

# Public Document Pack



**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Committee:** Planning Committee  
**Date:** Wednesday 18 December 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 - 9)

To confirm as a correct record the Minutes of the meeting of the Committee held on 14 November 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. **OS Parcel 9507 South Of 26 and Adjoining Fewcott Road, Fritwell** (Pages 12 - 49) **19/00616/OUT**
9. **Alkerton House, Well Lane, Alkerton, OX15 6NL** (Pages 50 - 69) **19/01736/F**
10. **Alkerton House, Well Lane, Alkerton, OX15 6NL** (Pages 70 - 82) **19/01737/LB**
11. **Bicester Eco Town Exemplar Site Phase 2, Charlotte Avenue, Bicester** (Pages 83 - 123) **19/01036/HYBRID**
12. **65 Bicester Road, Kidlington, OX5 2LD** (Pages 124 - 142) **19/01082/F**
13. **DCS Group, Rear Pt Lxb Rp No 2, Oceans House, Noral Way, Banbury, OX16 2AA** (Pages 143 - 154) **19/01254/F**
14. **St Thomas Moore Catholic Primary School, Oxford Road Kidlington OX5 1EA** (Pages 155 - 163) **19/02103/F**
15. **Manor Cottage, The Square, Epwell, Banbury, OX15 6LA** (Pages 164 - 176) **19/01515/F**
16. **Manor Cottage, The Square, Epwell, Banbury, OX15 6LA** (Pages 177 - 185) **19/01516/LB**

17. **Land adjacent Unit 7, Chalker Way, Banbury, OX16 4XD** (Pages 186 - 194)  
**19/02443/CDC**
18. **Land at Bullmarsh Close, Middleton Stoney** (Pages 195 - 212) **19/01709/CDC**

## **Review and Monitoring Reports**

19. **Appeals Progress Report** (Pages 213 - 223)

Report of Assistant Director Planning and Development

### **Purpose of report**

This report aims to keep members informed upon applications which have been determined by the Council, where new appeals have been lodged. Public Inquiries/hearings scheduled, or appeal results achieved.

### **Recommendations**

The meeting is recommended:

- 1.1 To accept the position statement.

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

## **Information about this Agenda**

### **Apologies for Absence**

Apologies for absence should be notified to

[democracy@cherwellandsouthnorthants.gov.uk](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 Tuesday 10 December 2019

## Cherwell District Council

### Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 14 November 2019 at 4.00 pm

- Present: Councillor James Macnamara (Chairman)  
Councillor Maurice Billington (Vice-Chairman)
- Councillor Andrew Beere  
Councillor John Broad  
Councillor Hugo Brown  
Councillor Phil Chapman  
Councillor Colin Clarke  
Councillor Ian Corkin  
Councillor Chris Heath  
Councillor Simon Holland  
Councillor David Hughes  
Councillor Mike Kerford-Byrnes  
Councillor Cassi Perry  
Councillor Lynn Pratt  
Councillor George Reynolds
- Substitute Members: Councillor Surinder Dhesi (In place of Councillor Barry Richards)  
Councillor Ian Middleton (In place of Councillor Katherine Tyson)
- Apologies for absence: Councillor Barry Richards  
Councillor Les Sibley  
Councillor Katherine Tyson
- Officers: Alex Keen, Major Projects Manager and Deputy Senior Manager  
Matt Chadwick, Senior Planning Officer  
George Smith, Planning Officer  
Bob Neville, Senior Planning Officer  
Jennifer Crouch, Solicitor  
Lesley Farrell, Democratic and Elections Officer

### 93 **Declarations of Interest**

There were no declarations of interest.

94 **Requests to Address the Meeting**

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

95 **Minutes**

The Minutes of the meeting held on 24 November 2019 were agreed as a correct record and signed by the Chairman.

96 **Chairman's Announcements**

The Chairman made the following announcement:

1. Under the Openness of Local Government Bodies Regulations 2014, members of the public were permitted to film, broadcast and report on the meeting, subject to the efficient running of the meeting not being affected.
2. The Chairman reminded the Committee that the date of the next meeting of the Committee had changed from Thursday 12 December to Wednesday 18 December 2019.

97 **Urgent Business**

There were no items of urgent business.

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

There were no pre-proposed site visits.

99 **Land North and West of Bretch Hill Reservoir Adj to Balmoral Avenue, Banbury**

The Chairman advised that application 19/01811/OUT had been withdrawn by the applicant.

100 **Exham House, Bloxham School, Banbury Road, Bloxham, Banbury, OX15 4PE**

The Committee considered application 19/01160/F for the change of use to Exham House, from Class D1 to a mixed Class D1/A3 to allow public use of a cafe, and associated works at Exham House, Bloxham School, Banbury Road, Bloxham, Banbury, OX15 4PE for Bursar Bloxham School.

Mr Andrew Baud, local resident, addressed the Committee in objection to the application.

Mr Iain Summerwood, agent to the applicant addressed the Committee in support of the application.

It was proposed by Councillor Heath and seconded by Councillor Billington that application 19/01160/F be refused contrary to officer recommendations as the application was contrary to policies: BL14 (6) and BL 16 of the Bloxham Neighbourhood Plan, ESD15 of the CLP and C31 and C32 (saved policies).

The motion was debated and subsequently fell.

It was proposed by Councillor Clarke and seconded by Councillor Perry that application 19/01160/F be approved subject to additional conditions regarding opening hours and external lighting.

### **Resolved**

- (1) That authority be delegated to the Assistant Director for Planning and Development to grant permission for application 19/01160/F, subject to the following conditions (and any amendments to those conditions as deemed necessary):

### **CONDITIONS**

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents:
  - Application form
  - Site Location Plan
  - Ground Floor Proposed Layout – 0GPL Rev B.
  - First Floor Proposed Layout – 01PL Rev A.

Reason – For the avoidance of doubt, to ensure that the development is carried out only as guidance contained within the National Planning Policy Framework.

3. Prior to the installation of any ventilation required for the proposed A3 unit, full details of the method of mechanical ventilation shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, any mechanical ventilation shall be installed and brought into use in accordance with the approved details and shall be maintained as such thereafter.

Reason - In order to safeguard the amenities of the area and to minimise the risk of a nuisance arising from smells in accordance with

saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. The hours of opening, in relation to the public use of the café, shall be restricted to the following times:

Monday-Saturday – 9.00am to 5.00pm

Sunday and Public Holidays – No time whatsoever

Reason - In order to safeguard the amenities of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C31 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. No external lights/floodlights shall be erected on the land or building without the prior express planning permission of the Local Planning Authority.

Reason - To retain planning control over the development of this site in and the amenities of the area and in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies ENV1, C28 and C31 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

101 **65 Bicester Road, Kidlington, OX5 2LD**

The Committee considered application 19/01082/F for the demolition of an existing single level dwelling - Class C3(a) - and erection of 5 x flats in single, two level building - Class C3(a) at 65 Bicester Road, Kidlington, OX5 2LD for Mr Richard Field.

Councillor Billington proposed that application 19/01082/F be deferred to allow for a formal site visit to take place. Councillor Middleton seconded the proposal.

**Resolved**

That consideration of application 19/01082/F be deferred to allow a formal site visit to take place.

102 **Land East of South View and South of School Lane, Great Bourton**

The Committee considered application 19/01808/F for the erection of 3 No. dwellings and associated garages at Land East of South View and South of School Lane Great Bourton for Fernhill Land Holdings Ltd.

Mr Ian Cooper and Mr Mark McCann addressed the meeting in objection to the application.

Mr William Lombard addressed the meeting in support of the application.



In reaching its decision the Committee considered the officers' report and presentation and the address of the public speakers.

**Resolved**

- (1) That authority be delegated to the Assistant Director for Planning and Development to grant permission for application 19/01808/F subject to the following conditions (and any amendments to those conditions as deemed necessary):

CONDITIONS:

**Time Limit**

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application form, Ecology Walkover Survey prepared by EDP and drawings numbered WG843 001B, WG843 002C, WG843 003g, WG843 004A, WG843 005C, WG843 006, WG843 007B, WG843 008A and 502.0067.001A.

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.

**Transport**

3. Prior to the commencement of the development hereby approved, full specification details of the access road, parking and manoeuvring areas, including construction, surfacing, layout, drainage and road markings, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first use of the access road the development shall be constructed in accordance with the approved details.

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

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

with the approved details and the development shall not be carried out other than in accordance with the approved CTMP.

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

5. 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.

### **Materials**

6. Prior to the commencement of the development hereby approved above slab level, a brick sample panel, to demonstrate brick type, colour, texture, face bond and pointing (minimum 1sqm in size) shall be constructed on site, inspected and approved in writing by the Local Planning Authority. The external walls of the development shall not be constructed other than in strict accordance with the approved brick sample panel and shall be retained as such thereafter.

Reason: To ensure the satisfactory appearance of the completed development and to safeguard the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of the development hereby approved above slab level, samples of the slate to be used in the construction of the roof of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the samples so approved and shall be retained as such thereafter.

Reason: To ensure the satisfactory appearance of the completed development and to safeguard the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. Prior to the commencement of the development hereby approved above slab level, samples of the timber cladding to be used in the construction of the walls of the proposed garages shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the samples so approved and shall be retained as such thereafter.

Reason: To ensure the satisfactory appearance of the completed development and to safeguard the character and appearance of the

area and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

**Landscaping**

9. Notwithstanding the details submitted, prior to the commencement of the development hereby approved above slab level, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-
- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
  - (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
  - (c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps.
  - (d) details of all boundary treatments.
- Thereafter, the development shall be carried out in strict accordance with the approved landscaping scheme and the hard landscape elements shall be carried out before the first occupation 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 safeguard the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

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

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

11. The existing hedgerow along the western boundary of the site shall be retained and properly maintained at a height of not less than 3m 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 Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. Ecology and Biodiversity

12. Prior to, and within two months of, the commencement of the development, the site shall be thoroughly checked by a suitably qualified ecologist to ensure that no protected species, which could be harmed by the development, have moved on to the site since the previous surveys were carried out. Should any protected species be found during this check, full details of mitigation measures to prevent their harm shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved mitigation scheme.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

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

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

14. Notwithstanding the information submitted, prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, a method statement for enhancing the biodiversity opportunities at the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall not be carried out other than in accordance with the approved details including the timeframes set out therein and shall be retained as such thereafter.

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

**Drainage**

15. Prior to the commencement of the development hereby approved, a detailed scheme for the surface water drainage of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the commencement of any building works on the site the approved surface water drainage scheme shall be carried out and prior to the first occupation of any building to which the scheme relates the scheme shall be implemented.

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

103 **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 6.15 pm

Chairman:

Date:

# Agenda Annex

## CHERWELL DISTRICT COUNCIL

### PLANNING COMMITTEE

18 December 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.

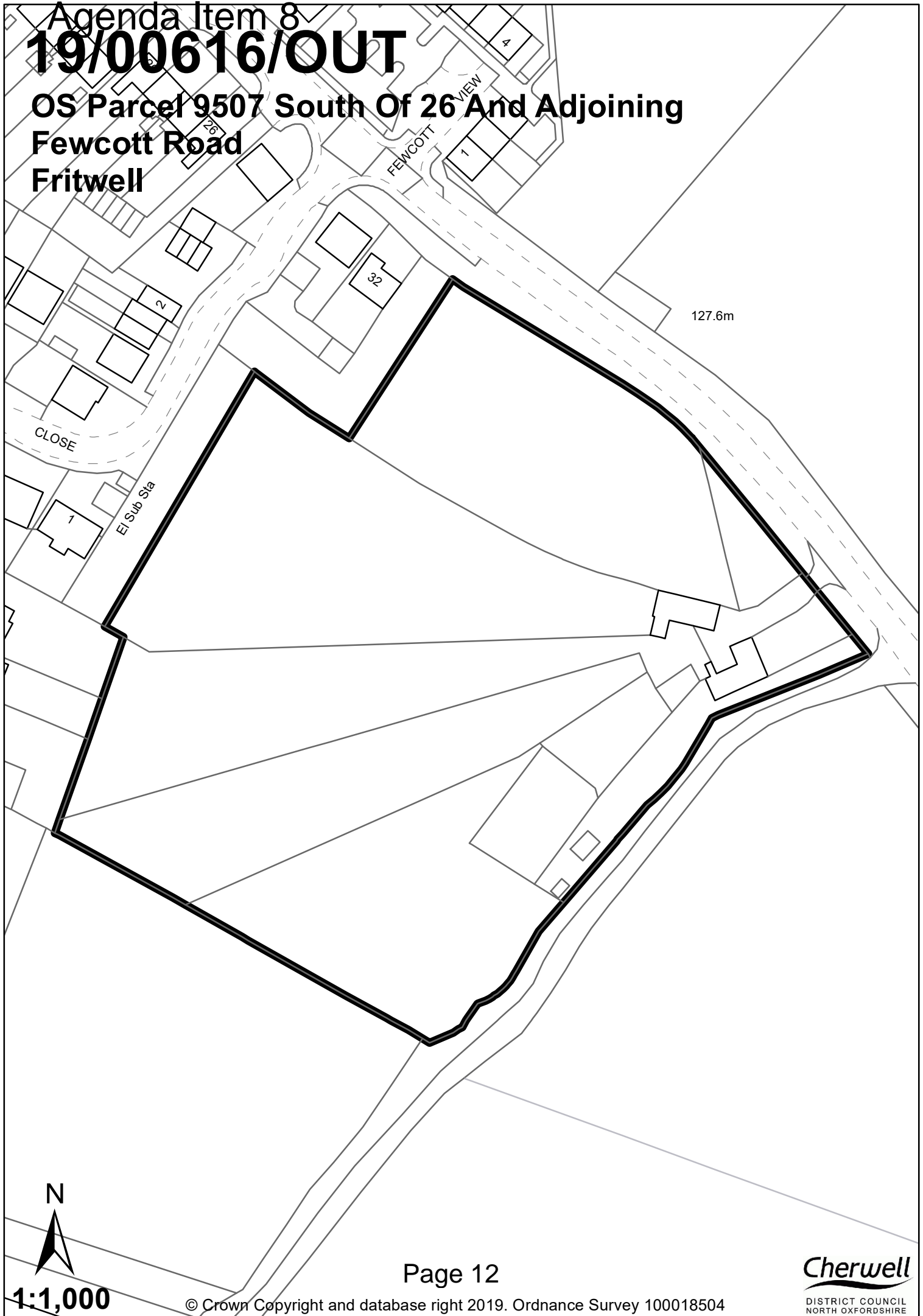
#### **Background Papers**

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	OS Parcel 9507 South Of 26 and Adjoining Fewcott Road, Fritwell	19/00616/OUT	Deddington	Approval	James Kirkham
9	Alkerton House, Well Lane, Alkerton, OX15 6NL	19/01736/F	Cropredy, Sibfords and Wroxton;	Approval	Gemma Magnuson
10	Alkerton House, Well Lane, Alkerton, OX15 6NL	19/01737/LB	Cropredy, Sibfords and Wroxton	Approval	Gemma Magnuson
11	Bicester Eco Town Exemplar Site Phase 2, Charlotte Avenue, Bicester	19/01036/HYBR	Bicester North and Caversfield;	Approval	Caroline Ford
12	65 Bicester Road, Kidlington, OX5 2LD	19/01082/F	Kidlington East	Approval	Matthew Chadwick
13	DCS Group, Rear Pt Lxb Rp No 2, Oceans House, Noral Way, Banbury, OX16 2AA	19/01254/F	Banbury Hardwick	Approval	Matthew Chadwick
14	St Thomas Moore Catholic Primary School, Oxford Road Kidlington OX5 1EA	19/02103/F	Kidlington East	Approval	Michael Sackey
15	Manor Cottage, The Square, Epwell, Banbury, OX15 6LA	19/01515/F	Cropredy, Sibfords and Wroxton	Refusal	Lewis Knox
16	Manor Cottage, The Square, Epwell, Banbury, OX15 6LA	19/01516/LB	Cropredy, Sibfords and Wroxton	Refusal	Lewis Knox
17	Land at Bullmarsh Close, Middleton Stoney	19/01709/CDC	Fringford and Heyfords	Approval	James Kirkham
18	Land adjacent Unit 7, Chalker Way, Banbury, OX16 4XD	19/02443/CDC	Banbury Grimsbury and Hightown	Approval	Caroline Ford

Agenda Item 8  
**19/00616/OUT**

**OS Parcel 9507 South Of 26 And Adjoining  
Fewcott Road  
Fritwell**



127.6m

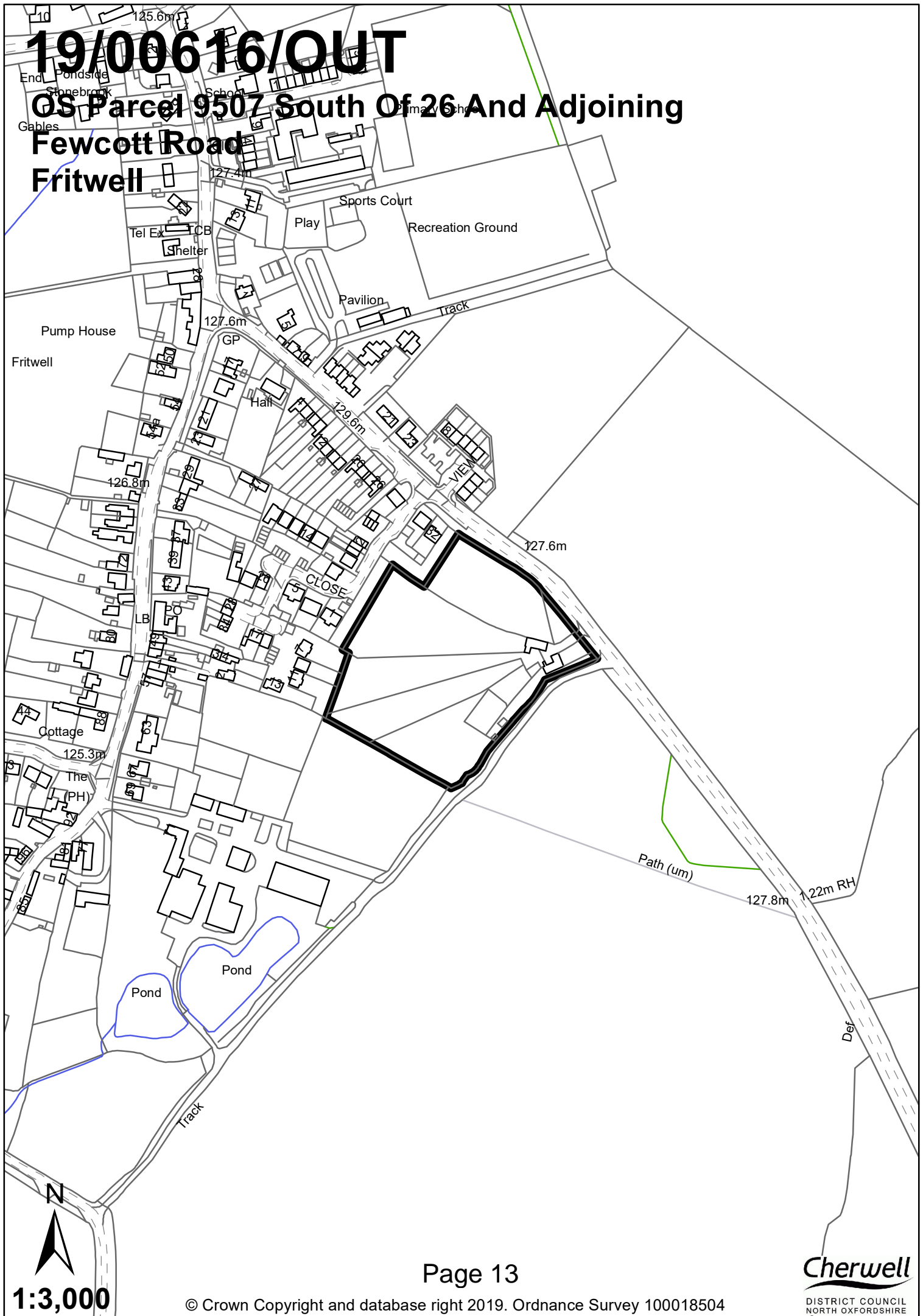
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# 19/00616/OUT

## OS Parcel 9507 South Of 26 And Adjoining Fewcott Road Fritwell



**Case Officer:** James Kirkham

**Applicant:** CALA Homes (Chiltern) Ltd

**Proposal:** The erection of up to 28 dwellings and associated site access onto Fewcott Road

**Ward:** Deddington

**Councillors:** Councillor Hugo Brown, Councillor Bryn Williams, Councillor Mike Kerford-Byrnes

**Reason for Referral:** Major development – 10 or more new dwellings

**Expiry Date:** 29 November 2019

**Committee Date:** 18<sup>th</sup> December 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 current application seeks permission for up to 28 dwellings on the site. The application is made in outline will all matters reserved except the principle means of access from Fewcott Road. An indicative layout has been provided demonstrating one way this quantum of development could be provided on the site.

#### **Consultations**

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

- Oxfordshire Clinical Commissioning Group

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

- OCC Highways, OCC Rights of Way, Lead Local Flood Authority, OCC Education, CDC Planning Policy, CDC Ecology, CDC Tree Officer, CDC Strategic Housing, CDC Leisure and Recreation, CDC Environmental Protection Anglian Water

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

- Fritwell Parish Council (subject to requirements), Mid-Cherwell Neighbourhood Forum (subject to requirements)

45 letters of objection have been received and 7 letters of support have been received.

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

A public footpath runs adjacent to the southern boundary of the site. The site is also located in the area covered by the Mid Cherwell Neighbourhood Plan and is lies outside the settlement areas identified in the Neighbourhood Plan. Fritwell Conservation Area also exists to the south west of the site.

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

## **Conclusion**

The key issues arising from the application details are:

- Principle of Development
- Landscape and Visual Impact
- Site Layout and Design Principles
- Heritage
- Highways
- Ecology
- Affordable Housing and Housing Mix
- Flood Risk and Drainage
- Residential Amenity
- Impact on Local Infrastructure
- Other matters

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

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

## **MAIN REPORT**

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

- 1.1. The application site consists of a small grouping of fields forming part of the open countryside on the eastern edge of Fritwell, south of Fewcott Road. The site is relatively flat with the boundaries delineated by varying densities of trees and hedgerows. The site contains some small informally arranged outbuildings in its northeast corner. A public footpath runs immediately to the south of the site which separated from the site from a hedgerow and links through to Southfield Lane and on to East Street.
- 1.2. To the north of the site on the opposite side of Fewcott Road lies flat and expansive open countryside consisting of arable farmland. To the south and beyond the public footpath lies more paddock land, Lodge Farm and its associated farm buildings together with its fishing lakes. A track linking Lodge Farm with Fewcott Road passes down the eastern edge of the site. The 1990s residential development of Hodgson Close is located to the west where combinations of rear gardens and general amenity space border the site.
- 1.3. The site itself is not subject to any specific statutory or locally designated environmental or heritage constraints though the designated Fritwell Conservation Area lies to the south-west and incorporates not just buildings within the historic core of the village but also paddock land to the south-west of the site.

### **2. CONSTRAINTS**

- 2.1. A public footpath runs adjacent to the southern boundary of the site and continues further to the east and west.
- 2.2. The site is also located in the area covered by the Mid Cherwell Neighbourhood Plan. Fritwell Conservation Area also exists to the south west of the site.

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

- 3.1. The current application seeks outline permission for to 28 dwellings on the site. All matters are reserved expect the principal means of access from Fewcott Road. This would also include the provision of a new public footpath to the south of Fewcott Road which would connect to the existing footpath adjacent to Hodgson Close.
- 3.2. An indicative layout has been provided with the application with shows the provision of 28 dwellings, public open space and a small paddock to the south of the site. It is also proposed to create a new pedestrian link to the public footpath of the south of the site.
- 3.3. When the original application was submitted the application was for 38 dwellings. Further to discussions with officers the application was reduced to 28 dwellings and the access to the site was moved closer to the village along Fewcott Road. These amendments have been subject to re-consultation.

### **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>
16/01594/F	Erection of 34 dwellings	Withdrawn

This application was for development of the southern part of the existing site (it excluded the northern parcel of land closest to the village in this application) and was made in full. It was withdrawn prior to be formally determined by the Council. A Committee report was however published for the scheme which recommended it for refusal. The reasons for refusal included that the poor sustainability of the village to accommodate this level of growth (due to lack of services facilities, and public transport); the harm to the rural character of the village; the failure to integrate and respect the pattern of development; unacceptable mix of affordable and market houses; unacceptable in terms of design detail; inadequate amenity spaces and inadequate access. It should be noted that this scheme related to different overall site area, was prior to the adoption of the Mid Cherwell Neighbourhood Plan and considered matters relating to layout, appearance, landscaping and scale which are reserved in the current application.

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

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

17/00283/PREAPP - Proposed residential development of 43 dwellings. This only related to the southern parcel of land and was prior to the adoption of the Mid Cherwell Neighbourhood Plan. This reiterated the advice given on the withdrawn planning application.

### **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 30/10/2019, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. The comments raised by third parties are summarised as follows:

Object (45)

- Principle – The site is outside the boundaries of the village; Site is not previously developed land as supported in the MCNP; The proposals would undermine public faith in the planning system and the Neighbourhood Plan. There are already new houses under construction in the village. These should count towards the Neighbourhood Plan number. The Council's rural housing allocation has already been met. No need for more housing and existing properties struggle to sell. Many developments to meet housing need elsewhere in Bicester, Upper Heyford, etc. Similar applications have been resisted in the past and the current proposal is already. The reasons remain relevant. Proposal will set a precedent for more developments in the village. There is a proposal for further housing development by Lagan Homes elsewhere in the village.
- Sustainability – The village is unsustainable for this level of growth with limited services, facilities and very limited public transport. Occupiers will be car dependant to access services and facilities. Categorisation of the village as a Cat A is wrong. Public house in the village is no longer open.
- Impact on character and appearance of the area – Loss of greenfield countryside between villages contrary to MCNP; Impact on the rural character of the area; Loss of trees and landscaping; The development would result in prominent intrusion into open countryside. Upgrading the footpath would be detrimental to the rural character of the area and impact on the amenity of residents adjacent to this route.
- Impact on character and/or setting of the village – Detrimental visual impact on the village; Proposal is not integrated into the village. Scale of growth is inappropriate for the size of the village.
- Impact on residential amenity – Loss of privacy, outlook and light to neighbouring properties in Hodgson Close. Increase in noise, disturbance, overlooking and light pollution
- Impact on highway safety – Access is unsafe due to vehicle speeds and will lead to accidents. Village is already a 'rat run'. Increase in traffic. Inadequate visibility from the access. Inadequate parking
- Impact on wildlife and ecology. Little evidence of 'net gains'.
- Impact on infrastructure – Concerns regarding capacity of sewage system which has already suffered problems and increased flooding. Proposed footway may impact on drainage ditch. Additional pressure on local infrastructure. Developer should contribute to new infrastructure. Objections to this money being spent outside of the village. Additional community facilities should be provided or funds to buy the local pub

- The Parish Council's support – The Parish Council's comments are not correct and do not fairly represent the views of the community. Strongly disagree with the views of the Parish Council. Requests for the parish to remove support for scheme.
- Other – Affordable (social) housing should be provided. The application is in outline and the details may change. This is not transparent and matters of design, layout and housing mix. The submission documents are inaccurate. Support OCCG comments. Impact on Human Rights. No attempt by the developer to engage with the community.
- Benefits overstated – Any support the application will provide to the school will be short lived until children grow up. No direct link between the shop remaining open and the development.
- Planning obligations – Request for outdoor sport facilities contribution towards playing field including details of usage and potential projects. Fritwell Village Hall Committee requested contributions towards improvement which are detailed in their submission.

#### Support (7)

- Need – Support need for new housing. More residents means more people to support village facilities.
- Housing mix – Site has been identified as most appropriate site for new housing. Important there is a mix of dwellings to meet local need.
- Benefits to infrastructure – The School has written in support of the application as likely to increase school roll which has fallen in recent years.

#### Non material considerations

- Right to Light. Loss of view over field.

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. FRITWELL PARISH COUNCIL: Originally raised a number of concerns regarding the scheme and requested further information including the scale of the development; the highway impacts of the proposal; contributions for local facilities and mitigation; biodiversity enhancement; and drainage and sewerage. Following receipt of amended plans have the following comments:

7.3. **Supports** the application subject to a number of issues. Support housing for young people and downsizers to support community facilities. Note the inclusion of the site in the HELAA as 'suitable, available and achievable'. Consider the site is the most appropriate and sustainable for further development in Fritwell. The reduction in number of dwellings more closely complies with the Neighbourhood Plan and 35% is

proposed. The inclusion of 2 bungalows and 4 x 2 bed houses response to the views of residents. The amount of 3 and 4/5 bed houses needs to be reviewed. Request developer considered Neighbourhood Plans Forums comments on building design, construction and energy use.

- 7.4. Support the responses made by the playing field committee, village hall committee and primary school for the contributions to help improve and mitigate impacts of the development.
- 7.5. In relation transport note the village has no bus service and continues to campaign for a rural bus service and request a contribution towards subsidies for transport services. Parking should be increased to the maximum standard on the development given all occupants are likely to own a car. Parish welcome the inclusion of road calming along Fewcott Road including new signage, road markings and vehicle activated sign alongside proposal to move the spend limit. Request that further place making style road calming such as planted areas to narrow the entrance to the village and rumble strips (in keeping with those in Hodgson Close), and paved road areas be considered. Also welcomes connection to public right of way to the south of the site which should be surfaced to provide year-round access.
- 7.6. Support the Neighbourhood Plans response to consider low cost biodiversity measures like wild flower planting along verges or off-site.
- 7.7. MID CHERWELL NEIGHBOURHOOD PLAN FORUM: Objected to original proposal on ground of conflict with Policy PD1 and overall scale of development significantly exceeding the indicative growth of 25 dwellings.
- 7.8. Amended proposal: Supports subject to modification to housing mix to meet requirements set out in Policy PH1 and a clear statement for the developer they are prepared to consider the below points.
- 7.9. Pleased to see a reduction in number of dwellings but still exceeds indicative figure of 25 set out in the Neighbourhood Plan. Furthermore have concern that taking the scale of the current development would mean the whole allocation for housing growth in the village would be taken up immediately and may prevent any further development in the village for the rest of the plan period. They also raised concern with the housing mix against Policy PH1 and note there are too many '4 or more' bedroom properties and not sufficient 3 bed properties. In order to support the proposal, requests a number of outcomes are committed to in a Section 106:
  - Should be an exemplar scheme in respect of climate change designed to minimise energy consumption and avoid use of fossil fuels. Use of ground source heat pumps and highly insulated dwellings should be considered.
  - Serious consideration of making the scheme a pilot for off-site modular construction
  - Provide net gain biodiversity which exceeds the minimum
  - Provide support for local transport options; charging points for electric vehicles; traffic calming measures; new speed signs linked to mains electricity; enhancement of children's play area on playing field; provision of more recreational and sports facilities within Fritwell for all ages; support for the existing Village Hall, including additional storage, repairs and improved car park; developer funding directed to works in the village to benefit Fritwell residents

## CONSULTEES

- 7.10. OCC HIGHWAYS: Objected to original application.
- 7.11. Amended plans: **No objection** subject to S106 to secure £15,000 for improvements to the Public Right of Way to the south of the site and an obligation to enter into a S278 agreement (construction of the site access, extension of the 30mph speed limit, construction of footway from site access to join existing footpath in village, land ownership and visibility splays, village entry treatment including traffic calming) and planning condition.
- 7.12. The traffic impact of the development is considered to be acceptable and not result in severe impact. The reduction in dwellings further reduces this impact. This site access has been amended and it has been sufficient visibility based on the speed surveys for the site can be achieved. The land within the visibility splays appears to be land either owned by the application, classified as public highway or is the highway ditch. As part of the S278 agreement part of this ditch will need to become within the applicants control through the land registry.
- 7.13. The application includes alterations to the highway directly in front of the application site, this includes extending the 30mph speed limit, new VAS speed limit sign and relocation of gateway and dragons teeth on carriageway. This will be done via S278 agreement and will require consultation.
- 7.14. In terms of pedestrian access the proposal is for a 1.8m footway to Fewcott Road. This is required to enable residents to walk into the village. The link to the south allows more permeability and better access to other parts of Fritwell and a contribution is sought to upgrade this to allow increase use to a better standard.
- 7.15. The indicative level of parking of 54 allocated and 10 visitor spaces in accordance with the OCC Standard however visitor bays need to be increase in width. Cycle parking provision should also be made for the dwellings.
- 7.16. Travel information packs should be provided for residents to encourage sustainable transport choices and vehicle tracking will be required.
- 7.17. OCC RIGHTS OF WAY: **No objection** subject to a upgrading the public right of way to the south of the site. Also request conditions on no obstruction of the footpath, no changes to footpath without agreement, no vehicular access along footpath and no gates opening onto footpath.
- 7.18. CDC ECOLOGY: **No objections** subject to conditions. The report is sufficient in scope and depth. No significant protected issues on the site however there is potential for bats to be present in the trees and potential reptiles and nesting birds and timing constraints and methodology of clearance is needs. These are covered in the submitted survey and could be including in CEMP for Biodiversity condition
- 7.19. The Biodiversity Metric submitted indicates there will be a reasonable level of net gain however raises queries where the open water and marginal vegetation will be provided. The fencing and walls must have gaps at their base and bird and bat boxes provided.
- 7.20. NATURAL ENGLAND: **No comments.**
- 7.21. CDC TREE OFFICER: **No objections.** The amended layout has lessened concerns regarding the site entrance, vision splays and plots to the south of the site.
- 7.22. CDC LANDSCAPE OFFICER: (on original submission) Comment. The existing boundary planting is a major design constraint. It does not appearance to have



informed the LVIA. The loss of planting for the visibility splay needs to be better understood. Viewpoints from the public right of way to the north of the site would have a major significance of effect which could be moderated over time will planting. Space is required between the visibility space and the plots on the northern boundary to help mitigate impact of PROW and roadside receptors. Concerns regarding plots very close to southern boundary and there may be pressure to reduce height of hedge increasing visual impacts. Suggest properties are moved from the southern boundary. No attenuation tanks should be provided under the LAP.

- 7.23. LEAD LOCAL FLOOD AUTHORITY: **No objection** subject to conditions on details surface water strategy, management and maintenance.
- 7.24. OCC EDUCATION: **No objections** subject to contributions towards secondary school capacity at Heyford Park School. No contributions sought to nursery, primary or SEN provision.
- 7.25. ANGLIAN WATER: **No objection.** The wastewater treatment and sewerage system has capacity for these flows. The proposal does not propose to discharge surface water to Anglian Water assets. Request informative regarding assets near the site, connections and protection of existing assets.
- 7.26. OXFORDSHIRE CLINICAL COMMISSIONING GROUP: **Objects** on the basis it will put further pressure on primary care services supporting the Fritwell Area. The main GP practices which cover this area are Deddington Practice and Alchester Medical group. The application will increase the population by c.67 people, which will put direct pressure on the ability of the practices to continue to provide primary care services, without funding to support their infrastructure needs. Highlight growth in population in both these areas. Seek £360 per head to support capital projects associated with either of the two practices, to ensure primary care services are provided directly or indirectly to the development population.
- 7.27. CDC STRATEGIC HOUSING: **No objection.** Requests 10 affordable units with the indicative mix of tenures and sized:
- 2 x 1b2pM – Social Rent
  - 3 x 2b4pH – Social Rent
  - 2 x 2b4pH – Shared Ownership
  - 1 x 3b5pH – Social Rent
  - 1 x 3b5pH – Shared Ownership
  - 1 x 4b7pH – Social Rent
- 7.28. This represents a 70/30 split between (Social Rent level) rented units and Shared Ownership units as stated in our adopted Local Plan Part 1, Policy BSC3 and blends the findings of the most recent county-wide Strategic Housing Market Assessment, with our own district-specific levels of in-house data. 50% of the social rent should meet M4(2)(2) requirement and all rental units should be to national space standard. Expect parking for all units
- 7.29. CDC LEISURE AND RECREATION: **Comment.** Request contributions towards improvements to Fritwell Village Hall, outdoor sports (improvements to Fritwell Playing field for benefit/improvement of sport) and off-site indoor sports facilities

(contribution towards Bicester Gymnastics Club to develop a specialist gymnastics in Bicester for the Bicester and District Gymnastics Club)

7.30. CDC BUILDING CONTROL: **No comment.**

7.31. CDC ENVIRONMENTAL PROTECTION: **No objections** subject to Construction Environmental Management Plan, full land investigation conditions, air quality condition and electric charging points. No comments in relation to odour or light.

## **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:

### MID-CHERWELL NEIGHBOURHOOD PLAN 2018-2031 (Feb 2019)

- PD1 – Development at Category A Villages
- PD4 – Protection of Important Views and Vistas
- PD5 – Buildings and Site Design
- PD6 – Control of Light Pollution
- PH1 – Open Market Housing Schemes
- PH3 – Adaptable housing
- PH5 – Parking, garaging and storage
- PC2 – Health Facility at Heyford

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

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

- Villages 2 – Distribution Growth Across the Rural Areas
- INF1 – Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

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

8.3. Other Material Planning Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Annual Monitoring Report (AMR) 2018
- Cherwell Residential Design Guide SPD 2018
- Developer Contributions SPD 2018
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

**9. APPRAISAL**

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

- Principle of Development
- Landscape and Visual Impact
- Site Layout and Design Principles
- Heritage
- Highways
- Ecology
- Affordable Housing and Housing Mix
- Flood Risk and Drainage
- Residential Amenity
- Impact on Local Infrastructure
- Other matters

Principle of Development

*Policy Context*

9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 and the saved policies of the Cherwell Local Plan 1996. The Development Plan in this area also includes the Mid-Cherwell Neighbourhood Plan which was adopted in February 2019.

9.3. The National Planning Policy Framework (NPPF) explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs. Paragraph 7 of the NPPF sets out

the Government's view of what sustainable development means in practice for the planning system – the three strands being the economic, social and environmental roles. It is clear from this that as well as proximity to facilities, sustainability also relates to ensuring the physical and natural environment is conserved and enhanced as well as contributing to building a strong economy through the provision of new housing of the right type in the right location at the right time.

- 9.4. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that conflicts with the Local Plan should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015 and can demonstrate a 5 year housing land supply. The Written Ministerial Statement of 12 September 2018 now considers important policies for determining the application to be out of date only where a 3 year supply of deliverable sites cannot be demonstrated in Cherwell.
- 9.5. Policy PD1 of the Mid-Cherwell Neighbourhood Plan (MCNP) states that in Category A Villages, such as Fritwell infill, conversion and minor development will be supported in principle within the settlement limits (as defined in the Neighbourhood Plan). It states that residential development proposals outside the settlement areas in such villages must have regard to the following criteria:
- Be immediately adjacent to the village
  - Not be best and most versatile agricultural land and previously developed land is particularly likely to be acceptable.
  - Conserve and, wherever possible, enhance the landscape.
  - Conserve and, where possible, enhance heritage assets
  - Not give rise to coalescence with other nearby settlements.
- 9.6. Policy PD1 of the MCNP goes onto state that the *'total indicative number of additional dwellings permitted during the plan period either within the settlement area of those villages, or adjacent to them, shall be approximately 25 for Fritwell'*.
- 9.7. The overall housing strategy in the Cherwell Local Plan 2011-2031 (including Policy BSC1) is to focus strategic housing growth at the towns of Banbury and Bicester and a small number of strategic sites outside of these towns. With regards to villages, the Local Plan notes that the intention is to protect and enhance the services, facilities, landscapes and natural and historic built environments of the villages and rural areas. It does however advise that there is a need within the rural areas to meet local and Cherwell-wide needs.
- 9.8. Policy Villages 1 of the CLP 2031 provides a framework for housing growth in the rural areas of the district and groups villages into three separate categories (A, B and C), with Category A villages being considered the most sustainable settlements in the District's rural areas which have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth. Fritwell is classified as a Category A village.
- 9.9. In order to meet the areas housing needs Policy Villages 2 of the CLP 2015 states that: *"A total of 750 homes will be delivered at Category A villages. This will be in addition to the rural allowance for small site 'windfalls' and planning permissions for 10 or more dwellings as at 31 March 2014"*. This Policy notes that sites will be identified through the preparation of the Local Plan Part 2, through the preparation

of the Neighbourhood Plans where applicable, and through the determination of applications for planning permission.

9.10. Policy Villages 2 then sets out that when identifying and considering sites, particular regard will be given to the following criteria:

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

#### *Assessment*

9.11. As outlined above the Development Plan in this case consists of both the Cherwell Local Plan Part 1 (2015) (CLP) and the MCNP (2019). The application site is considered to fall outside of the built up limits of the village and is also outside the settlement boundaries identified in the MCNP. The most relevant policy to consider in relation to this application under the CLP (2015) would be Policy Villages 2, which provides a rural allocation of 750 dwellings to be provided at Category A Villages and significant progress has been made in regard to this allocation.

9.12. However, in this case Policy PD1 of the MCNP identifies an indicative level of growth to the Fritwell over the plan period (as outlined below) and there may be considered to be some conflict between these policies. The Planning Practice Guidance (PPG) and Section 38(5) of the Planning and Compulsory Purchase Act 2004 states that, where policy in a development plan for an area conflicts with another policy in the development plan, the conflict should be resolved in favour of the policy which is contained in the last document to be adopted, approved or published. In this case this would be the MCNP. Therefore, MCNP Policy PD1 is considered to take precedent over Policy Villages 2 – although the criteria of Policy Villages 2 are still considered to be relevant to the consideration of the application.

9.13. Policy PD1 of the MCNP states that an indicative number of additional dwellings permitted within or adjacent to Fritwell over the plan period (2018-2031) will be approximately 25 dwellings. It is clear from the use of the words ‘indicative’ and ‘approximately’ in the policy that 25 dwellings is not a ceiling and must be viewed as a guideline for the level of growth envisaged, and flexibility therefore applied in this respect whilst having regard 25.

9.14. At the current time 1 dwelling has been granted permission in the plan period (i.e. 2018-2031) in Fritwell (19/01402/OUT refers) and another single dwelling (19/02162/F refer) is pending consideration. Several objectors to the application

has referred to existing housing sites which are undergoing construction at the Former George and Dragon Site (17/01954/F refers for 7 dwellings) and a development of 8 dwellings on Fewcott Road (13/01347/F refers) which they consider should count towards this allocation. However, given these were granted prior to the plan period for the Neighbourhood Plan which covers the period 2018-2031, they do not count towards the level of growth specified in the Neighbourhood Plan (i.e. approximately indicatively 25 dwellings).

- 9.15. During the course of the application the number of dwellings proposed as part of the current application has been reduced from 38 dwellings to 28 dwellings in response to significant concerns raised by officers regarding the scale of growth proposed as originally submitted in the context of the housing strategy in the Neighbourhood Plan. Granting planning permission for the current application would result in a total of 30 dwellings being permitted in Fritwell within the plan period (if a pending separate application is approved for a single dwelling elsewhere in the village). Officers consider, on balance, that this level of growth complies with the indicative level of growth that is proposed to be provided in Fritwell through the Neighbourhood Plan.
- 9.16. Several concerns have been raised by neighbours over the general sustainability of village to accommodate this level of growth and prior to the adoption of the MCNP this was a significant concern of Officers. The village of Fritwell has relatively limited services and facilities including a school, a small shop, a play area, pub (albeit currently closed) and village hall. There is also no meaningful public transport to the village resulting in residents being highly reliant on the private car. Whilst these concerns do still exist, the MCNP clearly indicates a level of growth for the village and as outlined above the proposal is considered to accord with the MCNP's housing strategy. There has been no significant change in services to the village since the adoption of the MCNP which would justify taking a different position on this issue.
- 9.17. The basis of the planning system is plan-led and therefore the aforesaid concerns regarding the general sustainability of the village do not outweigh the provision of the recently adopted neighbourhood plan in regard to the scale of growth appropriate for the village. It should also be noted that the proposed development is likely to help support the existing services and facilities (shop, school and pub – in the event it re-opens) in the village to some extent although this is hard to fully quantify; and the governors of the primary school have supported the application.
- 9.18. The Neighbourhood Plan Forum has noted that Policy PD1 relates to all new housing 'within' and 'outside' of the built limits of the village over the whole of the plan period and has concerns that permitting 28 dwellings on the current site at an early point in the plan period may result in further development in the village taking the level of growth in the village into what they regard as 'unacceptable territory'. Whilst Officers sympathise with this view to some extent, Policy PD1 does not include any phasing of the indicative level of growth of 25 dwellings over the plan period and there is no limit on the amount of the envisaged development that comes forward on any one site. There are some benefits of allowing growth on a larger site (as opposed to multiple smaller sites) as planning obligations can be provided to mitigate impacts on infrastructure and affordable housing can be secured. This could not be insisted upon on smaller sites (of under 10 units). Each future application would need to be assessed on its own merits so any future growth in Fritwell would need to be considered in the context of the housing strategy outlined in Policy PD1 of the MCNP and other relevant policies and a view taken at the time as to whether the level of growth proposed would conflict with the Development Plan when read as a whole. Therefore, this matter is not considered to be a matter that would justify refusing consent on its own.

- 9.19. Policy PD1 goes onto provide several criteria to which applications for development outside the settlement must have particular regard. It is important to note that the policy has no requirement for all these criteria to be met although they clearly are material considerations in undertaking the planning balance. The current proposal is considered to comply with a number of these criteria. The site is located immediately adjacent to the village and would conserve heritage assets (as outlined below). It would also not give rise to coalescence with other settlements given the distance that would exist to the neighbouring villages. The site is not previously developed so does not gain support from that criteria. The issues relating to the use of best and most versatile agricultural land and landscape impact are outlined elsewhere in this report and need to be considered in the planning balance.
- 9.20. Several comments have also referred a proposal by Lagan Homes at Forge Place which may come forward in the future. However, this is not relevant to the current application and each application has to be assessed on its own merits. The Council has no formal proposals before them for an alternative development. Therefore, this is not considered to carry any significant weight in the context of the current application.

### *Conclusion*

- 9.21. The most relevant policy to consider the principle of the application against is considered to be Policy PD1 of the MCNP. On balance, the scale of growth is considered to broadly comply with the Policy PD1 and therefore to accord with the growth strategy outlined in the Neighbourhood Plan. Subject to other material considerations the principle of this level of growth at Fritwell is therefore considered to be acceptable.

### Landscape and visual impact and impact on the character of the area

#### *Policy context*

- 9.22. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPG goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Further, Paragraph 130 of the NPPF states that permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions. Paragraph 170 states planning decisions should contribute and enhance the natural and local environment recognising the intrinsic character and beauty of the countryside.
- 9.5. Paragraph 127 of the NPPF states that planning decisions should ensure that developments:
- Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - Are sympathetic to local character and history, including the surrounding built environment and landscape setting
  - Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

9.23. Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“New development proposals should:*

- *Contribute positively to an area’s character and identity by creating or reinforcing local distinctiveness and respecting local topography, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views.*
- *Respect the traditional pattern routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages.”*

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

- *Cause undue visual intrusion into the open countryside;*
- *Cause undue harm to important natural landscape features and topography;*
- *Be inconsistent with local character;*
- *Harm the setting of settlements, buildings, structures or other landmark features;*
- *Harm the historic value of the landscape.”*

9.25. Policy Villages 2 also states regard will be had to whether a proposal would have significant adverse impacts on heritage, whether development would contribute to enhancing the built environment and whether significant adverse landscape and impacts can be avoided in determining applications under that policy.

9.26. Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context and Saved Policy C8 seeks to limit sporadic development beyond the built limits of settlements.

9.27. The Cherwell Residential Guide SPD (2018) builds on the above policies and provides a framework to deliver high quality locally distinctive development.

9.28. Policy PD5 of the MCNP states that new development is required to high quality and reflect the guidance and principles set out in the Heritage and Character Assessment accompanying the Neighbourhood Plan. It goes onto state proposals should include appropriate landscape measure to mitigate impacts and be in keeping with the rural character of the village.

#### *Assessment*

9.29. The application is a flat grassland paddock with hedgerows along the southern, eastern and western boundaries. It is part of the wider paddock land to the east of Fritwell with expansive flat open arable farmland beyond to the north east and east. The natural landscape of the area is defined within the Oxfordshire Wildlife and Landscape Study of 2004 (OWLS) (referenced in Policy ESD13 of the CLP 2031 Part 1) as being of Farmland Plateau landscape type which is generally characterised by large level arable fields, sparse settlements with small grassland fields surrounding villages with long straight country roads between villages. The



strategy for this area as set out in OWLS is to conserve the open and remote character of the landscape type.

- 9.30. On entry to Fritwell from the east along Fewcott Road the village is prominent in views within its surrounding flat farmland landscape which creates a rural setting for the village. Whilst the site itself is not part of a designated landscape or intrinsically interesting or beautiful in landscape terms, it is nonetheless an archetypal part of the rural north Oxfordshire countryside and complements the Farmland Plateau landscape character with its surrounding paddocks and farmland contributing towards the experience of the rural character of the village.
- 9.31. The site is separated from the wider open countryside by the track serving Lodge Farm to the east and is arranged in a smaller field pattern than the surrounding more expansive fields which surround the village in this location. Hedgerows on the boundaries of the site and the presence of some informal buildings in the north west corner of the site also give the site a sense of enclosure and some sense of separation from the surround countryside.
- 9.32. The proposed development would lead to the loss of this site to development and would represent an encroachment into the open countryside as any loss of greenfield site at the edge of the village would. However, as noted above this site already has a different character to the wider more expansive countryside setting of the village which exists to the north and east of the site which somewhat limits the impact on the wider landscape character.
- 9.33. The illustrative layout for the proposed development seeks to retain and strengthen the planting on the eastern boundary of the site which borders the large arable field to the east. This would provide a further degree of containment to the site in terms of the wider landscape and visual impacts. Whilst views of the development from Fewcott Road to the west of the site and the public footpath that crosses the field to the west of the site would still be available, these would be filtered to some extent and diminish in time and distance.
- 9.34. The hedgerow to the south of the site, which separates the development from the public footpath (ref: 219/6/10), is largely to be retained with the exception of a small amount which would be lost to provide a pedestrian connection to this footpath which links back into the village. This footpath already runs along the side of several properties to the west of the site and the indicative plans have been amended to create a small paddock to the south of the site which would help soften the views of the development from the south and set the development away from this boundary.
- 9.35. The requirement for visibility splays at the site access with Fewcott Road means that much of the planting to the east of the proposed access on the northern boundary will need to be removed and this will open up views of the site in views from the road and the areas to the northern of the site. This would include the public bridleway (ref 219/11/10) which traverses the agricultural field approximately 200 metres to the north of the site and extends between the recreation ground and M40. Views from this footpath and the road to the front of the site would be relatively stark upon completion and would lead to some harm. However, it is proposed to plant new trees, shrubs and hedgerow planting in native species in this location on the northern boundary to help mitigate the impacts of the development to some extent and with landscaping being a reserved matter this could be controlled through subsequent applications. Furthermore, views from the public right of way are viewed in the context of the existing development at the edge of the village and are viewed from a distance of approximately 250 metres.

- 9.36. Views of the proposal would also be visible from other public footpaths to the east of the site; however, given the relatively flat topography of the area, existence of planting, and the fact many would be seen in the context of the existing built form of the village, these are not considered to lead to significant adverse impacts
- 9.37. In terms of the impact of the development on the immediate setting of the village, the proposed development would undoubtedly lead to some harm through the urbanisation of the site. However, the proposed development has to be viewed in the context of the aspirations of the MCNP to direct some growth to the village and given the scale of growth this is likely in officers' opinion to lead to the development of existing open land outside the settlement limits. The proposal is located at one of the less sensitive edges of the village from a heritage perspective and the proposed development would be viewed in the context of the existing more modern development at Fewcott View and Hodgson Close, the latter of which also provides development in a similar depth to the current proposal at the edge of the village. The screening which exists around the site and presence of the access to Lodge Farm also provides visual containment to the site and the countryside beyond.
- 9.38. Views of the proposal would also be available from the properties within Hodgson Close; however, these would be generally private views from properties over open countryside which are not given the same weight in planning decisions given that the planning system operates in the public rather than private interests. The impact on the residential amenity of these properties is covered elsewhere in this report.
- 9.39. The site was recently considered in the Housing and Economic Land Availability Assessment (HELAA 2018) where it was concluded that the site was suitable, available and achievable for housing. However, this document is only part of the evidence base to inform the plan making process and it is not considered to carry significant weight in decision making. It has not been subject to the robust scrutiny of public examination and it does not allocate land for development. It merely provides part of an evidence basis to allow the local authority to proactively plan for their housing and economic growth needs in future plans. The starting point for decision making is the up to date Development Plan and the development should be assessed in accordance with the policies within the Development Plan. This is reinforced by the Planning Practice Guidance. This matter is therefore only given limited weight in favour of the proposal.

### *Conclusion*

- 9.40. Overall the impact of the development on the landscape character area is considered to moderate. There would be visual impacts associated with the development and with the more significant visual impacts of the development particularly from the north and east however these can be mitigated to some extent through additional planting and screening to the boundaries. The site is at one of the less sensitive entrances to the village to change and is relatively well contained by existing features. This harm needs to be weighed in the planning balance when considering the development as a whole.

### Site Layout and Design Principles

#### *Policy Context*

- 9.41. Policy ESD15 of the CLP 2015 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high quality design meeting high design standards and complementing any nearby heritage assets. The National

Planning Policy Framework is clear that good design is a fundamental to what the planning and development process should achieve. BSC2 of the CLP 2015 states that new housing should be provided on net development areas at a density of at least 30 dwellings per hectare unless there are justifiable reasons to lower the density.

- 9.42. Policy PD5 states that new development is required to high quality and reflect the guidance and principles set out in the Heritage and Character Assessment accompanying the Neighbourhood Plan. It goes onto state proposal should include appropriate landscape measure to mitigate impacts and be in keeping with the rural character of the village. Policy PH5 states parking should be built in direct association with the dwellings they serve and should be large enough to accommodate modern cars and bicycles.
- 9.43. The Council's Design Guide SPD seeks to ensure that new development responds to the traditional settlement pattern and character of a village. This includes the use of continuous building forms along principle routes and the use of traditional building materials and detailing and form that respond to the local vernacular.

#### *Assessment*

- 9.44. The application is in outline with all matters reserved except for access from Fewcott Road. The application is accompanied by an indicative layout and a Design and Access Statement, which indicates one way in which the site could be developed. It includes a public open space to the centre of the development around a mature tree, a small paddock area to the south and landscape buffers to north and east of the site.
- 9.45. Whilst many of the principles (including those outlined above) within the proposed indicative layout are considered appropriate for the site officers have several concerns which would need to be fully addressed as a part of a subsequent reserved matters application. For example, whilst frontage is created to the majority of Fewcott Road, the plot closest to the village is shown to have a side garden boundary wall creating the frontage which would not be in keeping with the pattern of development where there is generally a stronger frontage facing onto Fewcott Road. It is also considered that the plots to the east of the site should be further set into the plot to provide a gentler transition into the village.
- 9.46. Officers also have concerns that the proposed dwellings appear to be based on the more modern developments in the local village with deep plan forms and narrow frontage rather than the more traditional vernacular building form which is generally shallower plan form and wider frontage. The layout also appears rather gappy in places and lacks any continuous frontage; and the building styles indicated in the submitted Design and Access Statement would be overly complex and would not reflect the simpler vernacular form and detail. More defined boundary treatment and the use of limestone would all aid in improving the quality of the scheme and reflect the aspirations of the MCNP and other policy. However, given the current application is made in outline, these matters could be addressed through a reserved matters application.
- 9.47. The density of the scheme (excluding the paddock area to the south) equates to approximately 20 dwelling per hectare and is therefore relatively low density. Policy BSC2 of the CLP states that dwellings should be provided at 30dph unless there are justifiable planning reasons for a lower density. In this case the site lies at the edge of the village where the surrounding development has a relative low density. Furthermore, there is a need to provide landscape mitigation to the boundaries of the site. On balance the density is considered acceptable.

- 9.48. The illustrative layout seeks to retain the higher value trees on the site and integrate them into the layout and public open spaces. The layout demonstrates an appropriate level of public open space can be provided at the site including the area to the centre of the site countryside and areas around the boundaries of the site to comply with the requirements to general amenity space under Policy BSC11 of the CLP 2015 (approx. 0.2 hectares). Policy BSC11 also requires the provision of a local area of play (LAP); however, the parish council had requested a commuted sum to help upgrade the existing play area near the school and this can be secured through a legal agreement. This play area is approximately 250 metres from the site and is considered an acceptable alternative by officers to on-site provision.
- 9.49. In terms of integration with the surround movement network the proposal seeks to provide a new footpath along the frontage of Fewcott Road to join with Hodgson Close which will allow residents to access the village in a safe fashion on foot. It is also proposed to update the surface of the public footpath to the south of the site which would provide an alternative and more convenient link to Southfield Lane and East Street where the shop and public house exist. Whilst this route is not ideal it does improve the permeability of the development and the integration into the village.
- 9.50. Overall therefore it is considered that an acceptable layout and detailing can be negotiated at a reserved matters stage when matters of layout, appearance and landscaping are fully considered.

#### Heritage Impact

- 9.51. The designated Fritwell Conservation Area lies to the west and south-west of the site covering both the historic built core of the village as well as some of the paddocks to the south. Conservation Areas are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2031 Part 1 and Policy PD4 echoes this guidance and this extends to the consideration of setting if the Conservation Area.
- 9.52. The development of the type and scale proposed on the site is not considered to be readily experienced from within the Conservation Area subject to an appropriate layout and is not considered to impact notably on its setting from main viewpoints from the Conservation Area in this locality given the intervening modern housing developments as well as landscape features. Officers are therefore satisfied that the proposals would not directly or indirectly harm the special character and appearance of the Conservation Area and so the proposals would not conflict with national or local planning policy in this regard

#### Highways

- 9.53. Policy ESD15 of the Cherwell Local Plan Part 1 states that: "New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions." Policy SLE4 states that: "All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported." Policy PD5 of the MCNP seeks to ensure requires the provision of new footpaths to provide access to services and facilities of the village. The NPPF

advises that development should provide safe and suitable access for all and development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe.

### *Assessment*

- 9.54. The current application proposes to create a new 5.5 metre wide vehicle access from Fewcott Road into the development and also provide a new public footpath along Fewcott Road to link into the existing footpath at Hodgson Close.
- 9.55. When the application was originally submitted the Local Highway Authority (LHA) raised concerns over the visibility from the proposed access given the posted speed limit (60mph). Since this time the access has been relocated closer to the village and information of speed surveys undertaken at the site frontage been provided showing the 85th percentile speeds of 34.4mph for northbound traffic and 36.7mph for southbound traffic. The applicant has also proposed a number of works to the highway to help reduce vehicle speeds including the relocating the existing speed gate feature on Fewcott Road to a point approximately 30 metres to the south of the proposed site access, the provision of a Vehicle Activated Sign (VAS) and “dragons teeth” road markings. It is also proposed to relocate the existing 30mph speed limit which would be subject to a Traffic Regulation Order. Further to this information the LHA has raised no objection to the provision the new access and it is considered to be acceptable in terms of visibility and tracking. The works outlined above to create the access and undertake the highway improvement works would need to be secured through a S278 Agreement via the Section 106 agreement. The pedestrian link back to the village along Fewcott Road is also considered to be essential to provide pedestrian access and integration to the remainder of the village and the LHA is now satisfied this can be achieved in an acceptable manner.
- 9.56. The Parish Council has requested that further place making style road calming such as planted areas to narrow the entrance to the village and rumble strips (in keeping with those in Hodgson Close), and paved road areas be considered along Fewcott Road. However, Officers do not consider this is justified or necessary to make the proposal acceptable in planning terms in light of the LHA’s comments.
- 9.57. The LHA has not raised any objection to the application in terms of the impact of traffic generation on the highway network terms. Government guidance in the NPPF is clear that development should not be resisted on transport grounds except where the cumulative impact of congestion would be ‘severe’. This is a high test and is not considered the case in this application where the traffic impact would be relatively modest given the scale of the development and where there is no evidence that the existing highway network is at or near capacity.
- 9.58. The layout submitted is indicative, but it is also proposed to create a new link to the public right of way which exists to the south of the site and provides access to the East Street. This is considered important in terms of connecting and linking the site to the surrounding movement network and its provision can be controlled through a planning condition. The Highway Engineer and the Public Rights of Way (PRW) Officer at the County Council have both noted that surface of the existing public right of way needs to be improved to provide a more suitable access for residents and the Developer has agreed to undertake these under a Section S278. This needs to be secured through the legal agreement. The PRW Officer has requested a number of conditions relating to the protection of the right of way. However, the right of way is situated outside of the application site and obstruction of the right of way could be enforced by the LHA through other means.

- 9.59. The detailed matters raised by the LHA regarding the parking provision and vehicle tracking around the site would be considered as part of a reserved matters application as the layout of the site would be considered at that point.
- 9.60. It is noted that the Parish Council has requested a contribution toward future subsidies for public transport services serving the village. However, in light of there not being any public transport available in the village and given the fact there have been no requests for contributions for the County Council who may administer subsidies this is not considered to be reasonable or related to the development. Furthermore the County Council's request for Travel Information packs to new residents is also not considered to be justified given the limited choices available to new residents.

#### Ecology Impact

##### *Legislative context*

- 9.61. 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. 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.
- 9.62. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
  - (2) That there is no satisfactory alternative.
  - (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

##### *Policy Context*

- 9.63. 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.
- 9.64. 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.

- 9.65. 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.
- 9.66. 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.
- 9.67. Policy PD5 of the MCNP seeks net gain in biodiversity from planting.
- 9.68. 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*

- 9.69. The application is supported by a detailed Ecological Survey which concluded that there are no significant protected species issues on the site. The Council's Ecologist (CE) is satisfied with the detail and scope of the assessments and has noted that there is potential for bats to be present in some of the trees which will require checking if removed. Furthermore, there is potential for both reptiles and nesting birds to be affected so timing constraints and methods of clearance of vegetation need to be adhered to. These are outlined in the submitted reports and can be controlled by condition.
- 9.70. During the course of the application the CE requested that information be provided to demonstrate that a net gain in biodiversity can be achieved through the development. Given the outline nature of the application a indicative calculation has been undertaken which shows a net gain can be provided. The CE has queried where a number of features on which this calculation relies would be provided on the site. However, given the outline nature of the application where the layout is only indicative and the fact that the scheme will be relatively low density it is considered that it would be appropriate to control submission of these details to be provide with a the reserved matters application when these could be considered alongside the detailed layout of the proposal. This would also be considered through the proposed Landscape and Environmental Management Plan (LEMP) which is recommended to be conditioned.
- 9.71. Overall officers are satisfied, on the basis of the CE's advice and the absence of any objection from Natural England, and subject to conditions, that 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.

Affordable Housing and Housing Mix

*Policy*

- 9.72. Policy BSC3 of the Cherwell Local Plan (2011-2031) states that development on the site should make provision for 35% affordable housing with 70% of the affordable housing being for rent and 30% as intermediate homes such as shared ownership. Policy BSC4 states that new development will be expected to provide a mix of home to meet current and expected future demand creating socially mixed and inclusive communities.
- 9.73. Policy PH1 of the MCNP relates to the housing mix of proposed market houses on development sites. This states new market should favour homes with a smaller number of bedrooms and states housing mix will be determined on the basis of the Strategic Housing Market Assessment (SHMA) or more up to date published evidence. It also goes onto state that regard will also be had to the characteristics of the site. On the basis of the SHMA, development of 10 dwellings or more should have the following indicative mix: 30% 1 or 2 bedrooms, 46% 3 bedrooms and no more than 24% with 4 or more bedrooms.
- 9.74. Policy PH3 of the MCNP seeks to favour development which provides dwellings which are designed to enable residents to live their through different stages of their life. It also offers support of new homes to be built to accessible standards (wheelchair adaptable or wheelchair accessible) and dwellings on a single level suitable for older people and those with disabilities.

*Assessment*

- 9.75. The applicant has committed to providing 35% affordable housing on the site in line with Policy BSC3. The detailed housing mix would be determined at reserved matters stage and at the current time the plans are only indicative. This would equate to 10 affordable units which would be split 70% rent and 30% shared ownership/intermediate housing. The Councils Housing Officer has suggested a proposed mix of tenures and sizes and these would form the basis of negotiations on the reserved matters application.
- 9.76. In relation to the market housing mix the Local Planning Authority was not provided details when the application was submitted. However, the Neighbourhood Plan Forum and Parish Council have both raised concerns regarding the number of 4 bedroom properties and consider the mix should be altered to reflect the Neighbourhood Plan housing mix with less '4 or more' and an increase in 3 bed properties. The applicant has responded providing an indicative mix of market dwellings as outlined below:

<b>Unit Type</b>	<b>Proposed market Housing</b>	<b>Proposed %</b>	<b>MCNP %requirement</b>
2 Bed	5 (incl 2 x bungalow)	28%	30%



3 Bed	8	44%	46%
4/5 Bed	5	28%	24%
Total	18	100%	100%

- 9.77. In officers view the revised indicative mix broadly complies with the policy in the Neighbourhood Plan. Furthermore, it must be remembered that full details of the housing mix both of market and affordable housing would be determined at reserved matters stage (although it would need to reflect that set out in the table above, unless a greater number of smaller dwellings are proposed at that time). The affordable housing would need to be secured by a legal agreement.
- 9.78. The applicant is also proposing to provide 2 bungalows on the site as part of the housing mix. The applicant has agreed that these will be provided to Part M 4(2) (accessible and adaptable dwellings) standard and this can be secured as a planning condition which weighs in favour of the development in terms of gaining support from Policy PH3 of the MCNP.
- 9.79. Overall therefore officers consider the level of affordable housing and housing mix has been adequately addressed.

#### Flooding Risk and Drainage

- 9.80. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding. Policy ESD7 of the Local Plan requires the use of Sustainable Urban Drainage Systems (SUDS) to manage surface water drainage. This is all with the aim to manage and reduce flood risk in the District.

#### *Assessment*

- 9.81. The current is situated wholly within Flood Zone 1 which is land which has a less than 1 in 1,000 annual probability of river flooding which has the lowest probability of flooding. The site also lies in an area identified as very low risk of surface water flooding on the Environment Agency's flood risk maps. The site is accompanied by a Flood Risk Assessment. This proposed an outline surface water drainage strategy which indicates it is proposed to discharge the surface water through a combination of domestic soakaways, permeable paving and restricted discharge to the ditch on the south east boundary of the site. The report states that infiltration is likely to be feasible.
- 9.82. The LLFA has raised a number of queries in relation to surface water drainage scheme however given the outline nature of the scheme they are satisfied that a detailed drainage scheme can be conditioned and be considered at part of the detailed layout of the site. Officers agree with this assessment. Concerns have also been raised that the provision of a footway along Fewcott Road may impact on the existing roadside ditch. If this does occur full details of this can be considered in the detailed drainage scheme.
- 9.83. A number of concerns have been raised regarding the adequacy of the existing sewerage infrastructure to accommodate the development including statements that issues have occurred in other parts of the village. However, Anglian Water has been

consulted and have stated that there is adequate capacity in their existing systems to accommodate the demands of the proposed development and the developer would need to contact them to arrangement the relevant connections. Given they are the statutory undertaker in this regard this is considered to be acceptable.

#### Impact on neighbouring amenity

- 9.84. Policy ESD 15 of the CLP 2031 (Part 1) requires new development to consider the amenity of both existing and future occupants, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space.

#### *Assessment*

- 9.85. The layout submitted is only indicative so it is difficult to make a full assessment of the impacts of the development on residential amenity as these would be subject to consideration in the reserved matters application where layout and appearance would be fully considered. However, the residential nature of the proposal is considered to be compatible with the surrounding land uses which are residential and agricultural. Whilst concerns have been raised regarding noise and disturbance to existing properties these are not considered to lead to material harm given the residential nature of the proposal.

- 9.86. The properties which would be most significantly impacted upon by the proposals are those properties which face onto the western boundary of the site in Hodgson Close. The proposal would clearly alter the view experienced over the application site from these properties which is currently over an undeveloped field; however, it is a long-established planning principle that there is no right to a private view. The indicative layout suggests the proposal would exceed the separation distances outlined in the Council's Residential Development Design Guide SPD which seeks to ensure that new development does not result in significantly harmful impacts to neighbouring properties in terms of loss of privacy, light or outlook. Therefore, whilst acknowledging there would be some increase in overlooking, loss of outlook and light to the adjoining residential properties this is considered to ensure a good standard of residential amenity would be retained for these properties.

#### Impact on Local Infrastructure

##### *Policy Context*

- 9.87. Policy INF1 of the CLP 2015 states that: *"Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities."*
- 9.88. Policy BSC11 of the CLP 2015 states that: *"Development proposals will be required to contribute to the provision of open space, sport and recreation, together with secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in 'Local Standards of Provision – Outdoor Recreation'. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement."* Policy BSD12 requires new development to contribute to indoor sport, recreation and community facilities.
- 9.89. The Developer Contributions Supplementary Planning Document (SPD) sets out the position in respect of requiring financial and onsite contributions towards ensuring

the necessary infrastructure or service requirements are provided to meet the needs of development, and to ensure the additional pressure placed on existing services and infrastructure is mitigated. This is the starting point for negotiations in respect of completing S106 Agreements.

#### *Assessment*

- 9.90. Where on and off-site infrastructure/measures need to be secured through a planning obligation (i.e. legal agreement) they must meet statutory tests set out in regulation 122 of the Community Infrastructure Ley (CIL) Regulations 2010 (as amended). These tests are that each obligation must be:
- a) Necessary to make the development acceptable in planning terms;
  - b) Directly related to the development;
  - c) Fairly and reasonably related in scale and kind to the development.
- 9.91. Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. In short, these tests exist to ensure that local planning authorities do not seek disproportionate and/or unjustified infrastructure or financial contributions as part of deciding to grant planning permission. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them to ensure that any decision reached is lawful.
- 9.92. Having regard to the above, in the event that Members were to resolve to grant planning permission, the following items would in officers' view need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts:

#### *Cherwell District Council*

- Provision of and commuted sum for maintenance of open space (including informal open space, mature trees, hedgerows etc) in accordance with the Policy BSC11 of the CLP (approx. 0.2ha of informal open space)
- Provision of a commuted sum of £2,306.68 per dwelling to the upgrading/provision of local play equipment in Fritwell as no play provision is being provided on site
- Off-site outdoor sports facilities capital provision – improvement of sports fields in Fritwell to benefit sports provision including potential green gym equipment. This has included discussions with the Recreation Officer and the Playing Fields Committee. A request was made to spend this money on a zip wire however this was considered by officers to be play related rather than sports related therefore it was not considered appropriate. Based on £2017.03 per dwelling. 28no dwellings = £56,476.84
- Off-site indoor sports facilities – Towards Bicester Gymnastics Club to develop a specialist gymnastics (identified in the Councils District Sports Study). Whilst concerns have been raised this should be spend in the village there are no specific indoor sports facilities in the village and the population of the development will clearly be reliant on the neighbouring towns such as Bicester for wider indoor sports provision. This is a project is identified in the District Sports Study - £23,378.51
- Community hall facilities - £32,266.00 – To be spent on improvements/enhancements to Fritwell Village Hall
- £106 per dwelling for bins
- Affordable housing provision – 35% (10 units)

### Oxfordshire County Council

- Contribution towards creation of additional secondary school capacity through expansion of Heyford Park School (£118,662 based on current housing mix but will change with different housing mix)
- No contributions are sought to primary education, SEN provision or nursery provision as there is capacity in the local area to accommodate the development taking into account the scale of the development.
- An obligation to enter into a S278 Agreement will be required to secure mitigation/improvement works, including:
  - Construction of the site access.
  - Extension of the 30mph speed limit.
  - Construction of footway from site access to join existing footpath in village at Hodgson Close
  - Identification of areas to be provided as public highway and provision of visibility splays.
  - Village entry treatment including new vehicle activated sign, relocation of gateway feature and dragons teeth on carriageway.
- Obligation to enter into a S278 agreement to provide upgrades to the public right of way to the south of the site.

### Other

- OCCG group have requested a contribution to support capital projects associated with either Deddington surgery or Alchester Medical group (£360 per person – circa 67 people). Whilst they have pointed to growth in population in these catchments over recent years they have not indicated whether these surgeries are operating at or above capacity and what infrastructure the contributions would be used to fund to mitigate the impacts of the development. At the current time it is not considered that such a contribution can be justified however further information has been requested from the OCCG.

### Conclusion

9.93. A number of items would need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts.

### Other Matters

9.94. Saved Policy ENV12 of the CLP1996 sets out that development on land which is known or suspect to be contaminated will only be permitted if,

- (i) Adequate measures can be taken to remove any threat of contamination to future occupiers of the site.
- (ii) The development is not likely to result in contamination of surface or underground water resources
- (iii) The proposed use does not conflict with other policies in the plan.

9.95. The site is on land which is potentially contaminated and the Council's Environmental Protection Officer (EPO) has therefore recommended that phased contaminated land conditions need to be attached should permission be granted. Officers agree with this assessment.

- 9.96. The Council's EPO has requested a condition in regard to the installation of Electric Vehicle charging infrastructure in order to make resident parking places EV ready for future demand. The NPPF and Policies SLE4 and ESD1 of the CLP 2015 encourage and support the incorporation of measures into new development that promote more sustainable forms of transport.. It is considered reasonable and necessary for this to be secured through a condition of any permission given.
- 9.97. Policy ESD1 of the CLP 2031 states that measures should be taken to mitigate the impact of development within the District on climate change, and Policy ESD2 of the CLP 2031 seeks to achieve carbon emission reductions. Policy ESD3 of the CLP 2031 encourages sustainable construction methods. The reference to allowable solutions in Policy ESD2 and 'zero carbon' are no longer being pursued by the government so are no longer relevant. However, the water usage requirements of ESD3 are still required to be met. In regard to energy efficiency the Council now seeks to secure in excess of that required under the 2013 Building Regulations. These could be controlled through a condition. The Neighbourhood Plan Forum has requested that the developer make the scheme an exemplar scheme in terms of energy usage and insulation. However, this does not form part of the proposals currently advanced by the applicant and it is not a requirement of the Development Plan to do this. This is therefore not considered to be justified and it is not considered there would be sufficient policy grounds to require this given the conclusion that the development as a whole complies with the Development Plan.
- 9.98. Policy PD6 requires the consideration of external lighting and the impact of this on the character and appearance of the locality and nature conservation. Given the outline nature of this application full details of this could be controlled through condition.
- 9.99. In relation to the best and most versatile agricultural land (BMV), a report has been submitted with the application that concludes the site falls within Grade 3A which is classified as being best and most versatile agricultural land (alongside Grade 1 and 2 land) which Policy Villages 2 of the Cherwell Local Plan and Policy PD1 of the MCNP requires the consideration of this issue. The NPPF also states planning decisions should recognise the economic and other benefits BMV land. The applicant has provided an analysis of this matter and it is noted that the site has previous been used as roughly grazed paddock and a small private allotment. Given the size of the site and the multiple ownerships it is not considered likely to be used for arable cropping in the future and even if it were to be the economic contribution this land would make would be limited given its size. Furthermore, they have reviewed the Predictive BMV Land Assessment maps from DEFRA and note that all the land around Fritwell has a moderate to high likelihood to include BMV agricultural land. Therefore, any development outside the settlement has a relatively high potential to impact on BMV land. Given these matters this issue are only considered to carry limited weight against the proposal.
- 9.100. Concerns have been raised by a number of local residents that they do not consider the comments of the parish represent the views of local residents. However, these are not matters that impact on the determination of the planning application. The views of the Parish Council as an organisation may differ from the views of the individuals making comments on the application. Officers have considered and had regard to all the comments on the application in forming a recommendation the application.
- 9.101. Finance considerations - 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.

- 9.102. In this particular instance, the above financial payments are not considered to be material to the decision as they would not make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority.

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

- 10.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 advises that the three dimensions to sustainable development (economic, social and environmental), which are interdependent; need to be pursued in mutually supportive ways.
- 10.2. Government guidance within the NPPF supports the plan-led system and advises that applications that accord with an up-to-date plan should be approved without delay.
- 10.3. In reaching an informed decision on planning applications there is a need for the Local Planning Authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. It is also necessary to recognise that Section 38 of the 1990 Act continues to require decisions to be made in accordance with the development plan and the NPPF highlights the importance of the plan led system as a whole.
- 10.4. The site is not specifically allocated for development however it is located adjacent to the settlement boundary of Fritwell which is a Category A settlement. The MCNP provides an indicative/approximate level of growth of 25 dwellings, which is considered to be acceptable at Fritwell over the plan period. On balance the scale of the current proposal would comply with this level of growth and would bring economic and social benefits arising for the provision of new housing which carry moderate weight in the planning balance. The proposal would also bring benefits in terms of the provision of affordable housing to the village and would also provide 2 accessible bungalows which is supported by the MCNP. These matters weigh in favour of the development.
- 10.5. The proposal would result in some harm to the rural character and appearance of the locality and the urbanisation of the site at the edge of the village. However, these impacts could be reduced through the provision of additional landscaping which over time would reduce the more significant impacts. There would also be some harm to the landscape character of the area. However, this would be limited given the scale of the scheme and relationship to existing settlement. Officers consider that the scale of growth outlined at Fritwell in the MCNP is very likely to require the provision a site(s) outside the built up limits of the village and Policy PD1 does allow for such sites to come forward. Therefore, the loss of open countryside is likely to occur to accommodate the growth planned at the village. The application site is located at one of the less sensitive edges of the village in heritage terms and would be seen in the context of existing modern development. Furthermore, given the features on site, the site has a relatively strong visual connection to the settlement and a degree of visual containment. The loss of Best and Most Versatile

Agricultural Land also weighs against the proposal; however, given the nature and size of the site this harm is considered to be limited.

- 10.6. Whilst acknowledging there would be some harm to the character and appearance of the area, the benefits of the proposal are considered to outweigh the identified harm, and when viewed together the proposals are considered to comply with the Development Plan when read as a whole. It is therefore recommended that planning permission be granted.

## 11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) **AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106** OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

- a) Provision of and commuted sum for maintenance of open space (including informal open space, mature trees, hedgerows etc) in accordance with the Policy BSC11 of the CLP (approx. 0.2ha of informal open space)
- b) Provision of a commuted sum of £2,306.68 per dwelling to the upgrading/provision of local play equipment in Fritwell as no play provision is being provided on site
- c) Off-site outdoor sports facilities capital provision towards improvement of sports fields in Fritwell. Based on £2017.03 per dwelling. 28no dwellings = £56,476.84
- d) Off-site indoor sports facilities – Towards Bicester Gymnastics Club to develop a specialist gymnastics (identified in the Councils District Sports Study) - £23,378.51
- e) Community hall facilities - To be spent on improvements/enhancements to Fritwell Village Hall - £32,266.00
- f) £106 per dwelling for bins
- g) Affordable housing provision – 35% (10 units)
- h) Contribution towards creation of additional secondary school capacity through expansion of Heyford Park School (£118,662 based on current housing mix but will change with different housing mix)
- i) An obligation to enter into a S278 Agreement will be required to secure mitigation/improvement works, including:
  - Construction of the site access.
  - Extension of the 30mph speed limit.
  - Construction of footway from site access to join existing footpath in village at Hodgson Close
  - Identification of areas to be provided as public highway and provision of visibility splays.
  - Village entry treatment including new vehicle activated sign, relocation of gateway feature and dragons teeth on carriageway.
- j) Obligation to enter into a S278 agreement to provide upgrades to the public right of way to the south of the site.

### CONDITIONS

#### **Time Limits**

1. No development shall commence until full details of the layout (including the

layout of the internal access roads and footpaths), scale, appearance, and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.

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

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

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

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

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

#### **Compliance with Plans**

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application form and drawing number PL.01 and drawing number J32-3847-PS-001 Rev F included in Mode Transport Planning Technical Note (dated 30.9.19)

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

#### **Finished floor levels**

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

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

#### **Accessible and adaptable homes**



6. As part of the reserved matters the proposal shall include the provision of at least 2 bungalows which shall be constructed to meet the Building Regulations M4(2) standards for accessible and adaptable homes. The dwellings shall be provided on site to accord with this standard and shall be retained as such thereafter.

Reason: To provide a mix of dwellings as supported by Policy PH3 of the Mid-Cherwell Neighbourhood Plan (2019), Policy ESD15 of the Cherwell Local Plan and advice in the National Planning Policy Framework.

#### **Land Contamination Desk Study / Site Walkover**

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

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

#### **Land Contamination Intrusive Investigation**

8. If a potential risk from contamination is identified as a result of the work carried out under condition 7, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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

#### **Land Contamination Remediation Scheme**

9. If contamination is found by undertaking the work carried out under condition 8, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and

the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

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

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

10. If remedial works have been identified in condition 9, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 9. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

#### **Detailed Drainage Scheme**

11. As part of any reserved matters for layout and prior to the development commencing detailed designs of the proposed surface water drainage scheme including details of implementation, maintenance and management shall be submitted to and approved in writing by the local planning authority. Those details shall include:
- a) Information about the design storm period and intensity, critical storm duration (1 in 30 & 1 in 100 (+40% allowance for climate change), discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters;
  - b) Any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant);
  - c) Flood water exceedance routes, both on and off site;
  - d) A timetable for implementation;
  - e) Site investigation and test results to confirm infiltrations rates; and
  - f) A management and maintenance plan, in perpetuity, for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

No building hereby permitted shall be occupied until the sustainable drainage scheme for this site has been completed in accordance with the approved details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reasons: To ensure that the proposed development can be adequately drained and to manage the flood risk on or off the site resulting from the proposed development in accordance with Policy ESD6 and ESD7 of the Cherwell Local Plan and advice in the National Planning Policy Framework.

**Full details of access**

12. Prior to the commencement of the development hereby approved, details of the means of access between the land and the highway on Fewcott Road, including position, layout and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the occupation of any of the dwellings, 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

**Details of connection to footpath**

13. As part of the reserved matters for layout, full details of the proposed new connection to the public footpath adjacent to the southern boundary of the site shall be submitted and approved in writing by the local planning authority. The connection shall be provided in accordance with the approved details in accordance with a timetable to be first submitted and approved in writing by the Local Planning Authority prior to any works above slab level on any of the dwellings hereby permitted.

Reason: To integrate the development into the surrounding movement network and promote walking in accordance with Policy SLE4 of the Cherwell Local Plan (2015) and advice in the NPPF.

**Construction Traffic Management Plan**

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

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

**Construction Environment Management Plan**

15. Prior to the commencement of the development, a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents shall be 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 protect the amenity of the neighbouring properties in accordance with Policy ESD15 of the Cherwell Local Plan and advice in the National Planning Policy Framework.

**Energy Statement**

16. Prior to the commencement of any works associated with the construction of a dwelling, details of the means by which all dwellings will be designed and constructed to achieve an energy performance standard equivalent to a 19% improvement in carbon reductions on 2013 Part L of the Building Regulations (unless a different standard is agreed with the local planning authority) shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details and no dwelling shall be occupied until it has been constructed in accordance with the approved energy performance measures.

Reason - In the interests of environmental sustainability in construction in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance in the National Planning Policy Framework.

#### **Biodiversity enhancement**

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

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

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

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

18. 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 include details of all planting, soft landscaping and biodiversity features and management and maintenance ongoing (including funding details and timetable). Thereafter, the development shall not be carried out other than in accordance with the approved LEMP.

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

#### **Electric charging points infrastructure**

19. No development shall commence above slab level until a scheme for a system of ducting to allow for the future installation of electrical vehicle charging infrastructure to serve each dwelling or a scheme showing the provision of electrical vehicle charging points for each dwelling 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 details prior to the first

occupation of the dwelling.

Reason: To comply with Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework.

#### **Lighting strategy**

20. Prior to the installation of any external lighting a full lighting strategy to include illustration of proposed light spill 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 protect the amenity of the locality and habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

#### **Water usage**

21. No dwelling shall be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres person/day and shall continue to accord with such a limit thereafter.

Reason - In the interests of sustainability in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

#### **Compliance with ecological appraisal**

22. The development hereby approved shall be carried out strictly in accordance with the recommendations outlined in sections 9.7, 9.8 and 8.9-8.11 of Extended Phase 1 Survey Report prepared by Lockhart Garratt, dated 12/11/2018.

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

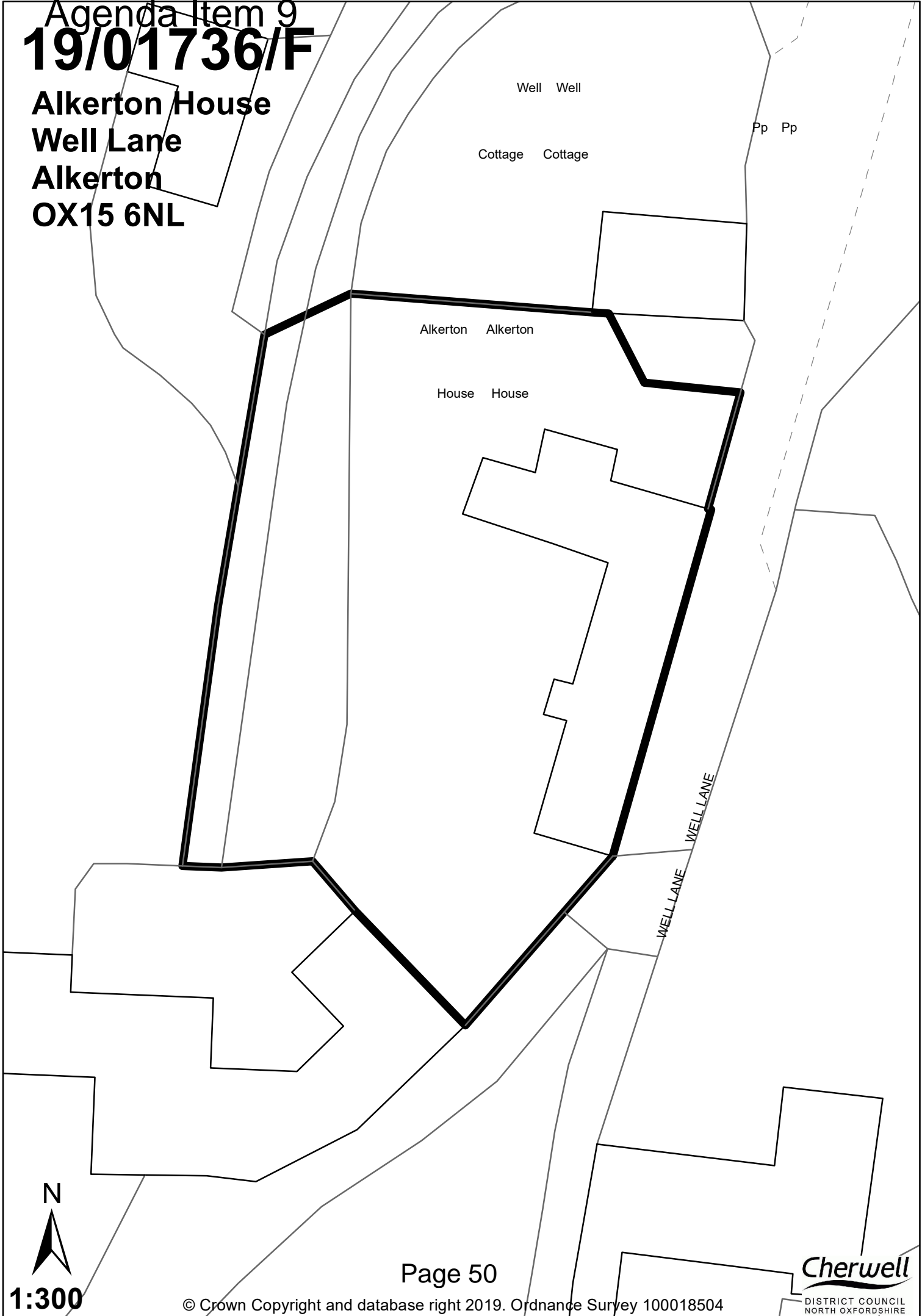
#### **Cycle Parking Provision**

23. No dwelling of the development hereby permitted shall be occupied until cycle parking has been provided according to a plan showing the number, location and design of cycle parking for the dwellings that has previously been submitted to and approved in writing by the Local Planning Authority. The cycle parking will be permanently retained and maintained for the parking of cycles in connection with the development.

Reason - To ensure appropriate levels of cycle parking are available at all times to serve the development, and to comply with Government guidance contained within the National Planning Policy Framework.

Agenda Item 9  
**19/01736/F**

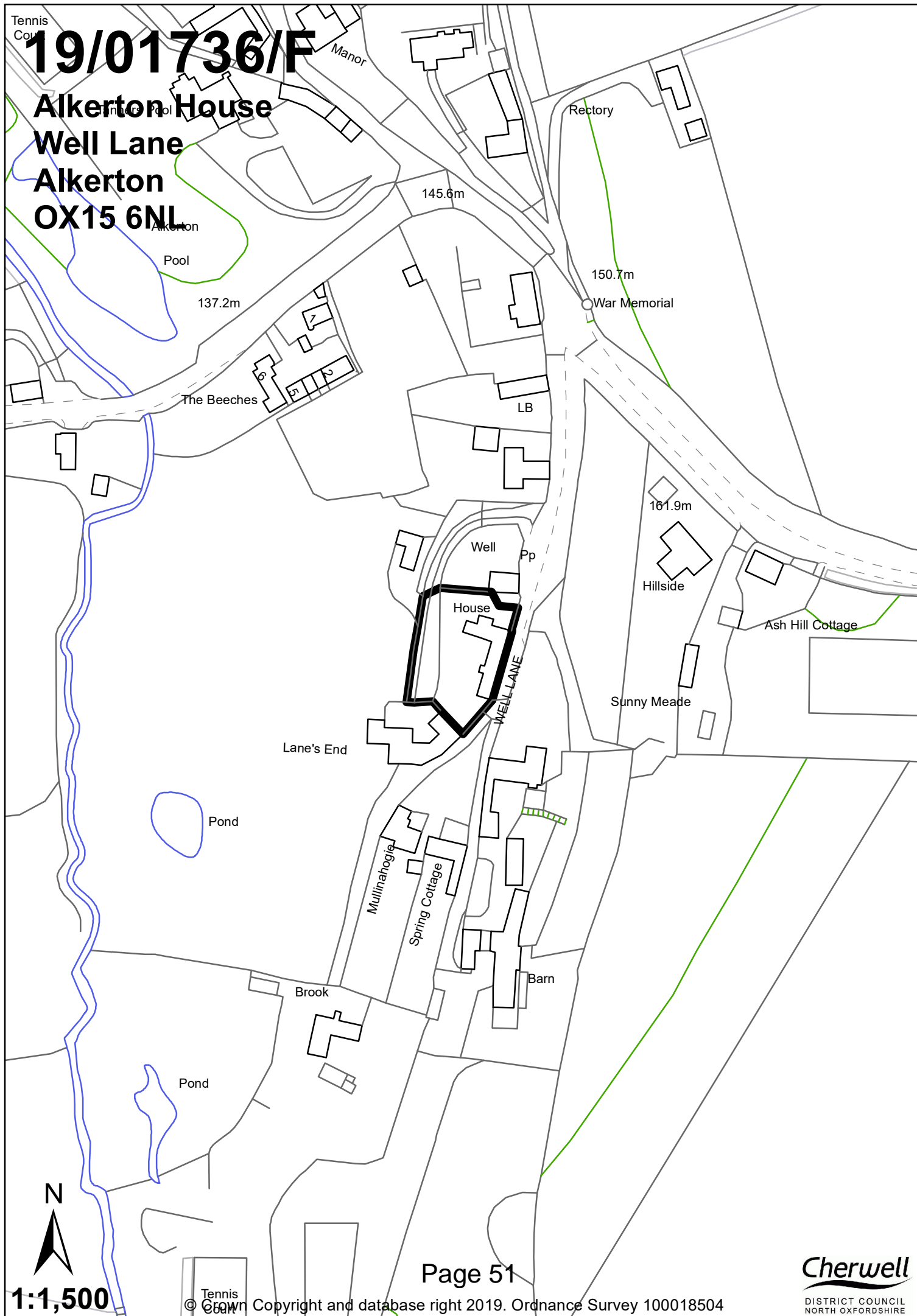
**Alkerton House  
Well Lane  
Alkerton  
OX15 6NL**



Tennis Court

# 19/01736/F

## Alkerton House Well Lane Alkerton OX15 6NL



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Tennis Court

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**Case Officer:** Gemma Magnuson

**Applicant:** Mr & Mrs M Wilson

**Proposal:** Ground and first floor extensions

**Ward:** Cropredy, Sibfords And Wroxton

**Councillors:** Councillor Phil Chapman, Councillor George Reynolds, Councillor Douglas Webb

**Reason for Referral:** Called in by Councillor Douglas Webb on grounds of public interest

**Expiry Date:** 12 November 2019

**Committee Date:** 18 December 2019

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

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

#### **Proposal**

The proposed development would consist of ground and first floor extensions upon the western facing principal elevation of the dwelling, to create two storey accommodation with kitchen at ground floor level and en suite bedroom at first floor level. This would effectively involve the replacement of an existing garden room structure that projects from the western facing elevation at present. The ground level would also be partially reduced.

#### **Consultations**

Amended plans were received on 22 November 2019. The re-consultation period has not expired at the time of writing. The comments referred to in this report are based on the originally submitted plans. Any consultation responses received after the finalisation of the report will be reported as late representations.

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

- Shenington with Alkerton Parish Council

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

- Historic England, OCC Archaeology, CDC Conservation, CDC Ecology

14 letters of objection have been received and 3 letters of support have been received at the time of writing.

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

Alkerton House is a Grade II listed building and lies within the designated Conservation Area. Other Grade II listed buildings are situated to the north and south of the site. The site is also within an area of archaeological interest, and the Northern Valleys Conservation Target Area.

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



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

## **Conclusion**

The key issues arising from the application details are:

- Principle of Development
- Design, and impact on the character of the area, including heritage impact
- Residential amenity
- Ecology impact

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

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

## **MAIN REPORT**

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

- 1.1. The application relates to Alkerton House, a detached Grade II listed dwelling situated central to the village of Alkerton, within the designated Conservation Area.
- 1.2. Alkerton House was designated as a listed building on 20 September 1988, when the building description was for identification purposes only (as was usual at the date of listing) and does not give an indication of significance. The Conservation Officer has summarised the historic significance of the building to be a large, handsome property which may have been a manor house for Bret Goodwin, Lord of Epwell Manor. A significant amount of historic fabric remains, particularly upon external elevations in the form of window and door features, including stone mullions and hood moulds. The building also has a dual elevation, with one facing onto Well Lane, but with the principal elevation facing out towards the countryside to the west of the village.
- 1.3. The Shenington and Alkerton Conservation Area Appraisal describes Alkerton House as one of the oldest in the Parish, bearing a datestone of AD 1415. It is understood that the dwelling was partially rebuilt at the end of the 18<sup>th</sup> century, and restored in 1834. The 'L' shaped footprint is also noted. The site is within the Alkerton Character Area, where it is explained that the village has undergone little change since 1875, with no major 20<sup>th</sup> century building, and the majority of any new development comprising barn conversions. The village character is therefore retained.
- 1.4. The rear elevation of Alkerton House abuts Well Lane, with the private amenity space associated with the dwelling wrapping around both sides and the frontage of the building. The land level slopes downwards away from the frontage of the dwelling, with this slope continuing downwards, eventually culminating at the Sor Brook watercourse to the west. The land level then begins to steeply rise again up towards the village of Shenington. As a result of these levels, the principal elevations of Alkerton House is clearly visible from the Public Right of Way that runs to the south, connecting the two villages of Alkerton and Shenington.

- 1.5. The existing building is constructed with natural ironstone walls. The main roof of the dwelling is covered using a decorative red and blue fish scale tile pattern, whilst later additions are roofed with slate. A tall stone wall marks the eastern (rear) boundaries, with the land to the west remaining largely open.
- 1.6. Dwellings in the immediate vicinity are also constructed from ironstone, with tall ironstone walls marking many of the boundaries alongside Well Lane. The Alkerton Conservation Area Appraisal notes that the buildings and boundary walls along Well Lane contain views and create an intimate streetscene. The high ironstone walls are considered to be a key feature of the area.

## **2. CONSTRAINTS**

- 2.1. Alkerton House is a Grade II listed building and lies within the designated Conservation Area. Other Grade II listed buildings are situated to the north and south of the site. The site is also within an area of archaeological interest, and the Northern Valleys Conservation Target Area.

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

- 3.1. The proposed development would consist of ground and first floor extensions upon the western facing principal elevation of the dwelling, to create two storey accommodation with kitchen at ground floor level and en suite bedroom at first floor level. This would effectively involve the replacement of an existing garden room structure that projects from the western facing elevation at present.
- 3.2. The initial proposals were received with the application on 27 August 2019. The scheme was then amended by plans received on 25 October 2019, and later amended a second time by plans received 22 November 2019. It is these plans, received on 22 November 2019, that form the subject of this assessment.
- 3.3. The works would involve the lowering of the existing ground level towards the west of the of the existing rear projection, and the erection of a two-storey extension with ironstone walls and clay plain tiles to match those on the main roof of the dwelling. Stone mullioned windows are proposed within the western facing elevation. Openings would be constructed using painted softwood and powder coated steel frames. Dressed stone quoins are proposed within the stonework. Rooflights would be positioned within the northern and southern facing roof slopes.
- 3.4. The total length of the extension would be 10.8 metres, measured at roof height, which is the same as that of the existing garden room. The ground level would be reduced by 80cm towards the western most element of the structure, and the highest point would reach 7.1 metres, taken from that lower land level.

## **4. RELEVANT PLANNING HISTORY**

- 4.1. There is no planning history directly relevant to the proposal. There is no record of an application for the existing garden room that is proposed for replacement.

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

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

16/00073/PREAPP – First floor extension

5.2. The Case Officer advised that they had concerns regarding the impact of the extension upon the living amenities and privacy currently enjoyed at adjacent Well Cottage. It was not considered that the extensions would cause harm to the visual amenities of the area, including the Conservation Area and setting of nearby listed buildings. Suggestions were made to ensure that the extension would be more in keeping with existing dwelling.

## **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 **08 December 2019**. Comments received after the finalising of this report will be reported as a late representation. In total, 19 responses were received, 16 objecting to the proposal and 3 supporting the proposal. One of the objection letters was signed by 9 households, resulting in a total of 27 objections at the time of writing.

6.2. As a result of the amendment of the application, the neighbouring properties have been consulted a total of three times. The comments received relate to all versions of the scheme.

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

### Object

- Two storey building is unacceptable, only proposal that could be supported is ground floor extension
- Harm to residential amenity enjoyed by occupiers of The Well House – height, length and proximity resulting in overshadowing of windows to dwelling, overbearing to occupiers when using main sitting out areas, introduces harmful overlooking, increases sense of being overlooked including sitting out areas – sitting out area is south and west facing and enjoys good light year round. Balconied window less than 10 metres from rear sitting out area. No assessment of impact of light, and extension would breach 45 : 25 degree rising line set out in BRE guidance to assess impact of proposed additions on daylight to windows. Overwhelming and tunnel like appearance created.
- Less than substantial harm to designated heritage assets – listed building and Conservation Area – with no public benefit arising from the proposals – contrary to Policy, proposal will not be screened and will be obtrusive
- Building is not necessary
- Would fill the current gap between The Well House and Alkerton House
- No Heritage Impact Assessment or justification submitted with the application
- Harmful impact on the significance of the listed building and Conservation Area, fail to preserve the character and appearance of Conservation Area – remains largely untainted by modern development, Alkerton House probably the oldest house in the village, extension out of character with existing property

- Extension will compete with linear character of Well Lane due to its scale and location – it is not linear but at right angles to the street, appearing strikingly behind Alkerton House, set out from valley side, obscuring views of landscape, impact on view up through the village over the back of the houses where footpath first enters the village, view from Shenington towards Alkerton across valley spoiled
- Impact on views from Well Lane and public footpath to the south – Alkerton House would dominate the landscape, degrade views from Shenington, two villages have been linked for centuries, as have the communities, and to spoil the integrity in a place of outstanding beauty would be a shame, impact upon the historic setting of the two villages
- Impact on view from common land opposite the site on Well Lane across to Shenington – extension would narrow the gap significantly between the buildings and have a significant and harmful impact upon the view
- Whilst there is a historic collection of additions at the northern end of the property, these are single storey and provide only service and ancillary functions, they do not compete with status of western elevation
- The western elevation of the building is of great importance to the significance of the building, it is not the rear
- Proposal would provide a substantial and ornate structure striking forward of the principle elevation, appearing strident and in competition with existing western elevation, harming significance
- Form, layout and character of openings add further confusion, character is more appropriate to the rear of a building rather than principal elevation
- Reduction in ridge height is welcomed but it remains a long new roof slope still of a height that would appear overbearing to The Well House. Eaves level has increased despite narrowing of extension and moving slightly away from boundary.
- Only a replacement single storey structure of similar height to existing buildings would protect amenity of The Well House and not be overbearing to most used sitting out areas
- Squat roof profile at odds with proportions of principal building, sit jarringly against structure, compete visually with main historic range, equivalent of sticking a Lego structure onto a Georgian dolls' house, badly balanced, dominant and dumpy addition that is out of harmony with the elegance of the original building design and subsequent restorations, fenestration proportions are wrong, pitch and angles are in conflict
- Replacement of existing structure, that is unfortunate but diminutive in scale and polite in detail, not justification for extension of greater scale and high ornamentation
- All houses in Alkerton have always sat well in their own space, character of the village, not made up of lots of terraced cottages sitting cheek by jowell but stand alone individual houses with their own character – extension will virtually join the next door house The Well House, changing character and appearing cramped and overshadowing garden

- No deference or sympathy to concerns about intrusion, due to height, view and proximity, into the privacy of immediate neighbours thus affecting quality of life, amenity and privacy
- Comment regarding the tone of supporting statements; disapproving, hostile, adversarial, extreme, emotive and politically charged language, reference to invasion of privacy from The Well House and surveillance, chastising CDC for its permissions, sense of vengeance, inherent resentful envy, intransigence, no neighbourliness
- No view of terrace from The Well House except from the tip of a sun umbrella, blame gaming in adversarial terms. Dependant upon one's definition of 'reasonable privacy', there is no perceivable threat and case for two storey extension on these grounds are not warranted. We all have partial views of other properties in the area
- Well Cottage was previously used by domestic staff for Alkerton House – it was doubled in size in 80's, openings were in place when new owners bought Alkerton House
- Precedent does not count as criterion in planning and envy cannot provide a basis of a planning system
- Not a single villager who has lived here full-time, or any length of time, who supports application – condemned by us and Parish Council, undemocratic and extraordinary for Council to disregard such an overwhelming body of opinion, surely thoughts of village inhabitants should be given some respect in a case like this?
- Only thing applicants seem interest in is planning approval from CDC, offered consultation with applicants but these have been ignored or rejected acrimoniously by applicants
- Mr Philcox has not visited The Well House, relying on information from the Agent Mr Rockett
- No comparable effects in terms of light, sun and privacy from the extension at The Well House
- Open secret that applicants plan on leaving the village in the near future so have submitted application only to enhance value of property when they put it on the market
- Create a tension and a 'stand-off' as Case Officer for pre-app felt
- Alkerton House recently sold off its 4 bedroom annexe and an acre of garden, extraordinary that this application has now been submitted to gain back more bedrooms
- Unfair and unreasonable that the application can be granted to give more internal space to Alkerton House whilst being a detriment to so much for The Well House
- The Well House has approximately one tenth of an acre, over half of which is either north facing or parking area, the only bit of south and west facing garden, including the terrace off the sitting room and small kitchen courtyard, will be deprived of all sunshine between mid-autumn and mid-spring.

## Support

- From an architectural point of view, the proposal would be a big improvement on existing conservatory
- Extension very small in relation to existing house and would be built in a manner sensitive to main house
- Have confidence that the planners will judge clearly the merits of the application within context of planning laws and other statutory considerations
- Too often the much needed development, expansion and evolution of villages is thwarted by a misperception that the “frozen in time heritage” must be maintained – can’t see how that serves the community well not or in the future
- Modest extension would not in any way be detrimental to the views of Alkerton, revised design sits much lower than before and minimises the impact on Alkerton House and neighbouring The Well House
- Would be no more visible from The Well House than the current extension, whilst being far more aesthetically please
- Looks for be further away from The Well House than what currently exists
- Would be built from local stone, as are Alkerton House and The Well House, and its very dominant boundary wall, thus blending in to environment in a describable fashion
- Pleased at the great deal of effort of applicants to produce a design for proposal which is attractive to all

6.4. 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.

7.2. Amended plans were received on 22 November 2019. The re-consultation period has not expired at the time of writing. The following comments may not, therefore, reflect the opinion of the scheme that this the subject of this report. Any consultation responses received after the finalisation of the report will be reported as late representations.

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.3. SHENINGTON WITH ALKERTON PARISH COUNCIL (commenting on the accompanying 19/01737/LB): **objects** on the following grounds:

- Scale of extension too large in relation to the house
- Architectural detail of the extension conflicts with house
- Extension is very imposing when viewed from valley below the house

- Extension is not sympathetic to the Conservation Area
- Impact upon the privacy of neighbouring property

Further comments were received following the first amendment of the proposal, and whilst they acknowledged the significant changes that go a long way to address the concerns raised by the neighbouring property, but previous comments from the Parish Council that a single storey extension is more reasonable are still valid.

#### OTHER CONSULTEES

- 7.4. HISTORIC ENGLAND: no comments.
- 7.5. NATIONAL AMENITY SOCIETIES: no response received at the time of writing.
- 7.6. OCC ARCHAEOLOGY: no archaeological constraints to the scheme.
- 7.7. CDC CONSERVATION: **no objection**. The Conservation Officer objected to the first two schemes. However, the amendments received 22 November 2019 satisfactorily address the concerns raised.
- 7.8. CDC ECOLOGY: **no objection**. Suggests conditions regarding biodiversity enhancement and the method of construction in order to avoid harm to protected species.

### **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)

- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD11 - Conservation Target Areas
- ESD 13 – 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)
- Cherwell Residential Design Guide (2018)
- Cherwell Council Home Extensions and Alterations Design Guide (2007)
- 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”)

## 9. APPRAISAL

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

- Design, and impact on the character of the area, including heritage impact
- Residential amenity
- Ecology impact

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

#### *Legislative and policy context*

- 9.2. 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.
- 9.3. 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.
- 9.4. Policy ESD 15 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.
- 9.5. Policy ESD 13 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.
- 9.6. 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.



- 9.7. The site is within and affects the setting of a Conservation Area, and a Grade II listed building.
- 9.8. 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.*
- 9.9. 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.
- 9.10. 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 Cherwell Local Plan 2031 Part 1 echoes this guidance.

#### *Assessment*

- 9.11. The proposed development would involve the replacement of an existing garden room that projects off the northern most element of the dwelling. The existing structure consists of a parapet style wall, against which a shallow hipped roof abuts, with the western most element of the garden room extending beyond the parapet consisting of the end of the hipped roof. The structure is largely glazed, with the exception of the parapet wall, with white timber framed openings.
- 9.12. On the other side of the parapet wall sits a stone and slate lean-to outshot. It is clear from historic plans that whilst the fabric of this element of the building has clearly been renewed at some point, the basic form of the building has remained in its historic configuration, with outshots present in this location, since 1882.
- 9.13. The existing garden room is not considered to hold any historic significance. There is no planning history relating to this structure and the circumstances behind its presence are therefore unknown. The hipped roof of the structure is out of keeping with the pitched roofs found on the remainder of the dwelling, and whilst the colouring of the openings is consistent with the openings on the principal elevation, their bulky frames and differing design to those found in the remainder of the dwelling serve to detract from the appearance of the principal elevation of this Grade II listed building.
- 9.14. The principal elevation of Alkerton House is also visible in longer range views across the valley in Shenington when walking the public right of way, and when entering the village of Alkerton along the same footpath. The white frames of the garden room currently draw attention to themselves as discordant additions to the dwelling and it is therefore considered that the loss of this structure should not be resisted.
- 9.15. As previously explained, outshots have existed to the north of the dwelling since 1882, including upon the footprint of the existing garden room. It is therefore considered that the replacement of the existing structure itself would be in-keeping with the historic form of the building.

- 9.16. The proposed extension would involve the loss of the existing parapet wall that currently divides the garden room and lean-to extension, and the northern most elevation of the replacement structure would be brought closer to the shared boundary with adjacent The Well House by 2 metres. The form and appearance of the outshots would be maintained by setting the northern facing elevation of the proposed extension back off the northern elevation of the existing lean-to in order to enable it to continue to be read as an earlier element of the building.
- 9.17. The roof ridge would be set 50cm below the ridge height of the existing two storey gable extension to the dwelling, which itself is subservient in height to the main dwelling. In order to avoid a squat appearance, and to facilitate the creation of first floor accommodation, the ground level would be partially lowered as part of the works.
- 9.18. Construction materials would match those found on the existing dwelling, and the gable coping detail would match that of the main dwelling and gable extension. The proposed openings would also be similar in style to those found within the existing dwelling.
- 9.19. It is considered that the proposed extension as amended would represent a sympathetic addition to the existing building, appearing subservient to, and in-keeping with, its host. Furthermore, it is considered that the amended proposal would constitute an enhancement to this Grade II listed building and the designated Conservation Area, through the replacement of the existing garden room with a more sympathetic structure that would not detract from the principal elevation of the existing dwelling, or longer range views from public vantage points.
- 9.20. Due to the height of the structure, the upper elements would be visible from Well Lane above the existing stone wall on the eastern boundary. Whilst the existing garden room is not visible from this viewpoint at present, due to the height of the existing stone wall it is not considered that the extension would appear overly prominent or detract from the character and appearance of the street scene in this location. The proposed development would also maintain the historic plan form of the building and the spacious curtilage is capable of accommodating a structure of this size without resulting in a cramped or overdeveloped appearance. A distance of 4.3 metres would be maintained between the position of the proposed extension and adjacent The Well House, serving to avoid these two neighbours appearing attached.
- 9.21. The proposed development as amended is therefore considered to constitute an enhancement to the character and appearance of this Grade II listed building through the replacement of the discordant garden room with an extension that would retain the historic form of the building and introducing a more sympathetic projection in this location. The development would also enhance the views of Alkerton House and the character and appearance of the designated Conservation Area from public vantage points within both Shenington and Alkerton, and would not result in significant harm to the visual amenities of the streetscene or wider landscape, in accordance with Government guidance contained within the NPPF, Policies ESD 13 and ESD 15 of the Cherwell Local Plan 2011-2031 and saved Policies C28 and C30 of the Cherwell Local Plan 1996.

### Residential Amenity

#### *Policy context*

- 9.22. 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 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.

### *Assessment*

- 9.23. Due to the separation distances involved, it is considered that the only neighbour with the potential to be affected by the proposed development is The Well House adjacent to the site to the north. The proposed extension would bring the northern elevation of the projection at Alkerton House closer to the shared boundary with this neighbour and increase the height above that existing.
- 9.24. The Well House is a recently extended, detached dwelling with ground, first and second floor openings facing towards the south, which is the location of the proposed extension. A small enclosed outdoor seating area has also been created adjacent to the southern elevation of The Well House that is bounded by stone walls.
- 9.25. The proposed extension would be clearly visible from all southern facing openings of the neighbouring dwelling, although due to the height of the extension in relation to first and second floor openings it is considered that only the ground floor openings and outdoor seating area are likely to be affected by the development.
- 9.26. For clarity, the loss of a pleasant view is not a material planning consideration, and whilst the outlook from the first floor openings would alter to include the roof of the proposed extension, pitching away from this neighbour, the height and separating distance is sufficient to avoid an overbearing appearance or shading of these openings.
- 9.27. Concerns regarding a loss of privacy from first floor openings are noted, although the one rooflight in the northern facing roof slope would be high level and positioned above a void reaching to the ground floor below.
- 9.28. The outdoor seating area at The Well House is currently bounded by a stone wall that increases in height as it meets the dwelling. The existing garden room structure is visible from this viewpoint and the proposed extension would bring the northern elevation closer to The Well House with an eaves height the same as the lower western hipped roof element of the garden room that extends beyond the parapet wall.
- 9.29. The overall height of the proposed extension would be 1.6 metres above the height of the existing parapet wall, this element consisting in its entirety of a pitched roof sloping away from the shared boundary. The highest point of the central pitch would be over 7 metres from the boundary. The western most element, and the most visible from the outdoor seating area, would have an eaves height matching that of the existing eaves, with a pitched roof sloping away from the boundary that extends the overall height by 3 metres, with an additional 30cm to account for the gable coping feature. All of the northern elevation would be brought closer to this neighbour than existing.
- 9.30. A ground floor opening serving a music space also faces into this outdoor seating area with views currently consisting of the surrounding wall with existing projections at Alkerton House beyond. The opening is not the only opening serving this room, with a larger openings in the western facing elevation overlooking the rear garden and countryside beyond. However, it is a southern facing opening and the concerns

raised as a result of public consultation are understood. Indeed, one of the reasons that amendments were sought during the course of the application was to reduce the impact upon this neighbour in terms of a loss of daylight and overbearing appearance.

- 9.31. The overall height of the proposed extension has now been reduced by over 1 metre, the extension has been moved a small distance to the south and the eaves height has been reduced to a height similar to the former structure, only 40cm above the height of the existing stone boundary wall at The Well House. The bulk of the structure would consist of a pitched roof that slopes away from the shared boundary, and the northern most elevation of the extension would be positioned 4.3 metres away.
- 9.32. Bearing in mind that the ground floor opening and outdoor seating area are to the side of the dwelling adjacent to existing structures at Alkerton House, that the southern facing opening is not the only opening serving the beyond room, the separating distance between the two and the overall height of the structure, it is not considered that a significant loss of amenity would result.
- 9.33. Due to the height and position of the rooflight in the northern facing roof slope, above a void, it is not considered to result in a significant loss of privacy for the neighbours at the The Well House.
- 9.34. The proposed development as amended is therefore considered to accord with Government guidance contained within the NPPF, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and saved Policy C30 of the Cherwell Local Plan 1996.

## Ecology Impact

### *Legislative context*

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

made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:

- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
- (2) That there is no satisfactory alternative.
- (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

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

#### *Policy Context*

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

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

9.8. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

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

9.10. 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.

- 9.11. 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.
- 9.12. 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*

- 9.13. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:
- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPAs can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
  - an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 9.14. The Standing Advice sets out habitats that may have the potential for protected species. The site consists of a closely mown lawn and the building proposed for removal is in good condition and of relatively recent construction. Having considered Natural England's Standing Advice and taking account of the site constraints the Ecology Officer considers that the site has limited potential to contain protected species and any species present are unlikely to be adversely affected by the proposed development. As such no formal survey has been pursued and in the absence of which this does not result in a reason to withhold permission. An informative reminding the applicant of their duty to protected species shall be included on the decision notice and is considered sufficient to address the risk of any residual harm.
- 9.15. Given the location of the site within a Conservation Target Area, a condition requiring biodiversity enhancements to be incorporated in the development has been suggested by the Ecology Officer.

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

- 10.1 The amended proposal complies with the relevant Development Plan policies and guidance listed at section 8 of this report, and so is considered to be sustainable development. In accordance with Paragraph 11 of the NPPF, permission should therefore be granted.

## 11. RECOMMENDATION

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

### CONDITIONS

#### **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: Drawing No's: 16030/19/SLP1, and 16030/P01 Rev. B, 16030/P02 Rev. B, 16030/P03 Rev. B, 16030/P04 Rev. A, 16030/P05 Rev. A, 16030/P06 all received 22 November 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.

3. Prior to the commencement of the development hereby approved above slab level, a schedule of materials and finishes for the external walls and roof(s) of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved schedule and shall be retained as such thereafter.

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

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

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

5. Prior to the insertion of any openings, including the stone mullion windows, hereby approved, full details at a scale of 1:20 including a cross-section, cill, lintel and recess detail and colour/finish, shall be submitted to and approved in writing by the Local Planning Authority. The openings shall not be installed

within the building other than in accordance with the approved details and shall be retained as such thereafter.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. The rooflights to be used in the development hereby permitted shall be of a design which, when installed, do not project forward of the general roof surface to which they are installed.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of the development above slab level, a method statement for enhancing biodiversity on site, including types and locations of any nesting/roosting provisions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures approved shall be carried out prior to occupation of the development and shall be retained thereafter in accordance with the approved details.

Reason - To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policies ESD 10 and 11 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

8. Prior to the first occupation of the development hereby approved, the rooflight in the northern facing roof slope shall be fixed shut and fully glazed with obscured glass (Level 3 or above) and shall be retained as such thereafter.

Reason - To safeguard the privacy and amenities of the occupants of the neighbouring property and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

## Notes

1. Bats are a highly mobile species which move between a number of roosts throughout the year. Therefore all works must proceed with caution, all construction workers should be informed of the possibility of bats being present and their protection, floodlighting should be avoided and any roof tiles should be removed carefully by hand. Should any bats be found during the course of works all activity in that area must cease until a bat consultant has been contacted for advice on how to proceed. Under the Wildlife & Countryside Act 1981 (as amended) and the Habitat and Species Regulations 2010 it is illegal to intentionally or recklessly disturb, harm or kill bats or destroy their resting places.
2. Great Crested Newts (GCN) are protected by the Habitat and Species Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended) and are also a Species of Principal importance under Section 41 of the NERC Act 2006. To avoid incidental harm to GCN on site all works should proceed with caution, construction workers should be briefed as to the possibility of GCN being present and best practice with regard to covering trenches and holes and



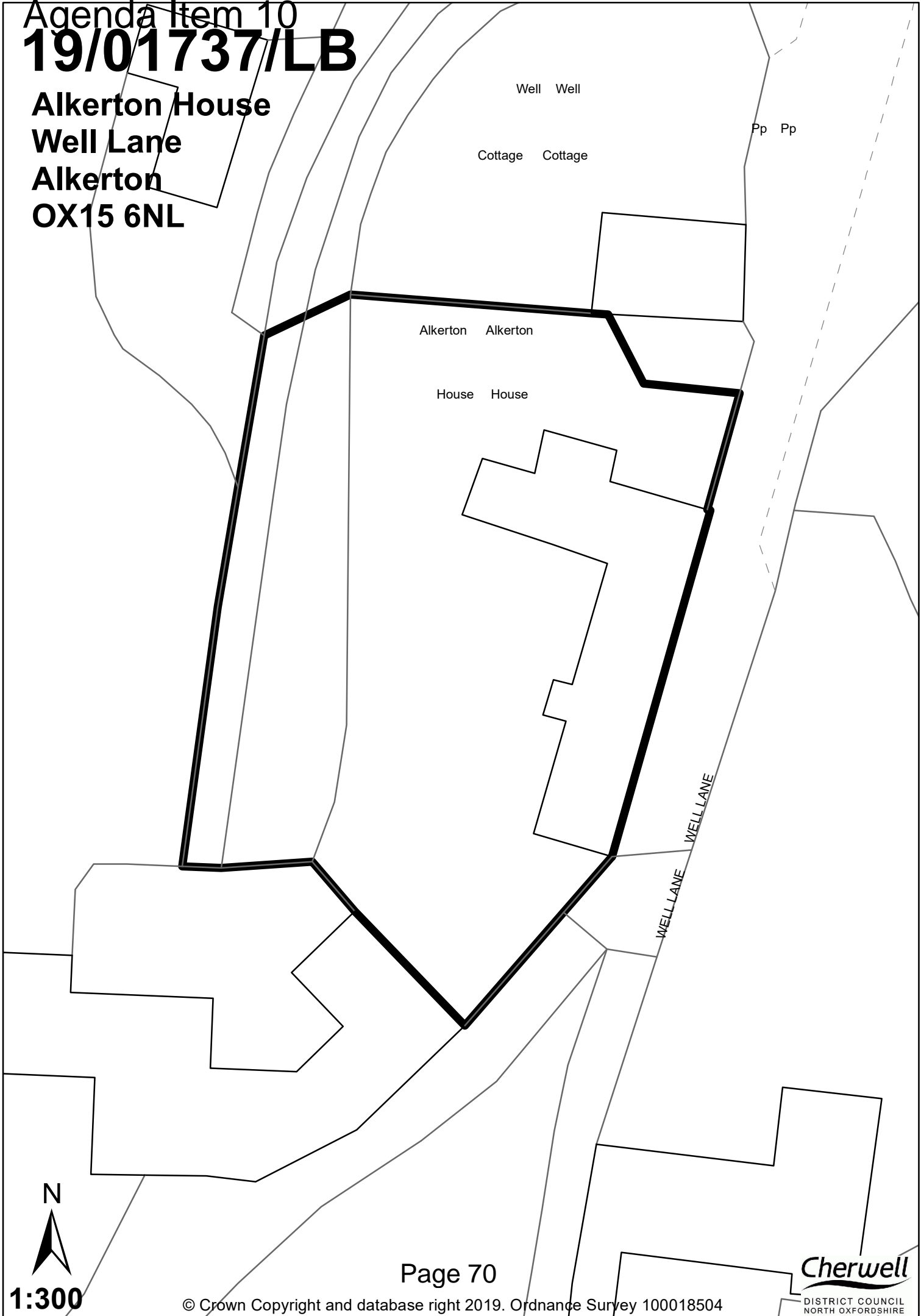
avoiding piles of materials which could be used as shelter and subsequently disturbed should be employed. Should any GCN be found during the course of works, all works should cease until a licensed ecologist or Natural England has been contacted for advice.

CASE OFFICER: Gemma Magnuson

TEL: 01295 221827

Agenda Item 10  
**19/01737/LB**

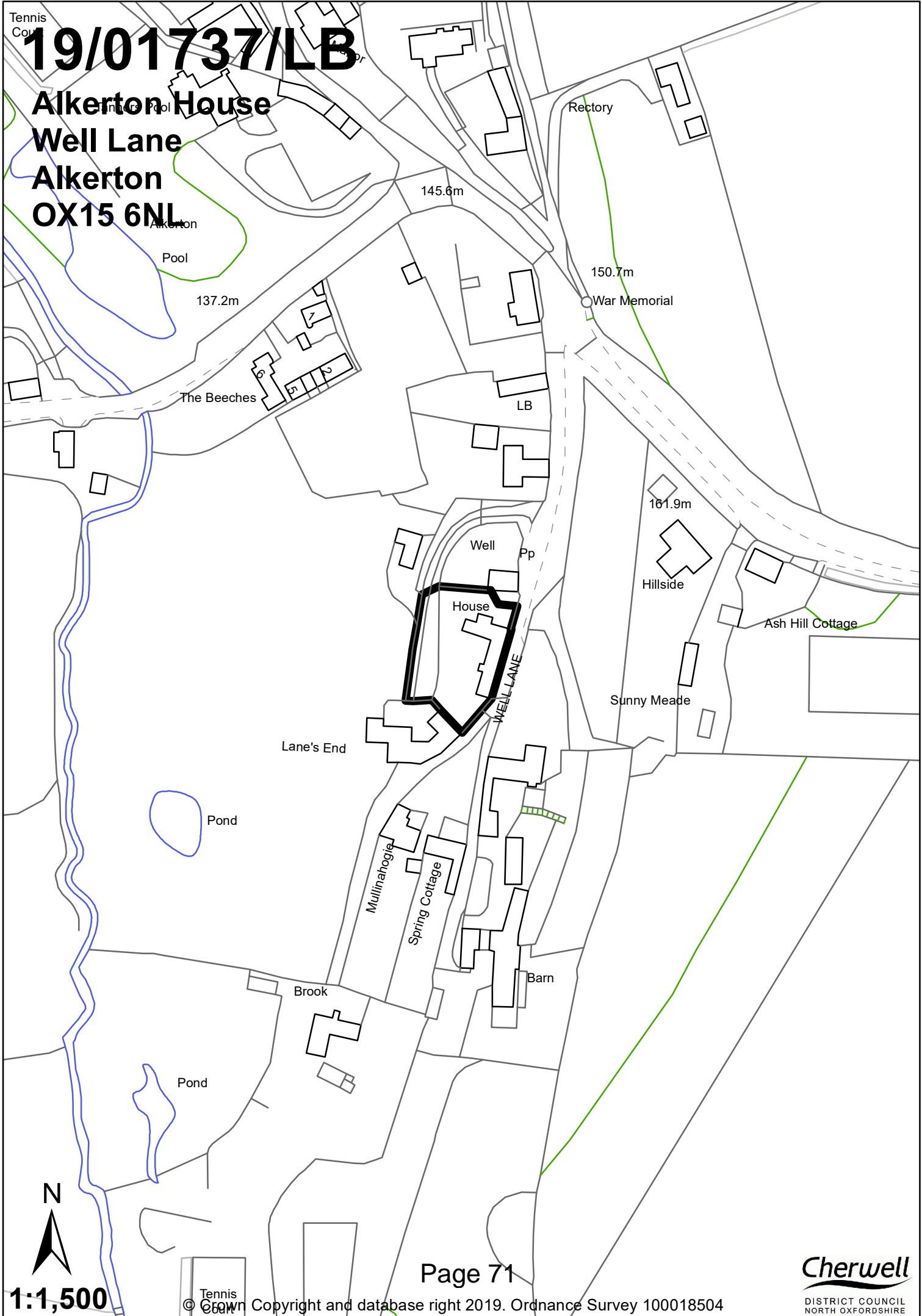
**Alkerton House  
Well Lane  
Alkerton  
OX15 6NL**



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# 19/01737/LB

## Alkerton House Well Lane Alkerton OX15 6NL



**Case Officer:** Gemma Magnuson

**Applicant:** Mr & Mrs M Wilson

**Proposal:** Ground and first floor extensions

**Ward:** Cropredy, Sibfords And Wroxton

**Councillors:** Councillor Phil Chapman, Councillor George Reynolds, Councillor Douglas Webb

**Reason for Referral:** Called in by Councillor Douglas Webb for the following reasons: public interest

**Expiry Date:** 12 November 2019

**Committee Date:** 18 December 2019

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

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

#### **Proposal**

The proposed development would consist of ground and first floor extensions upon the western facing principal elevation of the dwelling, to create two storey accommodation with kitchen at ground floor level and en-suite bedroom at first floor level. This would effectively involve the replacement of an existing garden room structure that projects from the western facing elevation at present. The ground level would also be partially reduced.

#### **Consultations**

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

- Shenington with Alkerton Parish Council

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

- Historic England, OCC Archaeology, CDC Conservation, CDC Building Control

4 letters of objection have been received and 2 letters of support have been received.

A larger number of comments were received with regard to the accompanying application for planning permission 19/01736/F, in part due to the fact that neighbour letters are not sent with regard to applications for listed building consent and no re-consultation with neighbours was therefore carried out following the submission of amended plans. In total, 17 responses were received for the planning application; 14 objecting to the proposal and 3 supporting the proposal.

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

Alkerton House is a Grade II listed building and lies within the designated Conservation Area. Other Grade II listed buildings are situated to the north and south of the site. The site is also within an area of archaeological interest, and the Northern Valleys Conservation Target Area.

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

## **Conclusion**

The key issue for consideration in this case is the impact of the proposed development upon the building or its setting, or any features of special architectural or historic interest which it possess.

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 relates to Alkerton House, a detached Grade II listed dwelling situated central to the village of Alkerton, within the designated Conservation Area.
- 1.2. Alkerton House was designated as a listed building on 20 September 1988, when the building description was for identification purposes only (as was usual at the date of listing) and does not give an indication of significance. The Conservation Officer has summarised the historic significance of the building to be a large, handsome property which may have been a manor house for Bret Goodwin, Lord of Epwell Manor. A significant amount of historic fabric remains, particularly upon external elevations in the form of window and door features, including stone mullions and hood moulds. The building also has a dual elevation, with one facing onto Well Lane, but with the principal elevation facing out towards the countryside to the west of the village.
- 1.3. The Shenington and Alkerton Conservation Area Appraisal describes Alkerton House as one of the oldest in the Parish, bearing a datestone of AD 1415. It is understood that the dwelling was partially rebuilt at the end of the 18<sup>th</sup> century, and restored in 1834. The 'L' shaped footprint is also noted. The site is within the Alkerton Character Area, where it is explained that the village has undergone little change since 1875, with no major 20<sup>th</sup> century building, and the majority of any new development comprising barn conversions. The village character is therefore retained.
- 1.4. The rear elevation of Alkerton House abuts Well Lane, with the private amenity space associated with the dwelling wrapping around both sides and the frontage of the building. The land level slopes downwards away from the frontage of the dwelling, with this slope continuing downwards, eventually culminating at the Sor Brook watercourse to the west. The land level then begins to steeply rise again up towards the village of Shenington. As a result of these levels, the principal elevations of Alkerton House is clearly visible from the Public Right of Way that runs to the south, connecting the two villages of Alkerton and Shenington.

- 1.5. The existing building is constructed with natural ironstone walls. The main roof of the dwelling is covered using a decorative red and blue fish scale tile pattern, whilst later additions are roofed with slate. A tall ironstone wall marks the eastern (rear) boundaries, with the land to the west remaining largely open.

## **2. CONSTRAINTS**

- 2.1. Alkerton House is a Grade II listed building and lies within the designated Conservation Area. Other Grade II listed buildings are situated to the north and south of the site. The site is also within an area of archaeological interest, and the Northern Valleys Conservation Target Area.

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

- 3.1. The proposed development would consist of ground and first floor extensions upon the western facing principal elevation of the dwelling, to create two storey accommodation with kitchen at ground floor level and en suite bedroom at first floor level. This would effectively involve the replacement of an existing garden room structure that projects from the western facing elevation at present.
- 3.2. The initial proposals were received with the application on 27 August 2019. The scheme was then amended by plans received on 25 October 2019, and later amended a second time by plans received 22 November 2019. It is these plans, received on 22 November 2019, that form the subject of this assessment.
- 3.3. The works would involve the lowering of the existing ground level towards the west of the existing rear projection, and the erection of a two-storey extension with ironstone walls and clay plain tiles to match those on the main roof of the dwelling. Stone mullioned windows are proposed within the western facing elevation. Openings would be constructed using painted softwood and powder coated steel frames. Dressed stone quoins are proposed within the stonework. Rooflights would be positioned within the northern and southern facing roof slopes.
- 3.4. The total length of the extension would be 10.8 metres, measured at roof height, which is the same as that of the existing garden room. The ground level would be reduced by 80cm towards the western most element of the structure, and the highest point would reach 7.1 metres, taken from that lower land level.
- 3.5. Alterations to the existing fabric of the listed building would involve the insertion of window openings in the eastern facing elevation of the existing outshot to serve a staircase, and the reconfiguration of the ground floor layout to accommodate the staircase and a kitchen. The roof of the existing outshot would also be removed and increased in height.

## **4. RELEVANT PLANNING HISTORY**

- 4.1. There is no planning history directly relevant to the proposal. There is no record of an application for the existing garden room that is proposed for replacement.

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

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

16/00073/PREAPP – First floor extension

- 5.2. The Case Officer advised that they had concerns regarding the impact of the extension upon the living amenities and privacy currently enjoyed at adjacent Well

Cottage. It was not considered that the extensions would cause harm to the visual amenities of the area, including the Conservation Area and setting of nearby listed buildings. Suggestions were made to ensure that the extension would be more in keeping with existing dwelling.

## 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 was **31 October 2019**, although comments received after this date and before finalising this report have also been taken into account. 6 responses were received; 4 objecting to the proposal, and 2 supporting the proposal.
- 6.2. As a result of the amendment of the application, the neighbouring properties have been consulted a total of three times. The comments received relate to all versions of the scheme.
- 6.3. The comments raised by third parties are summarised as follows:

### Object

- Unsited to Conservation Area, development will not be screened, building is not necessary
- Any extension above ground floor level will harm Grade II listed Alkerton House, addition intrusive and unsuitable, and visible from public spaces
- Too close to the adjacent house to the north, invading light and privacy
- Reduction in ridge height is welcomed but it remains a long new roof slope still of a height that would appear overbearing to The Well House. Eaves level has increased despite narrowing of extension and moving slightly away from boundary.
- Only a replacement single storey structure of similar height to existing buildings would protect amenity of The Well House and not be overbearing to most used sitting out areas
- Squat roof profile at odds with proportions of principal building, sit jarringly against structure , compete visually with main historic range
- Replacement of existing structure, that is unfortunate but diminutive in scale and polite in detail, not justification for extension of greater scale and high ornamentation
- Sunlight and shading report does not address concerns relating to overbearing or oppressive impact
- Harm to residential amenity enjoyed by occupiers of The Well House – height, length and proximity resulting in overshadowing of windows to dwelling, overbearing to occupiers when using main sitting out areas, introduces harmful overlooking, increases sense of being overlooked including sitting out areas – sitting out area is south and west facing and enjoys good light year round. Balconied window less than 10 metres from rear sitting out area. No assessment of impact of light, and extension would breach 45 : 25 degree rising line set out in BRE guidance to assess impact of proposed additions on daylight to windows.

- Less than substantial harm to designated heritage assets – listed building and Conservation Area – with no public benefit arising from the proposals – contrary to Policy, proposal will not be screened and will be obtrusive
- Would fill/too close to the current gap between The Well House and Alkerton House
- No Heritage Impact Assessment or justification submitted with the application
- Extension will compete with linear character of Well Lane due to its scale and location – it is not linear but at right angles to the street, appearing strikingly behind Alkerton House, set out from valley side, obscuring views of landscape, impact on view up through the village over the back of the houses where footpath first enters the village, view from Shenington towards Alkerton across valley spoiled
- Impact on views from Well Lane and public footpath to the south – Alkerton House would dominate the landscape, degrade views from Shenington, two villages have been linked for centuries, as have the communities, and to spoil the integrity in a place of outstanding beauty would be a shame, impact upon the historic setting of the two villages
- Impact on view from common land opposite the site on Well Lane across to Shenington – extension would narrow the gap significantly between the buildings and have a significant and harmful impact upon the view

#### Support

- More sympathetic addition to Alkerton House than the large modern conservatory
- Modest extension would not in any way be detrimental to the views of Alkerton, revised design sits much lower than before and minimises the impact on Alkerton House and neighbouring The Well House
- Would be no more visible from The Well House than the current extension, whilst being far more aesthetically pleasing
- Looks for be further away from The Well House than what currently exists

6.4. 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.

7.2. Amended plans were received on 22 November 2019. The re-consultation period has not expired at the time of writing. The following comments may not, therefore, reflect the opinion of the scheme that this the subject of this report. Any consultation responses received after the finalisation of the report will be reported as late representations.

7.3. PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS



7.4. SHENINGTON WITH ALKERTON PARISH COUNCIL (commenting on the accompanying 19/01737/LB): **objects** on the following grounds:

- Scale of extension too large in relation to the house
- Architectural detail of the extension conflicts with house
- Extension is very imposing when viewed from valley below the house
- Extension is not sympathetic to the Conservation Area
- Impact upon the privacy of neighbouring property

7.5. Further comments were received following the first amendment of the proposal, and whilst they acknowledged the significant changes that go a long way to address the concerns raised by the neighbouring property, but previous comments from the Parish Council that a single storey extension is more reasonable are still valid.

#### OTHER CONSULTEES

7.6. HISTORIC ENGLAND: no comments.

7.7. NATIONAL AMENITY SOCIETIES: no response received at the time of writing.

7.8. OCC ARCHAEOLOGY: no archaeological constraints to the scheme.

7.9. CDC CONSERVATION: **no objection**. The Conservation Officer objected to the first two schemes. However, the amendments received on 22 November 2019 satisfactorily address the concerns raised.

7.10. CDC BUILDING CONTROL: no comment.

### **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”)

## 9. APPRAISAL

- 9.1. The key issue for consideration in this case is the impact of the proposed development upon the building or its setting, or any features of special architectural or historic interest which it possesses.

### *Legislative and policy context*

- 9.2. The site is within and affects the setting of a Conservation Area and the application relates to a Grade II 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, 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. The proposed development would involve the replacement of an existing garden room that projects off the northern most element of the dwelling. The existing structure consists of a parapet style wall, against which a shallow hipped roof abuts, with the western most element of the garden room extending beyond the parapet consisting of the end of the hipped roof. The structure is largely glazed, with the exception of the parapet wall, with white timber framed openings.
- 9.12. On the other side of the parapet wall sits a stone and slate lean-to outshot. It is clear from historic plans that whilst the fabric of this element of the building has clearly been renewed at some point, the basic form of the building has remained in its historic configuration, with outshots present in this location, since 1882.
- 9.13. The existing garden room is not considered to hold any historic significance. There is no planning history relating to this structure and the circumstances behind its presence are therefore unknown. The hipped roof of the structure is out of keeping with the pitched roofs found on the remainder of the dwelling, and whilst the colouring of the openings is consistent with the openings on the principal elevation, their bulky frames and differing design to those found in the remainder of the dwelling serve to detract from the appearance of the principal elevation of this Grade II listed building.
- 9.14. The principal elevation of Alkerton House is also visible in longer range views across the valley in Shenington when walking the public right of way, and when entering the village of Alkerton along the same footpath. The white frames of the garden room currently draw attention to themselves as discordant additions to the dwelling and it is therefore considered that the loss of this structure should not be resisted.
- 9.15. As previously explained, outshots have existed to the north of the dwelling since 1882, including upon the footprint of the existing garden room. It is therefore considered that the replacement of the existing structure itself would be in-keeping with the historic form of the building.
- 9.16. The proposed extension would involve the loss of the existing parapet wall that currently divides the garden room and lean-to extension, and the northern most elevation of the replacement structure would be brought closer to the shared boundary with adjacent The Well House by 2 metres. The form and appearance of

the outshots would be maintained by setting the northern facing elevation of the proposed extension back off the northern elevation of the existing lean-to in order to enable it to continue to be read as an earlier element of the building.

- 9.17. The roof ridge would be set 50cm below the ridge height of the existing two storey gable extension to the dwelling, which itself is subservient in height to the main dwelling. In order to avoid a squat appearance, and to facilitate the creation of first floor accommodation, the ground level would be partially lowered as part of the works.
- 9.18. Construction materials would match those found on the existing dwelling, and the gable coping detail would match that of the main dwelling and gable extension. The proposed openings would also be similar in style to those found within the existing dwelling.
- 9.19. The development would involve minimal alteration to historic fabric, with minor works to the exterior and internal arrangement of the existing lean-to outshot. The garden room and parapet wall proposed for partial demolition is not considered to constitute historic fabric and their loss is not, therefore, considered to cause harm to the historic significance of the listed building.
- 9.20. It is considered that the proposed extension as amended would represent a sympathetic addition to the building, appearing subservient to, and in-keeping with, its host. Furthermore, it is considered that the amended proposal would constitute an enhancement to this Grade II listed building and the designated Conservation Area, through the replacement of the existing garden room with a more sympathetic structure that would not detract from the principal elevation of the existing dwelling, or longer range views from public vantage points.
- 9.21. Due to the height of the structure, the upper elements would be visible from Well Lane above the existing stone wall on the eastern boundary. Whilst the existing garden room is not visible from this viewpoint at present, due to the height of the existing stone wall it is not considered that the extension would appear overly prominent or detract from the character and appearance of the streetscene in this location. The proposed development would also maintain the historic plan form of the building and the spacious curtilage is capable of accommodating a structure of this size without resulting in a cramped or overdeveloped appearance. A distance of 4.3 metres would be maintained between the position of the proposed extension and adjacent The Well House, serving to avoid these two neighbours appearing attached.
- 9.22. The proposed development as amended is therefore considered to constitute an enhancement to the appearance of this Grade II listed building through the replacement of the discordant garden room with an extension that would retain the historic form of the building and introducing a more sympathetic projection in this location. The development would also enhance the views of Alkerton House and the designated Conservation Area from public vantage points within both Shenington and Alkerton, and would not result in harm to the historic significance of these designated heritage assets, in accordance with Government guidance contained within the NPPF, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and saved Policy C18 of the Cherwell Local Plan 1996.

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

- 10.1.** The proposal complies with the requirements of the Planning (Listed Building and Conservation Areas) Act 1990, relevant Development Plan policies and guidance

listed at section 8 of this report. In accordance with Paragraph 11 of the NPPF, listed building consent should therefore be granted.

## **11. RECOMMENDATION**

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT CONSENT, 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 18 of the Planning (Listed Buildings and Conservation Areas) 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: Drawing No's: 16030/19/SLP1, and 16030/P01 Rev. B, 16030/P02 Rev. B, 16030/P03 Rev. B, 16030/P04 Rev. A, 16030/P05 Rev. A, 16030/P06 all received 22 November 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.

3. Prior to the commencement of the development hereby approved above slab level, a schedule of materials and finishes for the external walls and roof(s) of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved schedule and shall be retained as such thereafter.

Reason - To ensure that the completed development is in keeping with and conserves the special character of the existing historic building and to comply with Policy ESD 15 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.

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

Reason - To ensure that the completed development is in keeping with and conserves the special character of the existing historic building and to comply with Policy ESD 15 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.

5. Prior to the insertion of any openings, including the stone mullion windows, hereby approved, full details at a scale of 1:20 including a cross-section, cill, lintel and recess detail and colour/finish, shall be submitted to and approved in writing by the Local Planning Authority. The openings shall not be installed within the building other than in accordance with the approved details and shall be retained as such thereafter.

Reason - To ensure that the completed development is in keeping with and conserves the special character of the existing historic building and to comply with Policy ESD 15 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.

6. The rooflights to be used in the development hereby permitted shall be of a design which, when installed, do not project forward of the general roof surface to which they are installed.

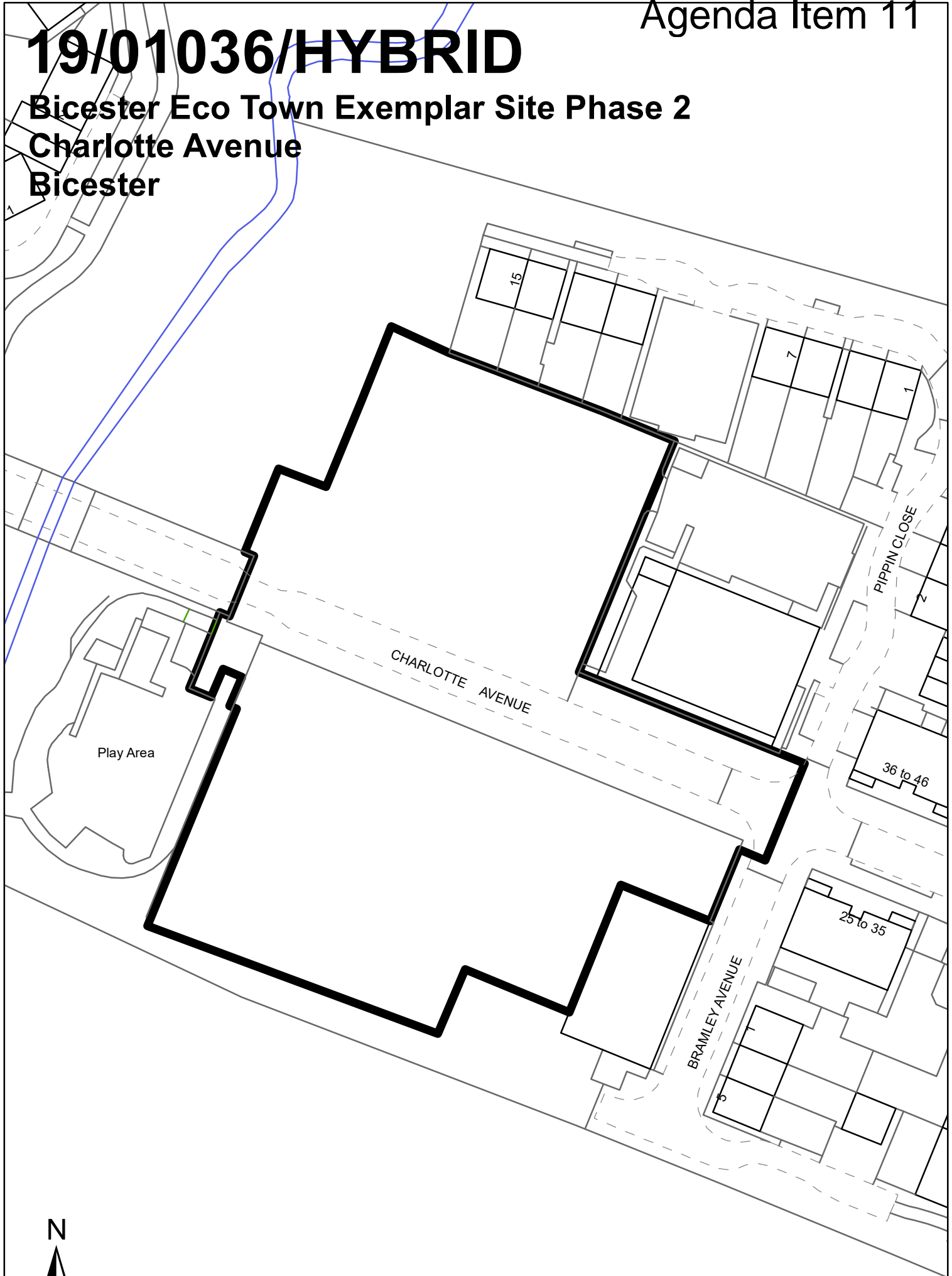
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CASE OFFICER: Gemma Magnuson

TEL: 01295 221827

# 19/01036/HYBRID

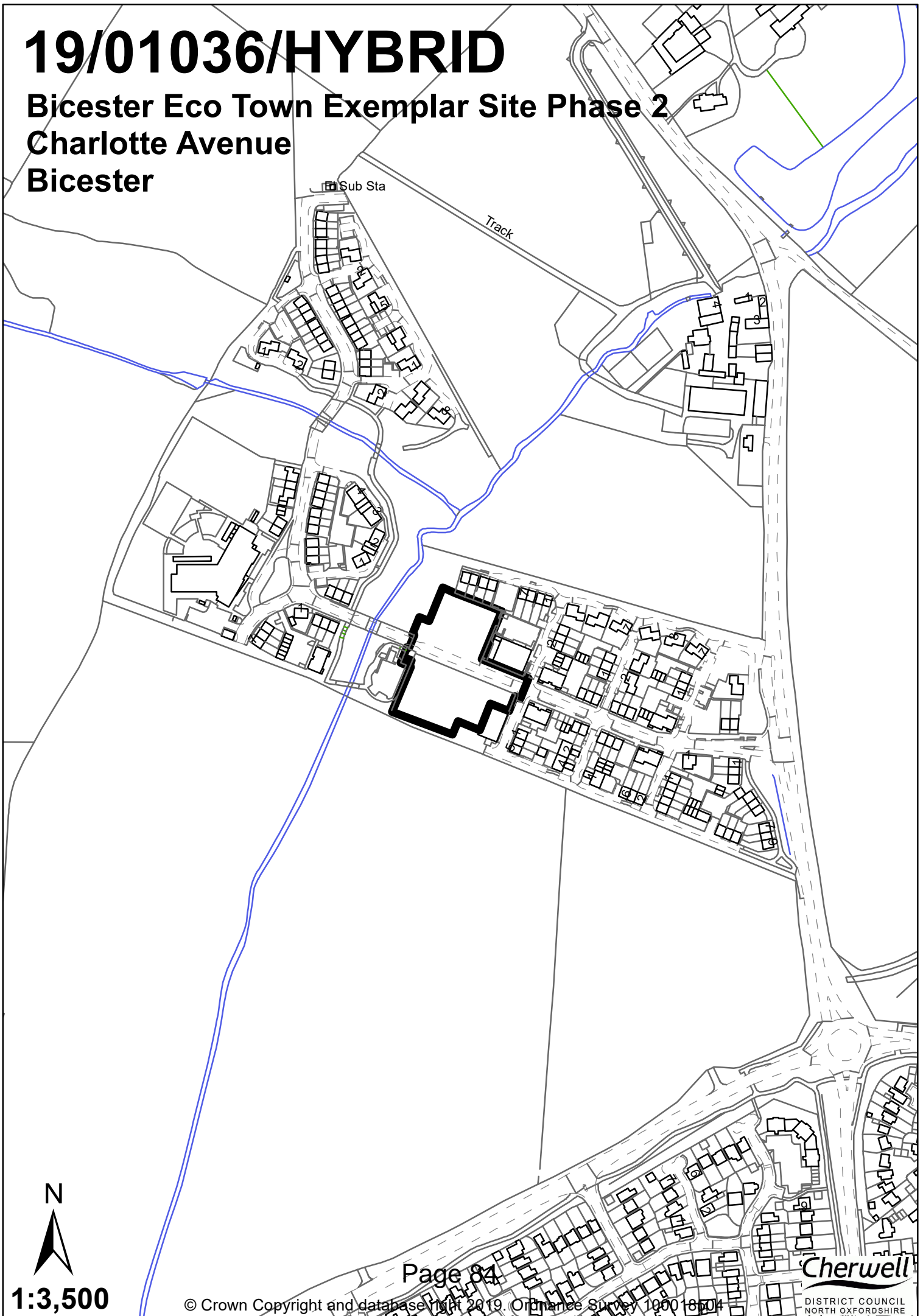
**Bicester Eco Town Exemplar Site Phase 2**  
**Charlotte Avenue**  
**Bicester**



**1:750**

# 19/01036/HYBRID

**Bicester Eco Town Exemplar Site Phase 2**  
**Charlotte Avenue**  
**Bicester**



1:3,500



**Case Officer:** Caroline Ford

**Applicant:** Barton Willmore LLP on behalf of A2 Dominion

**Proposal:** Full permission is sought for Local Centre Community Floorspace (Use Class D1 with ancillary A1/A3), with a total GIA of 552 sqm, and 16 residential units (Use Class C3) with associated access, servicing, landscaping and parking. Outline consent is sought for Local Centre Retail, Community or Commercial Floorspace (flexible Use Class A1/A2/A3/A4/A5/B1/D1).

**Ward:** Bicester North And Caversfield

**Councillors:** Councillor Pratt, Slaymaker and Mawer

**Reason for Referral:** Major development – 10 or more new dwellings

**Expiry Date:** 31 December 2019

**Committee Date:** 18 December 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 permission for a new local centre for the Exemplar phase of development at NW Bicester. It is proposed as a HYBRID application with full permission sought for land to the North of Charlotte Avenue to provide for a community building and café/ deli with 16 affordable residential flats above. These could benefit from Growth Deal funding to secure social rented tenure otherwise, they would be affordable rental units capped at local housing allowance rates. To the South of Charlotte Avenue, full permission is sought for a parking area to the north of the energy centre and outline permission is sought for flexible non residential uses.

##### **Consultations**

Based on the proposed scheme, as amended to a HYBRID proposal, the following consultees have raised **comments** on the application:

- Bicester Town Council, OCC Education, CDC Landscape, CDC Arboriculture, CDC Strategic Housing, CDC Environmental Protection, CDC Bicester Delivery Team, CDC Waste and Recycling, Thames Valley Police Design Advisor, Oxfordshire Clinical Commissioning Group, Tyrens (CDC's advisor on Sustainability matters for Bicester)

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

- OCC Highways, OCC Drainage, Thames water

11 letters of objection have been received and 1 letter of support has been received.

##### **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 is part of the Exemplar site and has most recently been used as a site compound for the construction of other parts of the development. The site has some constraints including ecological records within proximity as well as a nearby watercourse. The land itself slopes and there is a field hedgerow to the south to be retained.

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 issues arising from the application details are:

- Principle of development
- Affordable Housing
- Transport
- Eco Town Standards (including consideration of Ecology, Flooding and Drainage)
- Design, and impact on the character of the area
- Residential amenity
- Heritage impact
- Planning Obligations
- Human Rights and Equalities

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 to the North of Bicester and sits within the Elmsbrook development site, which is still under construction (phases 1 and 2 are mostly complete and occupied, some occupations are now underway on phase 3 and construction is still ongoing on the rest of phase 3 and 4). The site itself sits between phases 1 and 2 and is an area of the site identified for local centre uses through the original HYBRID application for the site. Adjacent to where the local centre is proposed and to the east is the energy centre serving the site (to the south of Charlotte Avenue) and the Eco Business Centre delivered by the District Council to the north. Residential properties sit to the east and north of the site and to the west is the river corridor open space with the road passing over a bridge. To the south of the outline element of the site is open fields, which sit within the allocation identified by Policy Bicester 1. The land has previously been used as the site compound and it is currently surrounded by hoarding.

### **2. CONSTRAINTS**

2.1. In terms of recorded site constraints, there are records of ecological features in the vicinity and there is a SSSI within 2km. There is a listed building to the north of the site at Home Farm, however there are intervening dwellings between the site and the farm complex as well as an open field. To the west of the site is a watercourse with its associated flood zone and to the south side of the road and to the west of

the site is a play area serving the site. The land itself slopes from the east down to the west. Adjacent to the southern boundary of the site is a hedgerow which is proposed to be retained.

### 3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The proposed development has been amended through the processing of the application in line with discussions with Officers regarding the proposal and its compliance with Policy and the NW Bicester SPD (Supplement Planning Document) which set the high standards sought at NW Bicester. The reason for the amendments will be explained in the appraisal section of this report, but the proposal is now a HYBRID submission seeking outline permission for a part of the site (to the south of Charlotte Avenue) and full permission for another part of the site (to the north of Charlotte Avenue and an area to the south in front of the energy centre).
- 3.2. Full permission is sought for a community building at ground floor level of a size of 552sqm (GIA) within an area for a café/ deli. Above this building, 16 affordable residential flats are proposed. There is the potential for these to benefit from Growth Deal funding to enable a social rented tenure to be provided. Otherwise the units would be provided as affordable rental units capped at local housing allowance levels. To the south of Charlotte Avenue, full permission is sought for a parking area to serve the local centre, to the north of the energy centre and, the rest of the land is proposed in outline for flexible local centre (non-residential) uses.
- 3.3. *Timescales for Delivery:* Due to the timescales for delivering the local centre as set out in the original S106 being almost reached and to give the potential to benefit from Growth Deal funding, there has been a need to ensure that the development is delivered in a timely fashion following the granting of planning permission whilst recognising the commercial constraints that have led to the delay in delivery to date. The proposal that is before Members is that the full element of this application would be delivered within two years from the grant of planning permission with delegation to Officers to finalise negotiations on the delivery of the outline element for development to the south of Charlotte Avenue.

### 4. RELEVANT PLANNING HISTORY

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

<u>Application Ref</u>	<u>Proposal</u>	<u>Decision</u>
15/00760/F	Development of a new Local Centre comprising a Convenience Store (use class A1), Retail Units (flexible use class A1/A3/A5), Pub (use class A4), Community Hall (use class D1), Nursery (use class D1), Commercial Units (flexible use class A2/B1/D1) with associated Access, Servicing, Landscaping and Parking with a total GEA of 3,617 sqm	Approved

10/01780/HYBRID	Development of Exemplar phase of NW Bicester Eco Town to secure full planning permission for 393 residential units and an energy centre (up to 400 square metres), means of access, car parking, landscape, amenity space and service infrastructure and outline permission for a nursery of up to 350 square metres (use class D2), a community centre of up to 350 square metres (sui generis), 3 retail units of up to 770 square metres (including but not exclusively a convenience store, a post office and a pharmacy (use class A1)), an Eco-Business Centre of up to 1,800 square metres (use class B1), office accommodation of up to 1,100 square metres (use class B1), an Eco-Pub of up to 190 square metres (use class A4), and a primary school site measuring up to 1.34 hectares with access and layout to be determined.	Approved
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4.2. Various applications to discharge planning conditions and make non-material amendments to 10/01780/HYBRID have been approved. The timescale for the making of applications for reserved matters against the outline granted by 10/01780/HYBRID has now expired. In addition, the permission granted by 15/00760/F has now lapsed. There is no current scheme that is implementable for the local centre at Elmsbrook.

## 5. PRE-APPLICATION DISCUSSIONS

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

18/00234/PREAPP – Local centre uses and incorporation of residential uses

5.2. The advice was that the principle of amending the local centre to ensure that it is a viable and deliverable scheme within realistic timescales is supported. However additional information was sought to give a view on the proposed land uses, due to the eco town standards around the provision of employment opportunities (which the introduction of residential units would reduce) and the reduction in opportunities for supporting local centre uses to support the sustainable nature of the site. The design principles were supported based on the level of information provided at that stage and it was also advised that further detail was required around how the scheme would meet zero carbon standards (i.e. such as the true zero carbon requirement).

## 6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of site notices displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify

from its records. The final date for comments was the 14 November 2019. However, all comments received following the publication of this report will need to be taken into account.

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

Comments raising concerns

- The large block of 16 flats above a community centre would be out of character with the rest of the development. The largest blocks on Elmsbrook to date are 6 flats and at a lower elevation.
- The proposal does not fit the community values sold by the developers.
- There is a concern regarding the potential noise from the ground to the first floor and potential disruption to the residents which would cause management problems.
- Concern over the living conditions for those that may be accommodated in the flats which may not be conducive to the health and wellbeing of the occupiers and this would conflict with the ethos of the Eco Town.
- The proposed height of the new block would tower over the river corridor and overlook many gardens. This could also be imposing and is not found elsewhere on the development. They would be out of place on a residential street. The proposal is not comparable to other development in the area and would be much taller than the originally approved local centre scheme. There is a risk the phase to the south of Charlotte Avenue would be built to the same scale and overlook the play area.
- The metal cladding is inappropriate for the rest of the development.
- Concerned that the amount of parking proposed is inadequate for a community centre and 16 flats and there are already problems due to the lack of visitor parking.
- The reality from experience is that more parking spaces are needed across the site and this has caused problems. More flats without sufficient parking will exacerbate the problems.
- There will be an increase in traffic, parking problems, air pollution and noise.
- The nursery will add to the number of cars coming onto the development.
- Electric cars are likely to be an important part of the transport infrastructure in Bicester for many years to come so sufficient parking is required.
- Additional residential uses could cause additional pollution and noise.
- More non residential facilities are needed to enhance the community; not further housing. This was what residents were told when they bought their homes.
- The scheme should be delayed so that flats can be provided elsewhere and to deliver the non-residential uses expected.
- There is a reduction in the amount of green space.

- The number of jobs to be provided on site has now decreased which diminishes what the community could become.
- The applicant did not properly consider the matter of viability originally.
- Concern over privacy and overlooking of the play area from flats to the south of Charlotte Avenue.
- Concern over overlooking from the flats to the north of Charlotte Avenue to the residential properties to the north and the potential for an overcrowding impact from the scale of the development.
- Concern over the capacity of the Charlotte Avenue junction onto the B4100.

Comments raised in support

- Town Square, the operators of The Perch Eco Business Centre support the application. It is considered the new Local Centre would be a major benefit to the current Members and would help attract new business to the area. The proposed community hub would help members of the Eco Business Centre interact with residents of Elmsbrook and foster a genuine sense of community.
- The proposed deli/ café would be a good facility for users of the Eco Business Centre to purchase lunch/ refreshments. This would reduce car journeys and support the sustainable vision at the heart of NW Bicester.

6.3. ELMSBROOK COMMUNITY ORGANISATION (ECO) have raised concerns with the proposal directly with A2 Dominion and this has been passed on in respect of this application. The comments are summarised as:

- Support the idea of the community hub and café with flexible spaces to support different groups, events and potential 'pop up' shops as well as the ideas regarding the community hub premise so far.
- However, concern is raised over the 16 flats proposed above the community hub. Building flats above a community centre is unprecedented in Bicester or the surrounding area; all community centres nearby are single storey.
- There is concern that the 16 flats as affordable rental properties could divide the demographic within the community. An inclusive community is sought and it would be concerning if residents felt their quality of life is less due to the location of their property. There is also the potential for issues to develop over noise and parking between users of the café/ hub and residents.
- There will be significant costs involved. Without significant subsidy, the money to pay these costs would have to be met by events including in the daytime and the evening. Having flats above the Community Hub rooms would therefore limit the earning potential as the timing of the centre may be restricted.
- Elmsbrook residents would prefer to see non-residential uses over the Café and Hub. This would align better with the original intention of the local centre.

- ECO would still envisage running the Community Hub, however it would need to consider a number of issues first as to how this could be achieved.
- 6.4. 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: have concerns with the visual effect and the design not fitting in with existing, car parking issues and potential overdevelopment of the site. Concerns also over the loss of the anticipated eco pub and the overall density of the proposed development.

### CONSULTEES

- 7.3. OCC HIGHWAYS (first response to original scheme): No objection subject to conditions. The following points are made:
- The scheme for 1,476sqm of flexible space for retail, along with commercial and community uses and 38 residential units is accompanied by a Transport Statement which considers the amended quantum and mix of uses (based on a reference scheme) within the local centre compared to the previously approved scheme.
  - The Transport Statement sets out a reasonable methodology for evaluating the transport impact of the proposed scheme.
  - The level of parking proposed is considered to be acceptable as there will be overlapping parking demand across the day from the various land uses. 6 electric vehicle charging points are proposed which is welcome.
  - The proposed cycle parking provision is in line within guidance but further information is required around where covered cycle parking is to be provided.
  - The TS finds that the traffic generation associated with the consented local centre compared to the proposed reference scheme will have a marginal increase in peak hour trips. This takes into account the context of the trip generation rates per size of land use of both schemes and the extant development having no residential land use which comparatively generates relatively more trips in the peak periods. The increase in trip generation during the peak periods will have a negligible impact locally and beyond the Exemplar development.
  - *Officer comment: A query was raised regarding the inclusion of residential trips in the TS due to the original local centre scheme not including residential development. The amended TS has clarified that the reference to residential trips was to the whole Elmsbrook site with the uplift likely from the additional units now proposed.*
  - A construction traffic management plan will be required to ensure consideration is given to how the local centre will be built.

- A framework travel plan is submitted which will form a basis for the individual elements that make up the local centre. The framework travel plan is based upon that set out within the S106 agreement and therefore it would be good to understand how the promotion of sustainable travel is going for the site as a whole. A number of questions are raised in response to the framework travel plan.
- 7.4. OCC HIGHWAYS (amended response to original scheme): No objection subject to conditions and S106 contributions being sought towards highway improvements consistent with those sought from the wider NW Bicester site (in particular the site north of the railway line).
- 7.5. *Officer comment – subsequently, further consideration was given to the matter of contributions to highway improvements and the need for a Grampian condition and it has been agreed with OCC that as the vehicle trips associated with the residential part of this proposal are essentially ‘swapped’ with the trips that would have resulted from non-residential uses on this part of the site, that it would not be reasonable or necessary for this site to make contributions as requested or to be restricted by a Grampian condition to restrict development proceeding because the transport impact of this proposal is already accounted for, development having already been committed on this site.*
- 7.6. OCC HIGHWAYS (second response to amended scheme): No objection subject to conditions. The following points are made:
- Unsatisfactory refuse vehicle tracking drawings have been submitted for the northern block which appears to show that access to bin storage is not possible except when utilising land outside of the application boundary.
  - Details of crossings across Charlotte Avenue are required to be submitted.
  - The new Transport Statement appears to omit the reference to electric charging points.
  - The parking details are provided only to cover the full application site with 16 spaces allocated to residents under a permit scheme (this is in compliance with standards) and the other 16 spaces shared amongst different land uses. The level of parking demand for the southern block will be determined at reserved matters stage.
  - No further details of the cycle storage are provided and this should therefore be sought via condition. All residents parking should be under cover to provide sufficient covered bike parking.
  - The provided tracking diagrams show that an 11.7m refuse vehicle would be able to manoeuvre in and out of the site but there is a concern that it cannot safely get to the bin storage proposed. The manoeuvring required would need part of the Eco Business Centre car park and egress is also likely to be more difficult. An arrangement with the Eco Business Centre will be required otherwise the arrangement for refuse and service deliveries to the northern block would not be possible.
  - The TS sets out a reasonable methodology in evaluating the transport impact of the proposed scheme. Whilst there is a net reduction in trips identified, this assessment only covers the part of the site seeking full planning permission.



- *Officer comment: clarification has been requested from OCC as the trip rate assessment has only considered the full element of the proposal and not the outline element – the assessment of this is expanded further in the appraisal section below.*
  - Same comments are made with regard to the need for a construction traffic management plan and in response to the framework travel plan.
- 7.7. OCC DRAINAGE (first response to original scheme): Objection due to insufficient data provided to enable full technical audit of the drainage/ flood risk/ SUDs use for the site.
- 7.8. OCC DRAINAGE (second response to amended scheme): No objection subject to the imposition of a condition following the consideration of the additional information received from the applicant. There is some concern regarding the depth of the soakaways and potential impact upon ground water but the design can be amended in response to the requirement for a surface water drainage strategy sought by planning condition.
- 7.9. OCC EDUCATION (first response to original scheme): A S106 contribution is required towards primary and nursery education towards the new primary school serving the North West Bicester Eco Town Development (Gagle Brook School). The contribution is required to repay forward funding that was used to fund the school.
- 7.10. OCC EDUCATION (second response to amended scheme): A S106 contribution continues to be required for the same purpose as reported above but at the reduced level proportionate to the lower level of development proposed. Contributions are also sought towards secondary education provision towards the planned new secondary school at NW Bicester.
- 7.11. CDC LANDSCAPE (first response to original scheme): Agree generally with the sentiments of the design and access statement. Detailed hard and soft landscape proposals are required.
- 7.12. CDC LANDSCAPE (second response to amended scheme): There is currently little scope for structure planting within the large expanse of hard area/ car parking to the north side of the building without any relief in terms of amenity and environmental benefit. Feature trees within the car park and formal hedging on the northern boundary are encouraged. Additional landscape design is required for the community garden. There is a good proportion of street tree planting proposed, especially the line of trees interplanted between seats north of the Energy Centre. However there is a concern regarding the type of trees proposed and that a species without overhanging branches would be more appropriate. The style of benches is also queried. Hard and soft landscape proposals should be submitted.
- 7.13. CDC ARBORICULTURE: Concerns regarding the tree species chosen close to parking bays due to the potential for vehicle damage, which may bring future pressure to reduce or remove the trees. Detailed designs for tree pits, specification for trees to be planted and a maintenance plan for the trees is required.
- 7.14. CDC BUILDING CONTROL: No comments to make
- 7.15. CDC ENVIRONMENTAL PROTECTION (first response to original scheme):
- Noise: There is a requirement for a construction environment management plan to be sought via condition. Full details of any plant or extraction

equipment are required for the commercial units so it can be assessed for impact on the residential dwellings.

- Contaminated Land: No comments
- Air Quality: A condition is required to ensure electric vehicle charging infrastructure is provided for.
- Odour: Same comments as for noise above
- Light: Details of the lighting scheme should be provided and approved by the LPA prior to occupation.

#### 7.16. CDC ENVIRONMENTAL PROTECTION (second response to amended scheme):

- Noise: Having studied the Acoustic Strategy report, it is agreed that the noise can be limited via suitable insulation and noise management to achieve the recommended internal levels of the residential properties. Some further safeguards are suggested.
- Contaminated Land: No comments
- Air Quality: A condition should be used to ensure that electric vehicle charging infrastructure is provided to serve the dwellings and for the commercial premises and community hall.
- Odour: Full details of any extraction equipment/ odour suppression systems are required to be provided for agreement.
- Light: No comments.

#### 7.17. CDC STRATEGIC HOUSING (first response to original scheme):

- 38 residential units are proposed all of which are affordable. The Oxfordshire Growth Deal funding will be available to fund the units without which the development would not be viable.
- The number of social rented units needs to be increased and the greatest need is for one bed units.
- There are requirements around the standards required and the number of parking spaces sought.
- There is a need for affordable housing in Bicester and these units will help meet that need.

#### 7.18. CDC STRATEGIC HOUSING (second response to amended scheme):

- The 16 proposed units in the revised scheme will be all affordable rented housing with rents capped at Local Housing Allowance levels to ensure they are a more affordable housing option. As 30% of the units would be required as affordable housing, 11 of the 16 units would be considered as additional to the policy requirement. There is a continuing need for affordable housing in Bicester and the units will contribute towards meeting a proportion of the housing need.

- Social rent would be a preferable tenure as this is the most affordable option for many households on the Council's Housing Register. The developer is willing to provide the homes as social rental units subject to the availability of grant funding. Grant funding may be available via the Oxfordshire Growth Deal.
- The proposal is for a single tenure (i.e. not a split between rent and intermediate tenures), this is acceptable due to difficulties landlords face in letting and managing mixed tenure flats in one block, particularly in relation to setting and agreeing service charges.
- The size of the proposed units meet the Nationally Described Space Standards.
- There is some concern over the number of 2 bed units proposed when there is a greater need for 1 bed units, however the proposed mix will meet a housing need and the developer has agreed to work with Cherwell District Council to develop and agree a local lettings plan to ensure the units will provide for a range of households and will be let and managed appropriately.
- The number of parking spaces are below what is normally sought for affordable units but the wider development presents options for more affordable modes of transport across the site. In addition, the site is an exemplar scheme and there is a focus on reducing carbon impact in the area wherever possible. As such it is considered acceptable to provide 1 parking space per affordable unit (by a permit) along with accessible parking spaces and additional cycle space on this scheme.
- The proposed lift within the scheme would support improved access to the flats when installed in terms of meeting accessibility requirements.
- Whilst the proposals include commercial/ other class uses on the ground floor and residential above, there are additional measures planned to minimise noise impact through the fabric and construction of the building and also a proposal to develop a Noise Management Plan. These measures will be of benefit to the future tenants of the scheme and to occupiers of other residential properties nearby.

#### 7.19. CDC BICESTER DELIVERY TEAM (first response to original scheme):

- Concern over the principle of residential development above a community hall due to the compatibility of the uses and the potential for noise nuisance and the restrictions this could cause in terms of the use of the hall. An acoustic strategy should be provided.
- Concern over the cluster of 38 affordable units which is contrary to CDC's policy of allowing no more than 15 affordable units of mixed tenure in one place and therefore it will not support the achievement of mixed and balanced communities.
- The large size of the hall may be more difficult/ costly for the community to manage. Additional maintenance costs should be sought. The hall at ground floor rather than first floor is welcomed.
- The application notes around 70 potential jobs are lost as a result of this amendment. This is a significant number of potential jobs to be lost and at present CDC has no way of knowing if more jobs will be created.

- There is a concern that the proposed development will not be true zero carbon and is therefore not policy compliant.
- It is unclear from the application documentation how this application affects the existing biodiversity net gain calculation. A new calculation should be provided as well as the various mitigations that will be put in place.
- With regard to travel planning, it is recommended that the commitments outlined in the original 2011 document for the site wide travel plan coordinator to work with non-residential uses to maximise take up of already well-developed initiatives are secured.
- This development will require heads of terms to secure a S106 with terms consistent with the rest of NW Bicester.

7.20. CDC WASTE AND RECYCLING TEAM: Household and commercial waste must be kept separate and flats should have 1.4sqm of bin storage available. There looks to be no problem in respect of access for the refuse vehicles and the location of bin stores being collected.

7.21. THAMES VALLEY POLICE DESIGN ADVISOR (first response to original scheme): Some concern in relation to community safety/ crime prevention design issues and the Design and Access Statement does not adequately address crime and disorder. A planning condition should be used to require an application for Secured by Design accreditation to be made. A number of detailed concerns are raised, particularly in respect to lighting of dark spaces, the detailed landscape scheme, details around cycle storage, the detail of rainwater goods, access arrangements to the flat stairwells, the glazing of the ground floor units, control of access to the residential flats, arrangements for post/ deliveries, positioning of utility meters, safe internal lighting of communal areas and consideration to be given to the provision of CCTV systems.

7.22. THAMES VALLEY POLICE DESIGN ADVISOR (second response to amended scheme): there have been no changes since previous comments made and there is no commitment to achieving secured by design accreditation. Creating an environment where crime prevention and community safety are key is an important element of wellbeing. A condition to secure the achievement of Secured By Design accreditation continues to be requested.

7.23. THAMES WATER: No objection with regard to foul water sewerage network infrastructure capacity. The application indicates that surface water will not be discharged to the public network and therefore there is no objection, however approval should be sought from the Lead Local Flood Authority. With regard to water network and water treatment infrastructure capacity, no objection is raised. Advice is provided regarding if mains water for construction is proposed to be used and regarding water pressure.

7.24. OXFORDSHIRE CCG (first response to original scheme): To the Masterplan for NW Bicester, health provision has been sought to meet the health needs of the population generated by the new development. Financial contributions are also sought across the wider site and this site should make a contribution on the same basis as the other sites across the NW Bicester site. The figure was established in 2015 and so indexation should be applied from then to protect its value.

7.25. OXFORDSHIRE CCG (second response to amended scheme): OCCG's previous response applies.

7.26. TYRENS (CDC's Consultant on Sustainability Matters related to Bicester) (first response to original scheme):

- The proposal does not meet the true zero carbon energy requirements as the proposals around reduction of energy demand, being energy efficient and the installation of renewable energy technologies, including connection to the energy centre is to meet regulated energy demand only (there is no mention of the unregulated demand). Further detail on this should be sought.
- There is also a lack of detail around the materials to be used (in terms of the low and embodied carbon credentials of them), the use of locally sourced materials, the use of real time energy monitoring systems, the water consumption targets and the percentage of green space to be provided.
- The proposals include provision of solar PV (and the roof design has optimised the space for PV deployment), air source heat pumps and connection to the CHP powered energy centre for heating and hot water. There are some questions over how the figures have been arrived at due to the specification of various proposals not having been provided.
- SUDs are proposed through the use of permeable pavements and roof runoff being collected.
- BREEAM Very Good is proposed for the community centre, retail units and the nursery. A condition should be used to ensure compliance with this policy requirement.
- No evidence that the green space requirements, community food and allotments will meet policy requirements or that landscaping and green infrastructure can provide cooling and reduce heat island effects.
- Further details are sought as to how the office units will comply with the overheating requirements.

7.23. TYRENS (CDC's Consultant on Sustainability Matters related to Bicester (second response to amended scheme – additional comments to those reported above):

- An amended Sustainability and Energy Statement is provided. This considers unregulated energy but no further information is presented to address compliance with policy requirements.
- There continues to be no mention of water consumption requirements.
- It is unclear what role air source heat pumps will play in the overall energy strategy and what contribution they make to the carbon balance of the proposed development.
- Target values in terms of compliance with Building Regulations for building fabric are set as well as minimum performance criteria being specified.
- In order to achieve true zero carbon, offsite measures will be necessary, and no detail is provided of this as to how this will meet the renewable energy generation requirements.
- Further detail is sought to demonstrate how the detailed calculations have been arrived at.

- An assessment of the potential future changes to the energy centre heating system based on the assumption that alternative technologies with greater decarbonisation capabilities will be available is presented but there are discrepancies with this. The management of the energy centre is however not within the control of the developer therefore this cannot be relied upon as a method for ensuring the continued and/or improved carbon savings for the proposed development.

## **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)

#### Sustainable communities

- PSD1: Presumption in Favour of Sustainable Development
- SLE1: Employment Development
- SLE2: Securing Dynamic Town Centres
- SLE4: Improved Transport and Connections
- 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

#### Strategic Development

- Policy Bicester 1 North West Bicester Eco Town

#### Infrastructure Delivery

- INF1: Infrastructure

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

- S28: Proposals for small shops and extensions to existing shops outside Banbury, Bicester and Kidlington Shopping Centre
- 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)
- Eco Towns Supplement to PPS1
- 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”)
- NW Bicester Supplementary Planning Document
- Cherwell Residential Design Guide SPD

### 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
- Affordable Housing
- Transport
- Eco Town Standards (including consideration of Ecology, Flooding and Drainage)
- Design, and impact on the character of the area
- Residential amenity
- Heritage impact
- Planning Obligations
- Human Rights and Equalities

## Principle of Development

### *Policy Context and History*

- 9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan Part 1 2011-2031 and the saved policies of the Cherwell Local Plan 1996.
- 9.3. The principle of a local centre has been established on this area of the Exemplar site by way of a grant of outline planning permission through the original application for the site as a whole (10/01780/HYBRID). In addition, and following this, a full application was granted for an alternative local centre scheme in July 2016 (15/00760/F). These two previous approvals have now lapsed (i.e. they cannot be implemented), but the principle of a local centre here is established and securing its provision is important in providing local facilities to meet the needs of the development and improving the sustainability of the site by reducing the need for residents to travel offsite to reach facilities that meet their basic needs. Its position is well placed to enable access by local residents. The S106 for 10/01780/HYBRID set out the timescales for the provision of the non-residential uses (in summary by 250 dwelling occupations, the community hall and main retail unit were to be provided and by 350 dwelling occupations, the rest of the local centre is to be provided).
- 9.4. Policy Bicester 1 of the adopted Cherwell Local Plan Part 1 identifies Mixed Use Local Centre hubs to include employment and a mix of land uses and the Masterplan for NW Bicester, embedded in the SPD for the site, identifies the distribution of local centres across the wider site. The local centre in the Elmsbrook development is one of those identified. Policy SLE2 of the Cherwell Local Plan Part 1 states that the Council will support the provision of new local centres containing a small number of shops of a limited size within the strategic housing allocations on strategic sites as set out in the Local Plan. The NPPF 2019 identifies the role of mixed use developments and identifies their benefits including assisting in achieving healthy, inclusive and safe places supporting healthy lifestyles through the provision of local shops and making best use of land.
- 9.5. A further important component of the standards at NW Bicester relates to the Employment requirements. Policy Bicester 1 requires an economic strategy to be produced to support planning applications for eco town proposals demonstrating how access to work will be achieved and to deliver a minimum of one employment opportunity per new dwelling that is easily reached by walking, cycling or public transport. Local Centres were envisaged to have a roll in meeting the employment requirements across the site. The original approval for the Exemplar considered the job opportunities that the development as a whole would provide. This identified jobs on site in the Eco Business Centre, local centre, other office provision etc, offsite jobs and construction jobs as well as homeworking. The local centre scheme granted in July 2016 was to provide for a similar number of jobs as the original scheme despite the change in land uses proposed at that stage.
- 9.6. The S106 for 10/01780/HYBRID set out the timescales for the provision of the non-residential uses (in summary by 250 dwelling occupations, the community hall and main retail unit were to be provided and by 350 dwelling occupations, the rest of the local centre is to be provided).



## *Assessment*

- 9.7. A2 Dominion have been reviewing the scheme and after taking advice from Bidwells (a Business Case document is provided) have concluded that at the timescales set out in the S106, it would not be viable to provide the local centre uses (i.e. retail/ office/ public house) due to this being early in the life of the wider North West Bicester development and also taking into account the total size of the Elmsbrook Exemplar development. In addition, A2 Dominion have determined that the wider development pursued by them across other parts of the NW Bicester site are not viable if the Exemplar scheme is used as a basis moving forward therefore their view is that at this point in time, there is no certainty over the timing of delivery of the wider development beyond the 393 dwellings at Elmsbrook. Their view is that this reduces the likelihood of operators being willing to open at the site even if the buildings were provided because the catchment population would be too small and would therefore not generate sufficient custom. In addition, they argue that the provision of the Eco Business Centre has provided for the likely level of demand around office space at this point in time.
- 9.8. In response and being mindful of the timings set out in the S106 for the Exemplar phase, the applicant initially proposed a full application seeking permission for two local centre buildings, one either side of Charlotte Avenue with non-residential uses on the ground floor (the community space to the northern side and two units to the south) and 38 residential units above (distributed between the two sides of the road). Whilst the residential uses were introduced, the applicant calculated the likely shortfall in potential job numbers finding that their proposal would result in loss of around 70 opportunities. They did not however propose how they would deal with this matter in terms of replacing those lost opportunities with new opportunities to enable the site to continue to meet its requirements around employment provision (and in addition, 38 additional units were proposed therefore increasing the shortfall). In addition, the proposal would have resulted in the loss of the mix of facilities to be provided that were intended to meet the day to day needs of the early residents at NW Bicester and contribute to the sustainable nature of the site.
- 9.9. Officers raised concerns regarding this matter and highlighted that without mitigation, the proposal could only be concluded to conflict with the requirements of Policy Bicester 1 as there would be a loss of employment opportunities and no proposal to deal with this loss.
- 9.10. To address this conflict, it was suggested that a phased delivery of the local centre uses be considered. Following review, the application has been amended to propose the delivery of the building north of Charlotte Avenue early (hence it being the full application for this area of the site), with the land to the south of Charlotte Avenue following later (hence this area of the site being applied for in outline). The proposal for the southern side of the road in outline is for wholly non-residential uses.
- 9.11. The benefit of delaying the provision of the whole of the local centre (i.e. the land to the south being granted in outline and being delivered later) would be that firstly, the Exemplar development would have proceeded further, secondly, there may be greater certainty over the land surrounding Elmsbrook in terms of wider development, which would give greater dwelling numbers to encourage local centre operators to consider that opening a unit here would be viable and thirdly, it would give further time to enable an appropriate mix of local centre uses to be delivered. For example, if the Eco Business Centre has been successful in terms of operating, it may indicate there is a requirement for more office space that could be accommodated in the local centre – A2 Dominion currently argue that this is not the case. As reported, a number of local residents raised objections to the initial scheme

in respect of the loss of non-residential local centre uses and their replacement with residential units across the whole site. Whilst this approach means there is a delay in providing development on land to the south of Charlotte Avenue, it does preserve the expectation that further non-residential uses can be provided (if proven viable at a later date) therefore responding to these concerns.

- 9.12. The application therefore proposes a community centre with the potential for a café/deli within it and 16 affordable residential units above it and to the southern side, a wholly non-residential proposal to be delivered later for flexible uses including A1/A2/A3/A4/A5/B1/D1 within 3000sqm of floorspace proposed. For the southern parcel of land, a land use and building height parameter plan are provided (with the maximum building height as 16m proposed).
- 9.13. With respect to the outline proposal, the arrangements and timing for its later provision will be required to be set out within the S106 legal agreement. The heads of terms for this matter are being developed but Members are being asked to agree the principles for negotiation now. These include a requirement to market the proposed uses for a period of time and then ultimately its delivery if the scheme can be viably provided with the likelihood of occupiers being found. If occupiers are not found, then the land would be offered to the Council to deliver a scheme. The developer would also, at that point, have the option of proposing an alternative scheme (potentially involving residential development). That would require further consideration at that time through a new planning application and would take into account any changed circumstances.
- 9.14. In the circumstances, whilst it is not ideal, noting the applicant's circumstances and the uncertainty surrounding the delivery of the wider development, Officers consider that it is acceptable for there to be a phased approach to the delivery of the local centre. The delivery of the northern side of the road to provide a community facility is important as the number of residents is increasing on site and currently there is only space within the community house on the site available which is limited in terms of being able to accommodate larger groups of people. Whilst the school has some community space available, it is important that a community facility is available as was always envisaged.
- 9.15. The ground floor space is proposed to also include some ancillary A1/ A3 use. This is assumed to be a community café with a deli space. A2D envisage that the space will be the heart of the community serving as a modern, flexible community space where residents can meet, work and relax. It is not envisaged as a large-scale hall for functions but rather a communal space with meeting rooms and the café/ deli available for residents to foster a sense of community. The final potential around the café/deli is not yet confirmed in terms of how this will be managed and operated moving forward, but the approved plans would allow for this use. This has the potential to enable some local service provision to take place, and an opportunity for residents to buy some goods that meet their basic needs without needing to leave the site. Arrangements for the operator of the café/deli and then ongoing management and maintenance are envisaged to take place to include the community, and the requirement for any necessary controls regarding this matter can be considered through the negotiation of the S106 agreement.
- 9.16. Above the community hall, residential development continues to be proposed. The acceptability of this is considered below, but it is also necessary to consider the of the proposed reduction in potential employment numbers. The amended proposal has reconsidered this matter and whilst it has not provided a figure for the total number of jobs (due to the flexible nature of the southern land, which means that it is not clear what mix of uses would ultimately be delivered and therefore what number of jobs would result), it is clear that the greater amount of commercial space

now proposed would generate more employment numbers than the original scheme would have and therefore result in less of a shortfall, if any.

- 9.17. If the principle of the loss of some non-residential floorspace is to be accepted as a necessary compromise to secure the earlier delivery of the local centre, then the implication of allowing a proposal for residential units in this location also requires consideration. In principle, the provision of residential accommodation in a local centre setting is commonly found and can normally be considered acceptable in principle as it allows there to be activity within this area throughout the day and night. In this case, as well as its introduction meaning that non-residential floorspace is lost and the implications of that, there are other issues that require further assessment.
- 9.18. Firstly, the residential accommodation is proposed over the building north of Charlotte Avenue only and at ground floor, the community centre is proposed. The provision of residential development over such a space needs to be considered particularly in terms of the compatibility of the uses including in terms of noise/disturbance issues. There are no other examples of community halls with residential development over them within the Cherwell District, in fact most community spaces tend to be single storey and provided close to other local centre uses. The previously approved local centre scheme approved a community hall at first floor level sat over the main retail unit. As such, Officers consider that a ground floor community space is beneficial and allows more flexibility of use in comparison to the hall that was previously approved, but the relationship with the proposed residential use does need careful consideration.
- 9.19. In response to concerns raised regarding the compatibility of such uses, an acoustic strategy was requested and subsequently received for consideration. This concludes that with a set of design criteria for the building construction and the development of a Noise Management Plan including the implementation of an electronic noise limiter device, satisfactory conditions can be achieved. The Council's Environmental Protection Officer has advised that with regard to noise, it is agreed that the noise can be limited via suitable insulation and a noise management plan to achieve the recommended internal levels for the residential properties subject to some additional recommendations being followed. The acoustic strategy does not suggest there is a need to impose a restriction on general hours of use for the centre but it does suggest some limitations on the use of external areas (no earlier than 07:00hrs and no later than 21:00hrs), including bin emptying.

### *Conclusion*

- 9.20. The proposal for the amended scheme to deliver the local centre in two stages is considered by Officers to be acceptable in this case. Whilst it is disappointing for the whole of the local centre not to be delivered at the same time and also for a part of it to follow later, the benefit of this approach is that it may make the local centre more viable to enable a greater range of local centre uses. In the long term, this has the potential to be more beneficial than a development being delivered now of a small number of non-residential uses and a greater level of residential development.
- 9.21. The introduction of residential development in the local centre area in principle does cause some challenges in terms of compatibility of uses. In this case, it has been demonstrated through an acoustic strategy which includes suggestions relating to what a noise management plan would cover, that sufficient safeguards are being built in to ensure that the compatibility between the two uses (the community uses and residential uses) can be adequately controlled and the Environmental Protection Team raise no objections to this arrangement.

- 9.22. The provision of the community centre within a defined and relatively short period of time following the grant of the planning permission is positive and will ensure that a space for the community is delivered soon. This proposed approach as a whole will require the amendment of the original schedule 8 of the existing S106 and will require that the timescales are later than they were originally secured to be. However, in the circumstances, it is considered appropriate to proceed in this manner to enable development to continue and to secure the provision of this local facility as soon as practicable. The risk of not agreeing to this approach is further delay and uncertainty to the delivery of the local centre, with a reduced likelihood of securing a good proportion of non-residential uses.
- 9.23. The long-term management and maintenance of the community centre is important to be considered further and discussions between Officers and the developer will need to continue post committee to ensure the arrangements are suitable. This matter is considered in greater detail under the “Planning Obligations” section of this report.

#### Affordable Housing

- 9.24. The proposed residential units are all proposed as affordable housing units. Access to them is provided from the rear. 30% of the 16 units would, in any event have been required as affordable dwellings given the requirements of Policy BSC3 of the Cherwell Local Plan Part 1. Therefore 11 of the 16 units would be considered as additional to the policy requirements. This is a significant benefit of the scheme, that weighs in its favour.
- 9.25. All of the dwellings being affordable has resulted in concerns raised in respect to the initial proposal (i.e. for 38 units), particularly around the concentration of such a high number of units in one location, within proximity to phase 1 where a slightly higher proportion of the affordable housing units at Elmsbrook overall are provided and the potential impact this may have on the creation of a mixed and balanced community. The amended scheme for 16 units also raises similar issues but at a reduced level.
- 9.26. In addition, the units are all currently proposed as affordable rental units, so a mix of affordable tenures is not provided for. The Council’s guidance (as set out in the Planning Obligations SPD) on the provision of affordable units is for clusters of no more than 15 units to be provided where a tenure is mixed and no more than 10 units of one tenure to ensure mixed communities. It does confirm that the Council will be flexible and pragmatic on the clustering approach when considering site constraints or scheme densities. There is a continuing need for affordable housing in Bicester and these units will contribute towards meeting a proportion of the housing need. In this case, the Strategic Housing team have advised that it is an appropriate approach to have the whole scheme as rented tenure as it is difficult for landlords to let and manage mixed tenure flats in one block especially in relation to setting and agreeing service charges.
- 9.27. In terms of the type of affordable housing proposed, the units are currently proposed as affordable rental units but with the rent level capped at Local Housing Allowance rates. The Strategic Housing team have advised that this is acceptable, but that social rented properties would be preferable as this is the most affordable option for many households on the Council’s Housing Register. The developer has confirmed that subject to available grant funding, the affordable homes on this site could be provided as Social Rent tenure to allow this to be viable and that a Local Lettings Plan could be negotiated. It is possible that this could be through the Oxfordshire Growth Deal and other funding sources as there will be no opportunity of cross subsidy from the sale of market residential units on this site. However, the opportunity around Growth Deal funding to subsidise the scheme will require further

consideration particularly in terms of the timing of the delivery of the development in line with the requirements of the Growth Deal.

- 9.28. In conclusion, the provision of all of the units as affordable housing is of some concern in terms of providing mixed communities, however the number of units (16) is not unreasonably large and they would all be managed and maintained by A2 Dominion as the Registered Provider. The units would be for rental but whether this is at the affordable or social rent level is still to be determined through further discussion. In any event, the provision of affordable units is positive given the level of need within the District and the additional units will be valuable in meeting some of this need. This is a significant benefit that weighs in favour of the development.

## Transport

### *Policy Context*

- 9.29. The NPPF advises that sustainable transport should be promoted and considered from the earliest stages of plan-making so that potential impacts on transport networks can be addressed, opportunities for infrastructure and to promote walking, cycling and public transport can be pursued, environmental impacts can be taken into account and to ensure that transport considerations are integral to the design of schemes to contribute to making high quality places. In considering development proposals, the following considerations should apply – appropriate opportunities to promote sustainable transport modes should be taken up, safe and suitable access should be achievable and any significant impacts on the transport network should be cost effectively mitigated to an acceptable degree. Development should only be prevented or refused where there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. There are also a range of detailed criteria, including the need to give priority to sustainable modes of transport, to provide access for all, to create safe and attractive places including access for service and emergency vehicles and to enable charging of plug in and other ultra-low emission vehicles in safe, accessible and convenient locations.
- 9.30. 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. The NW Bicester SPD reiterates the requirements of Policy Bicester 1 in terms of how the site is expected to meet the standards set.

### *Assessment*

- 9.31. The application is accompanied by a Transport Statement, which has been amended to refer to the amended scheme. This considers the transport impacts of the proposal in the context of the previous approved development on this site and it uses a reference scheme in the context of the mix of land uses proposed to provide an assessment baseline.
- 9.32. With regard to trip generation impacts, a detailed assessment of the full element of the proposal has been undertaken but it has not been for the outline part of the site. Because of this, the trip generation is shown as a net decrease compared to the level of trip generation predicted in the previous application (albeit as the outline part

of the site is for approval in principle, the reality is there will not be a net decrease in trip rates). However, the original Transport Statement for the original scheme (which was a full proposal for local centre uses and 38 flats), demonstrated that there would have been a comparable trip rate generation between the consented local centre scheme and the proposed scheme. Therefore it is highly unlikely that the amended HYBRID scheme, which reduces the number of flats to 16, will lead to increased trip rates that would be unacceptable.

- 9.33. The access arrangements to the site remain as expected through the previous approved scheme for the local centre (i.e. access taken directly from Charlotte Avenue). This is acceptable. Crossings will be provided across Charlotte Avenue which is proposed to include changes in surface treatment promoting a semi shared space type environment.
- 9.34. In terms of parking arrangements, 32 spaces are proposed between a car parking area to the north of Charlotte Avenue and a space to the south of Charlotte Avenue, to the north of the energy centre, which would become a landscaped parking area. 16 of the spaces would be allocated for the 16 residential flats leaving 16 as visitor spaces. Three accessible car parking spaces are to be provided. The 16 visitor spaces would be time limited with the residential spaces controlled by a permit arrangement. The level of car parking provision for the southern block will be determined at the reserved matters stage. The number of parking spaces complies with standards relating to NW Bicester given the sustainable nature of the site and the promotion of other forms of transport measures and the position of this site in the local centre area is within close proximity to the bus stop and the local facilities to be provided. The Highway Authority have raised no objection to this number of parking spaces in principle.
- 9.35. In terms of cycling parking, 53 spaces are proposed for the northern block as a combination of staff/ resident and visitor spaces. These would be a combination of Sheffield stands and covered secure shelters close to building entrances. These are demonstrated on the plans but no details of the external stores have been received which should be sought via condition. Cycle parking to the southern side would be provided in line with standards and considered at a reserved matters stage.
- 9.36. In terms of manoeuvring of servicing and delivery vehicles, vehicle tracking has been provided. The concern with this has been that for the northern block, this relies upon the use of the Eco Business Centre car park. Town Square who operate the Eco Business Centre have confirmed that they are content for the car park to be used as part of the manoeuvring required. They have also confirmed that there would be no barrier control to restrict access. This matter is being checked internally given the District Council's interest in the Eco Business Centre.

### *Conclusion*

- 9.37. No objections are raised by OCC as the Highway Authority other than in respect of some concern regarding the manoeuvring of large vehicles for servicing and to collect waste. Otherwise, matters are proposed to be sought via planning condition to ensure the details of the site, the materials to be used for the surfacing through the street to ensure a high quality development and to ensure the provision of infrastructure to secure matters such as EV charging points in the interests of sustainability.

## Eco Town Standards (including consideration of Ecology, Flooding and Drainage)

### *Policy Context*

- 9.38. Policy Bicester 1 sets out the requirements for the development in terms of the standards expected. This builds on the initial allocation for the site as set out in the Eco Towns PPS. Also of relevance is the SPD for NW Bicester, which expands upon Policy Bicester 1, providing further detail to the policy and a means of implementing the strategic allocation at NW Bicester. Each of the PPS/ SPD requirements are considered below:

### *Zero carbon*

- 9.39. The requirement to achieve true zero carbon is an important policy requirement of Policy Bicester 1 and the SPD gives further detail. The SPD has not been specific about how the standard should be achieved, only that it must be. In this case, the initial energy statement did not commit to meeting the true zero carbon requirement and it did not consider the unregulated energy use.
- 9.40. Following advice that there was a need for the true zero carbon standard to be met, a further energy strategy has been provided. This strategy concentrates on the northern building as that is the part of the site being pursued now. The strategy follows the energy hierarchy by using passive design measures, by using active design measures and through the use of low and zero carbon technology including the building being connected to the existing energy centre, the provision of rooftop PV and air source heat pumps. It is identified that this approach achieves a total of a 55% reduction in total carbon emissions (regulated and unregulated). This does not however enable the building to achieve the true zero carbon target and 24.67 tonnes of CO<sup>2</sup> would need to be offset to enable the target to be achieved. A2 Dominion confirm they are committed to achieving this target and will develop an offset solution. Tyrens have however raised some queries over the robustness of the figures used in terms of their basis. This is likely to be because at this stage full details of the building fabric etc are not yet known and so an updated strategy could be sought as the details of the scheme evolve.
- 9.41. A condition could be used to require this offset solution to be agreed and this would be sensible however there is currently no indication as to where this offset could be provided and even whether it could be provided locally (i.e. within Bicester). In addition, there is no indication of how the outline area of the site would meet the requirements albeit this could be the subject of a planning condition which is considered appropriate in this case given the scale of the development and this follows the approach to securing this information through the original HYBRID application.
- 9.42. There is a potential approach to seek a contribution to be used by the Council towards more local offsetting in Bicester, which would need to be secured through the S106. This matter requires further exploration before the most appropriate route can be determined and Members are asked to delegate to Officers to negotiate the most appropriate route. In light of the above, it is considered that the development can achieve the true zero carbon requirement, however it is likely to be reliant on offsite solutions.

### *Climate Change adaptation*

- 9.43. The issue of reducing carbon emissions is important in reducing and adapting to the impacts of future climate change scenarios. The most likely impacts needing to be addressed in the future is that of overheating in buildings and water stress. The SPD

confirms that planning applications will be required to incorporate best practice on tackling overheating and other measures such as urban cooling through green infrastructure, consideration of orientation and include water neutrality measures as well as meeting fabric energy efficiency standards. Policy Bicester 1 requires new buildings to be designed to incorporate best practice on tackling overheating and to demonstrate climate change mitigation and adaptation measures. In addition, Policy ESD1 seeks to incorporate suitable adaptation measures in new development to ensure development is more resilient to climate change impacts.

- 9.44. In this case, an overheating analysis document has been submitted considering the full element of the scheme. This considers the 16 residential units and takes a selection of apartments of different sizes and orientations to consider those with the highest risk of overheating. The weather file for this analysis is a 2020s high emission scenario in line with guidelines. The thermal simulations show that all the assessed spaces can achieve compliance with the requirements in CIBSE TM59 (the technical memorandum which defines a standardised approach to assessing overheating risk in residential buildings using dynamic thermal modelling) with mechanical ventilation and the use of blinds. Some rooms are reliant on blinds to meet the standards. The Community Centre is to be provided with active cooling to provide thermal comfort in the summer given the high occupancy densities expected in the spaces so they have not been considered further.
- 9.45. The assessment confirms that for the scenario tested as long as adequate solar gain reduction is included in the design (i.e. the use of blinds), that there would be compliance with CIBSE TM59 and therefore the units should not overheat. For the rest of the Exemplar, overheating risks have been considered against the current weather scenario and two future weather projections (2030 and 2050). The 2050 scenario in particular has not been tested and it is considered that this should be sought in order to enable assessment of this future climate scenario.
- 9.46. In addition, the application is accompanied by daylight/ sunlight reports. With regard to the Community Centre, the analysis shows that 87.9% of the occupied spaces achieve compliance with the average daylight factor limit of 2% and therefore it would achieve the requirements against BREEAM criteria. With regard to the residential units, 64% of rooms within the proposed apartments meet the recommended targets for Average Daylight Factor and all kitchen/ living rooms except in two apartments do not meet the target of 2% primarily because of overshadowing from a development to the south of Charlotte Avenue, due to the majority of them being of a single aspect only and in some cases due to projecting balconies. The report concludes that the proposed residential units will have a reasonable level of compliance with the daylight and sunlight recommendations albeit there are some improvements that could be made in terms of the size of windows for some apartments. Officers consider that the conclusions reached are reasonable in this case.
- 9.47. In terms of other adaptations, the general design to meet zero carbon requirements will result in a sustainable form of development that will by its nature incorporate best practice. In terms of other impacts around landscaping for urban cooling and water neutrality, these will be considered later in this appraisal.

### *Homes*

- 9.48. There are a number of requirements related to homes proposed at NW Bicester. These predominantly relate to the high environmental and space standards sought and these matters are considered elsewhere in this report. The location of homes across the site is also important in terms of the creation of walkable neighbourhoods and ensuring that they are accessible to local facilities. The density and type of



house types is also described as important as well as being able to be adaptable and flexible for residents.

- 9.49. In this case, given the dwellings proposed are in the centre of the development, within the realms of the local centre area, they are located in a highly sustainable part of the site. In addition, the Housing team have confirmed that the size of the dwellings meets the Nationally Described Space Standards therefore they are sufficient in terms of space standards. The density of the development will be considered later in this report but in terms of the type of dwellings proposed, these are 1 and 2 bed apartments for the purpose of affordable housing, which is needed in the District. There is also likely to be a local lettings plan for the units so that they are prioritised for key workers or families with older children.
- 9.50. Taking into account the above, the proposal is considered to comply with the requirements around homes and the standards sought.

#### *Employment*

- 9.51. There are various policy requirements through Policy Bicester 1 relating to the employment requirements at NW Bicester. The main one which related to this site is the provision of local centre hubs to include employment and the number of employment opportunities to be provided per new dwelling that is accessible by walking, cycling and/ or public transport. These issues are assessed in the principle section above related to the principle of this development as a whole.
- 9.52. The other matter within the employment requirements of Policy Bicester 1 is the requirement to achieve BREEAM Very Good standard with the capability of achieving Excellent. BREEAM Very Good level is currently being targeted, which is in compliance with the policy requirements.

#### *Transport*

- 9.53. 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.
- 9.54. The site being an inherent part of the local centre means that the range of travel planning measures already being implemented at the Elmsbrook development are in proximity. These are detailed within the Travel Plan, which also sets targets for modal share (of which there are high standards sought at NW Bicester) and include the existing E-car club vehicles, proposals for electric vehicle charging points, the existing Travel Plan Co-Ordinator, the requirement for monitoring, the use of the use of real time information including relating to travel information and the promotion of sustainable modes of transport. It is proposed that the residential occupiers will be covered by the original Travel Plan for the site and that each non-residential occupier at the Local Centre would prepare their own individual travel plans.
- 9.55. As noted earlier in this report, no objections are raised by OCC as the Highway Authority. The proposal is considered acceptable in transport sustainability terms, subject to conditions.

### *Healthy Lifestyles*

- 9.56. Policy Bicester 1 sets out the need for local service provision. This assists in meeting requirements around healthy lifestyles as the provision of services within walking and cycling distance will help to deliver healthy neighbourhoods as set out by the SPD. The SPD also confirms that providing facilities which contribute to the wellbeing, enjoyment and health of people is positive.
- 9.57. The provision of a local centre as a whole meets the aims of seeking to achieve healthy lifestyles. The phased provision of the local centre in this case will provide an important local facility (in this case the community centre), which will be a flexible space taking into account the proposals for the café/ deli space. In addition, the later delivery of the rest of the local centre, as explained has some benefits in potentially providing for a greater range of local centre uses. The provision of a community space and later other local centre uses will increase the sustainability of the site and the range of local facilities provided within walking/ cycling distance of the residential properties. This is positive in meeting the requirements around improving the health and wellbeing of people.

### *Local Services*

- 9.58. The SPD identifies that community facilities and local services are important in providing attractive places where people will want to meet and spend time and provide a destination for local residents to visit.
- 9.59. The proposals as part of this application are for a community centre, which is important to give the community a focal space to meet and its ability to also include some local service provision in the form of a café/ deli is positive. The later local centre uses are proposed as flexible uses at the moment but eventually, this will achieve a mix of uses such that it will be a provision to meet the needs of local residents and provide some employment opportunities. This proposal therefore meets the required standards in this respect.

### *Green Infrastructure*

- 9.60. The PPS requires that 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. 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.
- 9.61. The Exemplar as a whole provides over 40% green infrastructure in a range of forms including public open space, the stream corridor, allotment provision and hedgerow lanes. The proposal for the Local Centre does not change the level of green infrastructure through the rest of the Exemplar. Whilst this is a standalone full application, it must be considered in the context of the wider site and thus the level of green infrastructure is not changed by this proposal. There is one discrepancy noticed relating to the location of the community garden and whether this was originally counted as part of the river corridor and therefore whether this would result in a reduction in the 40% green infrastructure provision. Whilst this would be unfortunate if that were the case and it could result in a reduction of green

infrastructure, in this case, the area is to be used as a community garden and therefore remains publicly accessible by virtue of its association with the community building. This would still comply with the requirements of the policy as at least half must be publicly accessible.

- 9.62. The proposal does however propose green landscaped areas around the building and as part of the street arrangement as discussed as well as a garden for the community building and therefore the scheme is considered to be acceptable. The proposal is therefore considered to comply with the policy requirements around green infrastructure as far as it can, albeit it does not change the overall provision across the wider site.

#### *Biodiversity*

- 9.63. Policy ESD10 requires the protection and enhancement of biodiversity and the natural environment and this includes the protection of trees and hedgerows, an assessment of the potential to cause harm to protected species or habitats and to achieve a net gain for biodiversity. Policy Bicester 1 also refers to the need to achieve a net gain for biodiversity. Biodiversity is also a development principle important in meeting the eco town standards to achieve a net gain and to mitigate and enhance.
- 9.64. There are also Legislative requirements set out in The Conservation of Habitats and Species Regulations 2017 which must be taken into account in considering development proposals where habitats or species might be encountered.
- 9.65. In this case, the land has been used for site compounds as part of the development of Elmsbrook to date and as confirmed by an ecological summary submitted with the application, the land on both sides of the road is predominantly covered by hardstanding with evidence of some colonising species therefore they have little ecological value and with no evidence of protected fauna species. There is an offsite hedgerow to the southern boundary of the site which is an important ecological feature, but this would be retained (and tree protection measures would be required) therefore will not pose a constraint. In addition, some general safeguards are suggested for mammals and to give consideration to existing bird boxes.
- 9.66. Given the above, a full assessment as to likely harm and the need for further surveys is not required. An informative reminding the applicant of their duty to protected species can be included on the decision notice and is considered sufficient to address the risk of any residual harm.
- 9.67. The potential for biodiversity enhancements and a consideration of whether a net gain for biodiversity can be achieved does however require further assessment.
- 9.68. Mitigation and enhancement measures are proposed including hedgerow and tree protection, pollution prevention measures, sensitive lighting schemes, general mammal safeguards, new planting (including native species predominantly), the provision of bat and bird boxes, invertebrate hotels and potentially green roofs. Planning conditions can be used to secure these matters as these will be of benefit to the scheme. The introduction of diverse habitat types and the installation of faunal enhancements would be beneficial to biodiversity and result in some gains in this respect.
- 9.69. The updated Ecological Summary submitted to support the amended scheme also includes details of a biodiversity net gain assessment undertaken. This concludes that the outline and full proposals will result in no net loss in biodiversity but that they cannot achieve a net gain. This is due to the limited scope given the small size and

the nature of the proposals which do not allow for significant areas of habitat enhancement or creation.

- 9.70. In the current circumstances whereby the wider Exemplar site was considered, and a net gain considered achievable across the whole site, noting that the current application site is effectively a development parcel within that wider site, the position as noted is considered, on balance to be acceptable. The fact that no net loss results is important, and the enhancement measures will be valuable in contribution to a net gain across the wider Exemplar site as a whole.

#### *Water*

- 9.71. As referred to earlier, water stress is one of the key likely future climate scenarios of risk to this area. In light of this, Policy Bicester 1 refers to the provision of infrastructure to allow for water neutrality and for water cycle studies to be provided to set ambitious water efficiency targets and demand management. The NW Bicester SPD also refers to the need for there to be a design standard applied to limit the average per capita consumption of water and for rainwater harvesting to be incorporated.
- 9.72. The application is light on detail regarding this matter but the BREEAM pre-assessment document refers to water consumption and refers to specifications of low water use sanitary fittings and white goods and it confirms that additional credits are available for rain water or grey water harvesting. In this case, it is considered appropriate to impose a condition relating to water consumption and to seek further detail on what measures will be imposed relating to rainwater harvesting/ low water use sanitaryware etc.

#### *Flood Risk Management*

- 9.73. Policy ESD6 and ESD7 require development to consider the likelihood of flood risk impacting development, with development proposals expected to be located in areas at lowest risk of flooding. Site specific flood risk assessments are also sought in certain situations. The drainage arrangements are sought to be provided as sustainable drainage systems to manage surface water run off along with arrangements for their management and maintenance.
- 9.74. A Flood Risk Assessment and Drainage Statement has been submitted and an amended version to support the amended scheme provided. In terms of flood risk, the site is situated in flood zone 1 which is classified as a low probability of flooding from all sources and therefore the site is suitable for development. This is consistent with previous proposals, which have approved development on this site.
- 9.75. In terms of drainage, initially an objection was received from the Drainage Team at OCC due to insufficient data provided to enable full technical audit of the drainage/ flood risk/ SUDs use for the site. Additional information was provided directly to the Drainage Team and included within the updated FRA. This identifies the use of permeable paved surfaces and soakaways as the predominant SUDs techniques for this site. In response to the additional information received, the OCC Drainage Team confirm they have no objection subject to the imposition of a condition to secure a detailed surface water drainage scheme for the site including various details and a maintenance/ management plan. There are some concerns raised regarding the proposed soakaways due to their depth and the potential for them to be affected by groundwater which may mean that shallower soakaways would be required to ensure that the infiltration systems are 1m above groundwater. Nevertheless, this matter can be further considered through information submitted to

address a planning condition, which was the case on the previous permissions and therefore indicates that a suitable drainage scheme is achievable.

- 9.76. SUDs also have a role in terms of biodiversity enhancement. In this case, the site is constrained by its size and so a drainage arrangement that represents a SUDs scheme and functions as it should is considered acceptable. In addition, there are SUDs features across the site, which would have biodiversity benefits.

#### *Waste*

- 9.77. Policy Bicester 1 requires the provision of facilities to reduce waste, to encourage recycling and to ensure that high targets to facilitate waste reduction are set. In addition, the sustainable management of waste is sought including to ensure no construction, demolition or excavation waste is sent to landfill.
- 9.78. The Planning Statement provided with the application which confirms that a site waste management plan will be developed to include a sustainable waste and resources plan covering commercial waste and setting targets for residual waste, recycling and landfill diversion. This can be secured by planning condition. Waste and recycling facilities will be provided for the different land uses and these are shown on the proposed plans, albeit these may not be sized appropriately. A condition is suggested in relation to this matter.

#### *Community and Governance*

- 9.79. Policy Bicester 1 requires the submission of proposals to support the setting up and operation of a financially viable local management organisation (now referred to as a community management organisation or CMO) by the new community to allow locally based long term ownership and management of facilities in perpetuity. The NW Bicester SPD provides some further detail on this matter.
- 9.80. Over the NW Bicester site, the intention is to seek financial contributions towards the CMO to be used towards the single organisation started at Elmsbrook by virtue of the requirements of the S106 attached to the Exemplar phase. The CMO is in its early stages and is known as ECO (Elmsbrook Community Organisation). As this site is an inherent part of Elmsbrook, A2 Dominion have obligations around the first stages of the CMO as set out in the S106 already and given the scale of the development, it is considered that this proposal should be linked to those S106 requirements so that the site continues to be bound by the requirements that apply to the rest of Elmsbrook. This seems a reasonable approach for this development site. Also linked to this matter is the point regarding long term management and maintenance of the community centre by the CMO which has always been envisaged. This is discussed in detail later in this report.

#### *Cultural Wellbeing*

- 9.81. At NW Bicester there is a cultural wellbeing strategy appended to the NW Bicester SPD which seeks to make NW Bicester a culturally vibrant place through high quality design and community engagement and which responds to the Policy Bicester 1 requirement for public art. The idea of cultural wellbeing is that it is a more engaging activity than traditional public art schemes. In order to secure this, the S106 requirement has been to secure a cultural wellbeing statement that sets out how this scheme will contribute to the requirements overall at NW Bicester. It is considered appropriate for this to apply to this scheme given that the site proposes additional residential development.

## *Conclusion*

- 9.82. As can be seen from the above assessment, the proposal has responded positively to the Eco Town Standards as set out through Policy Bicester 1 and the NW Bicester SPD. The achievement of these standards can be secured through the required planning obligation and conditions where necessary.

### Design, landscaping and impact on the character of the area

- 9.83. The need for good design is a well-established principle of Planning Policy being a requirement of the NPPF, Policies ESD15 and Bicester 1 of the Cherwell Local Plan Part 1 and Policy C28 of the Cherwell Local Plan 1996. At NW Bicester, and as identified in the SPD, sustainability is a key driver in the design of the eco town as a fundamental principle in achieving a zero carbon development.
- 9.84. 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. Adopted Cherwell Local Plan Policy Bicester 1 requires 'a well-designed approach to the urban edge which relates development at the periphery to its rural setting' and development that respects the landscape setting and demonstrates enhancement of wildlife corridors. 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.
- 9.85. The application does not include a landscape and visual assessment, however given the site sits within the extent of the Exemplar site and would be of a similar scale to other development on the site (including within the local centre area), it is unlikely that the local landscape character would be harmed by this proposal.
- 9.86. In its amended form, the design of the northern block and the parking area to the south of Charlotte Avenue are the only areas of the site for detailed consideration. The design of the north block has been considered in some detail and provides for a contemporary approach to the design, which also responds to the eco business centre, which sits adjacent to the site. The building is essentially an L shape. The element of the building that sits adjacent to Charlotte Avenue is a flat roofed element (flat roofed elements are found at Elmsbrook) which extends to 12m in height, which is similar to the Eco Business Centre (the top of the timber fins rather than the bulk of the building itself).
- 9.87. The west elevation of the building that fronts onto the river corridor gives the impression of a three narrow gable fronted terrace and this area is taller at 15m in height. This is to be proposed with a mixed material palette to break up the bulk of the building including the use of red brick and a standing seam metal cladding. This is the predominant material palette used across the building as a whole with some timber cladding on the east elevation fronting towards the eco business centre. In some areas, the red brick is to be laid to give a detailed effect to add further interest. Planning conditions can be used to seek samples of the materials palette and to seek detail of the detailed areas. Whilst the standing seam cladding is not found elsewhere at Elmsbrook, it is considered acceptable for the local centre to make a statement and use a material that is different but sympathetic to the material palette overall. PV is to be installed on the roof of the building both on the flat roofed element of the building and on the south facing pitches of the gable ends. Balconies and overhanging roofs over are proposed, which provide more visual interest to the building alongside the mixed materials palette.

- 9.88. The Local Centre has always been planned as a focal area of the site and the previous scheme planned bookends at each end of the local centre to act as gateways to the space. The current proposal continues this approach as the end of the northern block has a greater height and will be a marker as you enter this area.
- 9.89. Given its scale, the northern building will inevitably be of a greater height than the rest of the site and this has resulted in some concern from third party comments. Whilst this is noted, it is common for a local centre to be of a greater scale than surrounding residential development, which at Elmsbrook is relatively low density. Providing the impact of the development is considered acceptable, it is not considered to be unacceptable for this area to be treated in such a way. The greater height along the river corridor edge may feel more imposing than had a lower building been proposed but this is a wide, open area and the design has been concluded to be appropriate. In the circumstances, it is not considered that the scale or the density of the development is unacceptable.
- 9.90. The outline element of the site is likely to follow the design approach established by the northern block as described by the Design and Access Statement (the full permission application made sought a building of a similar design). Whilst this is not for consideration now, this is likely to be an acceptable approach. Instead, two parameter plans are sought for approval. A land use parameter plan which shows a mixed-use area across the whole of the southern land (albeit this would be controlled at no more than 3000sqm giving space for required matters such as parking) and with building heights proposed up to 16m across the whole area. 16m is higher than the development proposed to the north, however this side of the road is less constrained as there are no existing residential properties within close proximity (other than those to be provided in the block to the north once built). In any event, 16m is a maximum and the detailed scheme would need to take into account constraints at the time it is made such that an acceptable form of development results. It is considered that with the parameters set now, there will be a design approach for the outline part of the site that will be appropriate to fit into this area.
- 9.91. The proposal seeks permission for a car parking area to the south of Charlotte Avenue for 12 spaces. This is designed to include planting and benches along the edge of Charlotte Avenue to create a pleasant landscaped environment. Further details of this area should be sought via planning condition. The proposals also seek to create activity along the Charlotte Avenue route and at the western end of the site and included in this is a public space. The design is likely to continue the concept along the rest of the route of trees along the northern side of the road. Details of the design of this route and landscaping for the site as a whole should also be sought.
- 9.92. A number of concerns were raised by the Police Design Advisor. These were mainly detailed comments relating to lighting and matters that would likely evolve through the detailed design of the scheme. The recommended planning condition relating to secured by design standards is suggested, which follows the approach taken on the wider Exemplar site.
- 9.93. The Design and Access Statement proposes a signage strategy. In the case that the non-residential development predominantly sits to the south of Charlotte Avenue with signage on the community hall and café/ deli to the north, it is considered that details of any signage that is required for this building could be sought for approval via condition (or indeed it may require its own advertisement consent).
- 9.94. Given the above assessment, the design of the proposal, particularly the element sought in full is considered to be acceptable subject to the imposition of conditions to control certain matters such as the need to agree materials and detailing to ensure the creation of a quality environment in this part of the site.

### Residential amenity

- 9.95. The creation of an environment that creates a high standard of amenity for existing future users is important and established in policy including ESD15 of the Cherwell Local Plan and the NPPF.
- 9.96. The northern side of Charlotte Avenue is sought in full and there are existing residential properties to the north (8 in total, 4 behind the eco business centre and 4 behind the proposed local centre). At its closest point, the building will be 25m from the rear of the closest residential unit (15 Pippin Close) but, taking into account the angles, the flat roofed element will be the element directly behind that closest neighbour. This is a distance of 29m and this element is 12m high. Other neighbours would be similarly affected. The taller section of the building sits to the south west of 15 Pippin Close and so will be within proximity. Section drawings have been received in order to demonstrate the impact which also assists in considering the impact of the levels given the changes in this area whereby the land drops to the west and the properties in Pippin Close step down. The building itself is designed to be on one level. The scale of the building and taking into account the level changes will provide a more dominant building than was previously approved, however the tallest element of the building is not directly to the rear of the residential properties and therefore this limits the impact to a degree.
- 9.97. Taking into account the distances involved as well as the previously approved scheme where development has been approved in this area (albeit not including residential development and not of the same height, particularly across the whole of the western section), the assessment below relating to daylight/ sunlight impact, and taking into account the level changes, it is considered that there will unlikely be an unduly harmful impact upon the amenity of the occupiers of the units to the north from this proposal from loss of light or overdominance such that the proposal could be resisted on these grounds.
- 9.98. The Daylight and Sunlight Assessment also considers the impact of the proposed development upon the residential properties to the north of the site and the likely impact upon their amenity. The conclusion confirms that the results indicate that the impact on daylight and sunlight within existing residential units to the north of the site will be minimal, albeit there are two bedrooms that will be affected by a reduction in daylight penetration that could be noticeable to occupants. The results indicate that the quantity of daylight and sunlight within the existing dwellings would remain above recommended levels and that rear gardens would not be unduly overshadowed by the proposed development. This is considered an acceptable impact upon the amenity of the properties to the north given a local centre in this area has been planned as part of the development and the scale of the development has been assessed to be acceptable.
- 9.99. In terms of privacy impacts, the distances involved exceed those normally sought where residential properties back onto each other (22m) albeit the scale is larger, with a second floor of residential accommodation and there will be flats provided with their only aspect facing north and balconies are provided for their amenity (to the flat roofed block element only). In the circumstances, whilst there will be some loss of privacy, given the distance of almost 30m between the rear of the flats and the residential dwellings, it is not considered that the impact would be unacceptable in this case.
- 9.100. Overall Officers conclude that the amenity of existing and future development would be protected, in line with Policy ESD15 and the Framework.



## Heritage Impact

9.101. Whilst there are no heritage constraints directly within proximity of the site, the Exemplar phase did include mitigation, particularly around the materials to be used taking into account the listed building at Home Farm to the north. In this case, there are intervening uses now (the existing development) and the proposed development is of a scale and type that was expected in this part of the development site. As such, Officers consider there is no need to consider heritage impacts further.

## Planning Obligations

9.102. The application site will require a S106 agreement to secure various matters and to vary the requirements of schedule 8 of the original agreement attached to 10/01780/HYBRID (as linked to 15/00760/F) concerning the delivery of the local centre. It is proposed for this agreement to continue to secure the requirements that the original S106 secured as follows:

- The requirement for community development work
- The requirement to comply with the Training and Employment Management Plan approved for the Exemplar site including the provision of apprenticeships
- The requirement to support the setting up and the early stages of the Community Management Organisation
- The requirement to comply with existing obligations around open space, allotments and play
- The requirement to build to the required building standards as amended by the proposal (i.e. to build to BREEAM Very Good rather than Excellent)
- The requirement to monitor the development against the PPS standards
- The requirement to comply with OCC schedules including travel planning, bus provision and other highway related matters.

9.103. There are also some additional contributions now identified including some to ensure consistency with the wider NW Bicester development site (given the residential units are additional over and above those approved by 10/01780/HYBRID). These would be proportionate to the 16 units now proposed:

- Contributions towards an NHS Health Facility to meet the healthcare needs of the new residents
- Contributions towards neighbourhood policing
- Contributions towards primary schools (to recoup funds used to forward fund the existing Gagle Brook Primary School)
- Contributions towards the secondary school at NW Bicester
- Contributions towards offsite sports facilities at Bicester Leisure Centre
- Contributions towards the capital cost of providing sports pitches to serve the NW Bicester site and their long term management and maintenance

- Contributions towards the burial ground proposed to be provided
- Compliance with the cultural wellbeing approach at NW Bicester
- Contribution towards waste collection measures
- A contribution towards the administration costs of monitoring the agreement.

9.104. As regards the required amendment to schedule 8 of the existing agreement, this will need to pick up the new arrangements for the delivery of the local centre including the timing of the provision of the first phase and the arrangements for the second phase. Officers are seeking Members' agreement to secure the following:

- Arrangements to market the outline site area for a fixed period of time with the marketing commencing in accordance with a marketing strategy to be agreed within 3 months from the grant of permission, with marketing commencing 1 month following the agreement of the strategy and the requirement for regular reviews,
- Fixed timescales for its timely provision if an occupier/developer is found,
- The site to be offered to the Council if no occupier/developer is found during the marketing period, and it is concluded by the applicant that a non-residential scheme remains unviable.

9.105. The matter of how the community centre will be managed and maintained in the long term is also a matter currently under discussion. The current S106 arrangement is for the community centre to be offered for transfer to the Local Authority (or its nominee, which could be the Community Management Organisation on the site) with a commuted sum for its long-term management and maintenance unless the Local Authority declines the offer. In that circumstance, the building would remain with the developer but in any event always for the purpose of community activities.

9.106. In this case, there are two complications. Firstly, the centre is proposed within a building that accommodates affordable housing on its first and second floors retained by the applicant as the Registered Provider, which would mean that the building as a whole would likely need to remain with A2 Dominion in terms of long-term management and maintenance. This would therefore require a lease arrangement, the details of which would need to be worked through in order to enable the community to manage and maintain the hall as a public space. The detail of this arrangement is still being negotiated and matters such as the length of the lease is important to ensure the community have the ability to run the centre as a community led space in the long term as is envisaged by Policy Bicester 1. Secondly, the proposal for a café/ deli on the ground floor of the community space will also require an operator to run that space. This also requires further negotiation to determine how this arrangement will work in practice to ensure an appropriate balance between what could be a commercial operator and the availability of the space as a community asset.

9.107. In addition to the requirements set out at paragraphs 9.102, 9.103 and 9.104 above, Members are therefore also requested to delegate authority to Officers to negotiate acceptable arrangements for the long term management and maintenance of the community centre and café/deli, for the benefit of the community. This includes the timescales for a lease, the timescale and support that the Elmsbrook Community Organisation will need to take on its long-term management and maintenance and funding arrangements for this.

- 9.108. The application must also secure the required affordable housing (30%) as well as the normal arrangements for the tenure, its retention and any local lettings plan. It is understood that if units are affordable and which are subsidised by Growth Deal funding, then these are not required to be secured by the legal agreement as arrangements by virtue of them benefitting from funding will retain them for this purpose. There may need to be a reference to the units in the agreement in any event if Growth Deal funding were not available for any reason and the arrangement will be discussed, including the Strategic Housing Team through the S106 process.
- 9.109. As referred to within the assessment as to how the site achieves the true zero carbon requirements, there is a need for offsetting in this case as the standard cannot be achieved on the site itself. A scheme for offsetting could be sought via condition but, if a financial contribution were to be sought to offset locally (and it is understood the Council has some projects that a contribution could be used towards), then this would need to be secured through the S106. This matter requires further consideration as to whether there is an opportunity to seek a contribution and use it for offsetting and if so, what this contribution would be based upon taking into account the CO2 needing to be offset or whether it is a more suitable arrangement to seek an offsetting scheme. Members are requested to delegate negotiations on this matter to Officers.

#### Human Rights and Equalities

- 9.110. 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.
- 9.111. 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*

- 9.112. 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 will be invited to the public meeting of the Planning Committee and have 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*

- 9.113. 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*

- 9.114. 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.
- 9.115. 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. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 10.2. The application site is an important part of the Exemplar development and is identified to deliver a local centre to support the sustainable nature of the site. Timescales were set out in the original S106 agreement to ensure its timely delivery at an early stage of the development to ensure the sustainability aspects of the site were embedded from the earliest stage possible.
- 10.3. The applicant has presented evidence to show that at such an early stage, the delivery of a local centre would not be viable in terms of securing occupiers to open non-residential units due to the limited number of occupied dwellings and the lack of certainty around any more than those permitted on the Exemplar being completed and occupied in the near future.
- 10.4. Following concerns with the originally submitted scheme, which included a significant amount of residential, an alternative proposal has been negotiated. This would see the delivery of the community building and a potential café/deli start within a 2-year period following the approval of the application. This would be highly beneficial in securing the community space that is needed for the development and provide the opportunity for a café/ deli which could also sell some basic items to meet day to day needs. This would contribute to the social and economic sustainability of the site.
- 10.5. Outline planning permission is sought for the rest of the local centre to the southern side of Charlotte Avenue. Whilst it is unfortunate for there to be a delay in additional non-residential uses being provided, it is considered that this is a justified delay in that any change in circumstances (i.e. more certainty over the delivery of development around the Exemplar site) could mean that there is greater potential for a viable and therefore vibrant local centre to be delivered which would be beneficial for the site in the long term.
- 10.6. Above the community building, 16 affordable residential units are proposed. The acceptability of these units is considered in detail through this appraisal in respect to the type of affordable housing units proposed and their compatibility with the community uses on the ground floor. Overall, it is considered that these units can be acceptably accommodated in this location without undue harm. As explained, there is the potential for Growth Deal funding to be available to support these units being provided as Social rented properties, albeit if this is not available, the units would be provided as affordable rented units capped at local housing allowance levels. This

carries weight in favour of the development in terms of the provision of affordable housing to meet local need. This contributes to the social sustainability of the site.

- 10.7. The arrangements for the management and maintenance of the hall require some further discussion through the S106 negotiation process, however it is considered that there will be a suitable arrangement that in the long term ensures the space is available for the community and can be locally managed and maintained. This also contributes to the social sustainability of the site.
- 10.8. The various impacts of the development have been assessed through this appraisal in terms of the way the development meets the Eco Town Standards set through Policy Bicester 1 and the NW Bicester SPD. This has considered a range of matters such as whether the development has been designed to be adaptable to future climate scenarios, particularly in terms of the known risks around overheating and water stress as well as matters around waste, community infrastructure and management, the provision of green infrastructure, local services and the creation of healthy communities and employment opportunities.
- 10.9. The achievement of true zero carbon is an important aspect to the requirements for development at NW Bicester and is required by Policy Bicester 1 of the Cherwell Local Plan Part 1. It has been demonstrated that this site cannot achieve the requirement on site, however the applicant has confirmed their commitment to the achievement of this target which will rely on offsetting measures. Arrangements can be put in place now, through the S106, to secure a scheme for carbon offsetting or a contribution if that is concluded the most suitable alternative to ensure that this scheme meets the high standards sought at NW Bicester.
- 10.10. In addition, the transport impacts of the development (which have been assessed in the context of the previously approved development on the site) and whether the design and layout of the development are acceptable and can create a standard of amenity for existing and proposed occupiers that is of an acceptable level have been considered. Detailed matters such as whether a suitable drainage arrangement can be provided and whether the development can be accommodated without causing harm to biodiversity (and its enhancement) have also been assessed and found to be acceptable.
- 10.11. The completion of a S106 agreement is necessary to secure the matters detailed earlier in this report as well as the imposition of a set of conditions. On this basis, the development can be appropriately controlled to result in an acceptable form of development taking into account all planning constraints and to meet the necessary standards.
- 10.12. Overall, it is considered that the development proposed is acceptable on balance as it will enable the delivery of a much-needed community space to support the existing and future residents in the near future and it will secure the delivery of further non-residential space later. The provision of affordable housing is of benefit to the District as a whole and it has been demonstrated that it can be delivered without causing unacceptable harm. Based upon the above, the application is considered to comply with the policies listed earlier in this report and is recommended for approval as set out below.

## 11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS (TO BE DEVELOPED INTO FULL WORDING) SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE MATTERS SET OUT AT PARAGRAPHS 9.102-9.109 OF THIS REPORT.**

### Planning conditions

Below is a list of suggested planning conditions, the full wording of which will be developed prior to Planning Committee, in discussion with the applicant, and provided as part of the written updates:

1. Time limit for the implementation of the full element of the scheme (2 years from the date of permission)
2. The requirement to submit reserved matters for the outline element of the scheme
3. Time limit to submit reserved matters (to be confirmed in the written updates)
4. Time limit to implement the reserved matters
5. Compliance with the approved plans and documents
6. Approval of materials samples of all types of material (roof, walls, hard surfaces)
7. Approval of window and door details
8. Details of any retaining structures
9. Full details of the treatment and crossings of Charlotte Avenue including the parking area proposed to the south to include landscaping, materials and street furniture
10. Full details of the parking and manoeuvring areas
11. Full details of cycle parking enclosures
12. Full details of waste and recycling facilities
13. Provision of a construction management plan to include construction traffic management
14. Details of facilities to be provided at the bus stop including real time information
15. The requirement for an updated framework travel plan
16. The requirement for a surface water drainage scheme
17. Full details of the landscaping scheme
18. Compliance with the approved landscape details and the requirement for replacements within a 5 year period where any planting fails
19. Full details of tree pits
20. Full details of any green roofs
21. The requirement to comply with the biodiversity survey in terms of mitigation measures
22. Full details of biodiversity enhancements
23. Condition relating to unsuspected land contamination
24. Requirement for an advertisement strategy to be agreed
25. Full details of all required mechanical ventilation/ extraction equipment and any odour suppression
26. Control over the timing of deliveries and the use of outside spaces
27. The requirement for a fully developed noise management plan and details of a noise limiter
28. The requirement for a validation plan to ensure the noise targets are being met

29. The requirement that any external plant associated with the building should achieve a level of background noise level (LA90) minus 5dB at 1m from any nearest residential window.
30. Full details of any external lighting
31. The provision of solar PV to the roof of the building
32. The requirement to be provided with the infrastructure to connect to the district heating network
33. The requirement to agree a scheme for offsetting to enable true zero carbon to be achieved (if this is not to be sought via the S106)
34. The requirement to deliver non-residential buildings to BREEAM 'Very Good'
35. Details of measures to minimise water use in the non-residential and residential units
36. A limit for water use in the residential dwellings
37. The requirement to provide superfast broadband to each unit (residential and non-residential)
38. The requirement to provide each unit with real time information around energy and travel (residential and non-residential)
39. The requirement to demonstrate the embodied carbon credentials of the proposed construction materials
40. The requirement for the provision of electric vehicle charging points
41. The requirement to provide a site waste management plan
42. The requirement to apply for Secured by Design Accreditation
43. The provision of an Arboricultural Method Statement to ensure the retention and protection of trees to the southern boundary of the outline site area
44. Control over the floorspace, use classes and not to amalgamate units for the outline site

Planning notes

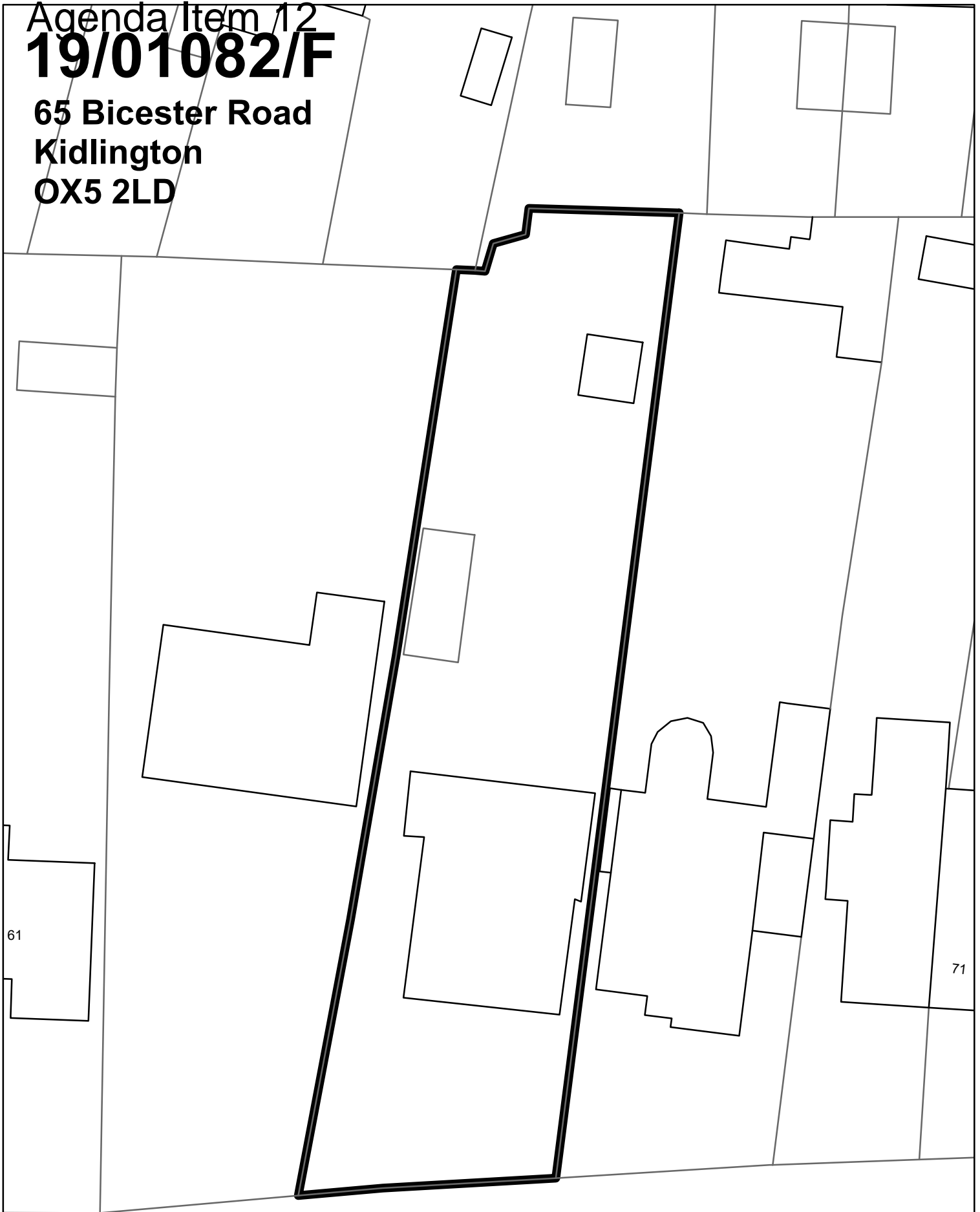
1. Notes regarding ecology
2. Thames water recommended notes around water pressure
3. Advice that any licence application should reflect the hours of use proposed (internal and external)

CASE OFFICER: Caroline Ford

TEL: 01295 221823

Agenda Item 12  
**19/01082/F**

**65 Bicester Road  
Kidlington  
OX5 2LD**



61

71

N



**1:300**



# 19/01082/F

65 Bicester Road  
Kidlington  
OX5 2LD



64.6m

63.3m

Def

ED Bdy

1 to 16  
Gosford Hill Court

Shelter

Page 125

1:1,500

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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Case Officer:** Matthew Chadwick

**Applicant:** Mr Richard Field

**Proposal:** Demolition of existing single level dwelling - Class C3(a) - and erection of 5 x flats in single, two level building - Class C3(a)

**Ward:** Kidlington East

**Councillors:** Councillor Maurice Billington  
Councillor Carmen Griffiths  
Councillor Ian Middleton

**Reason for Referral:** Called in by Councillor Middleton due to the level of public interest

**Expiry Date:** 18 November 2019

**Committee Date:** 18 December 2019

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

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

#### **Proposal**

Planning consent is sought to demolish the existing bungalow on the site and erect a new building to accommodate five flats

#### **Consultations**

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

- Kidlington Parish Council

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

- CDC Building Control, CDC Environmental Health, CDC Housing Standards, OCC Highways, Thames Water

23 letters of objection have been received and 3 letters of support have been received.

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

The proposal is not within a conservation area and is not within close proximity to any listed buildings. The site is within 2KM of the Rushy Meadows SSSI. The very rear of the site is within Flood Zone 2.

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
- Residential amenity
- Highway safety
- Ecology impact

- Flood risk
- Environmental Health

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 on the north side of Bicester Road within Kidlington and is accessed from this same highway. The property, like others on this side of Bicester Road, benefits from a relatively long, spacious plot, and the dwelling is set on a similar line to most of the dwellings in the area, with 63 Bicester road to the west being the exception to this which is set back significantly further. The bungalow on the site is rendered with a tiled roof. The northside of Bicester Road mainly consists of residential dwellings, which vary in height (some single storey some two storey).

### **2. CONSTRAINTS**

2.1. The application site is within partially within Flood Zone 2, with only a small section of the rear of the site within the Flood Zone. The site is not located in a conservation area and is not in proximity of any listed buildings.

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

3.1. Planning permission is sought for the demolition of the existing dwelling on the site and its replacement with a 1 ½ storey building comprising 5 flats. The development would be finished in render, with a clay tiled roof. Five parking spaces would be provided to the front of the dwelling. To the rear, unit 3 would have a private patio area and further to the rear of this there would be a communal garden, with a bin store and bike store to the rear of this.

3.2. The proposals were amended during the course of the application. The application initially sought consent for six flats and the design of the proposals has been altered in response to concerns from officers regarding the impact on the neighbour to the north regarding a loss of light, overlooking and loss of privacy. This has resulted in a reduction in the number of flats to five.

3.3. The application was on the agenda of the November Planning Committee but was deferred for a site visit by Planning Committee prior to its December meeting.

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

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
19/00018/F	Demolition of an existing dwelling and the erection of 6no new build flats with	Application Permitted

commensurate ancillary facilities

4.2. The above application is at 63 Bicester Road, the neighbour to the west. This application was permitted on 1 May 2019.

## 5. PRE-APPLICATION DISCUSSIONS

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

## 6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments will be 11<sup>th</sup> November 2019, although comments received after this report is finalised will be reported to planning committee by way of a written update.

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

- The proposal would increase on street parking in proximity to the school which would exacerbate highway safety issues.
- The proposal would increase traffic on the roads in Kidlington.
- Too many flats are being built in Kidlington.
- The construction phase would disturb residents.
- The proposals constitute overdevelopment of the site.
- Bicester Road should have new traffic measures put in place to accommodate the development.
- The development does not take into account climate change.
- Supports the proposal as it would provide much needed housing provision for young people in a sustainable area.

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

## 7. RESPONSE TO CONSULTATION

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

### PARISH COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. KIDLINGTON PARISH COUNCIL: **Objects** on the grounds of parking provision and highway safety.

### CONSULTEES

- 7.3. CDC BUILDING CONTROL: A full plans Building Regulations application will be required for proposals. Commented on the previous layout that the layouts of two units did not reflect guidance with regard to protection of a communal staircase.
- 7.4. CDC ECOLOGY: No comments received.
- 7.5. CDC ENVIRONMENTAL HEALTH: **No objections**, subject to a condition relating to EV charging points.
- 7.6. OCC HIGHWAYS: **No objections**, subject to a condition relating to cycle parking provision.
- 7.7. CDC HOUSING STANDARDS: **No objections**.
- 7.8. THAMES WATER: **No objections**.
- 7.9. CDC WASTE AND RECYCLING: No comments received.

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

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

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

- PSD1: Presumption in Favour of Sustainable Development
- SLE4: Improved Transport and Connections
- BSC1: District Wide Housing Distribution
- BSC2: The Effective and Efficient and Efficient Use of Land
- BSC4: Housing Mix
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15: The Character of the Built and Historic Environment
- Villages 1: Village Categorisation

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

- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- ENV1: Environmental pollution

- 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)
- Kidlington Masterplan (2016)
- 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”)

## 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
- Residential amenity
- Highway safety
- Ecology impact
- Flood risk
- Environmental health

### Principle of Development

#### *Policy Context*

- 9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 and the saved policies of the Cherwell Local Plan 1996.
- 9.3. The National Planning Policy Framework (NPPF) explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs. Paragraph 7 of the NPPF sets out the Government’s view of what sustainable development means in practice for the planning system – the three strands being the economic, social and environmental roles. It is clear from this that as well as proximity to facilities, sustainability also relates to ensuring the physical and natural environment is conserved and enhanced as well as contributing to building a strong economy through the provision of new housing of the right type in the right location at the right time.
- 9.4. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that conflicts with the Local Plan should be refused unless other material considerations indicate otherwise (Para. 12). Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.
- 9.5. Cherwell District Council can demonstrate a five-year supply of deliverable housing sites. Therefore, the policies in the development plan guiding the provision of housing can be considered up to date and given significant weight in determining applications. In addition to this, the Written Ministerial Statement of 12th September

2018 now considers important policies for determining the application to be out of date only where a 3 year supply of deliverable sites cannot be demonstrated. The presumption in favour of sustainable development, as advised by the NPPF, will need to be applied in this context.

- 9.6. Policy ESD1 of the Cherwell Local Plan Part 1 states measures will be taken to mitigate the impact of development on climate change and deliver the goals of sustainable development. This includes distributing housing growth to the most sustainable locations as defined in the Local Plan and delivering development which reduces the need to travel. The local plan has a strong urban focus with large amounts of housing planned at Bicester and Banbury. The policies relating to rural housing growth are therefore more restrained.
- 9.7. Policy Villages 1 of the Cherwell Local Plan provides a framework for housing growth in the rural areas and seeks to deliver some new development to the most sustainable rural locations. It does this by categorising the villages within the district and allowing for some limited growth in the most sustainable villages based on services, facilities and size of settlements. The categorisation also takes into account clustering of villages. Kidlington is classified as a Category A village, and these villages are amongst the most sustainable rural settlements in the district where minor development, infilling and conversion may be permitted for new housing within the built up limits.
- 9.8. Theme 2 of the Kidlington Masterplan focusses on, 'creating a sustainable community' and in relation to the approach to housing development it states: "*A range of options for development within the existing built-up area should be considered including appropriate redevelopment, intensification and infill while protecting Kidlington's key assets. This may involve increasing housing densities, reconfiguring land uses and introducing mixed used development.*"

#### *Assessment*

- 9.9. The proposal involves the demolition of the existing bungalow on the site and its replacement with a single building accommodating five flats. This constitutes minor development within the built limits of the village. It is therefore considered that the proposal is acceptable in principle, with overall acceptability subject to other material considerations which shall be discussed below.

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

##### *Policy context*

- 9.10. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPF goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Further, Paragraph 130 of the NPPF states that permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 9.11. Paragraph 127 of the NPPF states that planning decisions should ensure that developments:
  - Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

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

9.12. Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 states that: *“New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards.”* The Cherwell Residential Design Guide SPD also encourages development which is locally distinctive and the use of appropriate materials and detailing, but states that new development should avoid the creation of ‘anywhere places’ which do not respond to local context.

9.13. Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context as well as compatible with existing buildings.

9.14. The Cherwell Residential Design Guide SPD states that development within Kidlington should look to strengthen the character of the village. The Design Guide SPD also states that new development should avoid architectural focus on individual buildings rather than the overall street composition. The SPD goes on to state that individual buildings should be designed to relate well to their neighbours, creating a harmonious overall composition and work with site conditions.

9.15. Kidlington Masterplan SPD, Theme 2: Creating a sustainable community, subheading ‘Securing high design standards’ states that: *“The design of the site layout, access arrangements, scale, massing and appearance will be required to demonstrate a positive relationship with the immediate surrounding context of the site and respect and enhance the townscape character of Kidlington as a whole.”*

#### *Assessment*

9.16. Planning permission has been granted at the neighbouring site to the west (63 Bicester Road) for the demolition of a bungalow and its replacement with a single building accommodating six flats. The current proposal has been designed to appear the same as this approved scheme from within the street scene.

9.17. The layout for the site provides vehicular parking between the building and highway. Amenity space is provided to the rear of the buildings as well as bin and cycle storage. This offers an overall layout that is akin to the character of the area and protects the quiet environment to the rear of properties along this street. The area to the front of the building would mainly comprise hardstanding and this is currently the situation at 65 Bicester Road, so no harm would be caused in this regard. The building would follow a relatively similar line to the existing development on the north site of Bicester Road. The layout of the proposal is therefore considered acceptable.

9.18. The bin and cycle storage areas would be sited behind the building, which would be screened from the public domain and this is welcomed. However, full design details of these structures would need to be submitted and this can be conditioned.



- 9.19. The immediate context comprises a range of dwellings, but the existing dwelling on the site and the neighbouring dwellings to the side have the appearance of bungalows. The front elevations of the dwellings in the locality tend to be relatively simple in articulation and appearance. Fronting onto a straight section of highway, it is within this context that the frontage of the proposed building would be viewed. The building would have a similar height to the existing building on the site and would maintain a 1½ storey appearance, and this overall height is considered acceptable.
- 9.20. The building would clearly have a greater volume than the existing dwelling given its greater depth, and the proposed building would be of a greater volume than its neighbours to the east. However, given its relatively simple form when viewed from the highway, the building would appear broadly in keeping with the general scale and massing of the relatively modest suburban housing within the immediate vicinity of the site.
- 9.21. The proposed building would have two wide, front-facing gables, which would be identical in design to the approved dwelling at 63 Bicester Road. There is a mix of architectural designs in the area and in this context, it is considered that the dwelling would not appear incongruous. The walls of the building would be constructed from white render and given that this is the predominant construction material for walls within the locality this material is considered acceptable. Further details of this would need to be secured by condition.

#### *Conclusion*

- 9.22. It is therefore considered that the development would not cause harm to the character and appearance of the area and the proposal thus accords with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the NPPF.

#### Residential amenity

##### *Policy context*

- 9.23. Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy outlook, natural lighting, ventilation, and indoor and outdoor space.
- 9.24. Saved Policy ENV1 of the Cherwell Local Plan 1996 states that: *“Development which is likely to cause detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution will not normally be permitted.”*
- 9.25. Paragraph 127 of the NPPF states that planning decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

##### *Assessment*

- 9.26. The properties most likely to be affected by the proposed development are those on either side of the application site, these being No's.63 and 67 Bicester Road. The proposed building would be set back slightly from the existing bungalow on the site but would extend significantly further to the rear as the result of the proposals, at a distance of approximately 10m.

- 9.27. Concerns were raised with the applicant regarding the impact that the proposed development would have on the neighbouring property to the east, 67 Bicester Road. The application initially sought consent for six flats on the site, with an identical design to the approved scheme at 63 Bicester Road. Officers considered that those original proposals would have had an unacceptable impact upon 67 Bicester Road through loss of privacy, light and outlook. As a result, the proposals were reduced in scale (particularly the rear section), dropping from six units to five, while the rooflights facing towards 67 Bicester Road were removed and the rear part of the proposed building was reduced in scale and pulled away from the boundary with the neighbour to ensure that it did not result in a significant loss of light to the neighbour's rear habitable rooms.
- 9.28. The main 1½ storey element is in line with the rear wall of 67 Bicester Road and the element that extends to the rear is set a significant distance away from this neighbouring dwelling. It is thus considered that the proposed development would not cause harm to the amenities of the neighbour to the east. Some overlooking of the neighbour's garden would be possible by the dormers in the rear of the development. However, this impact is common in a suburban context such as this and as a result is deemed to be acceptable.
- 9.29. As stated earlier in this report, the other dwelling that would be impacted upon is 63 Bicester Road. It is important to consider both the impact that this proposed development would have on the amenities of the existing dwelling at 63 Bicester Road *and* that of the future occupiers of the building approved under 19/00018/F.
- 9.30. This existing dwelling at 63 Bicester Road is anomalous in terms of its siting relative to other dwellings in the vicinity in that it is set further back than the other dwellings in the area, at a distance of approximately 11m from the existing dwelling at 65 Bicester Road. On the front elevation of 63 Bicester Road are a living room (situated on west of the building furthest away from the proposed development) and a dining room (situated on the east of the building).
- 9.31. The front façade of the proposed development would be set back approximately 3.8m from the existing bungalow on the site; however, the side elevation of the proposed development would be 2m closer to the existing dwelling at 63 Bicester Road. 65 Bicester Road at present does have a minor overbearing impact upon 63 Bicester Road, given how far it protrudes to the front of the neighbouring dwelling and the front façade of the proposed development being set back 3.8m is a significant benefit in this regard. However, the side elevation of the development moving 2m closer to 63 Bicester Road would cause some harm to the amenities of the occupiers of this dwelling with regard to an overdominating impact and loss of light, and this harm needs to be weighed into the planning balance.
- 9.32. With regards to the impact on the development approved at 63 Bicester Road, the two dwellings would be built on a broadly similar building line and therefore there would be no harm to the front of the properties.
- 9.33. Both the proposed development and the approved development at 63 Bicester Road have windows serving habitable rooms in the side elevations at ground floor level. Given the set back of both properties from the side boundaries, in particular the approved scheme at 63 Bicester Road, the height of both buildings, the pitching away of the roof of the proposed building from the shared boundary and the fencing between these properties already, and the fact that the proposed development is to the north of this neighbour, it is considered that a lack of light to these rooms would not be significantly detrimental.

- 9.34. Rooflights serving first floor rooms are proposed at the side, but these are proposed to be 1.7 metres above first floor level so as to prevent clear views of the neighbouring properties. It is considered that windows at ground floor levels would not cause materially greater levels of overlooking than currently exist.
- 9.35. Concerns have been raised regarding noise from the proposed development during its construction phase. Issues arising from the construction phase of development are not material planning considerations and would only be a temporary issue during the construction phase itself.

#### *Conclusion*

- 9.36. It is considered that the proposals would have some adverse effect on both the existing and approved development at 63 Bicester Road. However, there would also be some benefits to the amenity on 63 Bicester Road through the proposed development being set back further into the site. On balance, it is considered that the development would not cause significant harm to the amenities of existing and proposed occupiers and is therefore acceptable in this regard.

#### Highway safety

#### *Policy context*

- 9.37. Policy ESD15 of the CLP (2011-2031) Part 1 states, amongst other matters, that new development proposals should: "Be designed to deliver high quality safe...places to live and work in." This is consistent with Paragraph 110 of the NPPF which states that: "Developments should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles."
- 9.38. Policy SLE4 of the Cherwell Local Plan (2011-2031) Part 1 states that: "All development where reasonable to do so, should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling."

#### *Assessment*

- 9.39. There have been a significant number of objections relating to the impact that the development would have on highway safety. It has been stated that there is significant on-street car parking in close proximity of a school and that the proposed development would exacerbate this issue further.
- 9.40. The local highway authority (LHA) has offered no objections to the scheme, subject to a condition requiring full details of the cycle parking to be provided. The LHA advises that given the site's location along a bus route that has fast and frequent services to Oxford and Bicester, coupled with Kidlington being one of the more sustainable settlements in Cherwell, the parking provision for one space per unit is acceptable in this location.
- 9.41. The objections from residents are noted and it is recognised that the demolition of the bungalow and the erection of five flats would increase the number of vehicles accessing the site. However, it is considered that this increase in traffic would not be unacceptable, given that the LHA has not objected to the development and the relative sustainability of the site close to the centre of Kidlington, and overall therefore it is considered that the proposal would not cause demonstrable harm to the safety of the local highway network.

## Ecology Impact

### *Policy and legislative context*

- 9.42. Section 40 of the Natural Environment and Rural Communities Act 2006 (as amended) places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making. Paragraph 99 of Circular 06/2005: Biodiversity and Geological Conservation states that: *“It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.”*
- 9.43. Paragraph 170 of the NPPF states that: *“The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity.”*
- 9.44. Policy ESD10 of the Cherwell Local Plan Part 1 reflects the requirements of the Framework to ensure protection and enhancement of biodiversity. The Authority also has a legal duty set out in the Natural Environment and Rural Communities Act 2006 (NERC 2006) which states that: *“Every public authority must in exercising its functions, must have regard... to the purpose of conserving (including restoring / enhancing) biodiversity.”*

### *Assessment*

- 9.45. Comments from the Council’s Ecologist have not been received and there are no records of protected species within the vicinity of the site. Given the modern construction of the dwelling and the urban location of the site it is considered that the proposal is unlikely to cause adverse harm to ecology.

## Flood Risk

- 9.46. A small section of the very rear of the site is within Flood Zone 2 (land assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding). The Environment Agency has set out that the Local Planning Authority should refer to the standing advice for such a proposal.
- 9.47. Section 14 of the NPPF and Policy ESD6 of the Cherwell District Council (2011 2031) Part 1 state inappropriate development in areas of flood risk should be avoided by directing development away from areas at highest risk through application of a sequential test.
- 9.48. However, regarding the sequential test and exception test, I do not consider it to apply these in this case given that no development is proposed at the very rear of the site and because the proposed building would replace an existing dwelling.
- 9.49. Furthermore, the proposed development is not considered to increase the flooding risk of the site or elsewhere given that no development is proposed within the higher risk flood zone. This higher risk flood zone only covers a small part of the site

## Environmental health

- 9.50. Policy ESD1 of the Cherwell Local Plan Part 1 states that measures will be taken to mitigate the impact of development within the District on climate change. The

incorporation of suitable measures in new development to ensure that development is more resilient to climate change impacts will include consideration of the following:

- Taking into account the known physical and environmental constraints when identifying locations for development
- Demonstration of design approaches that are resilient to climate change impacts including the use of passive solar design for heating and cooling
- Minimising the risk of flooding and making use of sustainable drainage methods; and
- Reducing the effects of development on the microclimate.

9.51. Policy ESD2 of the Cherwell Local Plan Part 1 states that the Council will promote an energy hierarchy as follows:

- Reducing energy use, in particular by the use of sustainable design and construction measures
- Supplying energy efficiently and giving priority to decentralised energy supply
- Making use of renewable energy
- Making use of allowable solutions.

9.52. Policy ESD3 of the Cherwell Local Plan Part 1 states that all new residential development will be expected to incorporate sustainable design and construction technology to achieve zero carbon development through a combination of fabric energy efficiency, carbon compliance and allowable solutions. All development proposals will be encouraged to reflect high quality design and high environmental standards, demonstrating sustainable construction methods including but not limited to:

- Minimising both energy demands and energy loss
- Maximising passive solar lighting and natural ventilation
- Maximising resource efficiency
- Incorporating the use of recycled and energy efficient materials
- Incorporating the use of locally sourced building materials
- Reducing waste and pollution and making adequate provision for the recycling of waste
- Making use of sustainable drainage methods
- Reducing the impact on the external environment and maximising opportunities for cooling and shading (by the provision of open space and water, planting, and green roofs, for example); and
- Making use of the embodied energy within buildings wherever possible and re-using materials where proposals involve demolition or redevelopment.

- 9.53. The Council's Environmental Protection Officer has no objections to the development, subject to a condition that EV charging infrastructure be provided on the site. Concerns have been raised during the consultation process that the development has not considered climate change, with no charging points, solar panels or heat pumps being shown as part of the proposals.
- 9.54. Paragraph 110 of the NPPF states that development 'should be designed to enable the charging of plug-in and other ultra-low emission vehicles'. Furthermore, Cherwell District Council declared a Climate Change Emergency at the full Council meeting in July 2019 and the site is located in close proximity to an Air Quality Management Area on the eastern end of Bicester Road. Giving weight to all of these factors, it is considered that a condition relating to EV charging infrastructure is considered to meet the tests set out in Paragraph 55 of the NPPF and shall therefore be recommended.

#### Human Rights and Equalities

- 9.55. 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.
- 9.56. 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*

- 9.57. 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 and site notice 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*

- 9.58. 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.
- 9.59. 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*

- 9.60. 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.
- 9.61. Officers have considered the application and conclude that none of the protected characteristics is affected or potentially affected by the application.

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

- 10.1. The principle of minor residential development in Kidlington is acceptable, and it is considered that the proposal would not cause significant or demonstrable harm to the character and appearance of the area, and on balance would safeguard the living conditions of neighbouring properties. In addition, the proposal would not have an adverse impact upon protected species, the safe and efficient operation of the highway network or the flooding risk of the site and elsewhere. The proposal is therefore considered to constitute sustainable development and is recommended for approval subject to conditions set out below.

## **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: Existing Block Plan (190265-A-Ex-80 Revision A); Proposed Block Plan (190265-A-Pr-80 Revision B); Proposed Site Plan (190265-A-Pr-90 Revision B); Proposed Floor Plans (190265-A-Pr-100 Revision B); Proposed Roof Plan (190265-A-Pr-100 Revision B); Proposed Main Elevations (190265-A-Pr-200 Revision B) and Proposed Side Elevations (190265-A-Pr-210 Revision B).

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

### **Material samples**

3. Prior to the commencement of the development hereby approved above slab level, samples of the materials to be used in the construction of the external walls and roof of the building hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the samples so approved and shall be retained as such thereafter.

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

### **Landscaping plan**

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

Thereafter, the development shall be carried out in accordance with the approved details. The hard landscape elements shall be carried out prior to the first occupation 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 Policies ESD1 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Landscaping in accordance with British Standard**

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the 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, to encourage the use of sustainable modes of transport and to comply with Policies ESD1 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C28 of the Cherwell



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

#### **Details of access and turning areas**

6. Prior to the commencement of the development hereby approved above slab level, full specification details of the vehicular accesses, driveways and turning areas to serve the dwellings, which shall include construction, layout, surfacing and drainage, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of any of the dwellings, the access, driveways and turning areas shall be constructed in accordance with the approved details, and shall thereafter remain free from obstruction for vehicles parking and turning.

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

#### **Cycle parking details**

7. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

Reason - In the interests of sustainability, to encourage the use of sustainable modes of transport, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework.

#### **EV charging infrastructure**

8. No development shall commence above slab level until a scheme for a system of ducting to allow for the future installation of electrical vehicle charging infrastructure to serve the dwelling 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 details prior to the first occupation of the dwelling.

Reason: To comply with Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework.

#### **PLANNING NOTES**

1. On the basis of information provided, Thames Water would advise that with regard to water network and water treatment infrastructure capacity, we would not have any objection to the above planning application. Thames Water recommends the following informative be attached to this planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

2. With regard to surface water drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website. <https://developers.thameswater.co.uk/Developing-a-large-site/Apply-and-pay-for-services/Wastewater-services>.
3. There are public sewers crossing or close to your development. If you're planning significant work near our sewers, it's important that you minimize the risk of damage. We'll need to check that your development doesn't reduce capacity, limit repair or maintenance activities, or inhibit the services we provide in any other way. The applicant is advised to read our guide working near or diverting our pipes. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>.
4. Should the existing access to the site need altering, a Section 184 agreement will be required. Please note this cannot be the full length of the frontage of the site. Further at no point can any vehicle be parked on land that is not within the applicants control or that is adopted highway including footway, this includes for manoeuvring purposes. Further details on a Section 184 agreement can be found via the following link; <https://www.oxfordshire.gov.uk/business/licences-and-permits/dropped-kerbs>.
5. Bats are a highly mobile species which move between a number of roosts throughout the year. Therefore all works must proceed with caution and should any bats be found during the course of works all activity in that area must cease until a bat consultant has been contacted for advice on how to proceed. Under the Wildlife & Countryside Act 1981 (as amended) and the Habitat and Species Regulations 2010 it is illegal to intentionally or recklessly disturb, harm or kill bats or destroy their resting places.
6. Birds and their nests are fully protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds can be avoided by carrying out vegetation removal or building work outside the breeding season, which is March to August inclusive.

CASE OFFICER: Matthew Chadwick

TEL: 01295 753754

**19/01254/F**

**DCS Group**

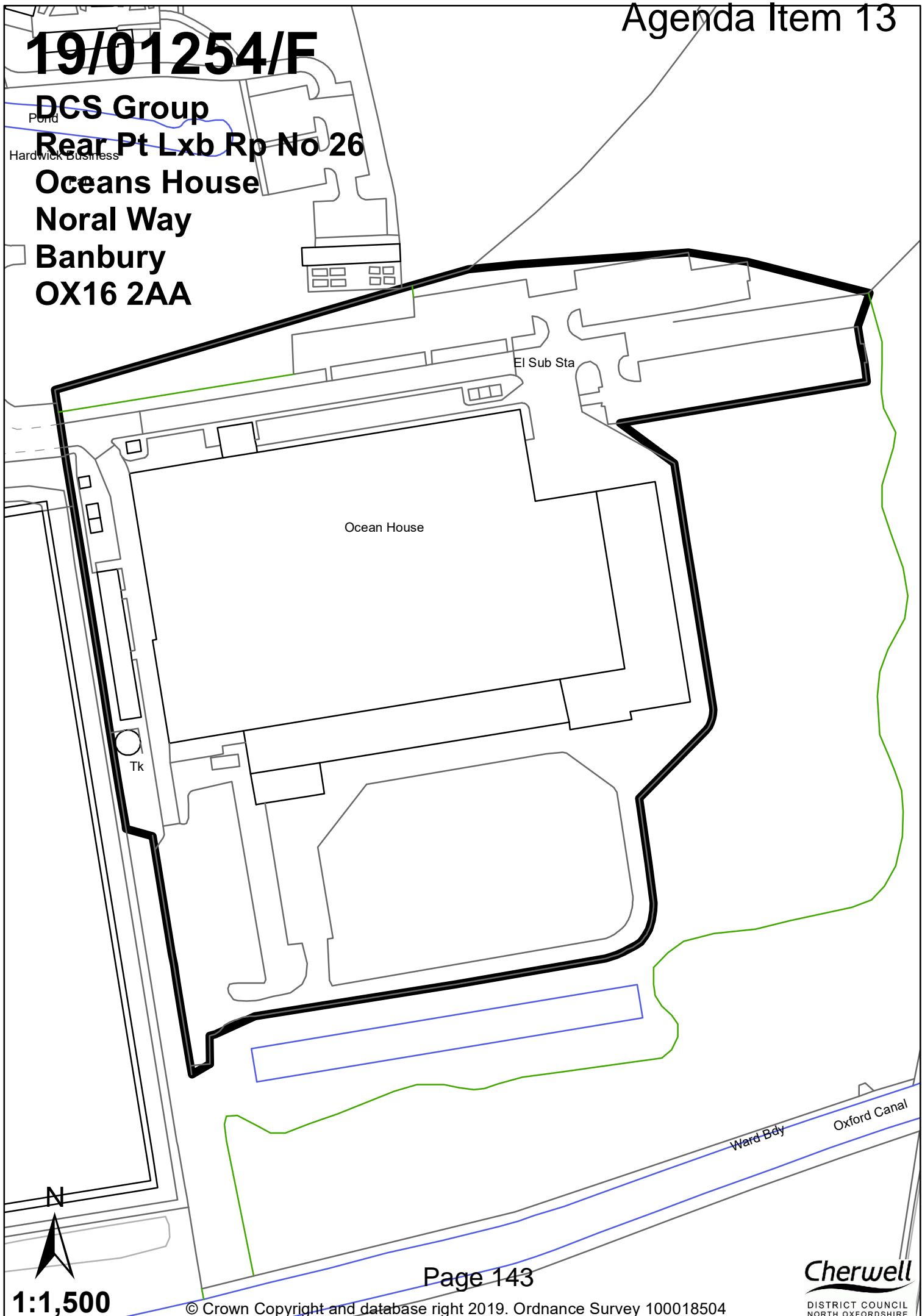
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**Banbury**

**OX16 2AA**



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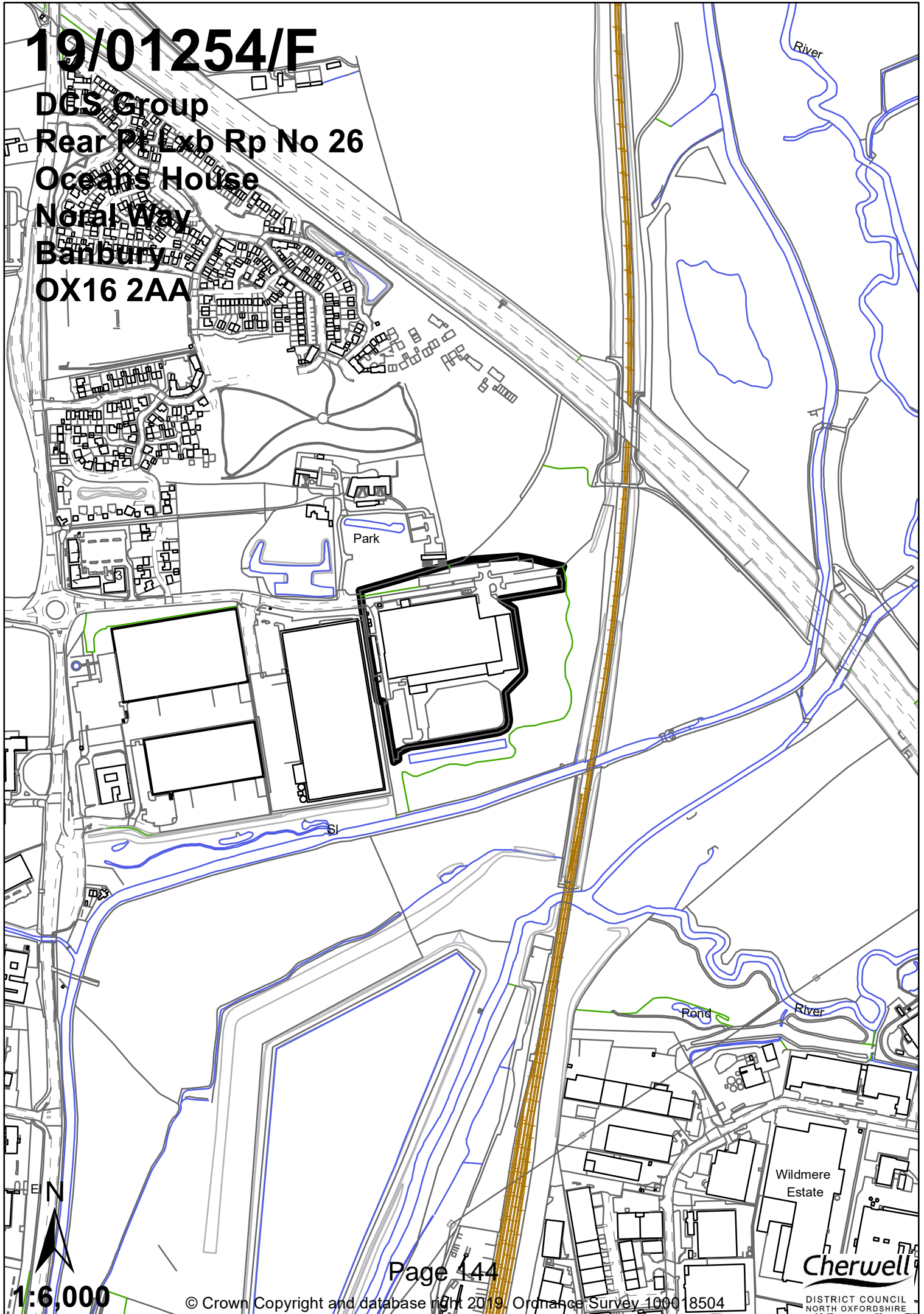
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# 19/01254/F

DCS Group  
Rear Pt Exb Rp No 26  
Oceans House  
Noral Way  
Banbury  
OX16 2AA



**Case Officer:** Matthew Chadwick

**Applicant:** Mr Denys Shortt

**Proposal:** Relocation of existing loading canopy and replacement with "infill" warehouse between existing warehouses

**Ward:** Banbury Hardwick

**Councillors:** Cllr Bignell, Cllr Donaldson and Cllr Illott

**Reason for Referral:** Major development – floor space created

**Expiry Date:** 7 October 2019

**Committee Date:** 18 December 2019

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

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

#### **Proposal**

Planning consent is sought to relocate the existing loading canopy of the building and construct a new warehouse between the existing warehouses on the site

#### **Consultations**

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

- Banbury Town Council, OCC Drainage, OCC Highways

The following consultees have commented on the application:

- CDC Building Control

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

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

The site is located in an existing strategic employment site as identified in the Cherwell Local Plan. The site lies within an area of potentially contaminated land.

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 issues arising from the application details are:

- Principle of Development
- Design and impact on the character of the area
- Residential amenity and environmental protection
- Highway safety

- Drainage
- Environmental protection

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 relates to an area of the DCS Group site which has been used as the loading canopy for the warehouse. The application site is located to the south of the main building on the site but to the north of the warehouse extension approved under 19/00010/F.
- 1.2. The wider site of Oceans House, which is located towards the north of Banbury, at the end of Noral Way, is bounded by the M40 to the north-east, Hardwick Farm and the new Southam Road development to the north, the Banbury to Birmingham Chiltern railway line to the east, the Oxford Canal to the south and the former SAPA Works site to the west, now redeveloped as large employment units occupied by The Entertainer and Amazon.

### **2. CONSTRAINTS**

- 2.1. The site is not located within a conservation area and there are no listed buildings in the immediate vicinity of the application site. The site lies within an area of potentially contaminated land.

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

- 3.1. Planning consent is sought for the erection of an infill warehouse on the site of the former loading canopy and the relocation of this loading canopy to the southern side of the southernmost warehouse building. The infill warehouse and canopy have been designed to match the existing building in terms of their design, with grey cladding panels and grey roof sheeting. The building would have the same ridge height as the existing warehouse buildings on the site.
- 3.2. The building subject to this application has been constructed during the course of the application. The Council's Planning Enforcement team has been monitoring this but has not taken any action whilst this application is under consideration.

### **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>
16/00927/F	Change of use of existing buildings from Class B2 with ancillary Class B1(a) to Class B8 with ancillary Class B1(a)	Application Permitted

16/02002/F	Extension of existing loading canopy and widening of access roadway to rear of existing warehouse	Application Permitted
17/02269/F	Erection of ancillary warehouse to rear of existing warehouse	Application Permitted
19/00010/F	Erection of warehouse extension, and relocation of lorry park and drivers' amenity building, together with associated external works	Application Permitted

4.2. The development approved under 19/00010/F has yet to be constructed.

## 5. PRE-APPLICATION DISCUSSIONS

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

## 6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 30<sup>th</sup> August 2019, although comments received after this date and before finalising this report have also been taken into account.

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

- Concerns have been raised regarding the lorries accessing DCS blocking the access to the nearby Hardwick Business Park.

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.

### TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. BANBURY TOWN COUNCIL: **No objections.**

### OTHER CONSULTEES

7.3. BANBURY CIVIC SOCIETY: No comments received.

7.4. BANBURY HISTORICAL ASSOCIATION: No comments received.

7.5. CDC BUILDING CONTROL: A fire risk assessment should be carried out.

7.6. OCC DRAINAGE: **No objections**, subject to conditions relating to a drainage management plan and full details of a surface water pumping system.

- 7.7. CDC ECOLOGY: No comments received.
- 7.8. CDC ECONOMIC DEVELOPMENT: No comments received.
- 7.9. OCC HIGHWAYS: **No objections**, subject to conditions relating to a workplace travel plan and cycle parking.
- 7.10. THAMES VALLEY POLICE DESIGN ADVISER: No comments received.

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

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

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

- PSD1 – Presumption in Favour of Sustainable Development
- SLE1 – Employment Development
- SLE4 – Improved Transport and Connections
- ESD1 – Mitigation and Adapting to Climate Change
- ESD2 – Energy Hierarchy And Allowable Solutions
- ESD3 – Sustainable Construction
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems (SuDS)
- ESD15 - The Character of the Built and Historic Environment
- ESD16 – Oxford Canal

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

- C28 – Layout, design and external appearance of new development
- C29 – Appearance of development adjacent to the Oxford Canal
- ENV1 – Development likely to cause detrimental levels of pollution
- ENV12 – Potentially contaminated land

- 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990

## **9. APPRAISAL**

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

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



- Highway safety
- Drainage
- Environmental protection

#### Principle of Development

- 9.2. The application site is identified in the Cherwell Local Plan 2011 – 2031 Part 1 as an existing strategic employment site. Policy SLE1 of the Cherwell Local Plan 2011-2031 Part 1 states that: *on existing operational or vacant employment sites at Banbury....employment development, including intensification, will be permitted subject to compliance with other Policies in the Plan and other material considerations.*
- 9.3. The use of Oceans House falls within Class B8 warehousing with ancillary B1(a) offices. The new warehousing and offices would be ancillary to the main building on the site and in the same uses. The application form indicates that 15 new jobs would be created as a result of the development. The development would not extend outside the existing site and there would be no change of use. Therefore, the principle of development is acceptable.
- 9.4. Given that there is no change of use, the principle of development is considered acceptable, with overall acceptability subject to the other material considerations discussed below.

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

##### *Policy context*

- 9.5. Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 9.6. Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 states that new development proposals should contribute positively to an area's character and identity by creating or reinforcing local distinctiveness. Development should respect the traditional pattern of spaces, blocks and plots and the form, scale and massing of buildings.
- 9.7. Policy ESD16 of the Cherwell Local Plan 2011 – 2031 Part 1 states that proposals which would be detrimental to the character and appearance of the Oxford Canal will not be permitted.
- 9.8. Saved Policy C28 of the Cherwell Local Plan 1996 states that control will be exercised over all new development to ensure that the standards of layout, design and external appearance, including the choice of materials, are sympathetic to the character of the context of that development.
- 9.9. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

##### *Assessment*

- 9.10. The proposed warehouse extension has a footprint of 96m in length and 24m in depth and is constructed from materials to match those of the existing warehouse on the site. The warehouse infills the area in which the former loading canopy was located, which has been relocated to the south of the new warehouse building (approved under 17/02269/F). Given that the infill warehouse is surrounded by existing warehousing, it would not be clearly visible from any public views.
- 9.11. The site is well screened from the public domain by nearby buildings and vegetation from the M40 motorway. There has been some site clearance along the Oxford Canal and the new canopy is visible from this viewpoint. However, the building is seen in the context of the existing industrial site and does not cause harm to the character and appearance of the area.
- 9.12. The site is located in close proximity to the Oxford Canal Conservation Area and under this proposal the canopy would be extending closer to the heritage asset. However, this element of the proposal has a relatively 'lightweight' design and would have no significantly greater impact on the Conservation Area than the existing built form. Furthermore, the site is in an industrial use which would not change under this application.

#### *Conclusion*

- 9.13. It is considered that the development would not cause harm to the character and appearance of the Oxford Canal Conservation Area or the visual amenities of the wider area. The proposed development therefore complies with Policies ESD15 and ESSD16 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 and government guidance contained within the NPPF.

#### Residential amenity

- 9.14. Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 states that new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.
- 9.15. Saved Policy ENV1 of the Cherwell Local Plan 1996 states that development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke other types of environmental pollution will not normally be permitted.
- 9.16. The proposals would not extend towards the residential development on Southam Road and would therefore not cause any significant impact on these dwellings. Similarly, the canopy to the south would not have an impact on any residential properties. The development would increase the warehouse capacity on the site which would increase vehicular movements. However, given the size of the increase and the existing use of the site, it is considered that the development would not have a demonstrably harmful impact in this regard.
- 9.17. Overall, therefore, it is considered that the development would not cause significant or demonstrable harm to the amenities of neighbours. The proposed development therefore complies with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance in the NPPF.

#### Highway safety

#### *Policy context*

- 9.18. Policy SLE4 of the Cherwell Local Plan 2011 – 2031 Part 1 states that all development, where reasonable to do so, should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling. New development in the district will be required to provide financial and/or in-kind contributions to mitigate the transport impacts of development.
- 9.19. Government guidance contained within the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. Development should first give priority to pedestrian and cycle movements and second to facilitating access to high quality public transport.

#### *Assessment*

- 9.20. The Highways Officer has offered no objections to the scheme, subject to conditions relating to a workplace travel plan and cycle parking provision. The condition relating to cycle parking provision is not considered to be reasonable or necessary as there is a significant amount of cycle parking on the site already. A workplace travel plan was approved under 19/00010/F and given that this development would only constitute an increase of 15 jobs it is considered that the condition does not meet the tests set out within Paragraph 55 of the NPPF.
- 9.21. There have been third party objections based on the highways impact that the DCS site would have on Noral Way and the access to Hardwick Business Park to the west. It has been stated that the lorries accessing the site currently queue back from the access to DCS and that a larger warehouse would only exacerbate this situation.
- 9.22. Following these objections, the Highways Officer has looked at this situation and confirms he raised no objections to the scheme. It is recognised that lorries accessing DCS have queued back past the access to Hardwick Business Park and blocked this access. A consultation process with the County Council has taken place regarding the entirety of Noral Way having double yellow lines, which would improve the situation by reducing the queues along the road.
- 9.23. Concerns have been raised by neighbours regarding the amount of parking on the site and that this is overspilling onto Noral Way. The agent has responded and demonstrated that the parking provision on the site exceeds the standards set by OCC. Furthermore, OCC Highways has not raised any issue in this regard, and it is therefore considered that the level of parking provision is acceptable.

#### *Conclusion*

- 9.24. Overall, therefore, it is considered that the development would not cause harm to the safety of the highway network. The development would therefore comply with Policy SLE4 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance in the NPPF.

#### Drainage

- 9.25. Policy ESD7 of the Cherwell Local Plan 2011 – 2031 Part 1 states that all development will be required to use sustainable drainage systems for the management of surface water run-off.
- 9.26. The Drainage Engineer from Oxfordshire County Council initially objected to the development due to the lack of a drainage strategy. A drainage strategy was then submitted by the applicant; however, the Drainage Engineer was not content with the detail in this document. Following further discussions between the applicant's

drainage consultants and the Drainage Engineer, the Drainage Engineer has offered no objections to the drainage strategy subject to conditions. It is considered that subject to these conditions, the site would use sustainable drainage systems for the management of surface run-off.

- 9.27. The determination of this application was delayed to allow for the above mentioned issues to be resolved.
- 9.28. Subject to these conditions, it is considered that the development would not cause harm with regard to the drainage of the site. The proposed development therefore complies with Policy ESD7 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance in the NPPF.

#### Environmental protection

##### *Policy context*

- 9.29. Policy ESD1 of the Cherwell Local Plan 2011 – 2031 Part 1 states that measures will be taken to mitigate the impact of the development within the District on climate change.
- 9.30. Policy ESD3 of the Cherwell Local Plan 2011 – 2031 Part 1 states that all development proposals will be encouraged to reflect high quality design and high environmental standards and to demonstrate sustainable construction methods.
- 9.31. Policy ESD5 of the Cherwell Local Plan 2011 – 2031 Part 1 states that the Council will support renewable and low carbon energy provision wherever any adverse impacts can be addressed satisfactorily. Planning applications involving renewable energy development will be encouraged provided that there is no unacceptable adverse impact.
- 9.32. Saved Policy ENV1 of the Cherwell Local Plan 1996 states that development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke other types of environmental pollution will not normally be permitted.
- 9.33. Saved Policy ENV12 of the Cherwell Local Plan 1996 states that development on land which is known or suspected to be contaminated will only be permitted if adequate measures can be taken to remove any threat of contamination to future occupiers of the site, the development is not likely to result in contamination of surface or underground water resources or the proposed use does not conflict with the other policies in the plan.

##### *Assessment*

- 9.34. The site currently has four electrical vehicle charging points for its staff and has cabling installed for twelve dual charging points, which would allow for the simultaneous charging of a further twenty-four electric vehicles. DCS are in discussions with the Low Carbon Hub regarding installing renewable energy power sources on the site and are in the process of planting 30,000 trees in the Banbury Country Park to the east of the site to help offset its carbon footprint. It is considered that these measures are being taken to mitigate the impact of the development on climate change.

##### *Conclusion*

9.35. The proposal development thus complies with Policies ESD 1, 2 and 3, Saved Policies ENV1 and ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the NPPF.

**10. PLANNING BALANCE AND CONCLUSION**

10.1. The development is contained within the existing confines of the site and no change of use would occur under this application. The development would not cause harm to the character and appearance of the area, given that the new infill warehouse is well-screened by existing buildings and the lightweight structure of the canopy. Subject to conditions, the development would not cause harm to the safety of the local highway network or sustainable drainage systems. The development would not cause harm to the amenities of neighbours. It is therefore considered that the development is acceptable, subject to the conditions set out below.

**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

**Compliance with Plans**

1. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: 1988/701 (Site Location Plan); 1988/703 (Proposed Site Plan); 1988/705 (Proposed Ground Floor Plan); 1988/707 (Proposed Elevations) and Nolan Associates Drainage Strategy reference 2019-279.

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.

**Drainage management plan**

2. 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 details shall be in general accordance with the Nolan Associates Drainage Strategy reference 2019-279. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the first use of the building hereby approved.

Reason – To comply with Policy ESD7 of the Cherwell Local Plan 2011 – 2031 Part 1 and to ensure that the principles of sustainable drainage are incorporated into this proposal.

**Completion of sustainable drainage scheme**

3. No building or use hereby permitted shall be occupied or the use commenced until the sustainable drainage scheme for the site has been completed in accordance with the submitted details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

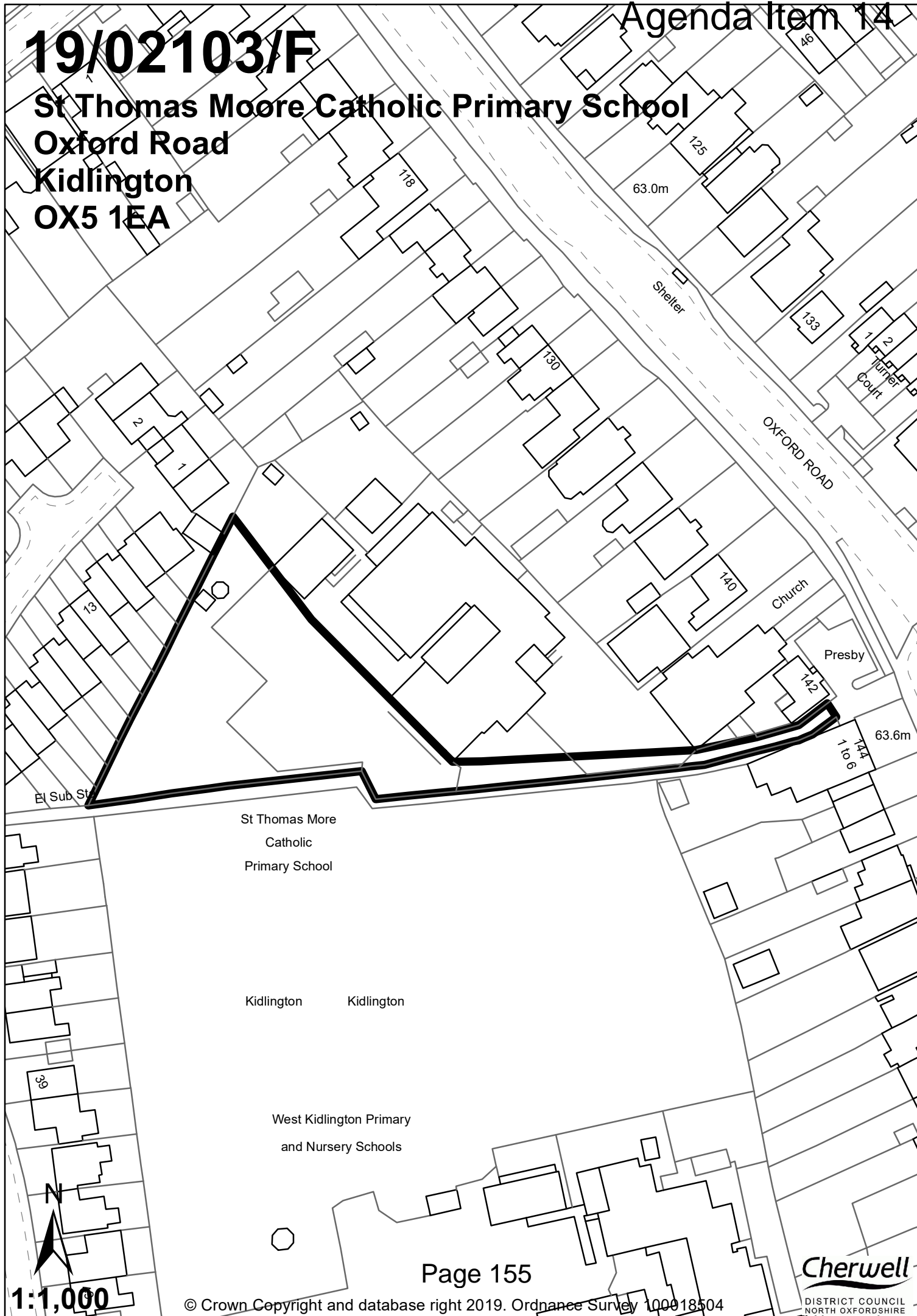
Reason - To comply with Policy ESD7 of the Cherwell Local Plan 2011 – 2031 Part 1 and to ensure that the principles of sustainable drainage are incorporated into this proposal.

CASE OFFICER: Matthew Chadwick

TEL: 01295 753754

# 19/02103/F

**St Thomas Moore Catholic Primary School**  
**Oxford Road**  
**Kidlington**  
**OX5 1EA**



St Thomas More  
Catholic  
Primary School

Kidlington Kidlington

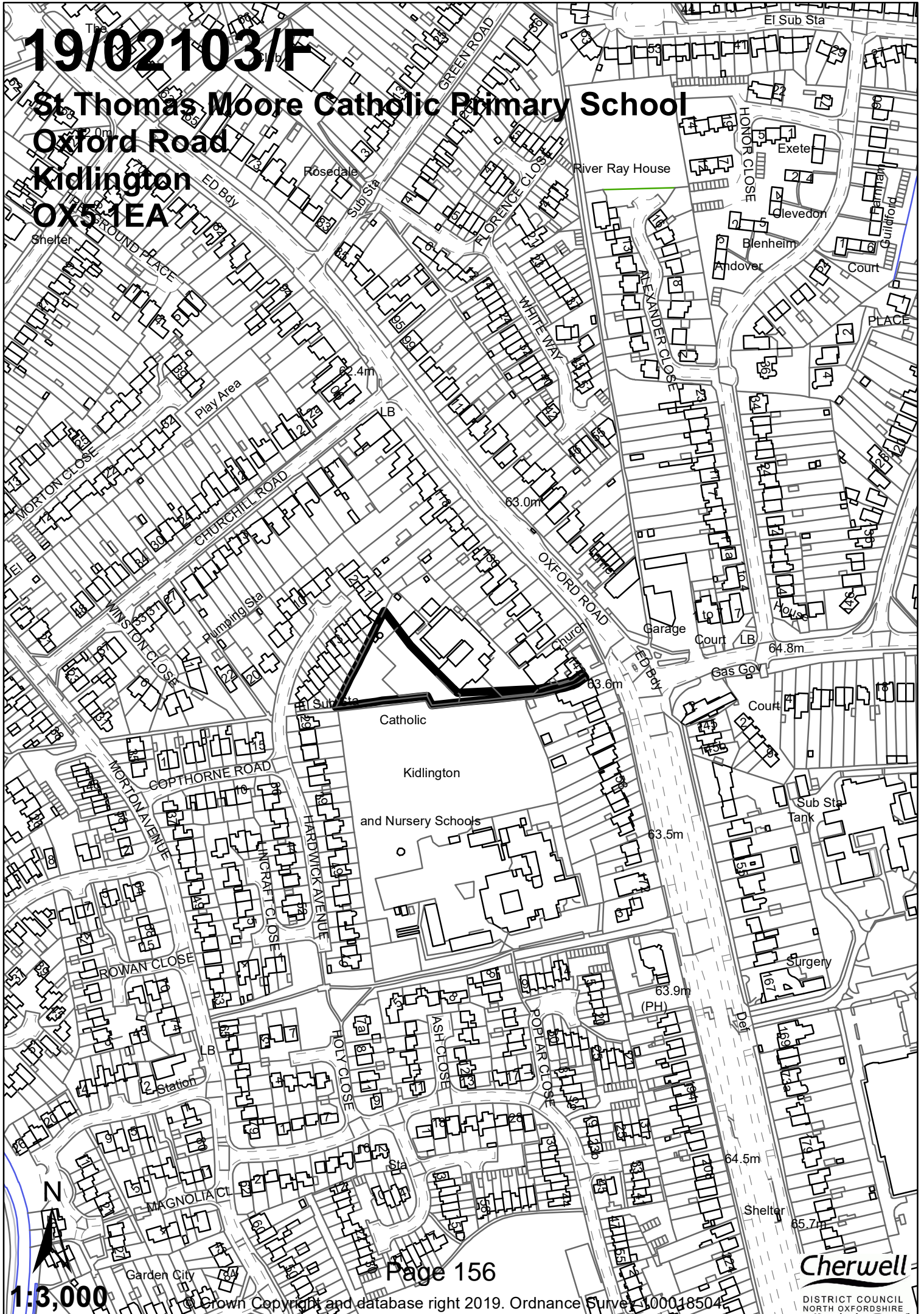
West Kidlington Primary  
and Nursery Schools





19/02103/F

**St Thomas Moore Catholic Primary School**  
**Oxford Road**  
**Kidlington**  
**OX5 1EA**





**Case Officer:** Michael Sackey

**Applicant:** St Thomas More Catholic Primary School

**Proposal:** Multi Use Games Area with all weather surfacing (Astro Turf) and sports fencing

**Ward:** Kidlington East

**Councillors:** Councillor Maurice Billington, Councillor and Councillor Ian Middleton

**Reason for Referral:** Called in by Councillor Billington on the grounds of the proposals' impact on neighbours' amenity

**Expiry Date:** 19 December 2019                      **Committee Date:**

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

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

#### **Proposal**

Retrospective application for the erection of Multi Use Games Area with all weather surfacing (Astro Turf) and sports fencing (revised scheme of application reference (19/00774/F)

#### **Consultations**

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

- Kidlington Parish Council, CDC Environmental Protection and Sport England

Two letters of objection have been received.

#### **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 is the proposals' impact on the character of the area and on residential amenity.

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 relates to the St Thomas More Catholic Primary School, situated off Oxford road and to the rear of the existing St Thomas More Church in Kidlington. The application site is within a residential estate and is bounded by residential neighbours to the north, west, east and a Public Footpath to the south. There are no significant changes in the ground levels of the site which are considered to affect the application's assessment. Neither the Primary School or Church is a listed building nor is the site located within a Conservation Area.

## **2. CONSTRAINTS**

2.1. There are no particular site constraints

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

3.1. The current application, a revised scheme of application reference (19/00774/F), seeks retrospective permission for the erection of Multi Use Games Area (MUGA) with all-weather surfacing (Astro Turf) and sports fencing. The proposed MUGA would measure approximately 12m depth, 30m width with an overall height 4m and the proposed fencing would measure 3m in height.

3.2. The current application is required because, whereas the approved MUGA was positioned at an angle to the western boundary of the site – 4.2m at the closest point and 7.2m at the furthest point – the MUGA has been laid out so that it is parallel to the western boundary of the site at a distance of approx. 4 metres.

## **4. RELEVANT PLANNING HISTORY**

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
19/00774/F	New Multi Use Games Area (MUGA) with all-weather surfacing (Astro Turf) and sports fencing.	Application Permitted

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

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

<u>Application Ref.</u>	<u>Proposal</u>
19/00008/PREAPP	A new multi-use games area - 30 metres by 11 metres. 3 metre high fencing and min of 2 meters from the boundary astro turf will be used on a suitable base for multiple types of sports: netball, basketball, 5-a-side football and hockey

5.2. Two options were tabled. Officers advised that Option 1 would not be acceptable and could not be supported, but that subject to officers' concerns being addressed any future planning application for Option 2 was likely to be considered favourably.

## **6. RESPONSE TO PUBLICITY**

6.1. This application has been publicised by way of a site notice displayed near the site and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records (amend as appropriate). The final

date for comments was **06 December 2019**, although comments received after this date and before finalising this report have also been taken into account.

6.2. Two letters of objection have been received, making comments in relation to visual impact, impact on neighbours' outlook, and the approved plans and imposed conditions not being adhered to.

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.

### KIDLINGTON PARISH COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. No objections

### OTHER CONSULTEES

7.3. CDC Environmental Protection – **No objections** as per previous application based on the proposed hours of use being term time and until approx. 16.30.

7.4. Sports England – **No objection**

7.5. CDC Building Control – Consulted on (30.10.2019); no comments received

7.6. CDC Ecology – Consulted on (30.10.2019); no comments received

7.7. OCC Rights of Way – Consulted on (30.10.2019); no comments received

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

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

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

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

- BSC 10 - Open space, Outdoor sport and Recreation Provision
- ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
- 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)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)
- Kidlington Master Plan (2016)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

## 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
- Residential amenity

### Principle of Development

9.2. *Policy BSC 10 states the Council will encourage partnership working to ensure that sufficient quantity and quality of, and convenient access to open space, sport and recreation provision is secured through the following measures such as protecting existing sites, addressing existing deficiencies in provision through qualitative enhancement of existing provision, and ensuring that proposals for new development contribute to open space sport and recreation provision commensurate to the need generated by the proposals. In determining the nature of new or improved provision the Council will be guided by the evidence base and consult with town and parish councils, together with potential users of the greenspace wherever possible, to ensure that provision meets local needs.*

9.3. As set out above, the application relates to the erection of a MUGA at the site. The principle of the development has already been assessed as being acceptable under the previous application reference (19/00774/F).

9.4. The MUGA provides an all-weather playing surface that can be used 12 months of the year. It is to be managed by the School for Physical Education lessons and sporting sessions. The applicant has confirmed in the previous application that (1) the hours of use for the MUGA would be between 8.50am and 3.15pm i.e. within the school opening hours, and after school clubs until 4.30pm (2) that its use would be confined to the school / those attending the school.

9.5. The supporting information accompanying the current application indicates that the current grass area, which the MUGA replaced, was not usable for many months of the year due to poor drainage and ground conditions. The school was already using this area for sporting activities for parts of the year, but the development provides an all-weather playing surface that can be used 12 months of the year.

9.6. The applicant has also indicated in the application form that activities taking place on the proposed MUGA would be monitored by a member of staff during break and lunch times and all activities would be supervised.

- 9.7. The use of the MUGA can be managed through conditions as it was in the case of the earlier consent i.e. to be only used within the opening hours of the school.
- 9.8. Having regard to the above, officers are satisfied that the MUGA is acceptable in principle. The overall acceptability of the development carried out is dependent on further considerations such as its visual and residential impact, discussed below.

#### Design and impact on character of area

- 9.9. *The Government attaches great importance to the design of the built environment within the Framework. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people*
- 9.10. *Policy ESD15 also states that: "New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards."*
- 9.11. *Saved Policy C28 of the CLP 1996 further states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the rural or urban context of that development.*
- 9.12. The development carried out is of the same scale as that approved, with the only changes relate to its positioning, i.e. that it is sited closer to the site's western boundary than the approved scheme.
- 9.13. The adjacent neighbours have raised concerns with regards to the visual impact of the development. Similar concerns were raised at the time of the first application, which preceding the construction of the MUGA.
- 9.14. The MUGA is not visible from the highway but is visible from the neighbours to the west and from the Public Footpath to the south of the site and is set closer in proximity to the western boundary of the site than the approved scheme.
- 9.15. The development is relatively large in scale, particularly in terms of the area covered and the proposed fencing. However, it is set down in height from various buildings at the site and it is considered that the design of the mesh fencing - with spacers of approximately (6-8mm) between the steel mesh rather than solid fence, lessens its visual impact.
- 9.16. Given its scale, siting and design, officers consider it does not have a harmful impact on the character and appearance of the locality, and that its visual impact is not materially different to that approved.
- 9.17. For these reasons, the development accords with retained Policy C28 of the Cherwell Local Plan 1996 and Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1 and government guidance within the National Planning Policy Framework.

#### Residential Amenity

- 9.18. The MUGA is positioned on an area of land that was previously used as a playing field for the Primary School and does not result in the loss of land for sport and recreation.
- 9.19. The MUGA concentrates activity in this part of the site all year round rather than a few months of the year as previously experienced. Information about hours and nature of use was sought and received at the time of the last application. It was

clarified that the MUGA would only be used by the school during the school opening times and for after school clubs and that no lighting is proposed.

- 9.20. The Council's Environmental Protection Officer has commented on the proposal, raising no objections to the development.
- 9.21. It is acknowledged that the adjacent neighbours have raised concerns with regards to the outlook and potential noise impacts of the proposal.
- 9.22. The MUGA is positioned parallel to the site's western boundary with a gap of 4 metres between the development and the site boundary beyond which are neighbouring properties on Hardwick Avenue. It was approved at an angle to the boundary, being 4.2m at the closest point and 7.2 metres at the furthest point.
- 9.23. Albeit closer to these neighbours, officers consider the development does not have a significantly different impact on any of the adjacent neighbours in terms of loss of light, outlook or privacy to the extent that warrants refusal of the application.
- 9.24. It must be noted that if sited 5 metres from the boundary rather than 4 metres, the fencing would not require planning permission. Officers consider the development does not have so different an impact from the permitted development fallback alternative as to warrant refusal. (The hardstanding does not benefit from such a fallback position and requires consent in any case.)
- 9.25. Given the existing use of the site, and subject to a condition requiring the MUGA to be used for purposes ancillary to the School and within the opening hours previously stated by the applicant, and a condition to preclude lighting without a further planning application, the development is considered acceptable in residential amenity terms.
- 9.26. Subject to those condition, the development thus accords with retained Policy C30 of the Cherwell Local Plan 1996 and Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1 and government guidance within the NPPF.

#### Other matters

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

- 9.27. 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*

- 9.28. 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.
- 9.29. Officers have considered the application and resolved that none of the protected characteristics is affected or potentially affected by the application.

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

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

## **11. RECOMMENDATION**

**GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW AND (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: 001 C, 003, 004, 005, 006 and 007 and Soundplanning (Proposed MUGA Sports Pitch at St Thomas More Catholic School, Kidlington).

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.

#### **Restriction on times use**

3. The Multi Use Games Area (MUGA) hereby approved shall not be used other than between 08:50 hours and 16:30 hours on Monday to Friday inclusive.

Reason – To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Restriction on Floodlighting**

4. No external lights shall be erected on the land or in connection with the development hereby approved without the grant of further specific planning permission from the local Planning Authority.

Reason – In order to safeguard the amenities of the area and to comply with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Agenda Item 15  
**19/01515/F**

**Manor Cottage  
The Square  
Epwell  
Banbury  
OX15 6LA**

Epwell

Brookfield View

Manor Cottage

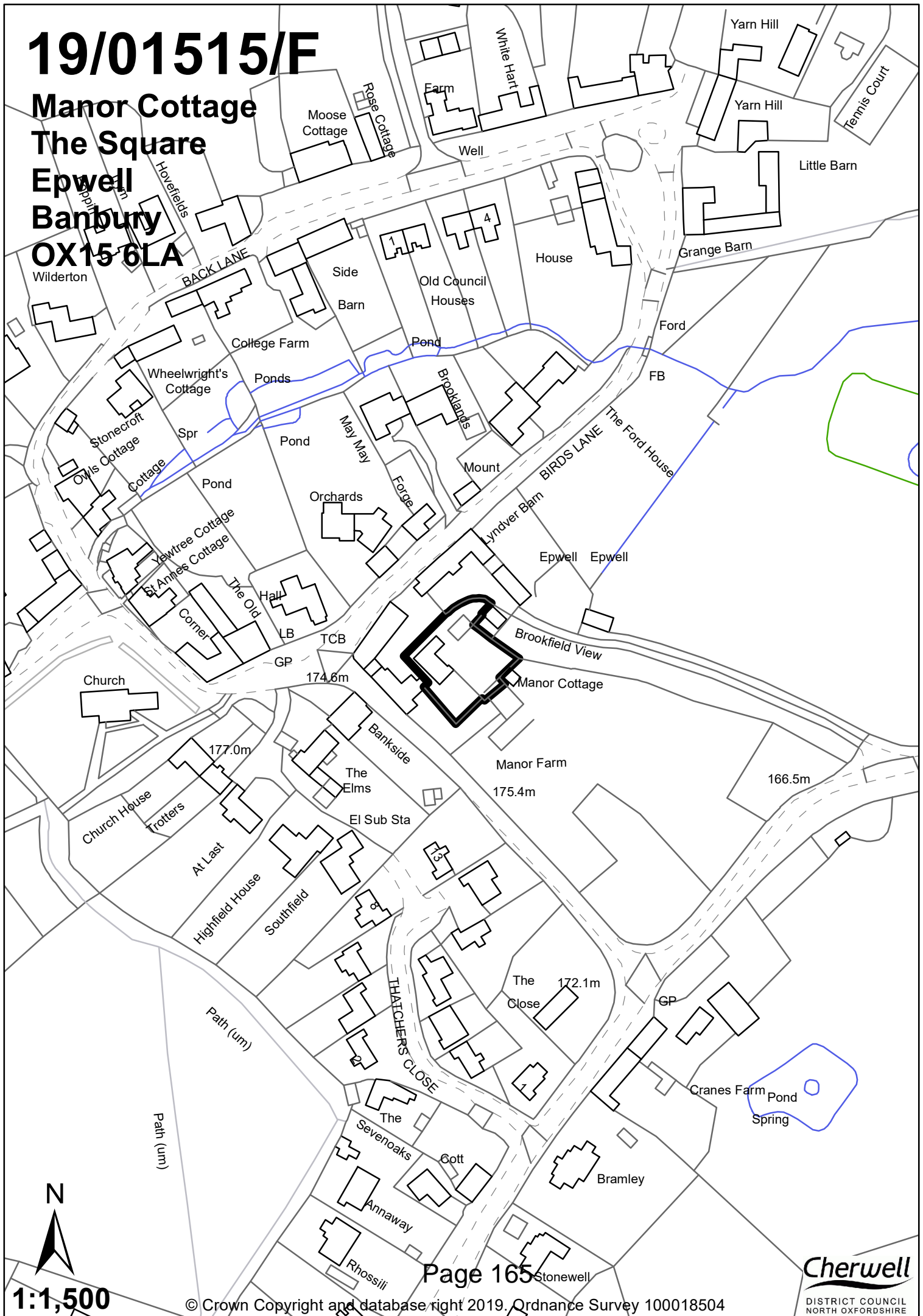


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# 19/01515/F

**Manor Cottage**  
**The Square**  
**Epwell**  
**Banbury**  
**OX15 6LA**



1:1,500

**Case Officer:** Lewis Knox

**Applicant:** Mrs E Lejeune-White

**Proposal:** Restoration of outbuilding & conversion to habitable accommodation; single storey garden room extension to cottage

**Ward:** Cropredy, Sibfords And Wroxton

**Councillors:** Councillor Phil Chapman, Councillor George Reynolds, Councillor Douglas Webb

**Reason for Referral:** Called in by Councillor Douglas Webb on the grounds of Public Interest

**Expiry Date:** 12 November 2019

**Committee Date:** 18 December 2019

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

### **RECOMMENDATION: REFUSE PERMISSION**

#### **Proposal**

This application relates to the restoration of an outbuilding & its conversion to habitable accommodation; and the erection of a single storey extension to the cottage to form a garden room.

The garden room would measure 4.9m in width, 4.8m in depth and would have a pitched roof of ridge height 3.5m falling to 2.4m at the eaves.

#### **Consultations**

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

- Cherwell District Council Conservation

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

- Epwell Parish Council, OCC Highways

No consultees responded **in support** of the application.

There have been no comments received from members of the public, either through objection or support

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

The application building is a Grade II Listed Building and the site is located within the Cotswolds Area of Outstanding Natural Beauty

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 issue in the assessment of the application is the proposals' impact on 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. It would result in a visually incongruous and alien form of development that would relate poorly to the existing listed and curtilage listed buildings. As a result, the proposal would cause harm to the historic plan form of the cottage.

**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 listing entry for the Manor Cottage describes the building as Manor Farm service block, which is a dairy, washhouse and bakery dating to the 16th and 17th century. The list entry suggests that the roof was raised in the 18th century. The building has a 2 unit plan and is single storey with an attic and an external staircase and corrugated iron roof. The construction of the building is of coursed ironstone rubble. The building appears to have been extended in 1988 when it was converted and a second storey and new roof were added. The roof retains the stone coped gables.
- 1.2. The significance of the buildings is their historical association with the farm complex and their ancillary use and relationship. Also the historic fabric that remains from the previous buildings is of significance.

### **2. CONSTRAINTS**

- 2.1. The cottage is a grade II listed building and the outbuilding is considered to be curtilage Listed. The site is located within the Cotswolds Area of Outstanding Natural Beauty. There are no other planning constraints relevant to this application.

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

- 3.1. The application relates to the restoration and enlargement of an existing outbuilding in order for it to be converted to habitable accommodation. The works involved include raising the overall height of the building to allow for sufficient space in the first floor of the building for adequate living conditions. The proposals also include the addition of further openings for windows and doors. The original ground floor layout would be retained through the proposals.
- 3.2. The application also includes the erection of a single storey rear extension to Manor Cottage. The proposed extension would extend beyond the original side elevation of the dwelling and would feature one gable end and one hipped gable and would alter the plan form of the dwelling from the existing L-shape to a U-shape.
- 3.3. A large section of the original rear wall of the dwelling would be removed in order to achieve access from the main dwelling to the proposed extension.

### **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>	<u>Date</u>
04/02680/F	Conversion of existing outbuilding into a self-contained annexe (Resubmission 04/02205/F)	Application Permitted	17.03.2005
04/02681/LB	Conversion of existing outbuilding into a self-contained annexe	Application Permitted	17.03.2005
04/02205/F	Conversion of outbuilding into small cottage	Application Withdrawn	06.12.2004
19/00380/F	Restoration of outbuilding & conversion to habitable accommodation; single storey garden room extension to cottage	Application Refused	08.05.2019
19/00381/LB	Restoration of outbuilding & conversion to habitable accommodation; single storey garden room extension to cottage	Application Refused	08.05.2019

- 4.2. 19/00380/F & 19/00381/LB – A similar proposal to the current scheme and were refused on the grounds of the harm which would be caused cause to the historic plan form of the cottage; and would have therefore detrimentally impacted on the character and appearance of the grade II listed Manor Cottage and the setting of the curtilage listed outbuilding. The identified harm identified would not have been outweighed by any public benefits.

## **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>
18/00090/PREAPP	Single storey extension to main dwelling and conversion of existing outbuilding
18/00225/PREAPP	Pre-Application Enquiry - Follow Up Request- Single storey extension to rear

- 5.2. 18/00090/PREAPP - the proposed conversion of the existing outbuilding to ancillary accommodation was considered to be acceptable and any future planning application for this proposal would be viewed favourably subject to the materials and detailing and the proposed living accommodation remaining ancillary to Manor Cottage. The proposed rear extension would not be viewed favourably in any form due to the significant detrimental impact it would have on the Grade II listed building by virtue of the unacceptable alteration of the historic plan form of the building.

- 5.3. 18/00225/PREAPP - the proposed rear extension would not be viewed favourably in any form due to the significant detrimental impact it would have on the Grade II

listed building by virtue of the unacceptable alteration of the historic plan form of the building.

## **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 **9 October 2019**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. No comments have been raised by third parties:

## **7. RESPONSE TO CONSULTATION**

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

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. EPWELL PARISH COUNCIL: **Raised no objections**

### CONSULTEES

- 7.3. OCC HIGHWAYS: **No objections**
- 7.4. CHERWELL DISTRICT COUNCIL LANDSCAPE SERVICES: No comments received
- 7.5. CHERWELL DISTRICT COUNCIL CONSERVATION: The conversion of the existing outbuilding is considered to be acceptable in principle. The plans submitted show additional openings to this building, however these are not extensive and are designed to be in keeping with the character of the building as an outbuilding. The existing layout at ground floor will be retained and this is welcomed. The roof is of modern construction and therefore raising the roof will not result in a loss of historic fabric. Overall there are no objections to the proposed works to the outbuilding to convert it to habitable space subject to the use of appropriate materials to ensure that the character is preserved.
- 7.6. The proposed single storey addition to the cottage is considered to have a greater impact on the significance of the Listed Buildings. It is accepted that the cottage has been extended to the rear in the past; however, the proposed extension is considered to be incongruous. The existing protrusion to the north east is in a form that is common on historic buildings as it creates an L shaped layout. The proposed extension would alter this plan form and unacceptably change the appearance of the building. The design of the proposed extension is not traditional and the gable and the hipped roof results in an unbalanced appearance. The form and design of the extension does not draw upon the character of the existing building and furthermore the historic plan form of the building is considered to be detrimentally altered by the proposed extension.

## **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)

- C21 – Proposals for re-use of a listed building
- C28 – Layout, design and external appearance of new development
- C30 – Design of new residential development

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)
- Cherwell Council Home Extensions and Alterations Design Guide (2007)
- 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”)

## 9. APPRAISAL

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

- Heritage impact, Design, and impact on the character of the area
- Residential amenity

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

*Legislative and policy context*

- 9.2. 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.*
- 9.3. 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.

- 9.4. 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.
- 9.5. Paragraph 124 of the NPPF states that: *'Good design is a key aspect of sustainable development'* and that it *'creates better places in which to live and work'*. 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.*
- 9.6. Saved Policies C28 and C30 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.*

#### *Assessment*

- 9.7. The building has been extended to the rear in the past. However, the existing extension to the north western side of the rear elevation is of a form that is not uncommon on historic buildings (an extension to create an L shaped Building). Whereas the proposed extension would compete with this simple layout, would significantly alter the historic plan form of the building and would result in a large proportion of the rear elevation being covered by modern extensions, overwhelming the form and character of the original building.
- 9.8. The proposed design of the extension would be at odds with the existing simple character of the listed building. The plans show a mixed roof type with a gable end to the south eastern elevation, and a hipped roof to the north western elevation. This would be at odds with the current form of the dwelling which has a strong gable character. The form and design of the extension does not draw upon the character of the existing building and would unbalance the form of the building.
- 9.9. The proposal would therefore be out of keeping with the form and character of the listed building and would be demonstrably harmful to its significance. There are objections to the principle of a single storey addition to the main cottage.
- 9.10. The conversion of the existing outbuilding is considered to be acceptable in principle. It appears from the plans submitted that additional openings would be kept to a minimum and this is welcomed. It also appears that the existing layout at ground floor would be retained. The roof is of modern construction and therefore raising the roof would not result in a loss of historic fabric. Overall there are no objections to the proposed works to convert the outbuilding to a habitable space subject to the use of appropriate materials and care should be taken to preserve the character of the structure as an outbuilding.
- 9.11. Due to its setting in close proximity to two listed buildings it would be necessary to complete the proposed works to the outbuildings in materials which match and that

are sympathetic to its surroundings. This would include any remedial stonework being completed in natural weathered ironstone of the same type, colour, texture, and appearance as the stone on the existing building and the roof should be completed in natural welsh slate. The submitted plans detail that the raising of the wall level would be completed in stonework to match and this is considered appropriate.

- 9.12. By reason of its scale and siting, as well as the mature vegetation to the boundary of the site, the proposed garden room would not have a significant or adverse impact on the character and appearance of the wider area or that of the Area of Outstanding Natural Beauty.

#### *Conclusion*

- 9.13. The proposed design is considered to be incongruous and at odds with the existing character of listed building. The design includes one gabled end and one hipped end leading to an unbalanced design which would detract from the relatively simple form and design of the grade II listed building. The proposed roof form would appear incongruous and contrived with varying roof slopes which would be out of keeping with the original dwelling.
- 9.14. The proposal therefore fails to preserve the significance of the heritage asset, and the proposal therefore fails to accord with Policy ESD15 of the CLP 2031 Part 1 and Government guidance within the National Planning Policy Framework.

#### Residential Amenity

- 9.15. Paragraph 127 of the NPPF includes, as a core planning principle, a requirement that planning should have *a high standard of amenity for all existing and future users*. This is reflected in Policy ESD15 of the CLP 2031 Part 1, which states that new development proposals should: *consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space*.
- 9.16. The Council's Home Extensions and Alterations Design Guide (2007) provides informal guidance on how the Council will assess proposed extensions to houses, including guidance on assessing the impact on neighbours. This includes assessing whether a proposed extension would extend beyond a line drawn at a 45° angle, as measured horizontally from the mid-point of the nearest habitable room window.
- 9.17. The existing outbuilding sits quite centrally within The Square, Epwell and is visible from the other dwellings. Despite the proposed increase in roof height to accommodate the proposed habitable space within the roof of the building it is considered that the conversion of this outbuilding would not have an overall detrimental impact on the residential amenity of any of the surrounding dwellings.
- 9.18. The proposed works would see an increase in ridge height of around 0.6m from its current height. Given its relationship with surrounding properties the neighbouring residents would not be affected by a loss of light, loss of outlook or overbearing as a result of these works.
- 9.19. Due to the outbuilding's siting in the middle of The Square there would be a mutual overlooking of habitable rooms, mainly from the main dwelling at Manor Cottage. As a result of this it would be essential to restrict the occupancy of the outbuilding so that it remained ancillary to Manor Cottage.



- 9.20. It should be noted that a previous application, 04/02205/F, to convert the outbuilding into a separate cottage was withdrawn following officer concerns regarding the impact a new dwelling would have on residential amenity.
- 9.21. By virtue of its scale and siting it is considered that the proposed rear extension would not have any impact on the residential amenity of any surrounding dwellings or other buildings within the site either through loss of outlook, loss of light or overbearing to that dwelling.
- 9.22. The proposed openings on the rear elevation would not directly face any openings on any other buildings in the vicinity and would not impact on the levels of privacy at the site.
- 9.23. The development therefore accords with Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1 in terms of residential amenity.

#### 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).

9.29. 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*

9.30. 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.

9.31. 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.

9.32. 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.

9.33. 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.

9.34. 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.

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

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

It also states that LPAs can also ask for:

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

9.36. 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.

9.37. 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.

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

9.39. 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.

#### *Assessment*

9.40. Officers are satisfied 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/Parking Provision

- 9.41. Policy ESD15 of the CLP 2031 Part 1 states, amongst other matters, that new development proposals should: *be designed to deliver high quality safe...places to live and work in*. This is consistent with Paragraph 110 of the NPPF which states that: *developments should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles*.
- 9.42. The proposals are not considered to have an adverse effect on highway safety at the site.

## 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 it would result in a visually incongruous and alien form of development that would fail to relate to the existing listed and curtilage listed buildings. As a result, the proposal would cause harm to the historic plan form of the cottage, and would result in harm to the significance of the heritage asset. 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

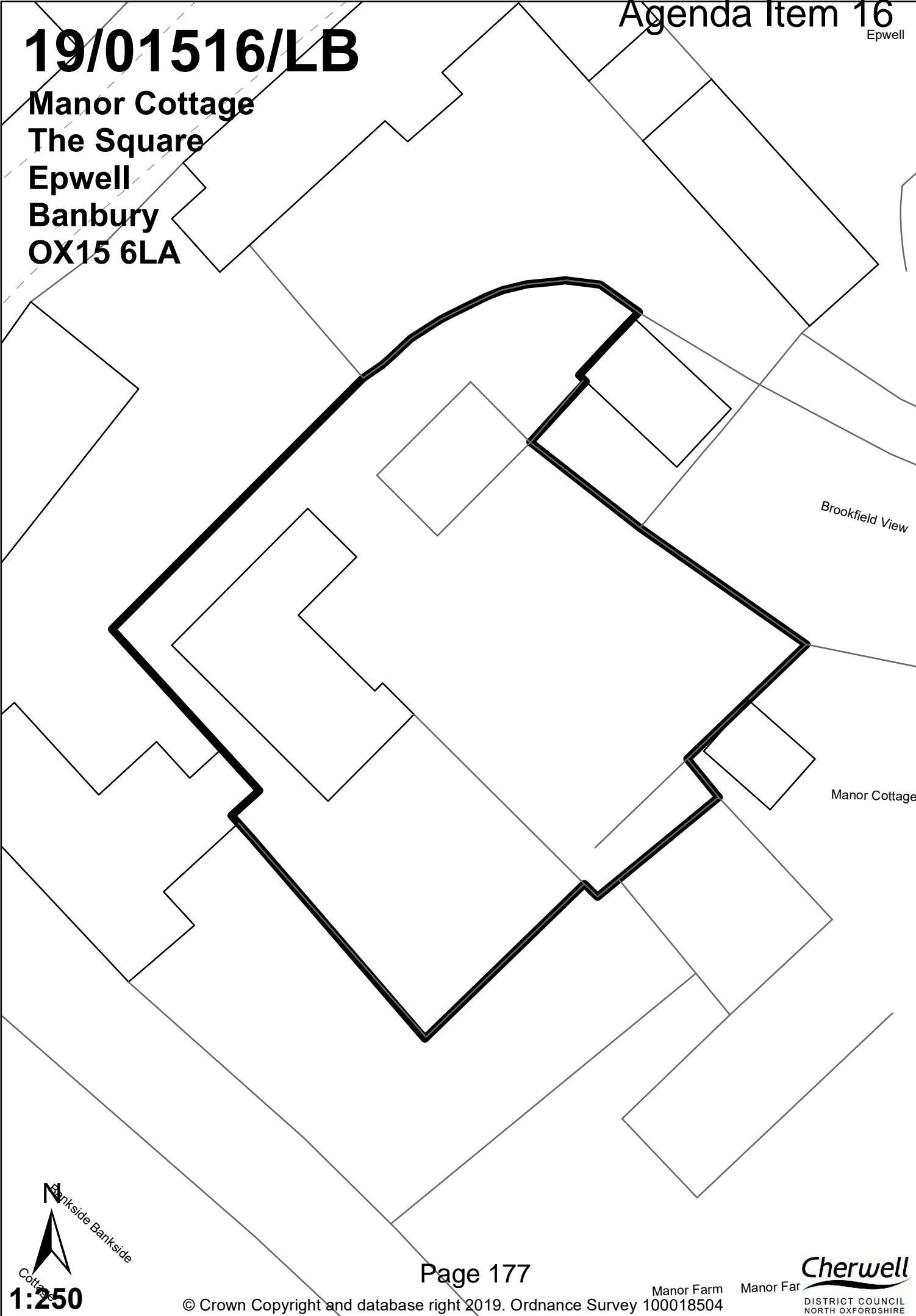
By virtue of its design, scale and form, the proposed extension to the dwellinghouse would result in a visually incongruous and alien form of development that would fail to relate to the existing listed and curtilage listed buildings. As a result the proposal would cause harm to the historic plan form of the cottage, and therefore detrimentally impact on the significance of the grade II listed Manor Cottage and the setting of the curtilage listed outbuilding. The identified harm would not be outweighed by any public benefits. The proposed development is therefore contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Lewis Knox

TEL: 01295 221858

# 19/01516/LB

**Manor Cottage  
The Square  
Epwell  
Banbury  
OX15 6LA**

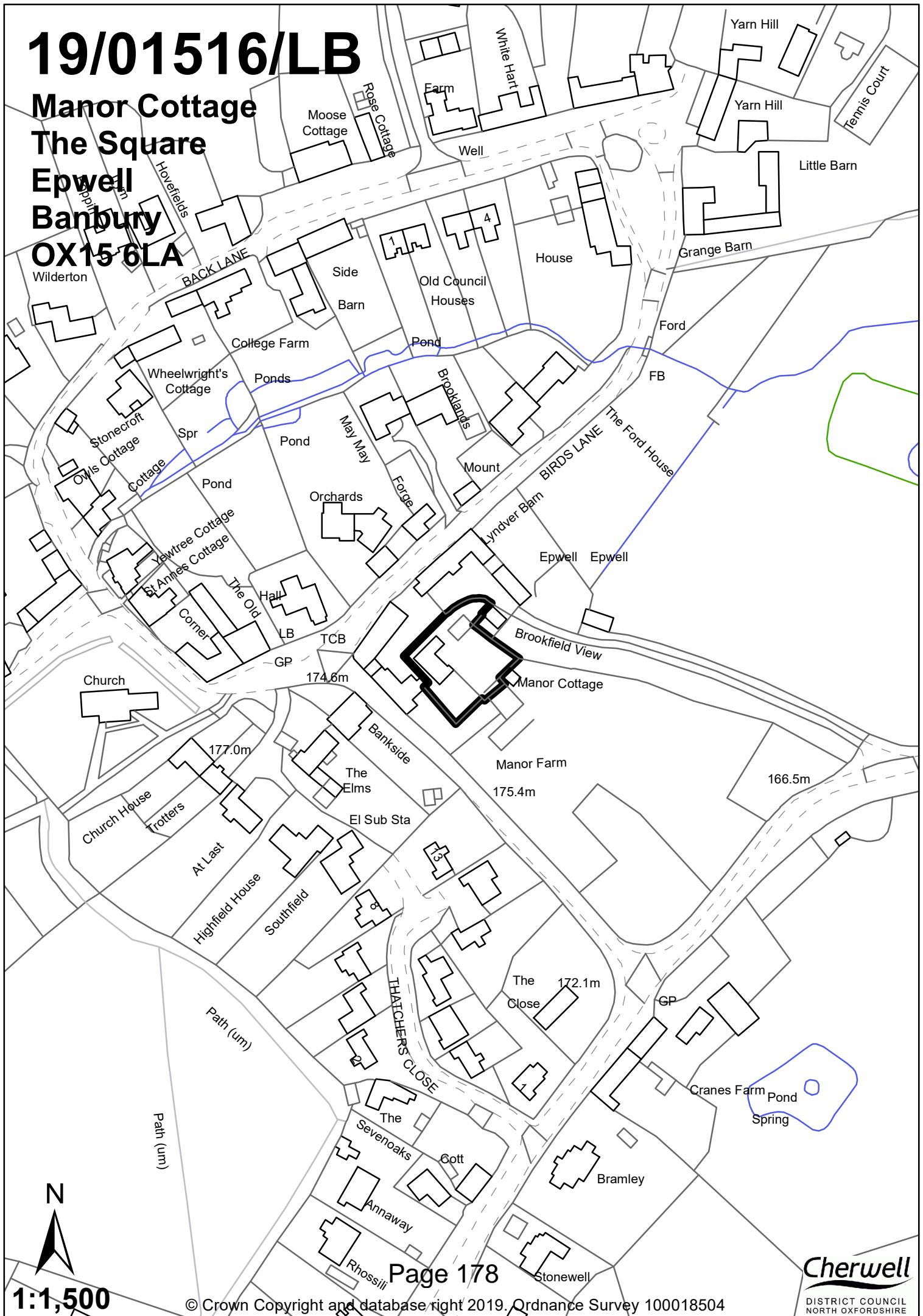


Brookfield View

Manor Cottage

# 19/01516/LB

**Manor Cottage**  
**The Square**  
**Epwell**  
**Banbury**  
**OX15 6LA**



1:1,500

**Case Officer:** Lewis Knox

**Applicant:** Mrs E Lejeune-White

**Proposal:** Restoration of outbuilding & conversion to habitable accommodation; single storey garden room extension to cottage

**Ward:** Cropredy, Sibfords And Wroxton

**Councillors:** Councillor Phil Chapman, Councillor George Reynolds, Councillor Douglas Webb

**Reason for Referral:** Called in by Councillor Douglas Webb on the grounds of Public Interest

**Expiry Date:** 12 November 2019

**Committee Date:** 18 December 2019

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

### **RECOMMENDATION: REFUSE PERMISSION**

#### **Proposal**

This application relates to the restoration of outbuilding & conversion to habitable accommodation; and the erection of a single storey garden room extension to cottage.

The garden room would measure 4.9m in width, 4.8m in depth and would have a pitched roof of ridge height 3.5m falling to 2.4m at the eaves.

#### **Consultations**

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

- Cherwell District Council Conservation

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

- Epwell Parish Council, OCC Highways

No consultees responded **in support** of the application.

There have been no comments received from members of the public, either through objection or support

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

The application building is a Grade II Listed Building and the site is located within the Cotswolds Area of Outstanding Natural Beauty

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 issue in the assessment of the application is the proposals' impact on 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. It would result in a visually incongruous and alien form of development that would relate poorly to the existing listed and curtilage listed buildings. As a result, the proposal would cause harm to the historic plan form of the cottage.

**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 listing entry for the Manor Cottage describes the building as Manor Farm service block, which is a dairy, washhouse and bakery dating to the 16th and 17th century. The list entry suggests that the roof was raised in the 18th century. The building has a 2 unit plan and is single storey with an attic and an external staircase and corrugated iron roof. The construction of the building is of coursed ironstone rubble. The building appears to have been extended in 1988 when it was converted and a second storey and new roof were added. The roof retains the stone coped gables.
- 1.2. The significance of the buildings is their historical association with the farm complex and their ancillary use and relationship. Also the historic fabric that remains from the previous buildings is of significance.

### **2. CONSTRAINTS**

- 2.1. The cottage is a grade II listed building and the outbuilding is considered to be curtilage Listed. The site is located within the Cotswolds Area of Outstanding Natural Beauty. There are no other planning constraints relevant to this application.

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

- 3.1. The application relates to the restoration and enlargement of an existing outbuilding in order for it to be converted to habitable accommodation. The works involved include raising the overall height of the building to allow for sufficient space in the first floor of the building for adequate living conditions. The proposals also include the addition of further openings for windows and doors. The original ground floor layout would be retained through the proposals.
- 3.2. The application also seeks the erection of a single storey rear extension to Manor Cottage. The proposed extension would extend beyond the original side elevation of the dwelling and would feature one gable end and one hipped gable and would alter the plan form of the dwelling from the existing L-shape to a U-shape.
- 3.3. A large section of the original rear wall of the dwelling would be removed in order to achieve access from the main dwelling to the proposed extension.



#### 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>	<u>Date</u>
04/02680/F	Conversion of existing outbuilding into a self-contained annexe (Resubmission 04/02205/F)	Application Permitted	17.03.2005
04/02681/LB	Conversion of existing outbuilding into a self-contained annexe	Application Permitted	17.03.2005
19/00380/F	Restoration of outbuilding & conversion to habitable accommodation; single storey garden room extension to cottage	Application Refused	
19/00381/LB	Restoration of outbuilding & conversion to habitable accommodation; single storey garden room extension to cottage	Application Refused	08.05.2019

4.2. 19/00380/F & 19/00381/LB – A similar proposal to the current scheme and were refused on the grounds of the harm which would be caused cause to the historic plan form of the cottage; and would have therefore detrimentally impacted on the character and appearance of the grade II listed Manor Cottage and the setting of the curtilage listed outbuilding. The identified harm identified would not have been outweighed by any public benefits.

#### 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>
18/00090/PREAPP	Single storey extension to main dwelling and conversion of existing outbuilding
18/00225/PREAPP	Pre-Application Enquiry - Follow Up Request- Single storey extension to rear

5.2. 18/00090/PREAPP - the proposed conversion of the existing outbuilding to ancillary accommodation to be acceptable and any future planning application for this proposal would be viewed favourably subject to the materials and detailing being acceptable and the proposed living accommodation being truly ancillary to Manor Cottage. The proposed rear extension would not be viewed favourably in any form due to the significant detrimental impact it would have on the Grade II listed building by virtue of the unacceptable alteration of the historic plan form of the building.

5.3. 18/00225/PREAPP - the proposed rear extension would not be viewed favourably in any form due to the significant detrimental impact it would have on the Grade II

listed building by virtue of the unacceptable alteration of the historic plan form of the building.

## **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 **17 October 2019**, although comments received after this date and before finalising this report have also been taken into account.

6.2. No comments have been raised by third parties

## **7. RESPONSE TO CONSULTATION**

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

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. EPWELL PARISH COUNCIL: **Raised no objections**

### CONSULTEES

7.3. CHERWELL DISTRICT COUNCIL CONSERVATION: The conversion of the existing outbuilding is considered to be acceptable in principle. The plans submitted show additional openings to this building, however these are not extensive and are designed to be in keeping with the character of the building as an outbuilding. The existing layout at ground floor will be retained and this is welcomed. The roof is of modern construction and therefore raising the roof will not result in a loss of historic fabric. Overall there are no objections to the proposed works to the outbuilding to convert it to habitable space subject to the use of appropriate materials to ensure that the character is preserved.

7.4. The proposed single storey addition to the cottage is considered to have a greater impact on the significance of the Listed Buildings. It is accepted that the cottage has been extended to the rear in the past; however, the proposed extension is considered to be incongruous. The existing protrusion to the north east is in a form that is common on historic buildings as it creates an L shaped layout. The proposed extension would alter this plan form and unacceptably change the appearance of the building. The design of the proposed extension is not traditional and the gable and the hipped roof results in an unbalanced appearance. The form and design of the extension does not draw upon the character of the existing building and furthermore the historic plan form of the building is considered to be detrimentally altered by the proposed extension.

## **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 – Development proposals affecting a listed building
- C21 – Proposals for re-use of a listed building

### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)
- Cherwell Council Home Extensions and Alterations Design Guide (2007)
- 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")

## 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

#### Impact upon the historic significance of the listed building and its setting

##### *Legislative and policy context*

9.2. The site is a Grade II listed building. 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.*

9.3. 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.

9.4. 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.*

- 9.5. 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.
- 9.6. 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.
- 9.7. 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.
- 9.8. 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.
- 9.9. 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*

- 9.10. Rear Extension – The building has been extended to the rear in the past. However, the existing extension to the north western side of the rear elevation is of a form that is not uncommon on historic buildings (an extension to create an L shaped Building). Whereas the proposed extension would compete with this simple layout and would result in a large proportion of the rear elevation being covered by modern extensions, overwhelming the form and character of the original building.
- 9.11. The form and design of the extension does not appear to draw upon the character of the existing building and furthermore the historic plan form of the building would be altered by the proposal which is considered to be harmful to its significance. The design with one gable end and one hipped end would unbalance the application dwelling and would not continue the largely gabled character of the original cottage and would further harm the significance of the listed building.

- 9.12. The proposed extension would be largely glazed and the amount of fenestration would be at odds with the fenestration on the original cottage. The amount of glazing would lead to the appearance of an overly modern addition to a building of historic significance.
- 9.13. Furthermore, a large section of the original external stone wall would be removed as part of the extension resulting in a loss of historic fabric having a permanent and irreversible impact on the listed building.
- 9.14. The proposed design of the extension would be at odds with the existing simple character of the listed building. The plans show a mixed roof type with a gable end to the south eastern elevation, and a hipped roof to the north western elevation. This would be at odds with the current form of the dwelling which has a strong gable character. The form and design of the extension does not draw upon the character of the existing building and would unbalance the form of the building.
- 9.15. It is therefore considered that the proposed rear extension would be contrary to Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1, and saved Policy C18 of the Cherwell Local Plan 1996 by resulting in harm to the significance of the Grade II Listed Building through a visually incongruous and alien form of development causing harm to the historic plan form of the cottage.
- 9.16. Conversion of Outbuilding – The conversion of the existing outbuilding is considered to be acceptable in principle. The plans submitted show that additional openings would be kept to a minimum as is the retention of the existing layout at ground floor. The existing roof is of modern construction and therefore raising the roof would not result in a loss of historic fabric. There are therefore no objections to the proposed works to the outbuilding to convert the building subject to conditions relating to materials and detailing.

## 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 it would result in a visually incongruous and alien form of development that would fail to relate to the character or historic plan form of the listed building. The proposal would therefore cause harm to the significance of the listed building. 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

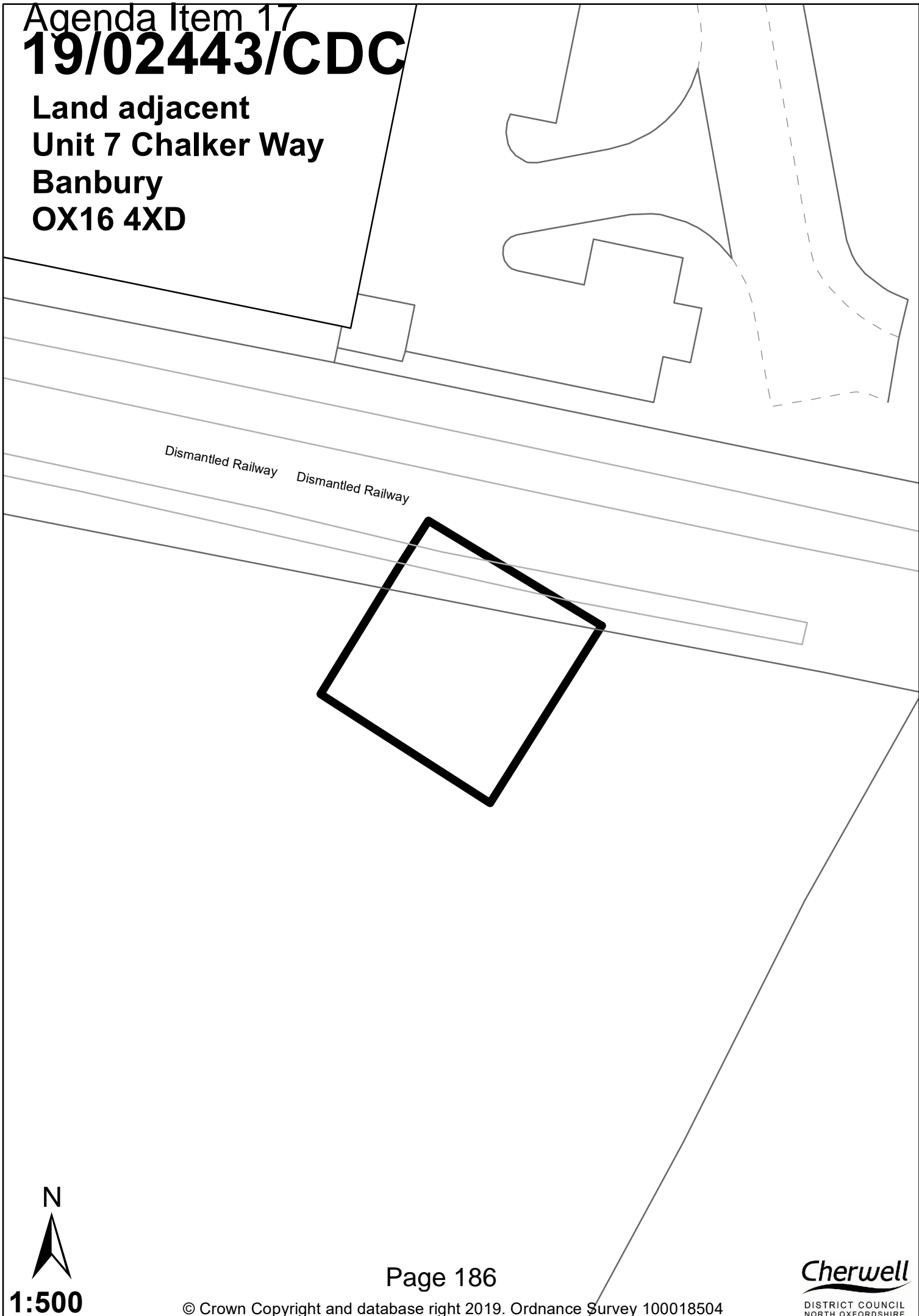
By virtue of its design, scale and form, the proposed extension to the dwellinghouse would result in a visually incongruous and alien form of development that would fail to relate to the existing listed and curtilage listed buildings. As a result the proposal would cause harm to the historic plan form of the cottage, and therefore detrimentally impact on the significance of the grade II listed Manor Cottage. The identified harm identified would not be outweighed by any public benefits. The proposed development is therefore contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Lewis Knox

TEL: 01295 221858

Agenda Item 17  
**19/02443/CDC**

**Land adjacent  
Unit 7 Chalker Way  
Banbury  
OX16 4XD**



*Dismantled Railway*    *Dismantled Railway*



# 19/02443/CDC

Land adjacent  
Unit 7 Chalker Way  
Banbury  
OX16 4XD

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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Case Officer:** Samantha Taylor

**Applicant:** Cherwell District Council

**Proposal:** Installation of a piece of artwork on a designated site off Chalker Way

**Ward:** Banbury Grimsbury And Hightown

**Councillors:** Councillor Andrew Beere; Councillor Shaida Hussain; Councillor Perran Moon

**Reason for Referral:** Council is the applicant

**Expiry Date:** 30 December 2019

**Committee Date:** 18<sup>th</sup> December 2019

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

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

#### **Proposal**

The application proposes a piece of public art on the land adjacent to Chalker Way. The piece of art is named the 'Figure of Industry' and is a concept piece depicting a figure drawing on 'The Iron Man of Banbury' showing the human side to industry. The piece would be situated on a circular steel plinth and would have a height of 9.5 metres.

#### **Consultations**

- Banbury Town Council, Environmental Health, OCC Highways, Thames Water

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

- Environmental Health and OCC Highways

Comments have not been received from Banbury Town Council or Thames Water.

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

The site lies within the Banbury 6 allocation for employment development, and immediately to the south of a disused railway line. The site is within Flood Zones 2 and 3 (zones of highest flood risk). A potential western link road is shown on the submitted plans immediately to the south of the application site. 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 issues arising from the application details are:

- Principle of Development
- Design, Landscape Character and Visual Impact
- Highway Safety
- Flood Risk

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 forms part of the Banbury 6 Allocation for employment land to the west of the M40. Much of the Banbury 6 Allocation has been developed or has been granted planning permission for employment purposes.
- 1.2. To the east of the site lies currently undeveloped greenfield land. However, planning application 19/00771/F has been received for the provision of two new commercial units on the site and is currently under consideration.

**2. CONSTRAINTS**

- 2.1 The application site is within Flood Zone 3 as defined by the Environment Agency and therefore, has a high risk of flooding. The site is also close to the point that a potential western link road (linking through to Higham Way) would connect to Chalker Way; this is shown on the submitted plan immediately to the south of the application site.

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The application proposes a piece of public art on the land adjacent to Chalker Way. The piece of art is named the 'Figure of Industry' and is a concept piece depicting a figure drawing on 'The Iron Man of Banbury', Sir Bernhard Samuelson, showing the human side to industry. Sir Bernhard is seen as one of the leading figures in Banbury's industrial development.
- 3.2. The piece would be situated on a circular steel plinth and would have a height of 9.5 metres. The form and appearance of the figure is inspired by the machining, turning and milling of metals in engineering, in particular the cutting and peeling of surfaces which creates spirals and coiling strands of swarf.

**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>
11/01878/OUT	Erection of up to 115,197 sqm of floorspace to be occupied for either B2 or B8 (use classes) or a mixture of both B2 and B8 (use classes). Internal roads, parking and service areas, landscaping and the provision of a sustainable urban drainage system incorporating landscaped area with balancing pond and bund (OUTLINE)	Application Permitted

14/00175/REM	Reserved Matters to Outline application (14/00180/OUT) - Approval of appearance, landscaping, layout and scale	Application Permitted
14/00180/OUT	Variation of Condition 29 (Height of building to enable Unit 1 to be constructed to an overall height of 16.75m) of 11/01878/OUT	Application Permitted
14/00407/ADJ	Variation of conditions 25 and 29 on S/20144/1620/MAO - Change of roof colour to Goosewing Grey and alter height of Unit 1 to 16.75m.	No Objections
15/02206/REM	Reserved matters pursuant to Condition 5 (Phase 2) OF 14/00180/OUT	Application Permitted
19/00487/F	Phase 2 Central M40 - Unit 6 - 17,768 sqm of logistics floorspace within Class B2 or B8, including ancillary class B1(a) offices (697 sqm), service yard and access to Chalker Way.	Application Permitted
19/00771/F	Full planning permission for 27,685 sq.m / 298,000 sq.ft. of logistics floorspace within class B2 or B8 of the town and country planning use classes order 1987, with ancillary class b1(a) offices (units 9 and 10), and ancillary retail and trade showroom (unit 10 only), not to exceed 300 sq.m (excluding convenience goods) together with the extension of Chalker Way, access from Chalker way, associated site infrastructure including lorry parking, landscaping, amenity open space and sustainable drainage system.	Under Consideration

## 5. PRE-APPLICATION DISCUSSIONS

- 5.1. Informal advice on the requirements for submitting a planning application and what information would be required have taken place internally.

## 6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **9 December 2019**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. No comments have been raised by third parties.

## 7. RESPONSE TO CONSULTATION

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

### TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. BANBURY TOWN COUNCIL: no response received

### CONSULTEES

- 7.3. OCC HIGHWAYS: **no objections** and no conditions requested
- 7.4. ENVIRONMENTAL PROTECTION: response received – no comments in respect of noise, contaminated land, air quality, odour or light.

## 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)

- ESD6 – Sustainable Flood Risk Management
- ESD15 - The Character of the Built and Historic Environment
- BANBURY 6 – Employment Land to the West of M40

### 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)
  - Planning Practice Guidance (PPG)
  - Human Rights Act 1998 ("HRA")
  - Equalities Act 2010 ("EA")

- 8.4. Council Corporate Priorities

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

The three corporate priorities are to ensure the District is "Clean, Green and Safe", that it supports "Thriving Communities & Wellbeing", and is a District of "Opportunity

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

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

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

## **9. APPRAISAL**

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

- Principle of development
- Design, and impact on the character of the area
- Highway Safety
- Flood Risk

### Principle of development

9.2. The application site is situated within the Banbury 6 Allocation for employment development consisting of 35 hectares in total. A large proportion of the site has been constructed or granted planning permission for employment purposes.

9.3. The remaining area of land of which this site forms part of, is allocated for employment purposes. However, due to the challenges of flood risk on the site, the developers have submitted application 19/00771/F for the provision of two new commercial buildings on the area of land to the east of the site. This application is currently under consideration.

9.4. The artwork has been positioned on the edge of the remaining site allocation such that if – notwithstanding the outcome of application 19/00771/F - this land were to come forwards for employment development, the position of the artwork itself would not impact on ability to deliver employment development on the remainder of the allocation.

9.5. Policy Banbury 6 requires the provision of public art to enhance the quality of place within the allocated site. In addition, S106 funding was secured toward the provision of public art, through the grant of earlier permission for the wider development of employment uses along Chalker Way and therefore, the provision of art within the local vicinity is acceptable.

9.6. Overall, the principle of development is considered acceptable and accords with Policy Banbury 6 of the Local Plan.

### *Use of S106 Contributions to fund the proposed artwork*

9.7. Under the Third Schedule of the S106 Agreement that was entered into in respect of the original outline consent for the wider development (ref: 11/01878/OUT and dated

27<sup>th</sup> November 2012), the developer agreed to pay the public art contribution towards a scheme for Public Art.

- 9.8. The proposed development is for a piece of public art that references the local industrial context. Therefore, the provision of this piece of art is considered to satisfy the requirement and justification for the public art contribution.

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

- 9.9. The application site forms part of an area of currently undeveloped greenfield land but is also part of the Banbury 6 Employment Land allocation for development. The public art piece depicts a figure and is named the 'Figure of Industry'.
- 9.10. The artist has developed a proposal which seeks to symbolise the human side to development and industry, paying homage to Banbury's industrial past and looking forward to investment in its future. This is achieved through the use of a human figure constructed from machined, turned and milled metal. This metal pieces are pulled together to form the 'figure; which is stood arms out in a 'welcoming' manner.
- 9.11. Whilst the piece is relatively high at 9.5 metres, given the context of the area with large industrial units of varying heights up to 18.25 metres, the relative height is considered acceptable and would not be detrimental to the emerging character and appearance of the local area. It will provide a focal point for visual and cultural interest and will make a positive contribution to the area.
- 9.12. In concept and design, the art work is reflective of the industrial character of Chalker Way and the history of the area. The design is considered acceptable and would accord with policy ESD15 of the Local Plan.

#### Highway Safety

- 9.13. The application site lies adjacent to an area of land currently reserved for a potential Western Link Road.
- 9.14. Oxfordshire County Council have confirmed they have no objection to the proposed development and do not require any planning conditions to be imposed.
- 9.15. Whilst it lies in close proximity to the reserved land, it is considered the proposal would not prevent the delivery of this link road if it is to come forwards. As such, it is considered the proposed development would not cause harm to highway safety or prematurely impact the delivery of the link road.

#### Flood Risk

- 9.16. The application site falls within Flood Zone 3 as designated by the Environment Agency, which is the zone of highest flood risk. A flood risk assessment has not been submitted with the application.
- 9.17. Ordinarily a Sequential Test and an Exception Test must be applied to development proposed in Flood Zone 3. However, the Planning Practice Guidance is clear that the sequential test "does not need to be applied for individual developments on sites which have been allocated in development plans through the Sequential Test".
- 9.18. Policy Banbury 6 provides for both (a) provision of on site public art to enhance the quality of the place, legibility and identity, and (b) the creation of "blue corridors" to provide public open spaces/recreation areas near watercourses, whilst locating development outside the modelled flood zone 3. As such, it is considered that the Sequential and Exception Tests do not need to be applied.

9.19. As the proposal is relatively small in scale and would not be a use sensitive to flood risk, it is considered the proposal is appropriately sited, and would not give rise to an unacceptable risk of flooding as a result of its installation.

## **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**

That planning permission is granted subject to the following 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 6422-150

Site Layout Plan 6422-151

Sculpture Commission 'Figure of Industry' October 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.

CASE OFFICER: Samantha Taylor

TEL: 01295 221689

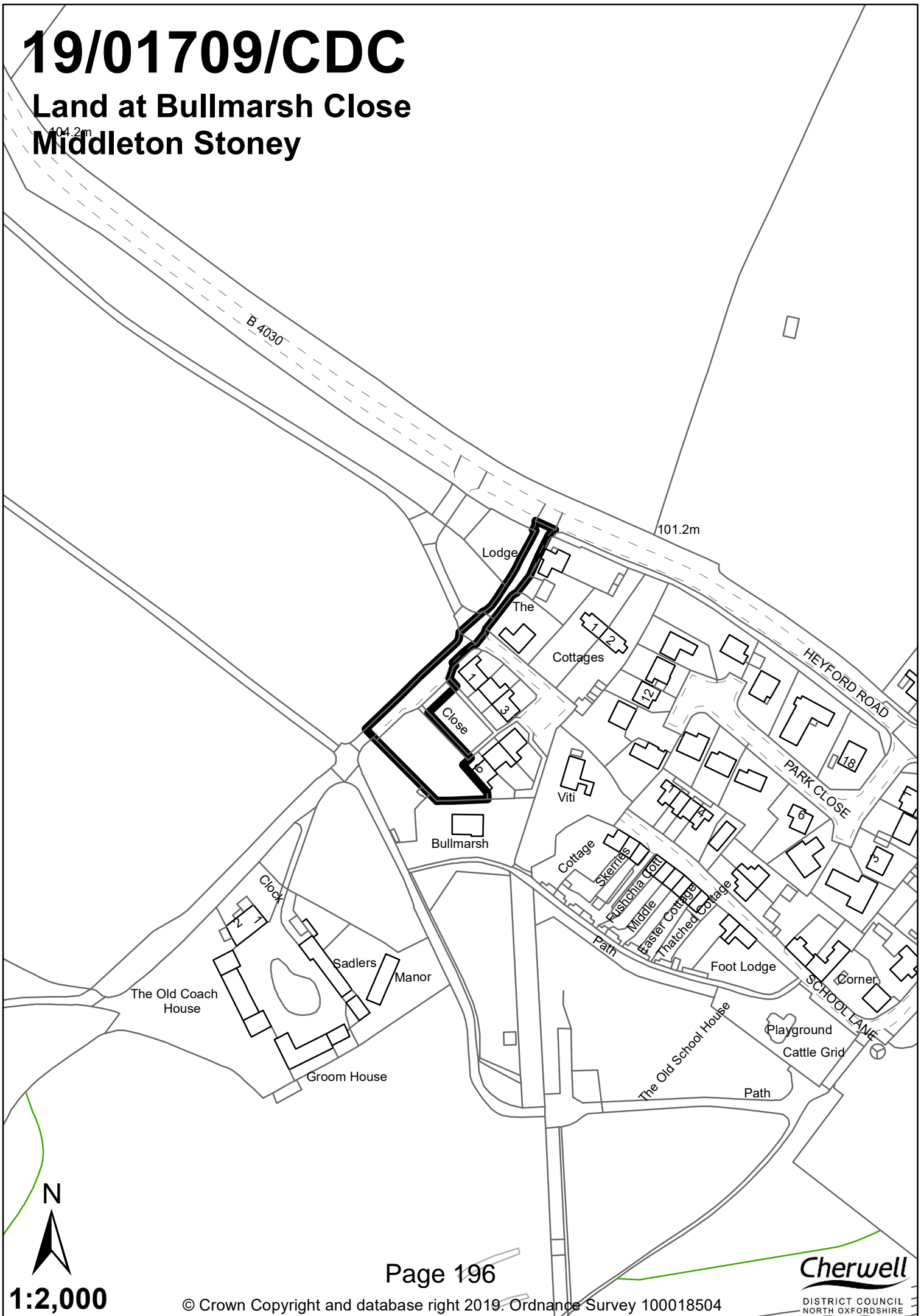
# 19/01709/CDC

## Land at Bullmarsh Close Middleton Stoney



# 19/01709/CDC

## Land at Bullmarsh Close Middleton Stoney





**Case Officer:** James Kirkham

**Applicant:** Miss Kim Swallowe

**Proposal:** Erection of 3no wheelchair adaptable bungalows for affordable housing

**Ward:** Fringford And Heyfords

**Councillors:** Councillor Ian Corkin, Councillor James Macnamara, Councillor Barry Wood

**Reason for Referral:** Application affects Council's own land and/or the Council is the applicant

**Expiry Date:** 20 December 2019

**Committee Date:** 18 December 2019

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

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

#### **Proposal**

The proposal seeks permission to erect 3 new bungalows on the site with associated parking and amenity space.

#### **Consultations**

The following consultees have made **comments** to the application:

- Middleton Stoney Parish Council,

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

- OCC Highways, OCC Archaeology, OCC Minerals and Waste, Oxfordshire Fire Service

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

- CDC Strategic Housing, Mid-Cherwell Neighbourhood Forum (subject to conditions)

We have received one letter of objection, one letter of support and one further letter of comment.

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

The site lies within the setting of Middleton Park which is a Grade II Registered Park and Garden. It also lies in a mineral consultation area and an area of archaeological notification.

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 impact
- Residential amenity
- Other matters

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 an area of undeveloped land in a small grouping of bungalows located in Bullmarsh Close, which is situated at the western edge of Middleton Stoney. The site is relatively flat and is currently laid to grass with some young trees situated on it. It is accessed from a private road from Heyford Road to the north of the site.

### **2. CONSTRAINTS**

- 2.1. The application site is located adjacent to Middleton Park which is a Grade II listed Registered Park and Garden. The site is also located in the Mid-Cherwell Neighbourhood Plan Area and within an archaeological notification area.

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

- 3.1. The current application seeks permission to erect 3no new single storey, wheelchair adaptable 2 bedroomed dwellings on the site. The dwellings would be sited perpendicular to the road in a terrace, completing a U shape arrangement around a central area of shared amenity space with the existing 2 rows of terrace bungalows which already exist in Bullmarsh Close.
- 3.2. The layby which exists to the west of the existing site, and currently accommodates parallel parking spaces, would be amended to provide 7no perpendicular parking spaces.
- 3.3. The proposals have been amended during the course of the application and now show the dwellings constructed of bradstone under a tiled roof.
- 3.4. *Timescales for Delivery:* The applicant/agent has advised that, in the event that planning permission is granted, they anticipate development commencing as soon as possible. The proposed development is coming forward as part of the Oxfordshire Growth Deal.

### **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>
75/00168/S	Erection of 6no 2 bedroom and 4no 1	Permitted and

- 4.2. This permission was implemented but only 6 of dwellings were constructed. The remaining dwellings were permitted on the site of the proposed development but were never constructed.

## 5. PRE-APPLICATION DISCUSSIONS

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

19/00056/PREAPP – Development of 3 bungalows for affordable housing.

- 5.2. It was advised that the site was contrary to the Council's rural housing strategy however it was noted that the planning history of the site implies that there is an extant permission for dwellings on the site. It was also advised that the applicant may wish to promote the site as a Rural Housing Exception site, but that this would require further information.

## 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 **28 November 2019**, although comments received after this date and before finalising this report have also been taken into account.

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

- Proposed houses should look the same as existing with matching materials
- Access serving the site is narrow,
- Access should be adopted by the Council. Already used by Clock Court, Middleton House (apartments and houses) and cricket club so can get busy.
- Access required to bungalows for ambulance
- Lack of parking. Control of parking area and queries whether it will be allocated.
- Speeding at the access with Heyford Road
- Damage to access during construction
- Disruption from noise, dust, access, traffic and parking during construction.
- Electric charging points should be provided
- Fire hydrant and overhead lines will need replacing/diverting
- Access to gardens will be impeded by hawthorn hedge
- Loss of trees.

- Poor access to local amenities for residents including wheelchair bound residents. More suitable locations for this type of development in larger settlements.

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. MIDDLETON STONEY PARISH COUNCIL: **Comments.** A number of suggestions were made to the applicants in a parish council meeting including changes to materials, extra living space and more parking. There are problems accessing the area and reserving out. Frustrated with the lack of responses from the applicant and cannot support application until further information is provided.

7.3. MID-CHERWELL NEIGHBOURHOOD PLAN GROUP: **Supports subject to site being a rural exception site and changes to layout and materials.** Single storey accessible housing supported but the sustainability of the village is questionable. Wish to see a condition regarding the dwellings to remain affordable and to meet a local need. MCNP are undertaking a housing survey across the plan area. Note the current Housing Needs Survey only indicates a need for 2 dwellings. Raise concerns regarding the internal layout of the dwellings. All windows and doors should be wooden or metal not UPVC as specified in the plans.

### CONSULTEES

7.4. OCC HIGHWAYS: **No objections** subject to standard conditions in respect of parking and cycle parking. The proposed access from the Heyford Road is circa 5m wide which accords with OCCs Residential Road Design Guide (2003) - Second Edition (2015). The access track is over 12m's in length (prior to the narrowest point of the access) to allow a vehicle to access / egress the access road without having to wait and obstruct traffic on the Heyford Road should two vehicles attempt the same manoeuvre at the same time.

7.5. The proposal provides sufficient parking for the proposed units whilst also proving further parking above and beyond what would be expected for 3, 2 bed dwellings. As a result of the above, the proposals are unlikely to have any adverse impact upon the local highway network from a traffic and safety point of view.

7.6. OCC MINERALS AND WASTE: **No objections.**

7.7. CDC STRATEGIC HOUSING: **Supports.** Proposal would provide disability adapted social housing which is needed in the district based on the housing register. The submitted Housing Needs Survey identifies a need for 2 dwellings. The Housing Register identifies a need to 3 applicants with village connection. Would like to see the dwellings meet the higher of the accessibility standards in the Building Regulations and requests that the least accessible dwelling be located furthest from the parking. Suggest some changes to the internal layout. The dwellings are proposed to be affordable rent which should be capped at Local Housing Allowance rate.

- 7.8. THE GARDENS TRUST: **No comments.** Have considered the application and liaised with Oxfordshire Garden Trust and have no comments to make.
- 7.9. OCC ARCHEAOLGY: **No objections** subject to conditions for a written scheme of works and investigation.
- 7.10. HISTORIC ENGLAND: **No comments.**
- 7.11. OXFORDSHIRE FIRE AND RESCUE: **No objections.**
- 7.12. SCOTTISH AND SOUTHERN ELECTRICIY NETWORKS: **No objections.** The developer would have to contact SSE in regard to any wayleaves or diversions that need to be made.
- 7.13. *Officer comment:- Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the 1990 Act (as amended) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.*
- 7.14. *In this particular instance, the above financial payments are not considered to be material to the decision as they would not make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority and hence the above response from the Council's Finance department is therefore provided on an information basis only.*

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

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

### MID-CHERWELL NEIGHBOURHOOD PLAN 2018-2031

- PD4: Protection of Important Views and Vistas
- PD5: Building and Site Design
- PH1: Open Market Schemes
- PH2: Affordable Housing on Rural Exception Sites
- PH3: Adaptable Housing
- PH5: Parking, Garaging and Waste Storage Provision

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

- PSD1: Presumption in favour of sustainable development
- SLE4: Improved transport and connections

- BSC1: District wide housing distribution
- BSC2: Effective and efficient use of land
- BSC10: Open Space, Outdoor Sport and Recreation Provision
- ESD10: Protection and enhancement of biodiversity and the natural environment
- ESD13: Local landscape protection and enhancement
- ESD15: The character of the built and historic environment
- Villages 1: Village categorisation
- Villages 3: Rural Exception Sites

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

H18:	New dwellings in the countryside
TR1:	Transportation
C28	Layout, design and external appearance of new development
C30:	Design of new residential development
C33:	Retention of undeveloped gaps
ENV1:	Development likely to cause detrimental levels of pollution
ENV12:	Contaminated land

#### 8.3. Other Material Planning Considerations

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

### 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 impact
- Residential amenity
- Other matters

#### Principle of Development

##### *Policy Context*

9.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 and the saved policies of the Cherwell Local Plan 1996.

9.2. The National Planning Policy Framework (NPPF) explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability

of future generations to meet their own needs. Paragraph 7 of the NPPF sets out the Government's view of what sustainable development means in practice for the planning system – the three strands being the economic, social and environmental roles. It is clear from this that as well as proximity to facilities, sustainability also relates to ensuring the physical and natural environment is conserved and enhanced as well as contributing to building a strong economy through the provision of new housing of the right type in the right location at the right time.

- 9.3. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that conflicts with the Local Plan should be refused unless other material considerations indicate otherwise (Para. 12).
- 9.4. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015 and can demonstrate a five-year supply of deliverable housing sites. Therefore, the policies in the development plan guiding the provision of housing can be considered up to date and given significant weight in determining applications. In addition to this, the Written Ministerial Statement of 12th September 2018 now considers important policies for determining the application to be out of date only where a 3 year supply of deliverable sites cannot be demonstrated. The presumption in favour of sustainable development, as advised by the NPPF, will need to be applied in this context.
- 9.5. Policy ESD1 of the Cherwell Local Plan Part 1 states measures will be taken to mitigate the impact of development on climate change and deliver the goals of sustainable development. This includes distributing housing growth to the most sustainable locations as defined in the Local Plan and delivering development which reduces the need to travel. The local plan has a strong urban focus with large amounts of housing planned at Bicester and Banbury, and rural housing growth therefore more restrained.
- 9.6. Policy Villages 1 of the Cherwell Local Plan provides a framework for housing growth in the rural areas and seeks to deliver some new development to the most sustainable rural locations and limiting it elsewhere. It does this by categorising the villages within the district and allowing for some limited growth in the most sustainable villages based on services, facilities and size of settlements. The categorisation also takes into account clustering of villages. The current site is located at Middleton Stoney which is classified as a Category C village. This is amongst the least sustainable rural settlements in the district where only infilling and conversion may be permitted for new housing within the built up limits. Saved Policy H18 of the Cherwell Local Plan 1996 is also relevant and states that new dwellings will not be permitted outside the built up limits of settlements apart of in special circumstances.

#### *Assessment*

- 9.7. The first issue to consider is whether the site lies within the built limits of the village. Given the relationship of the proposed site with the surrounding buildings and open countryside officers consider the proposed development lies outside of the built limits of the village as it has a stronger affinity with the surrounding open land. This is a balanced judgement. However, even were it to be concluded that the site lies within the built up limits of the village, in Category C Villages such as Middleton Stoney only limited infill and conversion is permissible. Clearly the proposal is not conversion of a building. In considering whether the development falls within the definition of 'infill' development, Paragraph C.264 of the Cherwell Local Plan Part 1 (2015) states:

*'Infilling refers to the development of a small gap in an otherwise continuous built-up frontage.'*

- 9.8. The site does not form a 'small gap' in an otherwise continuous built up frontage and therefore the proposal would not constitute infill development, as defined in the development plan. The provision of new dwellings on the site would therefore be contrary to the development plan policies which seek to guide new housing in the district to the most sustainable locations by restricting new housing in less sustainable settlements where access to services and facilities is more restricted and difficult.
- 9.9. However, in this case the planning history of the site is also a relevant planning consideration. In 1975 planning permission was granted for 10 bungalows on the wider site. Only 6 of these were constructed which are now known as 1-6 Bullmarsh Close and the other 4 remained unbuilt. When a planning permission is partially implemented (in this case only 6 of the 10 houses were built) the permission for the other parts of the scheme that were not built (4 bungalows) remain capable of being implemented at any time without the requirement for any other planning permission. Given that this is a fallback position which could potentially be used by the applicant and would result in more dwellings being provided on site this is considered to be a material planning consideration which outweighs the conflict with the Council's rural housing strategy outlined above.

#### *Conclusion*

- 9.10. Whilst new residential development in this location is generally considered to be contrary to the Council's rural housing strategy, in this instance this is outweighed by material considerations in relation to the site's planning history. The principle of 3 dwellings on the site is therefore considered to be acceptable, with overall acceptability subject to other material considerations.

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

- 9.11. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. These aims are also echoed within Policy ESD15 of the CLP 2031 and Policy PD5 of the Mid-Cherwell Neighbourhood Plan (MCNP) which look to promote and support development of a high standard which contributes positively to an area's character and identity by creating or reinforcing local distinctiveness.
- 9.12. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development. Further, saved Policy C30 of CLP1996 states control will be exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 9.13. Policy ESD 13 of the CLP states that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Further that development that causes undue harm or visual intrusion into the open countryside would not be supported.
- 9.14. The proposed development has been designed to create a horse shoe arrangement around the existing central area of amenity space with the existing bungalows that lie adjacent to the site. This reflects the layout of the approval in the 1970s and is



considered the most appropriate way of developing the site to be in keeping with the surrounding character and appearance of the area and address the public realm including the amenity space. The hedgerow to the south west of the site helps contain the development the south west and provides the most appropriate location to form a rear boundary.

- 9.15. In terms of the wider visual and landscape impacts of the development, these would be relatively modest given the proposal would be seen in the context of the existing bungalows and would have a clear visual relationship with the adjacent buildings.
- 9.16. The terrace arrangement of the dwellings with a staggered frontage is in keeping with the other rows of bungalows in this location. Whilst the proposed dwellings are not exact replicas of the existing bungalows, they would share a similar simple form and character to the existing dwellings which is considered to be acceptable. The use of simple pitched roofs, staggered building lines and in set doors all aid with the integration with the existing dwellings. The materials of the development have been amended during the course of the application to reflect the reconstituted stone of the existing bungalows as there were concerns raised by officers and other parties regarding the use of buff brick.
- 9.17. The Neighbourhood Plan Forum has stated that UPVC windows and doors should not be acceptable given the proposal lies in the setting of a Registered Park and Garden. However, the other properties in this location already have UPVC windows and nature of the buildings and context of the site means officers consider that UPVC would not appear incongruous or harmful in this case, and in this particular instance it would be difficult to sustain a refusal at appeal on this basis.
- 9.18. The dwellings would be between 0.2 – 0.3 metres taller than the existing bungalows; however, this is not considered to be harmful and they would still relate appropriately to the scale of the existing buildings.
- 9.19. Overall the layout and design of the proposed dwellings is considered acceptable and would integrate successfully with the surroundings. The proposal thus accords with Policies ESD13 and ESD15 of the CLP 2031 and saved Policies C28 and C30 of the CLP 1996 in this regard as well as the relevant guidance within the NPPF.

#### Heritage Impact

- 9.20. The site is within the setting of Middleton Park which is a Grade II Listed Park and Garden. This is a designated heritage asset. The site is also within an archaeological notification area. 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.
- 9.21. The proposed development has the potential to impact on the setting of Middleton Park Registered Park and Garden. However, in this case the proposed development would clearly be seen in the context of the existing dwellings at Bullmarsh Close having a close relationship with existing bungalows. They would be of a similar design and scale and would not appear any more intrusive from the Registered Park and Garden than the existing development in this location in officer opinion. The proposal is therefore not considered to result in any material harm to the setting of the Registered Park and Garden. The application has been discussed with the Council's Conservation Officer who has no objection to the proposal and

also Historic England and the Gardens Trust has stated it does not wish to comment on the proposal.

- 9.22. The County Council Archaeologist (CA) has advised that the site has potential to impact on below ground heritage assets. He notes that parts of the medieval village of Middleton Stoney were removed during the creation of the Middleton Park and remains have been recorded 200m south of the proposal. Furthermore, the site is also located 200m north of the Scheduled Monument of Middleton Stoney Castle (SM 28134) and a Roman building was also recorded in the 1970s that is thought to be a farmhouse or villa site. Additionally, a circular cropmark has been identified from aerial photographs 40m south west of the proposed site. On this basis the CA has requested a written scheme of investigation be secured through a planning condition. Officers agree with this assessment so that any archaeology impacted by the proposal can be fully recorded.
- 9.23. The proposal would therefore preserve the significance of heritage assets and accords with Policy ESD15 of the CLP 2031 in this regard as well as the relevant guidance within the NPPF.

#### Affordable housing and Housing Mix

- 9.24. Policy Villages 3 of the CLP and Policy PH2 of the MCNP both relate to the provision of new dwellings on rural exception sites. Policy BSC4 of the Cherwell Local Plan also provides advice on housing mix. Policy PH3 of the MCNP states that housing development will be favoured that is designed with features that enable residents to live through different phases of their lives and supports the provision of accessible dwellings and dwellings on a single level.
- 9.25. Given the planning history of the site Officers do not consider that the proposal needs to be assessed against Policy Villages 3 of the CLP and Policy PH2 of the MCNP which relate to Rural Exception Sites for affordable housing as the principle of development is considered to be acceptable without relying on such policies for support as outlined above. Therefore, it is not considered there is any planning requirement/justification to secure the development as Affordable Housing through a legal agreement to make the development acceptable in planning terms.
- 9.26. However, the application is proposed as 3no affordable wheelchair adaptable bungalows as part of the Oxfordshire Growth Deal. A local housing needs survey was undertaken in the village and this evidenced a need for 2no affordable units. The Council's Housing Department has also commented on the applicant and notes that the housing register identifies 3no applicants who have a local connection to Middleton Stoney and also states that the housing register identifies a clear need for disability adapted homes in the district. Therefore, whilst these matters are not determinative, the proposal would bring benefits associated with the provision of affordable and assessable housing as supported by Policy PH3 of the MCNP and this weighs in favour of the development.

#### Residential amenity

- 9.27. Policy ESD15 of the Cherwell Local Plan Part 1 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. The NPPF also notes that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

- 9.28. The proposed development would form a grouping of dwellings with the existing bungalows in Bullmarsh Close. The proposal would impact on the outlook to the front of these existing properties; however, given the scale and siting of the proposed development it is not considered to result in significant impacts on the amenity of these neighbouring properties.
- 9.29. When the application was submitted it was proposed to include the area of land immediately to the south west of the side elevation of 6 Bullmarsh Close into the private garden of one of the bungalows. However, the side elevation of number 6 includes small windows and it would not be desirable to have this facing directly into a private garden area of an unrelated property.
- 9.30. As such the hedge for the garden on the proposed dwelling has now been set back in line with the front elevation of the proposed bungalow and it is intended that the area immediately in front of this window will remain unenclosed as part of the open land to the front of the bungalows. This is considered to overcome these concerns.
- 9.31. Bullmarsh Bungalow is located to the south of the site and is separated from the site by a tall hedge. Given the single storey scale of the proposal and the relationship between this property and the proposal it is not considered to be significantly impacted upon by the proposal in terms of loss of light, privacy or outlook.
- 9.32. The layout of the dwellings is considered to provide a good standard of amenity for future residents. Whilst the garden areas are small, given the intended market these properties are proposed to serve (including those with mobility issues) they are considered to provide an adequate small outside space for residents to enjoy. The proposal thus accords with Policy ESD15 of the CLP 2031 and saved Policies C28 and C30 of the CLP 1996 in this regard as well as the relevant guidance within the NPPF.

#### Parking and access

- 9.33. Policy SLE4 states that: "All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported." Paragraph 109 of the NPPF states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety or the impacts on the road network would be severe.
- 9.34. Policy PH5 of the MCNP states unless it is clearly impractical to do so parking should be built in direct association with dwellings in preference to rear or separate parking courts.
- 9.35. The development would utilise the existing access from Heyford Road and the private road serving the existing bungalows. This access already serves the existing bungalows at Bullmarsh Close as well as a number of other dwellings at Clock Court and Middleton House. It also appears to serve the cricket pitch according to residents' comments.
- 9.36. The existing access is not ideal as it does narrow in places which means 2 vehicles cannot pass in all places and have to wait in certain places. However, the Local Highway Authority (LHA) is satisfied that the vehicle access close to Heyford Road is wide enough to allow vehicles to access / egress the access road at the same time without having to wait and obstruct traffic on the Heyford Road and therefore raises no objection to the proposal. Given the proposal would only generate a modest increase in traffic the additional traffic impact is not considered to be significant or result in severe impacts which is the test outlined in the NPPF.

- 9.37. In relation to parking, the proposed development would alter the existing parallel parking bay which exists adjacent to the access which accommodates between 2 to 3 vehicles and appears to be used on an unallocated basis by residents and visitors. This would be altered to provide 7 parking spaces in a perpendicular arrangement. This would accommodate 3 disabled access spaces which would be allocated to the proposed units and the remaining 4 spaces would remain for use on an unallocated basis by visitors and residents of all the units. The LHA considers this level of parking would be acceptable and raises no objection to the proposal. The unallocated nature of the 4 spaces means they could be used on a flexible basis like the existing parking in the parking bay.
- 9.38. The parking serving the development is not situated immediately adjacent to dwellings as encouraged by Policy PH5 of the MCNP. However, in this case given the need to provide an acceptable layout and design to the development this is not considered to be practical. The provision of a scheme for future proofing the provision of electrical charging vehicle points through ducting is proposed to be controlled through a planning condition.
- 9.39. Concerns have been raised by one resident that access is required over the grass area to the front of the existing bungalows by residents and potentially ambulances. However, whilst the proposal may impede this if all the parking spaces were full, there is no planning requirement for this and it would not justify refusal of the application. The proposal thus accords with Policy ESD15 of the CLP 2031 in this regard as well as relevant guidance within the NPPF.

#### Other matters

- 9.40. A number of concerns have been raised regarding noise, disturbance and issues with access during the construction phase of the development. Such impacts are a product of any new development and the applicant would need to ensure the site is appropriately managed during the course of the construction period. Given the nature of these impacts is temporary they are not considered to carry significant weight in planning decisions and given the relatively small scale of the proposal is not considered that the submission of a construction environmental and traffic management plan would be justified in this case.
- 9.41. The application site has relatively low ecological value with regularly mown grassland and young trees. There are therefore not considered to be any significant ecological impacts from the development. However, it is recommended that a landscape condition be imposed to ensure an appropriate landscaping scheme is provided.
- 9.42. The site is located in a minerals consultation area; however, it is outside the Minerals Safeguarding Area for crushed rock. Oxfordshire County Council as the Minerals and Waste Planning Authority therefore has no objection to the application.
- 9.43. A concern has been raised that the proposal may require existing electricity infrastructure to be relocated/diverted. The developer would have to contact the undertaker to discuss this matter which would be separate to the planning application.

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

- 10.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 advises that the three dimensions to sustainable development (economic, social and environmental), which are interdependent; need to be pursued in mutually supportive ways.

- 10.2. Government guidance within the NPPF supports the plan-led system and advises that applications that accord with an up-to-date plan should be approved without delay.
- 10.3. The proposed development would conflict with the Council's rural housing strategy; however, there is an extant permission on the site which allows for a similar quantum of development and this carries significant weight as a fallback position. The proposal would provide 3 new affordable and accessible bungalows which is a benefit in support of the application. The impact on the character and appearance of the area is considered acceptable and there is not considered to be any material harm to nearby heritage assets. The proposal would utilise an existing access and sufficient parking would be provided to serve the new dwellings. Overall therefore the proposal is 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 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: Application form and drawing numbers: 010 Rev A, 011 Rev B, 012 Rev C, 013 Rev C and 014 Rev C.

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

#### **Archaeology**

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

Reason - To safeguard the recording of archaeological matters within the site in accordance with the NPPF (2019).

4. Following the approval of the Written Scheme of Investigation referred to in condition 3, 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 within 2 years of the commencement of development.

Reason – To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the NPPF (2019).

#### **Hedgerow protection**

5. No development shall take place until an Arboricultural Impact Assessment and Method Statement, undertaken in accordance with latest British Standard has been submitted to and approved in writing by the Local Planning Authority. This shall include details of hedge protection measures during construction. Thereafter, all works on site shall be carried out in accordance with the approved details.

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

#### **Materials**

6. Prior to the commencement of any works above slab level to the development hereby approved, and notwithstanding the details submitted, a sample panel of the external walling material to be used in the construction of the dwellings, to demonstrate material, colour, texture, bond and pointing (minimum 1m<sup>2</sup> in size) shall be constructed on site, inspected and approved in writing by the Local Planning Authority. Thereafter, the walls of the development shall be externally faced in strict accordance with the approved sample panel and shall be retained as such thereafter.

Reason: To ensure the materials are appropriate for the site in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of any works above wall plate level of the development hereby approved, samples of the external roof material to be used in the construction of the roof of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved and shall be retained as such thereafter.

Reason: To ensure the materials are appropriate for the site in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

#### **Electric charging points infrastructure**

8. No development shall commence above slab level until a scheme for a system of ducting to allow for the future installation of electrical vehicle charging

infrastructure to serve each dwelling or a scheme showing the provision of electrical vehicle charging points for each dwelling 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 details prior to the first occupation of the dwelling.

Reason: To comply with Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework.

### **Boundary Enclosures**

9. Prior to the commencement of any works above slab level to the development hereby approved, full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved means of enclosure shall be carried out in accordance with the approved details prior to the first occupation of those dwellings and shall be retained as such thereafter.

Reason: To protect the character and appearance of the area and provide a safe and durable development in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

### **Landscaping**

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

The development shall be carried out in accordance with the details approved prior to the first occupation of the development and the hard landscape elements shall be retained as such thereafter.

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

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

guidance contained within the National Planning Policy Framework.

### **Cycle Parking**

11. Prior to the first occupation of the development hereby permitted, details of the cycle parking facilities to serve the dwelling hereby approved shall be submitted and approved in writing by the local planning authority. The approved cycle storage facilities shall be provided in accordance with the approved details prior to the first occupation of the development.

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

### **Car Parking and Management**

12. Prior to the first occupation of the dwellings hereby approved, the parking and manoeuvring areas shall be provided in accordance with the plan approved (Drawing No. 012 Rev C) and shall be constructed from porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site. The parking shall be managed in accordance with the details outlined in the email from the agent on 4.11.18 (time 19:02)/ Thereafter, the parking and manoeuvring areas shall be retained and managed in accordance with this condition and shall be unobstructed except for the parking and manoeuvring of vehicles at all times.

Reason – To ensure an adequate level of parking on the site in the interests of amenity, highway safety and flood prevention and to comply with Policies ESD7 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: James Kirkham

TEL: 01295 221896



## Cherwell District Council

### Planning Committee

18 December 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

**19/00621/F – Huckleberry Farm, Heathfield, Kidlington, OC5 3DU -**  
Continued use of transportable building to be made permanent  
(Retrospective)

**19/00301/OUT - Land And Buildings, The Junction Of Spring Lane,  
Chapel Lane, Little Bourton - OUTLINE -** New dwellings, garaging, access  
and external works

##### 2.2 New Enforcement Appeals

None

##### 2.3 Appeals in progress

**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

**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:** 20.08.2019    **Statement Due:**    **Decision:** Awaited

**19/00661/F – Purbeck End, 5 Vicarage End, Kidlington, OX5 2EL -**  
RETROSPECTIVE - Change of Use of attached garage to independent dwelling unit

**Method of determination:** Written Reps.

**Key Dates:**

**Start Date:** 23.09.2019    **Statement Due:** 28.10.2019    **Decision:** Awaited

**19/00667/Q56 – Godwins Farm, Somerton Road, North Aston, Bicester, OX25 6AA –** Change of use of an agricultural building to dwellinghouse

**Method of determination:** Written Reps.

**Key Dates:**

**Start Date:** 11.09.2019    **Statement Due:** 16.10.2019    **Decision:** Awaited

**19/00848/F – 3 Denbigh Close, Banbury, OX16 0BQ -** Change of Use from HMO within Class C4 to 7 bed HMO (sui generis) and new access from Broughton Road

**Method of determination:** Written Reps.

**Key Dates:**

**Start Date:** 22.10.2019    **Statement Due:** 26.11.2019    **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

**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

**Method of determination:** Written Reps.

**Key Dates:**

**Start Date:** 11.09.2019    **Statement Due:** 16.10.2019    **Decision:** Awaited

## **Enforcement appeals**

None

2.4 Forthcoming Public Inquires and Hearings between 19 December and 16 January 2020

## 2.5 **Results**

Inspectors appointed by the Secretary of State have:

1. **Allowed the appeal by Land & Partners Limited for Outline planning permission with all matters reserved for up to 25 dwellings with associated open space, parking and sustainable drainage. OS Parcel 4300 North Of Shortlands And South Of High Rock, Hook Norton Road, Sibford Ferris – 18/01894/OUT  
Officer recommendation – Approval (Committee)**

The appeal was considered on the basis that all matters were reserved. The Inspector found that the appeal site affords good views to the west of the Cotswolds AONB, and that it was separated from Sibford Gower and Burdrop by approx. half a mile across the steep valley of the River Sib.

The Inspector considered that there were three main issues in this Appeal:

- Whether the proposals comply with the housing policies of the development plan
- The effect of the proposals on the character and appearance of the settlement of Sibford Ferris and the surrounding area, and
- Whether the proposals include adequate provision for the necessary infrastructure directly required by this development.

### Housing

The Inspector noted the Local Plan housing target of 22,840 and that its focus was on the main centres of Bicester and Banbury. The Inspector noted the focus of Policy Villages 1 to manage small scale development proposals within the built up limits of each village, and that Policy Villages 2 (PV2) “provides a rural allocation of sites of 10 or more dwellings at the Category A villages” and identifies that 750 houses will be delivered at the Category A villages, in addition to the ‘rural allowance’ of small site windfalls and planning permissions that existed at 31.03.2014. The Inspector noted that the Local Plan Part 2 had not progressed because of the inception of the ‘growth deal’ for Oxfordshire (albeit not mentioning the Council’s commitment to reviewing Local Plan Part 1 to meet Oxford’s unmet housing need).

The Inspector found that the 750 housing figure was not a “target” but “should be regarded as a benchmark to govern future decisions on applications for housing development otherwise the integrity of the plan would be undermined”. The Inspector noted that by 31.03.2019 planning permissions

had been granted for “over 750 houses on 18 large sites and to date 271 units had been built out on these sites in line with ...PV2”.

The Inspector noted the reference to ‘material exceedance’ in several other appeal decisions including recently at Ambrosden, but did not consider that ‘material exceedance’ was an issue for this appeal “given the modest number of units proposed and the categorisation and size of the Sibfords”, finding that “the Category A status of the village in the plan warrants further investment in housing”. This conclusion differed from that of other Inspectors at Weston on the Green (26 dwellings), Finmere (25 dwh) and Fringford (10 dwh) (all Category A villages), which had all been dismissed on the grounds that they were not sustainable locations for such numbers of new dwellings. The Inspector did not consider “that a decision to allow this appeal would undermine the essential thrust of PV2 and by extension the local plan”.

The Inspector noted that local connectivity between the three settlements of the Sibfords was restricted by the steep sided Sib Valley and that while services do exist within reasonable proximity of the site it is “unlikely that the development of any site around the Sibfords would readily enable access by sustainable transport modes”. However, at variance with other decisions at Weston on the Green, Finmere and Fringford, this Inspector opined that this was “an argument against the inclusion of the Sibfords as a Category A village” but “not a matter before [him] in this Appeal”.

On this first issue the Inspector concluded that the proposals were in line with the Local Plan’s housing policies and in line with the NPPF, would not amount to a material exceedance in breach of PV2.

#### Character and appearance

The Inspector noted that the site’s landscape context was shaped by the Cotswolds AONB, and found that the nature of the rolling landscape interspersed with hedgerows and trees meant that views into the site from its immediate boundaries are limited compared to those from further away. The Inspector noted the suggested height parameters, and opined that these were important in reducing the proposals’ visual impacts from surrounding ‘receptor points’, i.e. key points in the landscape from where the development might be seen. The Inspector identified the two most sensitive receptor points as being from the west within the Cotswolds AONB and from the south. The Inspector concluded that the proposal would not have an ‘urbanising effect’ on the site, and that its low density combined with the proposed planting belts would successfully mitigate its visual impact. As such, the Inspector held, the proposals would not unacceptably affect the setting of either the Cotswolds AONB or the village of Sibford Ferris, and therefore would not be in conflict with Policies ESD13, ESD15, PV1 and PV2 of the 2015 Local Plan or saved Policy C28 of the 1996 Local Plan.

#### Infrastructure provision

The Inspector found the completed Section 106 agreement covered the requirements for: 35% of the dwellings to be Affordable; provision of and commuted payments for local play area and public amenity space within the scheme; maintenance arrangements for onsite trees and boundary

hedgerows; a sustainable drainage system; a contribution to the provision of waste management facilities; and contributions in relation to community hall facilities, the local secondary school, and the Sibford School for indoor and outdoor recreation opportunities. In addition, the agreement included provisions made under Section 278 for a new pedestrian footway, crossing and access into the site, bus shelter, local play and provisions for a traffic regulation order to ensure lower speed on Hook Norton Road as drivers approach from the south. The Inspector held that all of these planning obligations were in line with paragraphs 56 and 57 of the NPPF.

#### Other matters

The Inspector considered the issues of traffic generation and congestion raised by the Sibford Action Group, but noted he had not provided with any evidence to dispute the Appellant's traffic survey, and found that the Sibfords were designated as Category A villages in the 2015 Local Plan subsequent to the CRAITLUS survey (2009). The Inspector "saw only limited examples" of local road congestion during the school run when he visited the village, and observed "the amount of traffic on local roads was low". Lastly, the Inspector noted but disagreed with objections relating to the loss of Grade 2 agricultural land and impact on flood risk.

#### Conclusion

Taking all of the above into account, the Inspector concluded that the proposal was sustainable development and accordingly allowed the appeal subject to a series of (13no) conditions, including that the development must be carried out in accordance with the Parameter Plan and the Landscape Strategy Plan; as well as conditions relating to construction traffic management, surface water drainage, landscape and ecology management, an energy statement, and archaeological investigation and recording.

- 2. Allowed the appeal by Mrs N Prior for Demolition of existing conservatory; erection of single storey front and rear extensions and conversion of garage to habitable accommodation. 97 Isis Avenue, Bicester, OX26 2GR – 19/00885/F**  
**Officer recommendation – Refusal (Delegated)**

Allowed the appeal by Ms Prior against the refusal of planning permission for an extension to the front of the property to connect to the existing garage, the conversion of the garage to living accommodation and a single storey rear extension. The Inspector considered the main issue to be the effect of the proposed development on the character and appearance of the host dwelling and the street scene.

The Council's view was that the proposed front extension constituted an incongruous form of development with no precedent on Isis Avenue. The properties on Shannon Road with similar extensions built in the 1980s, some 300 metres away, were considered irrelevant to the assessment of the application. The Inspector concluded that the design would be unusual, but that the building line would be contiguous with the existing structure and the effect in the wider street scene would be minimal. The appeal was therefore allowed.

**3. Dismissed the appeal by RW and RM Elsey for Change of use of building and curtilage from agriculture to single dwellinghouse with associated physical works. Brockford Farm Agricultural Building, Tadmarton Heath Road, Hook Norton, OX15 5BU - 19/00231/Q56  
Officer recommendation – Refusal (Delegated)**

The Inspector considered the main issues to be firstly, whether the works to enable the barn to be used are so extensive to constitute a new building, and secondly, whether the location of the building is practical or desirable for a dwelling.

On the first issue, the Inspector noted the building was a steel framed barn with concrete blockwork with a mixture of timber cladding and profile sheet cladding above, and had a corrugated roof. The Inspector noted the concluded of a visual structural inspection report for the building. The Inspector found the proposed alterations to be relatively minor and to constitute repairs, and noted the report's recommendation to replace the existing roof covering was advice rather than a requirement. Overall the Inspector concluded the building was not "in such a poor state of repair that the works would consist of a new building".

On the second issue, the Inspector noted that the appeal building was set within an active, working farm complex, which supported 390 acres, and that the site was set down a slope below the main buildings with many operations taking place at close proximity to the appeal building and with working farm vehicles passing regularly. The Inspector found the proposed amenity space for the dwelling to be directly adjacent to the yard and to the existing farm vehicle route to the polytunnels, and would be subject to noise and disturbance in close proximity at any time. The Inspector agreed with the Council that a condition to preclude livestock from being sited in buildings neighbouring the site, and concluded the activity of the yard would be "disruptive and prejudicial to residential amenity".

Accordingly the Inspector upheld the Council's decision and dismissed the appeal.

**4. Dismissed the appeal by Mr Richard Gibbs for Remove existing garage roof and trusses, build on top of existing garage walls to form a first-floor bedroom, re-install trusses and re-roof in the original roof tiles; partition off existing bedroom to form hallway and study room. 2 Deene Close, Adderbury, OX17 3LD – 19/00688/F  
Officer recommendation – Refusal (Delegated)**

The Inspector considered the main issue to be the proposal's effect on the character and appearance of the area.

The Inspector noted the appeal site is on a prominent corner in the Twyford Estate, seen both from within Deene Close and when entering the Close from Aynho Road or Rochester Way. The Inspector also found there to be "a pleasing rhythm to the street scene", a sense of spaciousness around and

between the dwellings, and the overall character in the vicinity not to have been eroded by the alterations hitherto carried out.

The Inspector found the proposal to significantly increase the bulk and massing of the dwelling at first floor level, and concluded that “it would overwhelm the original dwelling” and would harmfully alter the appearance of the dwelling and erode the character of the area. The Inspector concluded that the height, bulk and proximity of the proposed extension to the public footpath adjacent to the site would make it an intrusive feature, and it would be a prominent and dominant addition to the street scene. The Inspector found the proposal not to conflict with Policy AD15 of the Adderbury Neighbourhood Plan as its 3 specific design principles were not offended by the appeal proposal but for the above reasons found the proposal would conflict with Policy ESD15 of the 2015 Cherwell Local Plan and Saved Policies C28 and C30 of the 1996 Plan.

Accordingly the Inspector upheld the Council’s decision and dismissed the appeal.

**5. Dismissed the appeal by Mr Jason Stead for Addition of rooflights to front and rear elevation and dormer to rear elevation to facilitate loft conversion. Penny Meadow, 2 The Ridgeway, Bloxham, OX15 4NF – 19/01043/F  
Officer recommendation – Refusal (Delegated)**

The Inspector considered the main issues to be (i) whether the proposal would preserve or enhance the character or appearance of the Bloxham Conservation Area (CA); and (ii) the proposal’s effect on the living conditions of neighbouring occupants at The Shippon with particular regard to privacy.

On the first issue, the Inspector noted the site’s context in terms of heritage assets, and that the dwellings within the host terrace are typically stone fronted, with a rendered rear elevation and a slate roof. The Inspector found the roof slope of the terrace largely unaltered, retained “a pleasant uniform appearance” and made “a positive contribution to the host terrace and the significance of the heritage asset”. The Inspector found the proposal to be at significant variance with the form and character at roof level and by reason of its scale and bulk to appear as a “strident and discordant addition” to the roof slope and an “incongruous feature” in the local area, and would result in harm to the character and appearance of the Conservation Area (CA). The Inspector considered the examples put by the Appellant but found none of them provided a direct parallel to the appeal proposal, and instead opined that “their presence points to the need for such proposals to be carefully controlled if the character and appearance of the area is to be safeguarded.” The Inspector found the harm to the CA to be less than substantial. The Inspector found no public benefits to weigh against that harm. Accordingly the proposal was contrary to Policies BL10 and BL11 of the 2016 Bloxham Neighbourhood Plan, Policy ESD15 of the 2015 Cherwell Local Plan and saved Policy C28 of the 1996 Local Plan.

On the second issue, the Inspector found that by reason of the increased height of the dormer and rooflights and their “undue proximity” to the neighbouring dwellings, this would lead to a significant increase in overlooking of the neighbouring rear garden and an “unacceptable perception of being overlooked”. The Inspector noted that while the openings serving the en suite could include obscured glazing, the dormer window would be main source of light and outlook for the proposed bedroom and to require it to be obscurely glazed would be inappropriate. The Inspector concluded that the living conditions of the occupants of the neighbouring dwelling would be unduly harmed and the proposal would thus be contrary to NP Policy BL9, LP Policy ESD15 and Policy C30 of the 1996 Plan.

Accordingly the Inspector upheld the Council’s decision and dismissed the appeal.

**6. Dismissed the appeal by Mr M Readman for Two storey side extension. 76 Sinclair Avenue, Banbury, OX16 1DW – 18/02002/F  
Officer recommendation – Refusal (Delegated)**

Dismissed the appeal by Mr Readman against the refusal of planning permission for a two storey side extension to the property. The inspector considered that the main issue is the effect of the development on the character and appearance of the area. The Inspector stated that the proposal would extend the host property at the same height and depth and would significantly increase its width. As a result, it would not appear secondary to the existing dwelling and would unbalance the pair of dwellings and detract from their symmetry. It would therefore be contrary to the advice in the Council’s Home Extensions and Alterations Design Guide.

The Inspector noted the appellant’s submission of a list of addresses with two storey extensions where subservience was not achieved, however concluded that the dwellings were of different design to the appeal site and are spread across Banbury, therefore were considered not applicable to the proposed development. The appeal was dismissed.

**7. Dismissed the appeal by Mr R and D Walker for Conversion of pool house into a two bedroom dwelling (existing unauthorised) (revised scheme of 17/01008/F). The Old Poolhouse, 59 West End, Launton, OX26 5DG – 18/02079/F  
Officer recommendation – Refusal (Delegated)**

The Inspector considered that the main issue was whether the conversion of the pool house is an appropriate location for a dwelling, having particular regard to the character of the area.

The Inspector noted that in respect of the previous appeal (Ref: APP/C3105/W/17/3181034) relating to the same development on the same site and against the same development plan policies as the present appeal, that Inspector had found that the pool house fell outside of the built-up limits of Launton and as such the previous appeal was considered in light of saved Policy H19 of the CLP 1996. The Inspector noted the Appellants' reference to



a number of permissions for new dwellings in the village, but in each case found that these sites are materially different to the appeal site, and that it remained the case that the site lies outside the built-up limits of Launton – surrounded by undeveloped land in either residential gardens or open countryside – and therefore that Policy H19 continued to apply.

Consistent with the previous decision, this Inspector concluded that whilst the development would re-use an existing building, the change of use of the pool house for residential purposes would still undermine the character of the area and the surrounding countryside by virtue of increased activities including noise, light pollution and vehicular movements. The absence of harm in relation to landscape or residential impact did not alter the Inspector's conclusion in relation to the main issue.

The Inspector considered the personal circumstances of the Appellants but was mindful of Government guidance that in general planning is concerned with land use in the public interest, and found it probable that the proposed development would remain long after the current personal circumstances ceased to be material.

The Inspector concluded that the proposal would therefore conflict with Policies H19, C28 and C30 of the 1996 Local Plan and Policies ESD1, ESD15 and Policy Villages 1 of the 2015 Local Plan and accordingly upheld the Council's decision and dismissed the appeal.

**8. Dismissed the appeal by A & J Properties for Detached dwelling. Land Adjacent to 26 Winchester Close, Banbury – 19/00775/F  
Officer recommendation – Refusal (Delegated)**

The Inspector considered the main issue to be the proposal's effect on the character and appearance of the area.

The Inspector noted the numerous trees and shrubs in the area and the visual prominence of the appeal site and found there to be a spacious, green and pleasant character locally and that collectively the trees on the appeal site contribute positively to the character of the area.

The Inspector noted that the proposed dwelling would have a similar footprint to nearby properties, but that it would have a significantly narrower first floor, emphasised by the incongruously narrow gabled roof, creating a poorly proportioned dwelling which would contrast sharply with neighbouring properties. The Inspector concluded that the proposal would appear cramped and contrived and would be a prominent and incongruous feature in the street scene. The Inspector also found the proposed fence would create a hard edge to Middleton Road and the path, and that opportunities for planting would be significantly constrained by the need to provide the necessary visibility for cars, pedestrians and cyclists, and the narrow area between proposed dwelling and path.

The Inspector concluded that the proposal would therefore conflict with Policy ESD15 of the 2015 Cherwell Local Plan and saved Policies C28 and C30 of

the 1996 Local Plan, as well as paragraphs 124 and 127 of the NPPF which seek to create high quality buildings and places that add to the overall quality of an area. The Inspector weighed in the balance the site's sustainable location and the minor contribution to the District's housing supply. The Inspector disagreed with the Appellant that there were benefits of tidying the site, and found the lack of harm to flood risk, highway safety, parking and living conditions to be of neutral consequence in the planning balance.

Accordingly the Inspector upheld the Council's decision and dismissed the appeal.

### **3.0 Consultation**

None

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

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

Option 1: To accept the position statement.

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

### **5.0 Implications**

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

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

Comments checked by:

Kelly Wheeler, Business Partner, 01295 225170,  
[Kelly.wheeler@cherwell-dc.gov.uk](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	Sarah Stevens, Interim Senior Manager, Development Management
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