities of the area if the proposed planting is carried out and allowed to mature. The landscape here is considered to have an urban influence with the proximity to the A44 and the industrial estate at Yarnton and the site bounding the main railway line.

9.27. Consideration has also been given to the cumulative landscape and visual impacts of the development of this site and the existing solar farm on the eastern side of Woodstock Road. It has been concluded that these cumulative impacts would be minimal given the separation of the sites and the low inter-visibility between the two

sites. Whilst the proposal would result in two large solar farms in close proximity to one another it is considered that they would not become a defining characteristic of the landscape here.

#### Highway Safety

- 9.28. The Local Highway Authority has raised no objections to the application subject to conditions. The LHA advises that as part of planned improvements to the A44 corridor it is anticipated that the carriageway of the A44 will be widened to include a bus lane, which means there needs to be flexibility to take the footway/cycleway to the edge of the highway boundary. For this reason, adequate vision splays should be provided within the site, allowing for this future layout and these would need to be dedicated as part of the S278 highway works required to create the access. The design of the access needs to incorporate priority for cyclists on the cycle path.
- 9.29. Due to the severe congestion experienced on this part of the A44 and in order to mitigate against delays caused by turning vehicles, the proposed Construction Traffic Management Plan (CTMP) requires revision. It would need to include an enforced left in left out arrangement for all vehicles that access the site, to prevent any vehicles either waiting to turn into the site, or to egress the site and pull across the oncoming traffic to head south towards the A34. Para 3.4 of the submitted CTMP therefore requires amending along with Figure 2.1 to reflect this, and it is recommended that the final CTMP is required by condition.
- 9.30. Subject to the recommended conditions it is considered that the proposals, are unlikely to have any adverse impact upon the local highway network from a traffic and safety point of view.
- 9.31. OCC has advised that If works are required to be carried out within the public highway, such work should not commence before formal approval has been granted by Oxfordshire County Council by way of legal agreement between the applicant and Oxfordshire County Council.

#### Ecology

##### *Legislative context*

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

9.35. 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.

9.36. 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*

9.37. 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.

9.38. 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.

9.39. 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.

9.40. 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.

- 9.41. 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.
- 9.42. 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.
- 9.43. 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*

- 9.44. 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
- 9.45. It also states that LPAs can also ask for:
- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
  - an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 9.46. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site comprises mostly managed semi-improved grassland, with a number of mature trees and hedgerows within and adjacent the site and a ditch along the eastern boundary therefore the site has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles, great crested newts, water voles and invertebrates.
- 9.47. 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 LPA should then consider whether Natural England (NE) 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.
- 9.48. 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 NE will not grant a licence then

the Council should refuse planning permission; if it is likely or unclear whether NE will grant the licence then the Council may grant planning permission.

9.49. The application is supported by a detailed protected species and ecological surveys which concluded that:

- suitable habitat for amphibians within the site is limited,
- no evidence of badgers was found within the site and the habitat is generally deemed unsuitable,
- the trees within the site have moderate potential to support roosting bats but none were found and due to the nature of the proposed works no impacts on bats is anticipated,
- foraging areas identified will remain largely unaffected by the development,
- birds could be adversely affected during vegetation clearance,
- there is limited ecological value for invertebrates

9.50. The Council's Ecologist has not commented on the application to date. However, comments were made regarding the pre-application proposal in 2015. These included the recommendations to carry out of protected species surveys prior to the submission of an application and the provision of biodiversity enhancements within the site.

9.51. Officers are satisfied, in the absence of any objection from NE, and subject to 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.

#### Flooding

9.52. The site lies within Flood Zones 2 and 3 and a Flood Risk Assessment (FRA) has been submitted with the application. The FRA concludes that the development can remain appropriately safe throughout its lifetime and the development would not increase flood risk elsewhere if drainage for the development is carried out in accordance with drawing G234/03 and maintained in accordance with procedures set out in Table D of the FRA. It is recommended that this is the subject of a condition.

9.53. As this is the case and in the absence of any information to the contrary it is considered that the development complies with Policy ESD6 of the Cherwell Local Plan 2011-2031.

#### Archaeology

9.54. The site is located in an area of archaeological interest immediately to the south of an area of pre-historic and roman settlement identified from cropmarks seen on aerial photographs and a geophysical survey. It is possible that archaeological features could be disturbed by the development. Policy ESD15 of the Cherwell Local Plan 2011-2031 requires that where archaeological potential is identified applications should include an appropriate desk-based assessment and if necessary a field evaluation.

- 9.55. A desk-based historic environment assessment has been submitted with the application. The conclusions of this assessment are that there is a moderate potential for buried archaeological remains. The assessment recommends that geophysical survey is carried out to further gauge the archaeological potential.
- 9.56. It is recommended that the further geophysical survey is carried out and this is the subject of a condition below.

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

- 10.1. 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.
- 10.2. Economic objectives – The location of the proposed development in an area where there is adequate irradiation means that the solar farm development would be economically viable. Added to this is the capacity of the local infrastructure to link the development to the national grid and the proximity to another solar farm to enable sharing of infrastructure.
- 10.3. Social objectives – The proposal is supported by an Oxfordshire based social enterprise delivering renewable energy to local communities through an investment programme. Support for community led initiatives is set out in the NPPF.
- 10.4. Environmental objectives – Whilst there will be harm caused to the local environment due development on a greenfield site in the Oxford Green Belt this is considered temporary in nature, would not result in the loss of Best Most Versatile agricultural land and the visual impact can be mitigated with additional planting. The wider environmental benefits of providing renewable energy are considered to outweigh this harm.
- 10.5. Overall, when considered as a whole, the economic, social and wider environmental benefits of the scheme are considered to weigh in favour of the proposal and to outweigh the adverse effects on landscape character and visual amenities of the area, and it is considered that the harm to the Green Belt by reason of inappropriateness is justified by the very special circumstances as set out earlier in this report. It is therefore considered to represent a sustainable form of development and it is recommended that planning permission be granted.

## **11. RECOMMENDATION**

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

### CONDITIONS

#### **Time 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:
  - Site location plan, Drawing Nos 772522- DWG-ENV-001, 002, 003 and 004, PV Power Plant Layout rev F, SK01 rev B, Transformer rev A, Cross Section Design, rev A and Access Road rev A.
  - Design and Access Statement prepared by Pegasus Group, Planning Statement prepared by Pegasus Group, Landscape and Visual Impact Assessment prepared by Pegasus Landscape Design, Tree Survey, Arboricultural Impact Assessment, Tree Protection Plan, Preliminary Ecological Appraisal, Great Crested Newt Survey, Bat Survey, Historic Environment Desk Based Assessment, Flood Risk Assessment and Drainage Strategy and Construction Management Plan submitted with the application.
  - Landscape and Visual Impact Assessment Addendum dated September 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.

### **Temporary Permission**

3. The permission shall expire no later than 35 years from the date when electricity is first exported from any part of the array to the electricity grid network ('First Export Date'). Written confirmation of the First Export Date shall be provided to the Local Planning Authority no later than 1 calendar month after the event.

Reason - In order to safeguard the amenities of the area and protect the rural character of the landscape and to comply with Policies ESD 13 and ESD15 of the Cherwell Local Plan 2011-2031 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. Not later than 24 months before the end of this permission, a decommissioning and site restoration scheme shall be submitted to and approved by the Local Planning Authority, such scheme to include the management and timing of any works and traffic management plan to address likely traffic impact issues during the decommissioning period. The approved scheme shall be fully implemented within 12 months of the expiry of this permission.

Reason - To ensure the environment is protected during decommission in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Landscaping Scheme**

5. Prior to the clearance of the site a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

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

The development shall not be carried out other than in strict accordance with the approved scheme and the hard landscape elements of the scheme shall be fully implemented prior to the first operation of the development and shall be retained as such thereafter.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

#### **Landscaping Implementation**

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

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 Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

#### **Landscape Maintenance**

- 7. Prior to the clearance of the site a schedule of landscape maintenance for a minimum period of 5 years, to include the timing of the implementation of the schedule and procedures for the replacement of failed planting shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the landscape maintenance shall be carried out in accordance with the approved schedule.

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

#### **Retention of Hedgerows**

- 8. The existing hedgerows along all boundaries of the site boundary shall be retained and properly maintained at mature heights, not less than 3.5 metres, and



if any hedgerow plant dies within five years from the completion of the development it shall be replaced and shall thereafter be properly maintained in accordance with this condition.

Reason - In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Access**

9. Except to allow for the means of access and vision splays the existing hedgerow along the south west boundary of the site shall be retained and properly maintained at mature height, not less than 3.5 metres, and if any hedgerow plant dies within five years from the completion of the development it shall be replaced and shall thereafter be properly maintained in accordance with this condition.

Reason - In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. Prior to the clearance of the site 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, and prior to the construction of the solar array, 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.

#### **Vision Splays**

11. The vision splays shall not be obstructed by any object, structure, planting or other material of a height exceeding 0.6m measured from the carriageway level.

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

#### **Construction Management Plan**

12. Notwithstanding the Construction Traffic Management Plan (CTMP) dated July 2015 prepared by Transport Planning Associates submitted with the application, prior to the commencement of the development hereby approved a revised CTMP shall be submitted to and approved in writing by the Local Planning Authority. The CTMP must be appropriately titled, include the site and planning permission number. The statement shall include the following at a minimum:
  - a) The parking of vehicles of site operatives and visitors;
  - b) The routing of construction traffic and delivery vehicles to and from the site;
  - c) A commitment to deliveries only arriving at or leaving the site outside local peak traffic periods.

- d) Details of and approval of any road closures needed during construction.
- e) Details of and approval of any traffic management needed during construction
- f) Left in left out arrangement to ensure that vehicles egressing the site do not need to cross oncoming traffic.
- g) Details of appropriate signing, to accord with the necessary standards/requirements, for pedestrians during construction works, including any footpath diversions.
- h) 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.
- i) Loading and unloading of plant and materials;
- j) Storage of plant and materials used in constructing the development;
- k) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- l) Wheel washing facilities including type of operation (automated, water recycling etc) and road sweeping;
- m) Measures to control the emission of dust and dirt during construction;
- n) A scheme for recycling/ disposing of waste resulting from demolition and construction works;
- o) Delivery, demolition and construction working hours;
- p) Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.
- q) The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.

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

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 ensure the environment is protected during construction in accordance 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.

### **Drainage**

13. Prior to the levelling of the site or construction of the access and internal tracks whichever is the earliest the drainage for the development shall be carried out in accordance with drawing no. G234/03 and the drainage shall be maintained in accordance with the procedures set out in Table D of the Flood Risk Assessment dated May 2018 prepared by PFA Consulting thereafter.

Reason - To protect the development and its occupants from the increased risk of flooding and in order to comply with Policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

### **Archaeology**

14. Prior to the first excavation or levelling of the site whichever is the earliest, a geophysical survey shall be undertaken by a professional archaeological organisation acceptable to the Local Planning Authority to inform the need for

further archaeological investigation and a Written Scheme of Investigation relating to the application site area, shall be submitted to and approved in writing by the Local Planning Authority.

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

15. Prior to the first excavation or levelling of the site whichever is the earliest and following the approval of the geophysical survey referred to in condition 15, 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.

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.

### **Ecology**

16. The development hereby approved shall be carried out in accordance with the recommendations set out in Sections 5 and 6 of the Preliminary Ecological Appraisal carried out by Mott Macdonald on 16 October 2017.

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

### **Lighting**

17. No external lighting shall be installed within the site area unless agreed in writing with the Local Planning Authority.

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

CASE OFFICER: Shona King

TEL: 01295 221643

# Agenda Item 11 19/01399/F

**Lower Lodge  
Williamscot  
OX17 1AE**

117.4m 117.4m

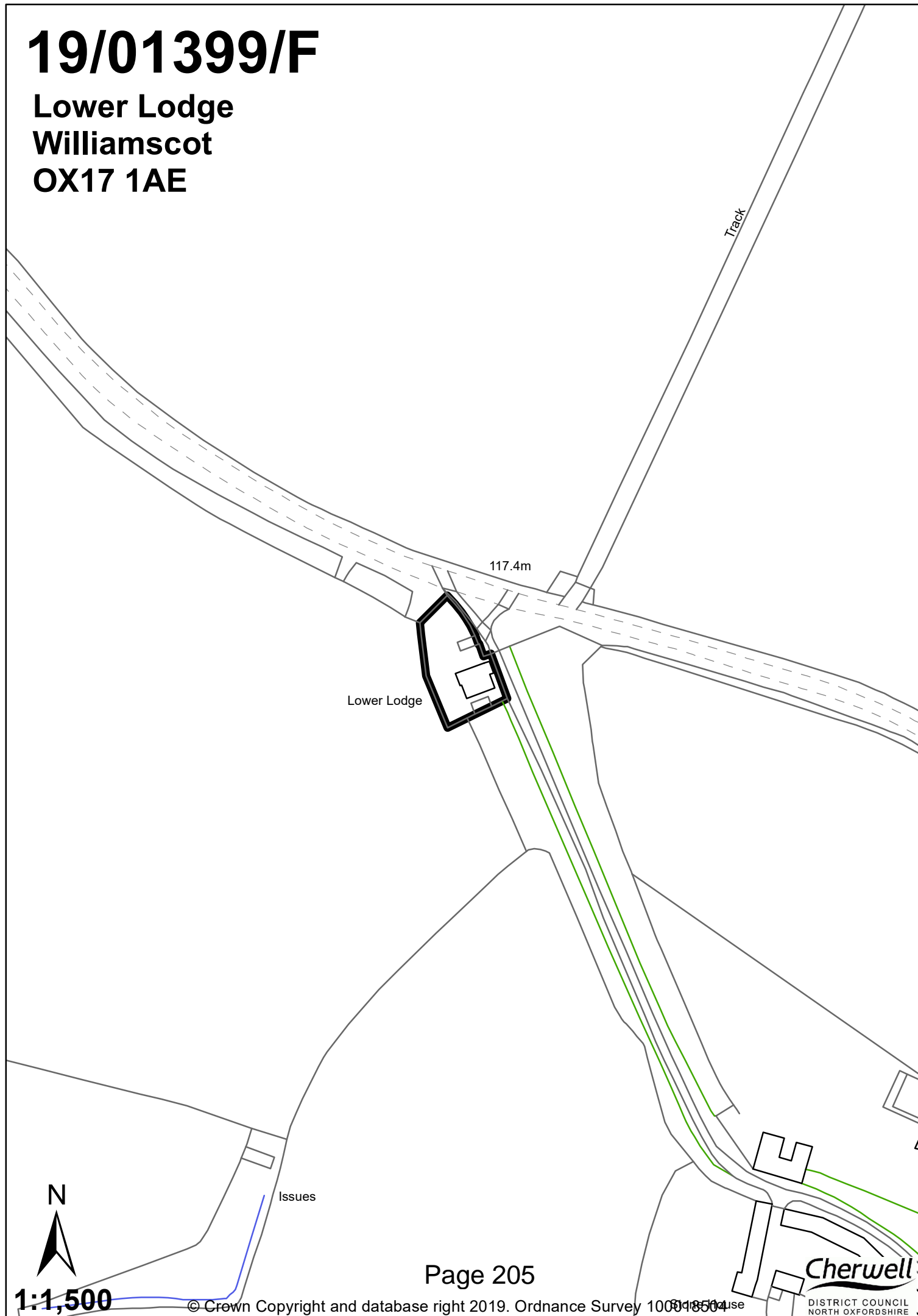
Lower Lodge



**1:250**

# 19/01399/F

Lower Lodge  
Williamscot  
OX17 1AE



**Case Officer:** Gemma Magnuson

**Applicant:** Mr Julian Bernard

**Proposal:** Demolition of 20th Century extensions and erection of replacement two storey part subterranean extension and associated engineering works

**Ward:** Cropredy, Sibfords And Wroxton

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

**Reason for Referral:** Called in by Cllr Phil Chapman for the following reasons: Public interest

**Expiry Date:** 4 October 2019

**Committee Date:** 24 October 2019

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

### **RECOMMENDATION: REFUSE PERMISSION**

#### **Proposal**

The proposed development would involve the replacement of an existing single storey flat roofed extension to the rear of the lodge with a two storey rear extension, an element of which would be subterranean, together with associated engineering works to facilitate the development. An existing dormer window would also be removed from the rear facing roofslope of the building. Construction materials would consist of a coursed rubble stone masonry lower level, with stone coloured render upper level. The roof would be constructed using Welsh slate, and the openings would be metal framed.

#### **Consultations**

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

- CDC Conservation

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

- OCC Highway Authority, OCC Archaeology, CDC Building Control, CDC Environmental Protection, CDC Ecology

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

- Wardington Parish Council

No letters of objection have been received and seven letters of support have been received.

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

Lower Lodge is a curtilage listed building to Grade II\* Williamscot House. The site is in the Williamscot Conservation Area and also sits to the edge of the Battle of Cropredy Bridge 1644 Registered Historical Battlefield. A number of trees protected by virtue of their positioning within the conservation area are both within and directly adjacent to the site, forming an area of protected lowland mixed deciduous woodland.

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, impact on the character of the area and heritage impact
- Residential amenity
- Ecology impact
- Highway safety
- Protected trees

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

1. Loss of appreciation of historic significance of the building as a small lodge building to Grade II\* Williams Scot House, resulting in less than substantial harm to the listed buildings and their setting.
2. Less than substantial harm to the character and appearance of Williams Scot Conservation Area, and the visual amenities of the locality.
3. No public benefits that outweigh the identified harm.

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

## **MAIN REPORT**

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

- 1.1. The application site is positioned to the north-west of the village of Williams Scot, and south-east of the village of Cropredy, accessed off the Williams Scot Road connecting the two villages. The site is occupied by Lower Lodge, a detached dwelling constructed from stone with a slate roof. A single storey extension has been added to the dwelling, constructed from artificial stone and brick, with felt flat roof. A timber clad pitched roof dormer window has also been added to the rear facing roof slope. Two detached outbuildings are positioned to either side of the dwelling. A gravelled off-street parking and turning area is positioned to the front of the dwelling, with garden and lawn to the rear. The land level begins to slope downwards from the rear elevation of the dwelling, culminating at the river Cherwell to the south. Open countryside surrounds the site on all sides, with the access road leading to Williams Scot House now closed.

### **2. CONSTRAINTS**

- 2.1. Lower Lodge is one of two lodge houses that sit adjacent to the access roads originally serving Grade II\* Williams Scot House; Lower Lodge sitting to the north-west of the house and Upper Lodge to the south-east. Lower Lodge is curtilage listed to Grade II\* listed Williams Scot House. The site lies within the Williams Scot Conservation Area, and the Battle of Cropredy Bridge 1644 Registered Historical Battlefield is positioned across the road to the north.

- 2.2. Several trees, protected by virtue of their positioning within the Conservation Area, are both within and directly adjacent to the site. They form an area of protected lowland mixed deciduous woodland.
- 2.3. A number of public rights of way are in the vicinity, including a bridleway across the road to the north-east. Views of Lower Lodge are also obtainable from the public rights of way running alongside the Oxford Canal and the river Cherwell to the south-west.

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

- 3.1. The proposed development would involve the removal of one existing outbuilding, the existing single storey flat roofed extension and dormer window, and their replacement with a two storey rear extension. The extension would make use of the sloping land level, to create a dining room at ground floor level, leading down to the lower ground floor level where two bedrooms and two bathrooms would be accommodated. An outdoor terrace would also be provided as part of the development.
- 3.2. The extension would be constructed with pitched roofs finished in Welsh slate, with coursed rubble stone masonry upon the lower ground floor level and stone coloured render to the upper elements. Stone quoin detailing would be used throughout the extension. Openings would be metal framed.
- 3.3. The development would increase the number of bedrooms at the property from two to three bedrooms.

### **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>
67/00296/B	Extension and improvement to cottage and new garage	Approved
72/00800/B	Erection of pre-fabricated garage	Approved
81/00224/N	Extensions to form kitchen and porch	Approved
07/01396/F	Two storey extension, sun room and double garage	Refused
08/00943/F	Two storey extension, sunroom and replacement double garage	Withdrawn
08/01704/F	Replace single storey rear extension, erect	Withdrawn



conservatory/sun room plus detached garage

09/01100/LB& 09/01125/F	Alterations to roof and extensions to form 3 bed dwelling and new garage to side	Withdrawn
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10/01264/F &10/01265/LB	Rear single storey extension and attached garage. Demolition of 2 no. detached garage	Approved
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16/00433/F& 16/00434/LB	Resubmission of 10/01264/F & 10/01265/LB -Extension to existing lodge to form three bedroom accommodation with new garage to side.	Withdrawn
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16/01681/F& 16/01682/LB	Demolition of existing flat roof extension to the listed building and erection of new single storey extension	Withdrawn
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18/00736/F& 18/00737/LB	Single storey rear extension and recladding and reroofing of existing single storey flat roof extension, insertion and alteration of windows and doors and internal alterations	Withdrawn
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- 4.2. Planning permission was originally granted for the erection of a single storey extension to the rear of Lower Lodge in 1967, with a later extension approved fourteen years later. Although the first of these applications did not require listed building consent it should have been sought in 1981.
- 4.3. During 2007 an application for planning permission was refused for the replacement of the single storey extension with a two storey extension, garage and sunroom. The refusal was based on the conclusion that the development be out of keeping with the scale of, and wholly overwhelm, the existing modest lodge. It was at this point that the building was recognised as being curtilage listed.
- 4.4. Three further schemes were proposed during 2008 and 2009; two to replace the existing single storey extension and one to alter the existing structure. Historic England, as it is now known, commented on the 2009 application that sought to alter the existing structure to create a one and half storey structure, with first floor accommodation in the roofspace of both the existing lodge and the extension. The width of the extension would have been no greater than that existing, and the ridge height was proposed to sit lower than that existing. Historic England commented

that the new extension would seriously damage the architectural quality of the lodge with the new roof would emphasising the size of the extension and make it clear that this is no longer a lodge but a sizeable house.

- 4.5. Historic England considered that the current single storey extension, whilst a poorly designed addition, has the merit of being virtually invisible in views from the front of the property, thus preserving the image of a small gate lodge in a landscape. In addition, the existing extension was not considered to impinge greatly on long views over the valley from Cropredy, as it is relatively low-lying and partially screened by a hedge. Historic England went on to suggest that the appearance of the building could be improved by a modern flat roofed rebuilding of the current extension, that could be increased in size, to a limited extent, without damaging the architectural significance of the lodge.
- 4.6. During 2010 approval was given to replace the existing single storey extension and two detached outbuildings with a large flat roofed single storey extension and attached garage, seemingly in accordance with the advice from Historic England in the previous year. However, this scheme was never implemented and lapsed in October 2013.
- 4.7. Applications for the same scheme that had been approved during 2010 were submitted during 2016. However, these were not viewed favourably by Officers reflecting changes in national and development plan policies which placed a greater emphasis on design and the need to protect heritage assets. The applications were withdrawn. A revised application was also submitted later that year, although again these were withdrawn.
- 4.8. During 2018 approval was again sought for the erection of a single storey rear extension to form a third bedroom. The scheme included the re-cladding and re-roofing of the existing flat roofed extension. Although the proposal was ultimately withdrawn, Officers had considered this scheme to be broadly acceptable subject to minor modifications.

## **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 will be **10 October 2019**. Seven responses were received on the scheme at the time of writing, all in support of the application. The comments raised by third parties are summarised as follows:

- If the application is successful it will make a great difference visually to the property and remove appalling flat roof of the existing extension.
- Cottage will be more suitable as a family home.
- It will have no impact on surrounding areas and is difficult to imagine why permission should not be granted.
- Size of current dwelling and layout is unsuitable and proposed improvements are in keeping with the local area as well as providing a better layout.

- Existing extensions are not, nor have they ever been, in keeping with our village, or such a beautiful period property.
- Plans are a vast improvement on the existing structure.
- Planning structure will be a welcomed enhancement to this lovely lot at the end of our village.
- Witnessed applicant's continued investment in the property by way of landscaping and other exterior improvements, confident that the plans will be carried out with pride and utmost respect for the character of the existing building and that of the village.
- Will greatly improve this existing location within our village.
- A very attractive development to a very unattractive current site.
- Lodge has been spoilt by current extension and is not in keeping with the village and its surroundings.
- The new owners have already enhanced the aspect to the front of Lower Lodge with new and extensive landscaping.
- The planned improvements will not only be of benefit to the property but also to Williamscot village.
- The property is not overlooked and the replacement two storey structure would not only enhance the property but be more in keeping with the property itself and surrounding countryside.
- Current design of dwelling is out of character with rural environment. The plans represent an opportunity to address this, providing better aspect from adjacent countryside without being imposing.
- Property is set back from the road and within the plot there is ample access for contractors vehicles and materials, ensuring that the Cropredy Road would not be restricted during works.

6.2. 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. WARDINGTON PARISH COUNCIL: **support**, feel like this building work would improve the residence and make it more in keeping with the area.

### CONSULTEES

7.3. THE GARDENS TRUST: no comments received at the time of writing.

- 7.4. HISTORIC ENGLAND (consulted as part of accompanying 19/01400/LB): do not wish to comment and suggest that the views of our specialist conservation advisor is sought.
- 7.5. OCC HIGHWAYS: **no objection**.
- 7.6. OCC ARCHAEOLOGY: no archaeological constraints to the scheme.
- 7.7. CDC ARBORICULTURE: **no objection**, subject to conditions relating to tree protection.
- 7.8. CDC BUILDING CONTROL: **no comment**.
- 7.9. CDC CONSERVATION (consulted as part of accompanying 19/01400/LB): **object**. The development would result in harm to the curtilage listed building through the loss of historic fabric, the loss of the plan form of the building and diminished architectural significance. The development would also harm the setting of Grade II\* listed Williamscoth House by diminishing the relationship between the lodge and the principal building, including when viewed in context with the principal building from long range views from public rights of way, the understanding of this relationship would also be damaged, along with the significance of the former access to Williamscoth House. Further, the landscape surrounding Williamscoth House forms a significant proportion of the land within the Conservation Area and the change in relationship between these two identified positive landmarks will cause a high level of harm to the fundamental significance of character and appearance of the Williamscoth Conservation Area.
- 7.10. CDC ECOLOGY: **no objection**, subject to conditions relating to the timing of works, obtaining a licence and providing biodiversity enhancements on site.
- 7.11. CDC ENVIRONMENTAL HEALTH: **no comments**.
- 7.12. NATIONAL AMENITY SOCIETIES: no comments received at time of writing.

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

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

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

- PSD1 – Presumption in Favour of Sustainable Development
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment

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

- C23 – Retention of features contributing to character or appearance of a conservation area
- C28 – Layout, design and external appearance of new development
- C30 – Design control

### 8.3. Other Material Planning Considerations

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

### 8.4. Council Corporate Priorities

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

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

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

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

## **9. APPRAISAL**

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

- Design, impact on the character of the area and heritage impact
- Residential amenity
- Ecology impact
- Highway safety
- Protected Trees

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

### *Legislative context*

- 9.2. The site is within and affects the setting of a Conservation Area and the application relates to a curtilage listed building.
- 9.3. 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.*
- 9.4. Likewise Section 66 of the same Act states that: *In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* Therefore significant weight must be given to these matters in the assessment of this planning application.
- 9.5. 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 context*

- 9.6. Government guidance contained within the NPPF requires development to function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. Development should be visually attractive, sympathetic to local character and history, and establish or maintain a strong sense of place. Permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions.
- 9.7. Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Substantial harm to or loss of assets of the highest significance, including Grade II\* listed buildings, should be wholly exceptional. Where a proposed development will lead to substantial harm to, or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss.
- 9.8. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 9.9. The National Design Guide explains that development should respond to existing local character and identity, and that well designed new development is influenced by an appreciation and understanding of vernacular, local or regional character, including existing built form, landscape and local architectural precedents, and the

elements of place or local places that make it distinctive. This includes considering the relationships between buildings, and views, vistas and landmarks.

- 9.10. Policy ESD15 of The Cherwell Local Plan 2011-2031 Part 1 requires development to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards. Further, development proposals will be required to conserve, sustain and enhance designated and non-designated heritage assets including buildings, features, archaeology, conservation areas and their settings.
- 9.11. Policy ESD13 of the Cherwell Local Plan 2011-2031 expects development to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided.
- 9.12. Saved Policy C23 of the Cherwell Local Plan 1996 seeks to retain features that contribute to the character or appearance of a conservation area. Saved Policies C28 and C30 of the Cherwell Local Plan 1996 seek a standard of layout, design and external appearance, including the choice of external finish materials, that are sympathetic to the character of the context of the development. In sensitive areas, such as conservation areas, development will be required to be of a high standard and the use of traditional local building materials will normally be required.

#### *Assessment*

- 9.13. Lower Lodge dates back to 1842, forming a part of the Williamscot House estate, that was at the time being remodelled by the Loveday family who were the owners of the estate from 1777 until 1969. Sales particulars from 1968 described Lower Lodge as sitting at the back gate to Williamscot House, whereas Upper Lodge, a second lodge serving the house, is described as sitting at the entrance to the main drive. Lower Lodge was constructed prior to Upper Lodge, and both provided gated entrances to the private way running through the estate. The private way itself has historic significance as it was the original route of the road through Williamscot that was altered to its current alignment around 1830.
- 9.14. The historic significance of Lower Lodge lies in the largely unaltered plan and roof form of the original building, its relationship with Grade II\* listed Williamscot House and wider estate, and its positioning adjacent to the private way running through the estate, that was once the original road running through the village of Williamscot.
- 9.15. Williamscot House was designated as a Grade II\* listed building in December 1955, when the estate and Lower Lodge was within the ownership of the Lovedays. As Lower Lodge was within the same ownership at the beginning of 1969 and given its then function and physical relationship to Williamscot House, it is considered to be curtilage listed (1969 saw a change to the legislation to formally recognise curtilage listed structures).
- 9.16. The Heritage, Design and Impact Assessment submitted with the application describes Lower Lodge as having a low historic and communal value, given that it did not serve the principal entrance, and the previous tenants of the lodge have been difficult to track. It is therefore considered that the Lodge was occupied by estate workers until it was sold, and few people would have a living memory of the lodge and its importance as part of the Williamscot estate.
- 9.17. The Conservation Officer disagrees with this assessment, and considers the Lodge to have high historic value, sitting at one of two principal entrances to Williamscot House and located alongside the former public road. The position of Lower Lodge in this location is considered to be of particular historic value as it denotes changes of

private ownership and control of the former public highway. Further, it is not disputed that estate workers occupied the lodge, as it functioned as part of the wider estate.

- 9.18. The Heritage, Design and Impact Assessment also concludes that the aesthetic value of Lower Lodge is low, being reduced by the extensions approved in 1967 and 1981 that in particular obscure views of the original rear elevation.
- 9.19. The Conservation Officer disagrees with this conclusion and considers the aesthetic value of Lower Lodge to be high, forming a part of the core significance of Williamscot House. It is acknowledged however, that the later extensions have little architectural merit and could be improved upon.
- 9.20. The site lies within the Williamscot Conservation Area and is visible from the Oxford Canal Conservation Area. The Williamscot Conservation Area Appraisal identifies Lower Lodge as a positive landmark, with a number of long range views of the structure and its setting specifically identified across the agricultural land to the west and south-west. The site forms a part of the Williamscot House estate character area, described as being formed through a combination of the principal property and other associated historic buildings, of which Lower Lodge is one, and the picturesque landscape in which it sits.
- 9.21. It is commonly accepted that lodge buildings were originally constructed for both security purposes, and to give the passer by or visitor a hint of the quality of the house beyond. Historic England explain in their publication *The Garden and Park Structures Listing Selection Guide* that lodge buildings were generally small but often elaborate, and often designed to anticipate the architectural achievement of the great house beyond.
- 9.22. When approaching the site from Cropredy, Lower Lodge is clearly visible due to its proximity to the road. Lower Lodge, whilst modest in size, has high quality and elaborate architectural features such as the decorative external stack, arch headed windows and a hood mould over the door. Although the flat roofed rear extension is not of any architectural merit, the low profile succeeds in maintaining the appearance of a modest sized lodge building when viewing from the road, as it sits at a lower land level to the lodge, and the flat roofed design avoids any conflict with the eaves or roof form of the original building.
- 9.23. Longer range views of the structure from the west and south-west allow appreciation of the lodge building in context with Williamscot House, appearing as a small ancillary building within the setting of this Grade II\* listed building, enabling the two distinct functions of these structures to be read and understood. Whilst the existing flat roofed extension is visible from this aspect, due to the retention of the original eaves and roof form, and as the extension does not extend beyond the sides of the original lodge, the original height and width of the Lodge remain clear.
- 9.24. The proposed extension, at 7.65 metres in depth from the rear of the original lodge, with a height sitting around 70cm from the ridge of the original lodge, would be clearly visible when approaching the site from Cropredy. The floorspace of the original building would be approximately tripled as a result of the development, which is considered to be a disproportionate extension given the nature of the building and its listed status. It is acknowledged that the existing extensions almost doubles the floorspace of the original building, although the Lodge was not or not identified as a curtilage listed building at the time of their consideration.
- 9.25. The design of the proposed extension would include large expanses of glazing over two levels, the design of which is out of keeping with the original building and would



draw undue attention to the extension when viewed from the road and public rights of way to the west and south-west respectively.

- 9.26. The proposed extension would extend above the height of the original eaves and cut into the rear roofslope of the original building, obscuring the majority of the rear elevation of the existing lodge when viewing from the west and south-west. The extension would also extend beyond the side elevation of the original lodge, substantially increasing the overall width of the structure when viewing from this aspect.
- 9.27. Where harm would be caused to a designated heritage asset, the NPPF requires this to be weighed against the public benefits arising from the scheme. The applicant has put forward a justification for the scheme arguing that a three bedroom dwelling in this location would be more sustainable than the existing two bedroom dwelling. Furthermore, it is argued the removal of the modern extensions that do not comply with current insulation requirements and the general restoration of the remainder of the building would be a positive.
- 9.28. Officers do not consider the creation of a three bedroom dwelling to constitute a public benefit, given that there is generally a demand for both two and three bedroom dwellings, and in any case, it would be possible to achieve a three bedroom dwelling through a more sympathetic development. Such a scheme was largely agreed prior to the withdrawal of the previous application. Indeed, Officers concur with the Historic England advice from 2009 that a modest extension could be countenanced if the appearance of the flat roofed extension were to be improved. The principle of a replacement single storey flat roofed extension, which sits under the eaves of the Lodge, has been viewed as the most acceptable solution to redevelop the building as it results in the least amount of harm.
- 9.29. Therefore whilst the development would involve the removal of the existing extension and reveal an element of the rear wall of the original building that is not currently visible, and an existing dormer upon the roofslope would be removed, these benefits, which could be achieved as part of an alternative scheme, are considered to be outweighed by the harm that would be caused by introducing a disproportionately large incongruous extension, and the loss of historic fabric, roof and plan form.
- 9.30. It is the opinion of Officers that the proposed extension to the Lodge would result in the loss of appreciation of the historic significance of this building as a small lodge building to Grade II\* Williamscoth House, through the introduction of a visually dominant and incongruous extension that pays little respect to the historic structure to which it would attach or the setting of the Grade II\* listed building within which it would be positioned.
- 9.31. Furthermore, the appreciation of the Williamscoth House estate, from both the road and public rights of way to the south and south-west, would be detrimentally affected. Officers therefore conclude that the proposed development would result in less than substantial harm to the historic significance of this curtilage listed building and the setting of Grade II\* Williamscoth House. In addition, the development would result in less than substantial harm to the Williamscoth Conservation Area and the visual amenities of the wider locality. In the absence of public benefits that outweigh the identified harm the development is contrary to Government guidance contained within the National Planning Policy Framework, Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996.

### Residential Amenity

- 9.32. Government guidance contained within the NPPF requires development to create places that are safe, inclusive and accessible, promoting health and well-being, and with a high standard of amenity for existing and future users. Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1 requires all development to consider the amenity of both existing and future development. Saved Policy C30 of the Cherwell Local Plan 1996 seeks standards of amenity and privacy acceptable to the Local Planning Authority.
- 9.33. There are no neighbouring properties in close proximity to the site that could be affected by the proposed development in terms of a loss of amenity or privacy. The development and therefore complies with the above policies.

### Ecology Impact

#### *Legislative context*

- 9.34. 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.
- 9.35. 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.
- 9.36. 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.
- 9.37. 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.

- 9.38. 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).
- 9.39. 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*

- 9.40. 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.
- 9.41. 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.
- 9.42. 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.
- 9.43. 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.
- 9.44. 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.
- 9.45. The Planning Practice Guidance dated 2014 postdates 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.

9.46. 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')

9.47. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site contains buildings of traditional construction, is close to a river and canal and there are a number of mature trees and hedgerows within and adjacent the site, and therefore has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles, great crested newts, water voles and invertebrates.

9.48. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site contains buildings of traditional construction, is close to a river and canal and there are a number of mature trees and hedgerows within and adjacent the site, and therefore has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles, great crested newts, water voles and invertebrates.

9.49. 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.

9.50. 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.

9.51. The application is supported by a Preliminary Roost Assessment and Ecological Appraisal undertaken during December 2018 that identified one bat behind a barge board on the dwelling. No evidence of bats was found within the outbuilding proposed for demolition. No evidence of nesting birds was found on, or inside, the house and outbuilding. It was considered very unlikely that any other protected species are present on site or use the habitats present on site.

- 9.52. The Council's Ecology Officer has raised no objection to the scheme subject to conditions requiring the avoidance of bird nesting season, a mitigation strategy for bats, a licence for any works where an offence under Regulation 41 of the Habitat and Species Regulations 2010 is likely to occur and the provision of bat and bird boxes within the site.
- 9.53. Officers are satisfied, on the basis of the advice from the Council's Ecologist, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land would continue and be safeguarded as a result of the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats and Species Regulations 2017, have been met and discharged.

#### Highway Safety

- 9.54. Government guidance contained within the NPPF and Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 seek to achieve safe and suitable access to sites for all users and requires development to 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.
- 9.55. As at least two vehicles can be parked within the curtilage of the site and there is an adequate vision splay for vehicles entering and leaving the site, the proposed development is unlikely to cause harm to the local highway network from a traffic and safety aspect, in accordance with the above policy.

#### Protected Trees

- 9.56. Government guidance contained within the NPPF states that decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, including trees and woodland.
- 9.57. Policy ESD13 of the Cherwell Local Plan 2011-2031 expects development to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Saved Policy C23 of the Cherwell Local Plan 1996 seeks to retain features that contribute to the character or appearance of a conservation area, such as trees.
- 9.58. The Council's Arboricultural Officer considers that the measures set out in the Arboricultural Method Statement submitted with the application would ensure that the proposal would have no lasting impact on the trees within or adjacent to the site. Officers therefore consider the proposal to accord with the above policies in respect of this matter.

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

- 10.1. The proposal fails to comply with the relevant Development Plan policies and guidance listed at section 8 of this report because the proposed extension to Lower Lodge would result in the loss of appreciation of the historic significance of this building as a small lodge building to Grade II\* Williamscot House, through the introduction of a visually dominant and incongruous extension that fails to respect to the historic structure to which it would attach or the setting of the Grade II\* listed Williamscot House within which it would be positioned.

- 10.2. Furthermore, the appreciation of the Williams Scot House estate from surrounding vantage points would be detrimentally affected. Officers therefore conclude that the proposed development would result in less than substantial harm to the historic significance of this curtilage listed building and the setting of Grade II\* Williams Scot House. In addition, the development would result in less than substantial harm to the character and appearance of the Williams Scot Conservation Area and the visual amenities of the wider locality. Whilst some public benefits have been identified as a result of the scheme, these are not considered to outweigh the less than substantial harm that has been identified. The development is therefore contrary to Government guidance contained within the National Planning Policy Framework, Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996.
- 10.3. There are no other material considerations that outweigh this conflict and the harm caused, and therefore permission should be refused.

## 10. **RECOMMENDATION**

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

### REASONS FOR REFUSAL

The proposed extension to Lower Lodge, by virtue of its size, design and positioning, would introduce a visually dominant and incongruous extension that would dwarf the curtilage listed building, and diminish both its architectural significance and the relationship between Lower Lodge and the principal building of Williams Scot House. The development would result in less than substantial harm to the curtilage listed building, the setting of Grade II\* Williams Scot House, the character and appearance of the Williams Scot Conservation Area and the visual amenities of the locality. In the absence of public benefits that outweigh the identified harm, the proposal is contrary to 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 and the National Design Guide.

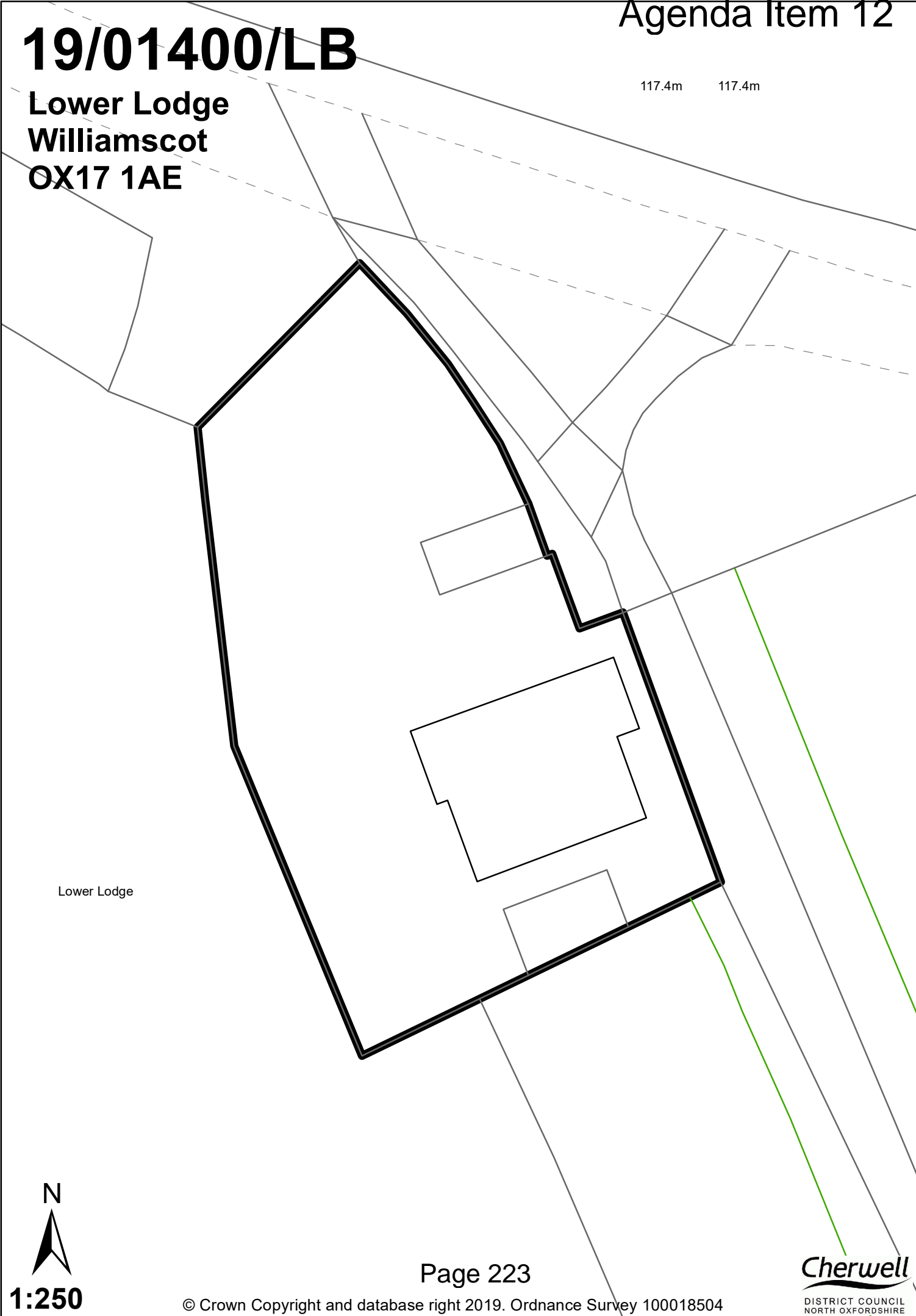
CASE OFFICER: Gemma Magnuson

TEL: 01295 221827

19/01400/LB

Lower Lodge  
Williamscot  
OX17 1AE

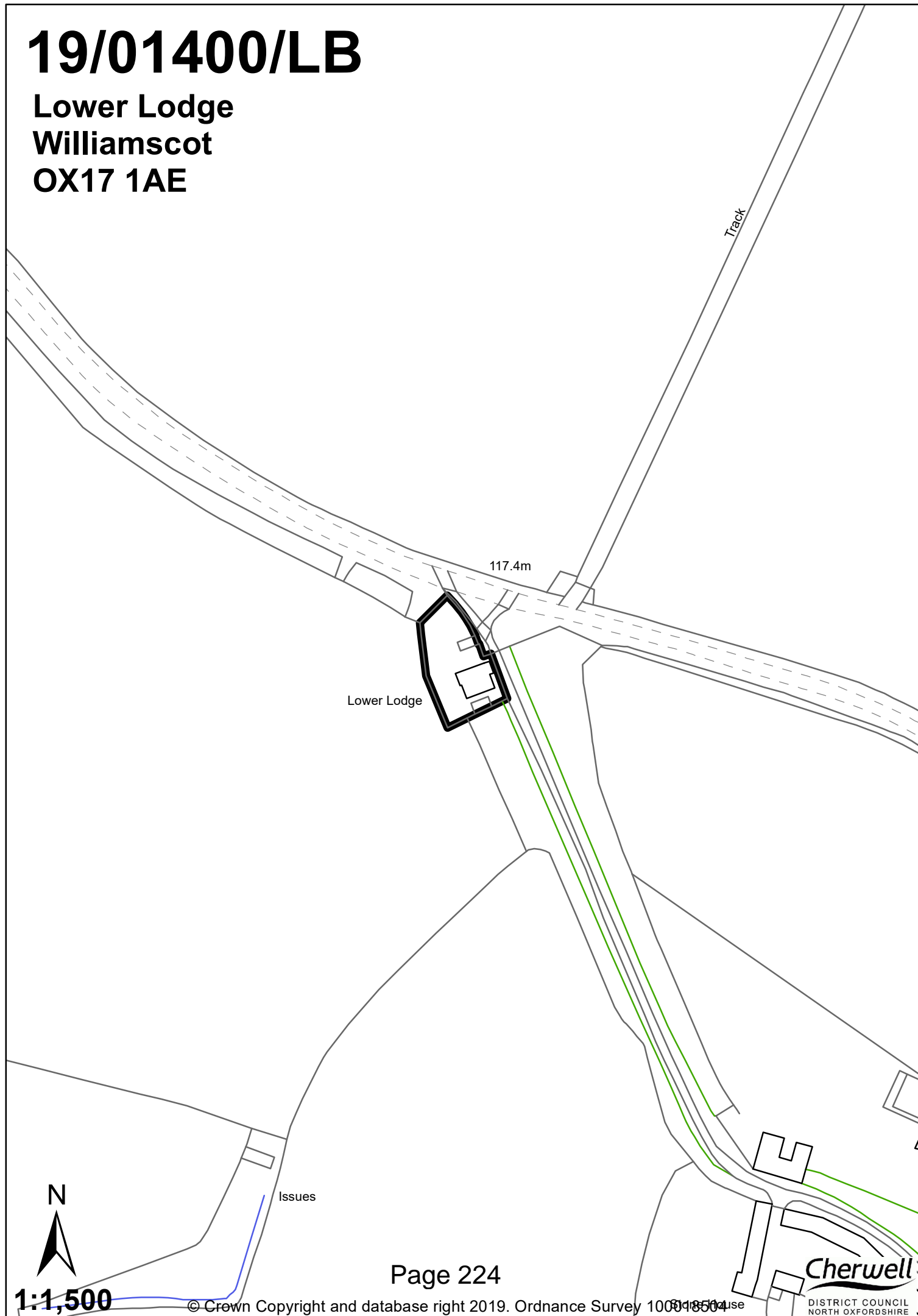
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Lower Lodge

# 19/01400/LB

Lower Lodge  
Williamscot  
OX17 1AE





**Case Officer:** Gemma Magnuson

**Applicant:** Mr Julian Bernard

**Proposal:** Demolition of 20th century extensions and erection of replacement two storey part subterranean extension and associated engineering works

**Ward:** Cropredy, Sibfords And Wroxton

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

**Reason for Referral:** Called in by Councillor Phil Chapman for the following reasons: Public interest

**Expiry Date:** 4 October 2019

**Committee Date:** 24 October 2019

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

### **RECOMMENDATION: REFUSE PERMISSION**

#### **Proposal**

The proposed development would involve the replacement of an existing single storey flat roofed extension to the rear of the lodge with a two storey rear extension, an element of which would be subterranean, together with associated engineering works to facilitate the development. Internally, an element of the original rear wall of the lodge would be removed in order to create an open plan living space. Internal partition walls would also be installed. An existing dormer window would also be removed from the rear facing roofslope of the building. Construction materials would consist of a coursed rubble stone masonry lower level, with stone coloured render upper level. The roof would be constructed using Welsh slate, and the openings would be metal framed.

#### **Consultations**

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

- CDC Conservation

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

- Waddington Parish Council

No letters of objection have been received and seven letters of support have been received.

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

Lower Lodge is a curtilage listed building to Grade II\* Williamscot House. The site is in the Williamscot Conservation Area and also sits to the edge of the Battle of Cropredy Bridge 1644 Registered Historical Battlefield.

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:

- The impact of the development upon the historic significance of the listed building and its setting.

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

1. Loss of appreciation of historic significance of the building as a small lodge building to Grade II\* Williams Scot House, resulting in less than substantial harm to the listed buildings and their setting.

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

## **MAIN REPORT**

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

- 1.1. The application site is positioned to the north-west of the village of Williams Scot, and south-east of the village of Cropredy, accessed off the Williams Scot Road connecting the two villages. The site is occupied by Lower Lodge, a detached dwelling constructed from stone with a slate roof. A single storey extension has been added to the dwelling, constructed from artificial stone and brick, with felt flat roof. A timber clad pitched roof dormer window has also been added to the rear facing roof slope. Two detached outbuildings are positioned to either side of the dwelling. A gravelled off-street parking and turning area is positioned to the front of the dwelling, with garden and lawn to the rear. The land level begins to slope downwards from the rear elevation of the dwelling, culminating at the river Cherwell to the south. Open countryside surrounds the site on all sides, with the access road leading to Williams Scot House now closed.

### **2. CONSTRAINTS**

- 2.1. Lower Lodge is one of two lodge houses that sit adjacent to the access roads originally serving Grade II\* Williams Scot House; Lower Lodge sitting to the north-west of the house and Upper Lodge to the south-east. Lower Lodge is curtilage listed to Grade II\* Williams Scot House. The site lies within the Williams Scot Conservation Area, and the Battle of Cropredy Bridge 1644 Registered Historical Battlefield is positioned across the road to the north.

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

- 3.1. The proposed development would involve the removal of one existing outbuilding, the existing single storey flat roofed extension and dormer window, and their replacement with a two storey rear extension. The extension would make use of the sloping land level, to create a dining room at ground floor level, leading down to the lower ground floor level where two bedrooms and two bathrooms would be accommodated. An element of the original rear wall of the lodge would be removed in order to create an open plan living area at ground floor level. An outdoor terrace would also be provided as part of the development.
- 3.2. The extension would be constructed with pitched roofs finished in Welsh slate, with coursed rubble stone masonry upon the lower ground floor level and stone coloured render to the upper elements. Stone quoin detailing would be used throughout the

extension. Openings would be metal framed. The development would increase the number of bedrooms at the property from two to three bedrooms.

#### 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>
67/00296/B	Extension and improvement to cottage and new garage	Approved
72/00800/B	Erection of pre-fabricated garage	Approved
81/00224/N	Extensions to form kitchen and porch	Approved
07/01396/F	Two storey extension, sun room and double garage	Refused
08/00943/F	Two storey extension, sunroom and replacement double garage	Withdrawn
08/01704/F	Replace single storey rear extension, erect conservatory/sun room plus detached garage	Withdrawn
09/01100/LB& 09/01125/F	Alterations to roof and extensions to form 3 bed dwelling and new garage to side	Withdrawn
10/01264/F &10/01265/LB	Rear single storey extension and attached garage. Demolition of 2 no. detached garage	Approved
16/00433/F& 16/00434/LB	Resubmission of 10/01264/F & 10/01265/LB -Extension to existing lodge to form three bedroom accommodation with new garage to side.	Withdrawn

16/01681/F&  
16/01682/LB

Withdrawn

Demolition of existing flat roof extension to the listed building and erection of new single storey extension

18/00736/F&  
18/00737/LB

Withdrawn

Single storey rear extension and recladding and reroofing of existing single storey flat roof extension, insertion and alteration of windows and doors and internal alterations

- 4.2. Planning permission was originally granted for the erection of a single storey extension to the rear of Lower Lodge in 1967, with a later extension approved fourteen years later. Although the first of these applications did not require listed building consent it should have been sought in 1981.
- 4.3. During 2007 an application for planning permission was refused for the replacement of the single storey extension with a two storey extension, garage and sunroom. The refusal was based on the conclusion that the development be out of keeping with the scale of, and wholly overwhelm, the existing modest lodge. It was at this point that the building was recognised as being curtilage listed.
- 4.4. Three further schemes were proposed during 2008 and 2009; two to replace the existing single storey extension and one to alter the existing structure. Historic England, as it is now known, commented on the 2009 application that sought to alter the existing structure to create a one and half storey structure, with first floor accommodation in the roofspace of both the existing lodge and the extension. The width of the extension would have been no greater than that existing, and the ridge height was proposed to sit lower than that existing. Historic England commented that the new extension would seriously damage the architectural quality of the lodge with the new roof would emphasising the size of the extension and make it clear that this is no longer a lodge but a sizeable house.
- 4.5. Historic England considered that the current single storey extension, whilst a poorly designed addition, has the merit of being virtually invisible in views from the front of the property, thus preserving the image of a small gate lodge in a landscape. In addition, the existing extension was not considered to impinge greatly on long views over the valley from Cropredy, as it is relatively low-lying and partially screened by a hedge. Historic England went on to suggest that the appearance of the building could be improved by a modern flat roofed rebuilding of the current extension, that could be increased in size, to a limited extent, without damaging the architectural significance of the lodge.
- 4.6. During 2010 approval was given to replace the existing single storey extension and two detached outbuildings with a large flat roofed single storey extension and attached garage, seemingly in accordance with the advice from Historic England in the previous year. However, this scheme was never implemented and lapsed in October 2013.
- 4.7. Applications for the same scheme that had been approved during 2010 were submitted during 2016. However, these were not viewed favourably by Officers reflecting changes in national and development plan policies which placed a greater emphasis on design and the need to protect heritage assets. The applications were

withdrawn. A revised application was also submitted later that year, although again these were withdrawn.

- 4.8. During 2018 approval was again sought for the erection of a single storey rear extension to form a third bedroom. The scheme included the re-cladding and re-roofing of the existing flat roofed extension. Although the proposal was ultimately withdrawn, Officers had considered this scheme to be broadly acceptable subject to minor modifications.

## **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 advertisement in the local newspaper. The final date for comments will be **10 October 2019**. Seven responses were received on the scheme at the time of writing, all in support of the application. The comments raised by third parties are summarised as follows:

- If the application is successful it will make a great difference visually to the property and remove appalling flat roof of the existing extension.
- Cottage will be more suitable as a family home.
- It will have no impact on surrounding areas and is difficult to imagine why permission should not be granted.
- Size of current dwelling and layout is unsuitable and proposed improvements are in keeping with the local area as well as providing a better layout.
- Existing extensions are not, nor have they ever been, in keeping with our village, or such a beautiful period property.
- Plans are a vast improvement on the existing structure.
- Planning structure will be a welcomed enhancement to this lovely lot at the end of our village.
- Witnessed applicant's continued investment in the property by way of landscaping and other exterior improvements, confident that the plans will be carried out with pride and utmost respect for the character of the existing building and that of the village.
- Will greatly improve this existing location within our village.
- A very attractive development to a very unattractive current site.
- Lodge has been spoilt by current extension and is not in keeping with the village and its surroundings.
- The new owners have already enhanced the aspect to the front of Lower Lodge with new and extensive landscaping.
- The planned improvements will not only be of benefit to the property but also to Williamscot village.

- The property is not overlooked and the replacement two storey structure would not only enhance the property but be more in keeping with the property itself and surrounding countryside.
- Current design of dwelling is out of character with rural environment. The plans represent an opportunity to address this, providing better aspect from adjacent countryside without being imposing.
- Property is set back from the road and within the plot there is ample access for contractors vehicles and materials, ensuring that the Cropredy Road would not be restricted during works.

6.2. 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. WARDINGTON PARISH COUNCIL: did not comment on this application although commented on the accompanying application for full planning permission as follows: **support**, feel like this building work would improve the residence and make it more in keeping with the area.

### CONSULTEES

7.3. CDC CONSERVATION: **object**. The development would result in harm to the curtilage listed building through the loss of historic fabric, the loss of the plan form of the building and diminished architectural significance. The development would also harm the setting of Grade II\* listed Williamscot House by diminishing the relationship between the lodge and the principal building, including when viewed in context with the principal building from long range views from public rights of way, the understanding of this relationship would also be damaged, along with the significance of the former access to Williamscot House. Further, the landscape surrounding Williamscot House forms a significant proportion of the land within the Conservation Area and the change in relationship between these two identified positive landmarks will cause a high level of harm to the fundamental significance of character and appearance of the Williamscot Conservation Area.

7.4. HISTORIC ENGLAND: do not wish to comment and suggest that the views of our specialist conservation advisor is sought.

7.5. THE GARDENS TRUST: no comments received at time of writing.

7.6. NATIONAL AMENITY SOCIETIES: no comments received at time of writing.

## 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

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C18 – Listed buildings

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- National Design Guide (NDG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- 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:

- Impact upon the historic significance of the listed building and its setting

### *Legislative and policy context*

- 9.2. The site is within and affects the setting of a Conservation Area and the application relates to a curtilage listed building.
- 9.3. 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.*
- 9.4. Likewise Section 66 of the same Act states that: *In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* Therefore significant weight must be given to these matters in the assessment of this planning application.
- 9.5. 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 context*

- 9.6. Government guidance contained within the NPPF requires development to function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. Development should be visually attractive, sympathetic to local character and history, and establish or maintain a strong sense of place. Permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions.
- 9.7. Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Substantial harm to or loss of assets of the highest significance, including Grade II\* listed buildings, should be wholly exceptional. Where a proposed development will lead to substantial harm to, or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss.
- 9.8. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 9.9. The National Design Guide explains that development should respond to existing local character and identity, and that well designed new development is influenced by an appreciation and understanding of vernacular, local or regional character, including existing built form, landscape and local architectural precedents, and the elements of place or local places that make it distinctive. This includes considering the relationships between buildings, and views, vistas and landmarks.



- 9.10. Policy ESD15 of The Cherwell Local Plan 2011-2031 Part 1 requires development to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards. Further, development proposals will be required to conserve, sustain and enhance designated and non-designated heritage assets including buildings, features, archaeology, conservation areas and their settings. Saved C18 of the Cherwell Local Plan 1996 seeks minor and sympathetic alterations to listed buildings.

#### *Assessment*

- 9.11. Lower Lodge dates back to 1842, forming a part of the Williamscoth House estate, that was, at the time, being remodelled by the Loveday family who were the owners of the estate from 1777 until 1969. Sales particulars from 1968 described Lower Lodge as sitting at the back gate to Williamscoth House, whereas Upper Lodge, a second lodge serving the house, is described as sitting at the entrance to the main drive. Lower Lodge was constructed prior to Upper Lodge, and both provided gated entrances to the private way running through the estate. The private way itself has historic significance as it was the original route of the road through Williamscoth that was altered to its current alignment around 1830.
- 9.12. The historic significance of Lower Lodge lies in the largely unaltered plan and roof form of the original building, its relationship with Grade II\* listed Williamscoth House and wider estate, and its positioning adjacent to the private way running through the estate, that was once the original road running through the village of Williamscoth.
- 9.13. Williamscoth House was designated as a Grade II\* listed building in December 1955, when the estate and Lower Lodge was within the ownership of the Lovedays. As Lower Lodge was within the same ownership at the beginning of 1969 and given its then function and physical relationship to Williamscoth House, it is considered to be curtilage listed (1969 saw a change to the legislation to formally recognise curtilage listed structures).
- 9.14. The Heritage, Design and Impact Assessment submitted with the application describes Lower Lodge as having a low historic and communal value, given that it did not serve the principal entrance, and that the previous tenants of the lodge have been difficult to track. It is therefore considered that the Lodge was occupied by estate workers until it was sold, and few people would have a living memory of the lodge and its importance as part of the Williamscoth estate.
- 9.15. The Conservation Officer disagrees with this assessment, and considers the Lodge to have high historic value, sitting at one of two principal entrances to Williamscoth House and located alongside the former public road. The position of Lower Lodge in this location is considered to be of particular historic value as it denotes changes of private ownership and control of the former public highway. Further, it is likely that estate workers did occupy the lodge, as it functioned as part of the wider estate.
- 9.16. The Heritage, Design and Impact Assessment also concludes that the aesthetic value of Lower Lodge is low, being reduced by the extensions approved in 1967 and 1981 that in particular obscure views of the original rear elevation.
- 9.17. The Conservation Officer disagrees with this conclusion and considers the aesthetic value of Lower Lodge to be high, forming a part of the core significance of Williamscoth House. It is acknowledged however, that the later extensions have little architectural merit and could be improved upon.

- 9.18. It is commonly accepted that lodge buildings were originally constructed for both security purposes, and to give the passer by or visitor a hint of the quality of the house beyond. Historic England explain in their publication *The Garden and Park Structures Listing Selection Guide* that lodge buildings were generally small but often elaborate, and often designed to anticipate the architectural achievement of the great house beyond.
- 9.19. When approaching the site from Cropredy, Lower Lodge is clearly visible due to its proximity to the road. Lower Lodge, whilst modest in size, has high quality architectural features such as the decorative external stack, arch headed windows and a hood mould over the door, and has the elaborate characteristics expected of a lodge building. Although the flat roofed rear extension is not of any architectural merit, it does largely succeed in maintaining the appearance of a modest sized lodge building due to its low height and flat roofed design avoiding any conflict with the original eaves or roof form, and the width not extending beyond that of the original building. Furthermore, the existing extension of the Lodge has involved limited alteration to the original fabric of the building; with only one opening in the living room that connects the two phases of the building. The compact two room plan form of the original building is therefore largely maintained.
- 9.20. The proposed extension would intercept the original roof, extending up to a point 70cm from the ridge of the original lodge, causing harm to the original roof form that, except for a dormer window, has remained unaltered. The proposed structure would also extend beyond the eastern side elevation of the Lodge, and whilst this positioning would facilitate the exposure of the western-most element of the rear elevation, it would also result in the appearance of a wider structure overall and the obscuring of the majority of the rear elevation.
- 9.21. The design of the proposed extension would include large expanses of glazing over two levels, the design of which is out of keeping with the original building and would draw undue attention to the extension when viewed from the road and public rights of way to the west and south-west respectively.
- 9.22. Overall, the development would result in the building appearing as a sizeable two storey dwelling as opposed to a small lodge, with the extension overwhelming the original lodge, seriously damaging its character and significance, including the relationship with, and setting of, Williamscoth House.
- 9.23. Internally, the development would involve the blocking of the existing opening in the current living room, together with the insertion of an internal wall. A large proportion of the current bedroom wall that forms the original rear wall of the Lodge would be removed in order to create an open plan living space that would straddle the old and new elements. The loss of this historic fabric would diminish the compact character of the internal layout and the two room plan form of the building that had remained largely intact.
- 9.24. Where harm would be caused to a designated heritage asset, the NPPF requires this to be weighed against the public benefits arising from the scheme. The applicant has put forward a justification for the scheme arguing that a three bedroom dwelling in this location would be more sustainable than the existing two bedroom dwelling. Furthermore, it is argued the removal of the modern extensions that do not comply with current insulation requirements and the general restoration of the remainder of the building would be a positive.
- 9.25. Officers do not consider the creation of a three bedroom dwelling to constitute a public benefit, given that there is generally a demand for both two and three bedroom dwellings, and in any case, it would be possible to achieve a three

bedroom dwelling through a more sympathetic development. Such a scheme was largely agreed prior to the withdrawal of the previous application. Indeed, Officers concur with the Historic England advice from 2009 that a modest extension could be countenanced if the appearance of the flat roofed extension were to be improved. The principle of a replacement single storey flat roofed extension, which sits under the eaves of the Lodge, has been viewed as the most acceptable solution to redevelop the building as it results in the least amount of harm.

- 9.26. Therefore whilst the development would involve the removal of the existing extension and reveal an element of the rear wall of the original building that is not currently visible, and an existing dormer upon the roofslope would be removed, these benefits, which could be achieved as part of an alternative scheme, are considered to be outweighed by the harm that would be caused by introducing a disproportionately large incongruous extension, and the loss of historic fabric, roof and plan form.
- 9.27. It is the opinion of Officers that the proposed extension to the lodge would result in the loss of appreciation of the historic significance of this building as a small lodge building to Grade II\* Williamscoth House, through the introduction of a visually dominant and incongruous extension that pays little respect to the historic structure to which it would attach or the setting of the Grade II\* listed building within which it might be positioned. Further, the development would involve the loss of original fabric from the rear wall of the lodge that would diminish the compact character of the internal layout and the two-room plan form of the building that had remained largely intact.
- 9.28. Officers therefore conclude that the proposed development would result in less than substantial harm to the historic significance of this curtilage listed building and the setting of Grade II\* Williamscoth House. In the absence of public benefits that outweigh the identified harm the development is contrary to Government guidance contained within the National Planning Policy Framework, Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C18 of the Cherwell Local Plan 1996.

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

- 10.1. The proposal fails to comply with the relevant Development Plan policies and guidance listed at section 8 of this report because the proposed extension to Lower Lodge would result in the loss of historic fabric and the diminishment of the original plan form of the lodge, and the interruption of the largely unaltered roof form, causing detriment to the historic character and significance of this curtilage listed building, and a loss of appreciation of the historic significance of this building as a small lodge building to Grade II\* Williamscoth House, through the introduction of a visually dominant and incongruous extension that fails to respect to the historic structure to which it would attach or the setting of the Grade II\* listed Williamscoth House within which it might be positioned. Whilst some public benefits have been identified as a result of the scheme, these are not considered to outweigh the less than substantial harm that has been identified. The development is therefore contrary to Government guidance contained within the National Planning Policy Framework, Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C18 of the Cherwell Local Plan 1996.
- 10.2. There are no other material considerations that outweigh this conflict and the harm caused, and therefore permission should be refused.

## **11. RECOMMENDATION**

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

### REASONS FOR REFUSAL

The proposed extension and alterations to Lower Lodge, by virtue of its size, design and positioning, would interrupt the original roof form of the building, involve the loss of original fabric from the rear elevation, diminish the compact character of the interior and two-room plan form of the building, and introduce a visually dominant and incongruous extension that would dwarf the curtilage listed building, and diminish both its architectural significance and the relationship between the Lodge and the principal building of Williamscot House. The development would result in less than substantial harm to the curtilage listed building and the setting of Grade II\* Williamscot House. In the absence of public benefits that outweigh the identified harm, the proposal is contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework and the National Design Guide.

CASE OFFICER: Gemma Magnuson

TEL: 01295 221827

19/01210/F

Claremont Car Park, Land At  
Victoria Road  
Bicester  
OX26 6RD

PCs PCs

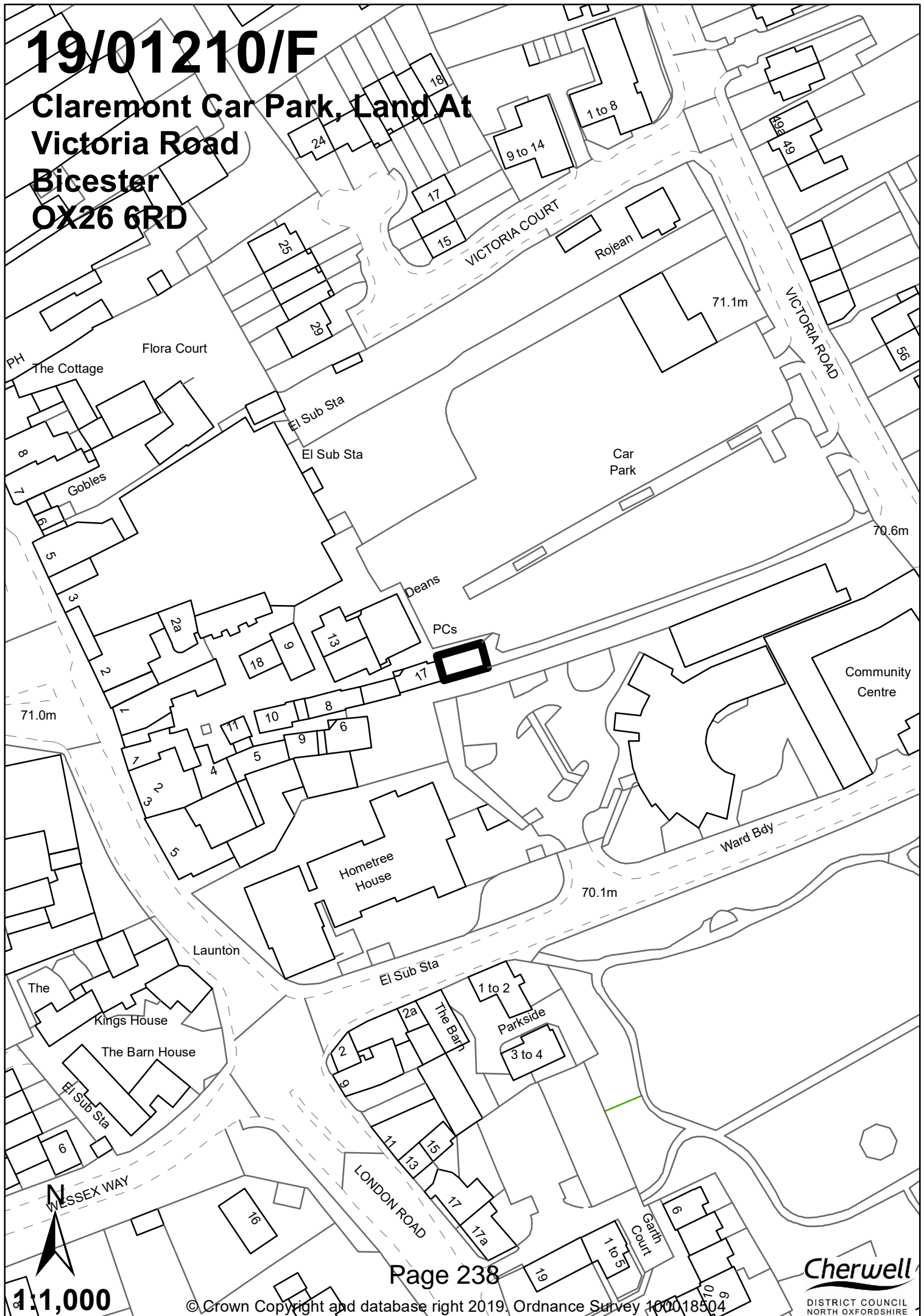
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19/01210/F

Claremont Car Park, Land At  
Victoria Road  
Bicester  
OX26 6RD



**Case Officer:** Michael Sackey

**Applicant:** Cherwell District Council

**Proposal:** Alterations to existing toilet block, including replacement windows and doors and infill of door with matching brick

**Ward:** Bicester East

**Councillors:** Cllr Sean Gaul, Cllr Richard Mould and Cllr Tom Wallis

**Reason for Referral:** Application affects Council's own land and the Council is the applicant

**Expiry Date:** 19 November 2019

**Committee Date:** 19 November 2019

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

**RECOMMENDATION:** GRANT PERMISSION SUBJECT TO CONDITIONS AND TO NO ADDITIONAL CONSULTATION RESPONSES RAISING NEW MATERIAL CONSIDERATIONS BY 24th OCTOBER 2019.

#### **Proposal**

Alterations to existing toilet block, including replacement windows and doors and infill of door with matching brick.

#### **Consultations**

The following consultee was consulted on 27/09/2019; the consultation ends on 24.10.2019. No comments have received to date application:

- Bicester Town Council

One letter of objection has been received; the objections are on the grounds of the toilet block being converted, although the current proposal is for alterations to the existing toilet block and not a conversion.

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

The application has 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 issue arising from the application details is the proposal's design and its impact on the character and appearance of the area and on neighbouring and residential amenity

The report looks in to 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 relates to an existing public toilet block within Deans Court which is adjacent to the Claremont Car Park. The site is accessed from Victoria Road and is bounded by commercial buildings and retail shops to the west of the site.

### **2. CONSTRAINTS**

- 2.1. The application site abuts the Bicester Conservation Area but is not within it. The building is also not listed. There are no other constraints relevant to this particular application.

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

- 3.1. The current application is for alterations to the existing toilet block, including replacement windows and doors and the infill of a door with matching bricks in relation to the existing building.

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

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

### **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 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 is 24.10.2019, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. One letter of objection has been received, the objection is on the grounds of the toilet block being converted, although the current proposal is for alterations to the existing toilet block and not a conversion.
- 6.3. The application was originally submitted with the agent's name as applicant, but Ownership Certificate A signed by the agent to say he owned the site. It since came to light that Cherwell District Council owns the site. The agent subsequently changed the applicant name to CDC to enable the application to be determined. The site address was originally given as Trysports but has been amended to refer to Claremont Car Park. These changes necessitated re-publicising of the application, hence the relatively late date for final comments.

### **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. BICESTER TOWN COUNCIL: Consulted (27/09/2019). The consultation ends on (24.10.2019); no comments have been received to date, but any response will be reported to Planning Committee.

## **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

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

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

- 8.3. Other Material Planning Considerations
- National Planning Policy Framework (NPPF)
  - National Design Guide
  - Planning Practice Guidance (PPG)

## **9. APPRAISAL**

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

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

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

- 9.2. Paragraph 56 of the NPPF makes clear that: *the Government attaches great importance to the design of the built environment*. This is reflected in Policy ESD15 of the CLP 2031 Part 1, which states that new development proposals should: *be designed to improve the quality and appearance of an area and the way it functions...contribute positively to an area’s character and identity by creating or reinforcing local distinctiveness...(and) respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings*.
- 9.3. Saved Policies C28 of the CLP 1996 reinforce this, with Policy C30(ii) stating: *that any proposal to extend an existing dwelling (should be) compatible with the scale of the existing dwelling, its curtilage and the character of the street scene*.
- 9.4. Given the nature and location of the application building, the proposed alterations would be visible from within the Victoria Road to the east and public realm. However, having regard to their nature and design, the proposed alterations would not have any significant impact on the character and appearance of its locality and adjacent conservation area.

- 9.5. For these reasons, the proposal would accord with retained Policy C28 of the Cherwell Local Plan 1996 and Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1, Government guidance in the NPPF and the National Design Guide.

Neighbouring and residential amenity

- 9.6. Given the nature of the proposal and its location in relation to neighbouring properties, it is considered that the proposed development would not have any material impact on the amenity of neighbours and is therefore considered acceptable in this regard.
- 9.7. Overall, therefore, the proposal is considered to result in an acceptable standard of amenity to the adjacent neighbours and the proposal therefore complies with Policy ESD15 of the Cherwell Local Plan and advice in the NPPF.

*Article 8 and Article 1 of the First Protocol*

- 9.8. 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*

- 9.9. 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.
- 9.10. Officers have considered the application and resolved that none of the protected characteristics is affected or potentially affected by the application

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

- 10.1. The proposal complies with the relevant Development Plan policies and guidance listed at section 8 of this report, and so is considered to be sustainable development. In accordance with Paragraph 11 of the NPPF, permission should therefore be granted.

## **11. RECOMMENDATION**

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT** BELOW AND TO NO ADDITIONAL CONSULTATION RESPONSES RAISING NEW MATERIAL CONSIDERATION BY 24th OCTOBER 2019.

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: NTBS3216/01 Rev. A, NTBS3216/04, NTBS3216/06 Rev B and NTBS3216/10

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 Materials to Match Existing**

3. The materials to be used for the external walls of the development hereby permitted shall match in terms of colour, type and texture those used on the existing building.

Reason: To ensure that the development is constructed and finished in materials which are in harmony with the materials used on the existing building and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 [C18] of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Michael Sackey

TEL: 01295 221820

# Agenda Item 14

## Cherwell District Council

### Planning Committee

24 October 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

**19/00885/F - 97 Isis Avenue, Bicester, OX26 2GR** - Demolition of existing conservatory; erection of single storey front and rear extensions and conversion of garage to habitable accommodation

**19/00667/Q56 – Godwins Farm, Somerton Road, North Aston, Bicester, OX25 6AA** – Change of use of an agricultural building to dwellinghouse

**19/00962/F - Sycamore House, Shepherds Close, Weston On The Green, Bicester, OX25 3RF** - Erection of building to form 1-bed dwelling, on the siting of the previously demolished barn, with courtyard garden and dedicated parking space - re-submission of 18/01644/F

**19/00637/F – 30 Causeway, Banbury, OX16 4SL** – Dormer on rear roof slope

**19/00661/F – Purbeck End, 5 Vicarage End, Kidlington, OX5 2EL** - RETROSPECTIVE - Change of Use of attached garage to independent dwelling unit

**19/01043/F - Penny Meadow, 2 The Ridgeway, Bloxham, OX15 4NF -**  
Addition of rooflights to front and rear elevation and dormer to rear elevation to facilitate loft conversion

**19/00775/F – Land Adjacent to 26 Winchester Close, Banbury, OX16 4FP**  
– Detached Dwelling

**19/00692/F – 107 Woodstock Road, Yarnton, OX5 1PT -** Amendment to 11/00860/F from a single and two storey rear extension to a two storey rear extension

## **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 4<sup>th</sup> 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

**18/01894/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 25<sup>th</sup> September

**Key Dates:**

**Start Date:** 23.07.2019      **Statement Due:** 27.08.2019      **Decision:** Awaited

**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)

**Method of determination:** Written Reps.

**Key Dates:**

**Start Date:** 30.08.2019      **Statement Due:** 04.10.2019      **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

**19/00444/F – 2 Boxhedge Terrace, Boxhedge Road, Banbury, OX16 0BX** - Erection of single storey porch (Retrospective)

**Method of determination:** Householder (Fast Track)

**Key Dates:**

**Start Date:** 30.08.2019      **Statement Due:** N/A      **Decision:** Awaited

**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.

**Method of determination:** Hearing – 29<sup>th</sup> October 2019

**Key Dates:**

**Start Date:**      **Statement Due:**      **Decision:** Awaited

**19/00910/F - OS Parcel 6091 East Of Duiker House, Fencott, OX5 2RD** - Erection of 1no single storey dwelling and ancillary carport/garden workshop

**Method of determination:** Written Reps.

**Key Dates:**

**Start Date:** 03.09.2019      **Statement Due:** 08.10.2019      **Decision:** Awaited

### **Enforcement appeals**

None

2.4      Forthcoming Public Inquires and Hearings between 25 October and 14 November 2019

1. 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.

Hearing date 29<sup>th</sup> October.

Start time – 10.00am

Estimated days – 1 day

## 2.5 Results

Inspectors appointed by the Secretary of State have:

- 1. Dismissed the appeal by Mr A Ng for Demolition of part of existing house and garage and erection of new two bedroom dwelling (re-submission of 18/00402/F). 22 Campbell Close, Bicester, OX26 6RY – 18/01841/F (Delegated)**

The Inspector considered the main issues to be the proposal's effect on the living conditions of neighbouring residents and future occupiers of the proposed dwelling and on highway safety by reason of associated car parking.

The Inspector agreed with the Council that the paved area to the front of the dwelling would not provide sufficient space for parking and that the proposal would therefore lead to "a small increase in on-road parking", but concluded that no substantive evidence had been submitted to "show how this would cause highway problems in the area". This is important to note – that despite an objection from OCC highways team on the increased harm and impacts on safety the Inspector did not find that their statement was sufficiently robust.

The Inspector found that "by reason of its size and proximity, the proposed building would appear as a substantial and obtrusive structure, causing a marked visual intrusion onto the adjoining gardens" and would "harm the outlook from the rear of Nos 1 and 2". The Inspector disagreed with the Council that the proposal would adversely affect the outlook from the rear windows of the existing dwelling at No. 22 and that in the absence of Council standards setting minimum outdoor space requirements the proposed garden space was adequate, but that the lack of harm in these respects did not override his concerns in relation to the impact on Nos 1 and 2.

Accordingly the Inspector upheld the Council's decision in this respect and dismissed the appeal.

- 2. Allowed the appeal by Mr M Harvey for 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. 126 Churchill Road, Bicester, OX26 4XD – 18/01727/F (Delegated)**

The Inspector considered the main issue to be the proposal's effect on the character and appearance of the area.

The Inspector agreed with the Council that there would be significant change to the appearance of the building, and that the appeal building and another close by used a substantial portion of brickwork in its elevations and that they and a number of other industrial buildings fronting Churchill Road had "an almost residential eaves height, and windows which reflect those in the houses" in the vicinity. Nonetheless, the Inspector concluded that the use of

different materials would retain sufficient articulation to add interest to the building's principal elevation, and that overall the proposals would cause no harm to the appearance of the building or to the character of the area. The Inspector allowed the appeal, subject to condition including to require details of all external facing materials.

- 3. Allowed the appeal by Euro Garages Ltd for 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 – Bicester Service Station, Oxford Road, Bicester, OX26 1BT – 18/01822/F (Delegated)**

The Inspector considered the main issues to be the proposal's effect on the character and appearance of the area, and whether the proposal would provide suitable and safe access for pedestrians and cyclists.

On the first issue the Council considered that the layout of the proposed development would be cramped and detrimental to the character and appearance of the area including the new development at Kingsmere. The Inspector found that the proposals would appear predominantly as part of the commercial service station complex rather than be seen in the context of other commercial buildings rather than as part of the surrounding residential development. The Inspector concluded that the buildings' failure to address the road frontage would not detrimentally affect the character or appearance of the locality, that it had "sufficient regard" to its context, and that sufficient space was left to the boundaries for landscaping.

On the second issue the Council had refused the application on the basis of the applicant failing to demonstrate that a continuous footway could be provided along the Oxford Road to provide pedestrian access to the site from the surrounding network. During the course of the appeal the appellant provided additional information to satisfy the local highway authority (LHA) in this regard but still argued such measures were not necessary. However, the Inspector agreed with the Council that, given (i) the nature of the proposed uses, (ii) the changing nature of the area and (iii) the position of the site relative to surrounding uses and the busy road network, the proposed footpath connections were appropriate and necessary to ensure that enhanced access provision for pedestrians and cyclists. The Inspector concluded that the proposed footpath connections agreed with the LHA during the course of the appeal could be secured by planning condition.

For these reasons the Inspector allowed the appeal, subject to conditions relating to drainage, a Construction Traffic Management Plan, land contamination assessment, footway connections, externally facing materials, external lighting, hard landscaping, noise levels, a delivery & servicing plan, a



Car Park Management Plan, car and cycle parking provision, and use and opening hours restrictions.

The Inspector refused the appellant's costs application, disagreeing with the appellant that the Council had behaved unreasonably in refusing the application on design grounds or that such concerns could have been addressed simply through conditions, finding instead that the decision involved matters of judgement and that the Council's concerns "went well beyond the issue of materials". The Inspector also noted, contrary to the appellant's assertions, that the Council had repeatedly and extensively engaged with the appellant during the planning application, including that extensions of time had been agreed, which allowed further time and opportunity for dialogue to seek to resolve its issues with the proposals.

**4. Allowed the appeal by Powersun Ltd for Erection of accommodation building and associated ancillary external works to accommodate gas fuelled demand response electric generation facility to support the National Grid. Part Land East And Adj To Roundabout At Junction Of Bicester Road, Launton – 19/00163/F (Delegated)**

The Inspector considered the main issue to be the proposal's effect of the development on the landscape character and appearance of the area and upon the setting of the village of Launton.

The Inspector found that due to its height the main building would be visible from several viewpoints both from the Bicester Road and from within Launton although in the case of the latter this would be at a distance of several hundred metres, and that in all of these views the "recently constructed large-scale industrial buildings on an allocated employment site at the edge of Bicester" would also be seen. The Inspector held that the appeal proposal's quasi agricultural appearance would offset its visual impact.

In respect of impact on the setting of Launton, the Inspector found that the appeal site did not sit between Launton and Bicester but further north and was "separated by an expanse of open land" and that there was a "significant degree of separation between Launton and Bicester in the area to the east of Bicester Road which contains the appeal site". The Inspector was "not persuaded" that the proposal "would unduly harm the openness of the land that distinguishes the settlement of Launton, or that it would contribute to any coalescence with Bicester."

The Inspector gave Saved Policy C8 little weight insofar as it related to this appeal. The Inspector gave significant weight to the benefits of the proposal in supporting infrastructure associated with renewable and low carbon energy.

The Inspector concluded that, "if developed with a suitable scheme of planting as the appellant proposes", the appeal proposal would not be unduly prominent or intrusive in the landscape, and accordingly allowed the appeal, subject to conditions relating to access, surface water drainage and landscaping.

### **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](mailto: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](mailto:David.Mytton@Oxfordshire.gov.uk)

#### **Risk Management**

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

Comments checked by:

David Mytton, Solicitor, For and on behalf of Nick Graham, Director of Law and Governance and Monitoring Officer  
[David.Mytton@Oxfordshire.gov.uk](mailto:David.Mytton@Oxfordshire.gov.uk)

### **6.0 Decision Information**

#### **Wards Affected**

All

## Links to Corporate Plan and Policy Framework

A district of opportunity

## Lead Councillor

Councillor Colin Clarke

## Document Information

Appendix No	Title
None	
Background Papers	
None	
Report Author	Alex Keen, Deputy Senior Manager and Majors Manager Development Management
Contact Information	<a href="mailto:Alex.keen@cherwell-dc.gov.uk">Alex.keen@cherwell-dc.gov.uk</a>

# Agenda Item 15

## **Cherwell District Council**

### **Planning Committee**

**24 October 2019**

<b>Planning Enforcement Report</b>
------------------------------------

### **Report of Assistant Director Planning and Development**

This report is public

#### **Purpose of Report**

To inform Members about planning enforcement cases at CDC and update on the current position following the update in July regarding case numbers, formal notices served, and enforcement action taken.

#### **1.0 Recommendation**

The meeting is recommended:

- 1.1 To note the contents of the report

#### **2.0 Executive summary**

- 2.1 This report provides an overview of the work of planning enforcement since the last update provided in July and details the number of cases received and closed in that time as well as those dealt with over the last 12 months and provides an update on the 'backlog' of cases.
- 2.2 There were, at the time of writing this report on 9 October 2019, 330 active enforcement cases. The Department receives over 400 new enforcement cases each year. Based on this figure the Department should be looking to have approximately 200 live cases open, with the maximum of this stretched to 250.
- 2.3 As was reported at July's Committee, the number of live cases was over double the upper limit this target number over 12 months ago (over 550 live cases). Whilst the current number of live enforcement cases remains above this threshold, it continues to reduce on a monthly basis. The enforcement team continues to tackle the backlog of cases.
- 2.4 The report details a proposal for a quarterly electronical update to members identifying opened and closed cases in their respective areas along with case

reference numbers, location, case officer and nature of problem reported. The details of this need to be finalised and agreed with legal, however it is envisaged that this will give Members a better overview of the issues at hand in their respective areas.

- 2.5 Statistical data is contained in the appendix to this report.

### 3.0 Updates to significant cases

Brief history and actions to date on cases that are 'public' and of significant Member Interest.

Address	Update
14 Lanchester Drive Banbury	S215 Notice served and not complied with. Direct Action taken September 2019 to secure compliance with notice. Prosecution being considered.
Godwins Farm, North Aston, Bicester	Enforcement Notice issued March 2019 for use for one static caravan. Compliance date for removal January 2020.
The Pheasant Pluckers Inn, Burdop, Banbury	Latest planning appeal refused for change of use from pub to c3 residential use. Work underway to secure full compliance with extant enforcement notice.
The Kings Head, Fritwell Bicester.	Enforcement Notice issued for change of use of pub to residential accommodation. Appeal lodged with Planning Inspectorate. Awaiting appeal start date.
OS Parcel 3349 North East Of Highlands Adjoining Cropredy Lane Williamscot	Direct Action taken to remove caravan from the land to secure compliance with enforcement notice. Prosecution being considered. Ongoing investigation into additional works at the site.

### 4.0 Investigations Summary

- 4.1 Since the beginning of July the Council has received 115 new cases and in the same period closed over 140 cases. This continued effort to close more cases per month than received is slowly bringing down the number of cases in the backlog. Cases are dealt with according to the priorities set out in the Local Enforcement Plan. A significant number of cases are closed each month due to no breach having been identified. Appendix 1 provides data on the number of enforcement (and development monitoring) cases received and closed over the last 12 months and the number of and types of notices and actions taken. We are working towards reporting ability for details of reasons for closure on enforcement cases.

- 4.2 There are over 5 enforcement notices and 3 prosecutions currently in preparation and with legal for checking. Enforcement notices served will be reported at the next quarterly update as well as any successful prosecutions.
- 4.3 The enforcement team has recently had to use its powers to take 'direct action' to secure compliance with both an enforcement notice and a S215 Notice. The first removed an unauthorised caravan from land and the second involved entering land to tidy the land and make good a house that had fallen into disrepair and was affecting the amenity of local residents. In both cases, negotiations with the land owners had completely failed and the enforcement team had no other option to secure compliance. Prosecutions are also being considered on both cases.
- 4.4 As updated at the July meeting, a new computer system has been implemented in the Planning Department. This is still being improved in order to streamline the service and make improvements to how we work. One of the key improvements being worked on is the ability to provide better reporting functionality which will allow more detailed reports on enforcement investigations and performance to be provided.
- 4.5 Once the above is in place we will be looking to provide more information however it must be borne in mind that due to the sensitive nature of enforcement cases that much of the information during the investigation stage cannot be placed in the public domain.

## **5.0 Conclusions and Reasons for Recommendations**

- 5.1 The Councillors are asked to note the report and to endorse the further work proposed and reporting.

## **6.0 Consultation**

- 6.1 None

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

- 7.1 None

## **8.0 Implications**

### **Financial and Resource Implications**

- 8.1 Any costs incurred during enforcement action is recovered by applying a charge to the property. In some instances, this requires forward funding by the Council which is recovered upon the sale of the property.

Comments checked by:  
Kelly wheeler, Principal Accountant, 01295 221570  
kelly.wheeler@cherwell-dc.gov.uk

### **Legal Implications**

8.2 None

Comments checked by:  
David Mytton, Solicitor, 07392 318904, David.Mytton@Oxfordshire.gov.uk

## **9.0 Decision Information**

### **Wards Affected**

All

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

A district of opportunity

### **Lead Councillor**

Councillor Colin Clarke, Lead Member for Planning

### **Document Information**

<b>Appendix No</b>	<b>Title</b>
1	Enforcement Data
<b>Background Papers</b>	
None	
<b>Report Author</b>	Amy Sedman, Planning Enforcement Team Leader
<b>Contact Information</b>	amy.sedman@cherwell-dc.gov.uk

## Appendix 1

**Table 1 Enforcement Cases Received and Closed**

<b>Month - 2019</b>	<b>New ENF Case Received</b>	<b>New MON case created</b>	<b>Closed ENF Case</b>	<b>Closed MON Case</b>
<b>1<sup>st</sup> Qtr. 2019</b>	129	42	143	3
<b>2<sup>nd</sup> Qtr. 2019</b>	96	38	143	2
<b>3<sup>rd</sup> Qtr. 2019</b>	102	24	126	5
<b>TOTAL (YTD)</b>	<b>327</b>	<b>104</b>	<b>412</b>	<b>10</b>
<b>2018</b>				
<b>1<sup>st</sup> Qtr. 2018</b>	114	0	114	N/A
<b>2<sup>nd</sup> Qtr. 2018</b>	104	0	38	N/A
<b>3<sup>rd</sup> Qtr. 2018</b>	118	48	83	0
<b>4<sup>th</sup> Qtr. 2018</b>	78	44	199	1
<b>TOTAL</b>	<b>414</b>	<b>92</b>	<b>435</b>	<b>1</b>
<b>2017</b>				
<b>1<sup>st</sup> Qtr. 2017</b>	118	N/A	70	N/A
<b>2<sup>nd</sup> Qtr. 2017</b>	89	N/A	120	N/A
<b>3<sup>rd</sup> Qtr. 2017</b>	106	N/A	55	N/A
<b>4<sup>th</sup> Qtr. 2017</b>	84	N/A	58	N/A
<b>TOTAL</b>	<b>397</b>	<b>N/A</b>	<b>303</b>	<b>N/A</b>

**Table 2 Enforcement overall case numbers for 2019 by month**

	Jan	Feb	March	Apr	May	June	July	Aug	Sept
Enf	391	391	403	365	367	358	370	344	336
Mon	102	105	124	143	152	161	176	178	178



**Table 3 Notices Served/ and type of action taken**

Type of Notice	Period					2019 Total to date
	2018		1 <sup>st</sup> Quarter 2019	2 <sup>nd</sup> Quarter 2019	3 <sup>rd</sup> Quarter 2019	
Enforcement Notice	<b>5</b>		2	0	0	<b>2</b>
Stop Notice	<b>0</b>		0	0	0	<b>0</b>
Temporary Stop Notice	<b>0</b>		0	1	0	<b>1</b>
S215 – Amenity Notice	<b>2</b>		0	0	0	<b>0</b>
Planning Contravention Notice	<b>8</b>		8	9	5	<b>23</b>
High Hedge Remedial Notice	<b>0</b>		0	1	0	<b>1</b>
Injunction	<b>1</b>		1	0	0	<b>1</b>
Direct Action	<b>0</b>		0	0	2	<b>2</b>