

# Public Document Pack



**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Committee:** Planning Committee

**Date:** Thursday 11 July 2024

**Time:** 4.00 pm

**Venue** Bodicote House, Bodicote, Banbury, Oxon OX15 4AA

## Membership

### Councillor Barry Wood (Chairman)

Councillor Rebecca Biegel  
Councillor John Broad  
Councillor Becky Clarke MBE  
Councillor Grace Conway-Murray  
Councillor Ian Harwood  
Councillor Fiona Mawson  
Councillor Rob Parkinson  
Councillor Les Sibley

### Councillor Amanda Watkins (Vice-Chairman)

Councillor Chris Brant  
Councillor Phil Chapman  
Councillor Jean Conway  
Councillor Dr Isabel Creed  
Councillor David Hingley  
Councillor Lesley McLean  
Councillor David Rogers  
Councillor Dr Kerrie Thornhill

## Substitutes

Councillor Nick Cotter  
Councillor Harry Knight  
Councillor Dr Chukwudi Okeke  
Councillor Rob Pattenden  
Councillor Dorothy Walker  
Councillor Douglas Webb

Councillor Andrew Crichton  
Councillor Andrew McHugh  
Councillor Lynne Parsons  
Councillor Edward Fraser Reeves  
Councillor Linda Ward  
Councillor John Willett

## 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.

Please note that the deadline for requests to address the meeting is noon on the working day before the meeting. Addresses can be made virtually or in person.

### 4. **Minutes** (Pages 5 - 42)

To confirm as a correct record the Minutes of the meeting of the Committee held on 6 June 2024.

### 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)**

The Committee to consider requests for and proposed pre-committee site visits.

Any requests or recommendations for site visits will be published with the written update.

## **Planning Applications**

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|-----|--|-------------------|
| 8.  | <b>Land North of Manor Farm, Noke</b> (Pages 46 - 77)  | <b>22/01682/F</b> |
| 9.  | <b>Land North and Adjacent to Mill Lane, Stratton Audley</b> (Pages 78 - 104)                      | <b>22/03873/F</b> |
| 10. | <b>Waverley House, Queens Avenue, Bicester, OX26 2PY</b> (Pages 105 - 156)                         | <b>23/02355/F</b> |
| 11. | <b>Bicester Heritage, Buckingham Road, Bicester</b> (Pages 157 - 173)                              | <b>23/01085/F</b> |
| 12. | <b>OS Parcel 0927 East Of And Adjoining Chacombe Road Wardington</b> (Pages 174 - 200)             | <b>24/00807/F</b> |
| 13. | <b>Kelberg Ltd, Northampton Road, Weston On The Green, Bicester, OX25 3TH</b><br>(Pages 201 - 218) | <b>24/00893/F</b> |
| 14. | <b>12-14 Sheep Street, Bicester, OX26 6TB</b> (Pages 219 - 238)                                    | <b>24/00214/F</b> |
| 15. | <b>20 Almond Road, Bicester, OX26 2HT</b> (Pages 239 - 252)  | <b>24/00401/F</b> |

16. **73 High Street, Kidlington, OX5 2DN** (Pages 253 - 262) **23/03368/F**
17. **Land East of Banbury Road Ditch And North Of Earls Lane Deddington OX15 0TY** (Pages 263 - 298) **23/02096/OUT**
18. **Cornhill Cafe 1 Castle Street Banbury OX16 5NT** (Pages 299 - 305) **24/01153/F**
19. **Cattle Market Car Park, Victoria Road, Bicester, OX26 6QB** (Pages 306 - 313) **24/01172/CDC**
20. **143 The Fairway, Banbury, OX16 0QZ** (Pages 314 - 321) **24/01117/F**
21. **Cherwell District Council Lock 29 Castle Quay, Banbury OX16 5UN**  
(Pages 322 - 328) **24/01224/CDC**
22. **Castle Quay 2 Spiceball Park Road Banbury Oxfordshire OX16 2PA**  
(Pages 329 - 334) **24/01150/DISC**

**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@cherwell-dc.gov.uk](mailto:democracy@cherwell-dc.gov.uk) or 01295 221534 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.

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**Queries Regarding this Agenda**

Please contact Matt Swinford / Martyn Surfleet, Democratic and Elections  
democracy@cherwell-dc.gov.uk, 01295 221534

**Shiraz Sheikh**  
**Monitoring Officer**

Published on Wednesday 3 July 2024

## **Cherwell District Council**

### **Planning Committee**

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, Oxon OX15 4AA, on 6 June 2024 at 4.00 pm

#### Present:

Councillor Barry Wood (Chairman)  
Councillor Amanda Watkins (Vice-Chairman)  
Councillor Rebecca Biegel  
Councillor Chris Brant  
Councillor John Broad  
Councillor Phil Chapman  
Councillor Becky Clarke MBE  
Councillor Jean Conway  
Councillor Grace Conway-Murray  
Councillor Dr Isabel Creed  
Councillor Ian Harwood  
Councillor David Hingley  
Councillor Fiona Mawson  
Councillor Lesley McLean  
Councillor Rob Parkinson  
Councillor David Rogers  
Councillor Les Sibley  
Councillor Dr Kerrie Thornhill

#### Officers:

Paul Seckington, Head of Development Management  
Karen Jordan, Deputy Principal Solicitor  
Linda Griffiths, Principal Planning Officer  
Katherine Daniels, Principal Planning Officer  
Rebekah Morgan, Principal Planning Officer  
Sophie Browne, Principal Planning Officer  
Michael Sackey, Senior Planning Officer  
Emma Whitley, Planning Officer  
Astrid Burden, Senior Planning Officer  
Matt Swinford, Democratic and Elections Officer

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### **Declarations of Interest**

#### **8. OS Parcel 4347 East Of Pipal Cottage, Oxford Road, Kidlington.**

Councillor Lesley McLean, Other Registerable Interest, as Leader of Kidlington Parish Council.

#### **10. Land West of Church Ley Field Adjacent to Blackthorn Road, Ambrosden.**

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

**13. Gosford Hill School, Oxford Road, Kidlington, OX5 2NT.**

Councillor Lesley McLean, Other Registerable Interest, as Leader of Kidlington Parish Council.

**14. 242 Broughton Road, Banbury, OX16 9QL.**

Councillor Becky Clarke MBE, Other Registerable Interest, as a member of Banbury Town Council which had been consulted on the application.

Councillor Dr Isabel Creed, Other Registerable Interest, as a member of Banbury Town Council which had been consulted on the application.

Councillor Dr Kerrie Thornhill, Other Registerable Interest, as a member of Banbury Town Council which had been consulted on the application.

Councillor Ian Harwood, Other Registerable Interest, as a member of Banbury Town Council which had been consulted on the application.

Councillor Rebecca Biegel, Other Registerable Interest, as a member of Banbury Town Council which had been consulted on the application.

**15. Cherwell District Council, Lock29, Castle Quay, Banbury, OX16 5UN.**

Councillor Becky Clarke MBE, Other Registerable Interest, as a member of Banbury Town Council which had been consulted on the application.

Councillor Chris Brant, Other Registerable Interest, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor David Hingley, Other Registerable Interest, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor Dr Isabel Creed, Other Registerable Interest, as a member of Banbury Town Council which had been consulted on the application.

Councillor Dr Kerrie Thornhill, Other Registerable Interest, as a member of Banbury Town Council which had been consulted on the application.

Councillor Ian Harwood, Other Registerable Interest, as a member of Banbury Town Council which had been consulted on the application.

Councillor Jean Conway, Other Registerable Interest, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor Lesley McLean, Other Registerable Interest, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor Rebecca Biegel, Other Registerable Interest, as a member of Banbury Town Council which had been consulted on the application.

Councillor Rob Parkinson, Other Registerable Interest, as a member of the Executive and would leave the meeting for the duration of the item.

4 **Requests to Address the Meeting**

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

5 **Minutes**

Subject to the correction under the resolution on Minute 121 from “That, contract to” to “That, contrary to”, the Minutes of the meeting held on 21 March 2024 were agreed as a correct record and signed by the Chairman. The Minutes of the meeting held on 22 May 2024 were agreed as a correct record and signed by the Chairman.

6 **Chairman's Announcements**

The Chairman made the following announcements:

1. Advised members of the public attending the meeting that only registered speakers may address the Committee and requested that they did not cause a disturbance.
2. Advised the committee that they may be addressed as Chair or Chairman by committee members.

7 **Urgent Business**

There were no items of urgent business.

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

There were no proposed Pre-Committee site visits.

The Chairman advised that items 11 and 12 would be moved the next items for consideration as he had been advised that the items may be proposed for deferral to allow a site visit by the committee.

9 **Land North of Manor Farm, Noke**

The Committee considered application 22/01682/F for the development of a ground mounted solar farm incorporating the installation of solar PV panels, associated infrastructure and access, as well as landscape planting and designated ecological enhancement areas at Land North of Manor Farm, Noke for Oxford New Energy.

It was proposed by Councillor Watkins and seconded by Councillor Dr Creed that consideration of application 22/01682/F be deferred for one planning cycle to allow for site visit before the application is considered by the Committee.

**Resolved**

That consideration of application 22/01682/F be deferred for one planning cycle to allow for a site visit.

10 **Land North and Adjacent to Mill Lane, Stratton Audley**

The Committee considered application 22/03873/F for the installation and operation of a renewable energy generating station comprising ground-mounted photovoltaic solar arrays and battery-based electricity storage containers together with a switchgear container, inverter/transformer units, Site access, internal access tracks, security measures, access gates, other ancillary infrastructure and landscaping and biodiversity enhancements at Land North and Adjacent to Mill Lane, Stratton Audley for JBM Solar Projects 8.

It was proposed by Councillor Watkins and seconded by Councillor Biegel that consideration of application 22/03873/F be deferred for one planning cycle to allow for site visit before the application is considered by the Committee.

**Resolved**

That consideration of application 22/03873/F be deferred for one planning cycle to allow for a site visit.

11 **OS Parcel 4347 East Of Pipal Cottage, Oxford Road, Kidlington**

The Committee considered application 23/01233/OUT, an outline application (with all matters except access reserved for future consideration) for the demolition of existing buildings and the erection of up to 800 dwellings (Class C3); a two form entry primary school; a local centre (comprising convenience retailing (not less than 350sqm and up to 500sqm (Class E(a))), business uses (Class E(g)(i)) and/or financial and professional uses (Class E(c)) up to 500sqm, café or restaurant use (Class E(b)) up to 200sqm; community building (Class E and F2); car and cycle parking); associated play areas, allotments, public open green space and landscaping; new vehicular, pedestrian and cycle access points; internal roads, paths and communal parking infrastructure; associated works, infrastructure (including Sustainable Urban Drainage, services and utilities) and ancillary development. Works to the Oxford Road in the vicinity of the site to include, pedestrian and cycle infrastructure, drainage, bus stops, landscaping and ancillary development at OS Parcel 4347 East Of Pipal Cottage Oxford Road Kidlington for Bellway Homes Limited and Christ Church, Oxford



Councillor Ian Middleton addressed the Committee as Local Ward Member.

Dr Katherine Kaye, on behalf of Wolvercote Neighbourhood Forum, addressed the Committee in objection to the application.

Rob Linnell, on behalf of the agent for the applicant, Savills, addressed the Committee in support of the application.

In reaching its decision the Committee considered the officers report and presentation, addresses from the public speakers and the written updates.

### **Resolved**

- (1) That, in line with the officer's recommendation, application 23/01233/OUT be delegated to the Assistant Director for Planning and Development to approve subject to:
  1. subject to the conditions set out below (and any amendments to those conditions as deemed necessary)
  2. the completion of a planning obligation under Section 106 of the town and country planning act 1990, as substituted by the Planning and compensation act 1991, necessary mitigation as set out in the annex to the Minutes, as set out in the Minute book (and any amendments deemed necessary including the requirement to introduce Controlled Parking Zones within the site as requested by OCC Transport).
  3. The revised comments of Natural England which are still awaited.
  4. The resolution of objection by the Environment Agency

### **Conditions**

#### **Time Limit**

1. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of six 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 (Development Management Procedure (England) Order 2015 (as amended).

2. Details of the layout, scale, appearance, access (other than the approved accesses to Oxford Road as shown on Plan numbers ITB16565-SK-044 Rev N, ITB16565-SK-066 Rev J, ITB16565-SK-067 Rev H and ITB16565-SK-065 Rev L) and landscaping (hereafter referred to as the reserved matters) shall be submitted to and approved in writing

by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

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

### **Compliance with Plans**

3. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents:
  - 01 Rev F (Application Boundary – RL01)
  - 32 Rev W (Land Use and Access Parameter Plan)
  - 33 Rev T (Building Heights Parameter Plan)
  - 55 (Demolition Plan for Pipal Barns)
  - 58 Rev M (Green Infrastructure Parameter Plan)
  - ITB16565-SK-044 Rev N (Site Access Arrangements – Staggered priority junctions with Cyclops junction to South Eastern priority junction left in/out – western priority junction all movements)
  - ITB16565-SK-065 Rev L (Proposed PR6a Access Strategy and Cycle Super Highway – including left in and left out priority and partial cyclops signal junction)
  - ITB16565-SK-066 Rev J (Proposed PR6a Access Strategy and Cycle Super Highway – including left in and left out priority and partial cyclops signal junction – Northern extent)
  - ITB16565-SK-067 Rev H (Proposed PR6a Access Strategy and Cycle Super Highway – including left in and left out priority and partial cyclops signal junction – Southern extent)
  - Sustainability and Energy Statement – WE/SES/P01
  - Design and Access Statement – WE/DAS/P02
  - Arboricultural Impact Assessment (Incorporating Tree Protection Measures) – WE/AIA/P02

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.

4. Unless justified through the reserved matters submissions, all. reserved matters submissions shall accord with the following submitted parameter plans: Land use and Access parameter Plan; Building Heights Parameter Plan; Green Infrastructure parameter Plan.

Reason: To ensure that the development is delivered in accordance with the principles of the outline planning application, approved Development Brief and Policies PR1, PR2, PR3, PR5, PR6a, PR11 and PR12a of the Cherwell Local Plan Review 2020 and Government guidance within the National Planning Policy Framework.

5. Prior to the commencement of any development on the site, a phasing plan for the development of the whole site shall be submitted to and agreed in writing by the Local Planning Authority. The phasing Plan shall include full details of the development parcels, including affordable housing, open space, green infrastructure, delivery of the local centre, community building and school, roads, cycle/footpath connections, Cutteslowe Park extension, eastern green infrastructure buffer, new buffer to Oxford Road frontage, play facilities and allotments. Thereafter the development shall be carried out in accordance with the approved phasing plan and each reserved matters application shall only be submitted in accordance with the terms of the phase (or phases) it relates to as set out in the approved phasing plan.

Reason: To ensure the proper and phased implementation of the development and associated infrastructure to the benefit of future residents in accordance with Policies PR1, PR2, PR3, PR5, PR6a, PR11 and PR12a of the Cherwell Local Plan Review 2020, Policies SLE4, BSC7, BSC8, BSC10, BSC11, BSC12, ESD13, ESD15 and ESD17 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

6. Prior to the implementation details of a pedestrian/cycle access from the Oxford Parkway access road into the site measuring a minimum of 3.5m must be submitted to and approved in writing by the Local Planning Authority. The pedestrian/cycle access must thereafter be constructed in accordance with the approved plans.

Reason: To promote sustainable modes of transport and accord with Government guidance within the NPPF.

7. Prior to occupation a School Travel Plan, Residential Travel Plan and Travel Plan Statements for the local centre and community centre shall be submitted to the Local Planning Authority.

Reason: To promote sustainable modes of transport and comply with Government guidance within the NPPF.

8. Prior to first occupation a Framework Travel Plan shall be submitted to and approved by the Local Planning Authority.

Reason: To promote sustainable modes of transport and accord with Government guidance within the NPPF.

9. Prior to the occupation of the development hereby permitted, evidence shall be submitted to the Local Planning Authority and approved in writing that a School Travel Plan has been prepared using Modeshift STARS which meets Green Level accreditation. The approved School Travel plan shall be implemented within one month of the approval being given. The approved Travel Plan shall achieve Modeshift STARS Bronze level accreditation within 12 months of occupation and this shall be

maintained for a minimum of five years from the date of approval. Evidence shall be provided to the Local Planning Authority of the accreditation level of the school Travel Plan within one week of such request.

Reason: To promote sustainable modes of transport and comply with Government guidance within the NPPF.

10. Construction Traffic Management Plan – wording as set out in OCC consultation response.
11. A Monitoring and Evaluation Plan (MEP) shall be submitted and approved in writing by the Local Planning Authority prior to first occupation. This should set out how trips from the site will be monitored and the response to how mode share targets are being met.

Reason: To promote sustainable modes of transport and comply with Government guidance within the NPPF.

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

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

13. The approved drainage system shall be implemented in accordance with the approved Detailed Design as set out in ES Appendix 08.1 Flood Risk Assessment (Issue P01) Part 1 ref 028-8210440-BW-Flood Risk assessment Issue P01: 28 April 2023; ES Appendix 08.1 Flood Risk Assessment (Issue P01) Part 2, ST Site Investigation Report Appendix E; ES Appendix 08.1 Flood Risk Assessment (Issue P01) Part 3 Greenfield Runoff calculation rates, prior to the first occupation of the development.

Reason To ensure the principles of sustainable drainage are incorporated into the proposal in accordance with Policies ESD6 and ESD7 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the NPPF.

14. Construction shall not begin until/prior to the approval of reserved matters; a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall include:

- A compliance report to demonstrate how the scheme complies with the 'Local standards and Guidance for Surface water Drainage on Major Development in Oxfordshire'
- Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change
- A Flood Exceedance Compliance Plan
- Comprehensive infiltration testing across the site to BRE DG 365 (if applicable)
- Detailed design drainage layout drawings of the SuDS proposals including cross-section details
- Detailed maintenance and management plan in accordance with Section 32 of CIRA C753 including maintenance schedules for each drainage element
- Details of how water quality will be managed during construction and post development in perpetuity
- Confirmation of any outfall details
- Consent for any connections into third party drainage systems

Reason: To ensure the principles of sustainable development are incorporated into the proposal in accordance with Policies ESD6 and ESD7 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the NPPF.

15. Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:
- As built plans in both pdf and shp format
  - Photographs to document each key stage of the drainage system when installed on site
  - Photographs to document the completed installation of the drainage structures on site
  - Name and contact details of any appointed management company information

Reason: To ensure the principles of sustainable drainage are incorporated into the proposal in accordance with Policies ESD6 and ESD7 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the NPPF.

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

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

17. Following the approval of the Written Scheme of Investigation referred to in condition 16, and prior to any demolition on the site and commencement of the development (other than in accordance with the agreed written Scheme of Investigation), a programme of archaeological mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority within two years of the completion of the archaeological fieldwork.

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

18. All reserved matters applications shall include details to ensure appropriate delivery of improvement and enhancements to the public realm in terms of quality of materials, public space and landscaping proposals. The development shall be carried out in accordance with these approved details.

Reason: In the interests of the visual amenities of the proposed development in accordance with Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the NPPF.

19. Any contamination that is found during the course of the approved development that was not previously identifies shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development (or relevant phase of development) is resumed or continued.

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 Government guidance within the NPPF.

20. The development shall not be occupied until all foul water network upgrades required to accommodate the additional flows from the development have been completed, or a development and infrastructure phasing plan has been agreed with the local planning authority in consultation with Thames Water to allow development to be occupied. Where a development and infrastructure phasing plan is agreed, no

occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.

Reason: Network reinforcement works are likely to be required to accommodate the proposed development. Any reinforcement works identified will be necessary in order to avoid sewage flooding and/or potential pollution incidents.

21. No development shall be occupied until confirmation has been provided that either; all water network upgrades required to accommodate the additional demand to serve the development have been completed or a development and infrastructure phasing plan has been agreed with Thames water to allow development to be occupied. Where a development and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.

Reason: The development may lead to no/low water pressure and network reinforcement works anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional demand anticipated from this development.

22. No development shall be occupied until confirmation has been provided that either all sewage works upgrades required to accommodate the additional flows from the development have been completed or a development and infrastructure phasing plan has been agreed with the local planning authority in consultation with Thames water to allow development to be occupied. Where a development and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.

Reason: Sewage treatment upgrades are likely to be required to accommodate the proposed development. Any upgrade works identified will be necessary to avoid sewage flooding and/or pollution incidents.

23. Each reserved matter relating to built development shall include existing and proposed land levels and finished floor levels, including cross sections across the site and adjacent land and illustrative street scenes to indicate changes in levels across the site and how the proposed development addresses these changes. The details shall be agreed with the local planning authority as part of that reserved matter submission. The development shall thereafter be carried out in accordance with the agreed site levels.

Reason: To enable a full assessment of the changes in levels across the site and the scale, massing and height of proposed buildings are compatible with adjacent development and in order to protect the setting of the Grade II\* St Frideswide Farmhouse and to comply with Policy ESD15 of the adopted Cherwell Local Plan 2011-2031, Policy PR6a of

the Local Plan Partial Review 2020 and Government guidance within the NPPF.

24. Prior to the commencement of any development, full details of a lighting strategy and its design, including position, orientation, and any screening of the lighting for biodiversity in line with the BCT Guidance Note 08/23 and shall show how lighting will not impact protected species or prevent them from using the territories shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter maintained fully in accordance with the agreed details.

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

25. Prior to the commencement of any development of the site, a full detailed sustainability strategy in accordance with Policies ESD1 – 5 of the adopted Cherwell Local Plan 2011-2031 shall be submitted to and approved in writing by the Local Planning Authority. All development shall be carried out in accordance with the approved details.

Reason: In the interests of ensuring sustainable development in accordance with the Development Plan and Government guidance within the NPPF.

26. All site clearance (including the removal of any vegetation or works to hedgerows) should be timed to avoid the bird nesting season and should be checked by a suitably qualified ecologist to check no wildlife habitats are present that could be affected/destroyed by the removal, unless alternative provisions have previously been agreed in writing by the Local Planning Authority.

Reason: To ensure that the development will conserve and enhance the natural environment and will not cause significant harm to any protected species or its habitat in accordance with Policy ESD10 of the adopted Cherwell Local Plan 2011-2031, Policy PR6a of the Partial Review Local Plan 2020 and Government guidance within the NPPF.

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



Reason: To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the adopted Cherwell Local Plan, Policy PR6a of the Partial Review Local Plan 2020 and Government guidance within the NPPF.

28. Prior to the first occupation of the development hereby approved, an Ecological Construction Method Statement (ECMS) and Landscape Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the ECMS and LEMP shall be carried out in accordance with the approved details.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the adopted Cherwell Local Plan 2011-2031, Policy PR6a of the Partial Review Local Plan 2020 and Government guidance within the NPPF.

29. Prior to the first occupation of the development hereby approved, a Habitat Management and Monitoring Plan (HMMP) shall be submitted to and approved in writing by the local planning authority. Thereafter the HMMP shall be carried out in accordance with the approved details.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the adopted Cherwell Local Plan 2011-2031 and Policy PR6a of the Partial Review Local Plan 2020 and Government guidance within the NPPF.

30. Prior to the construction of any development above slab level, a Biodiversity Enhancement Strategy including a biodiversity enhancement plan shall be submitted to and approved in writing by the local planning authority. Thereafter the biodiversity enhancement measures approved for the development shall be carried out prior to first occupation of any development parcel or phase and retained in accordance with the approved details.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the adopted Cherwell Local Plan 2011-2031 and Policy PR6a of the Partial Review Local Plan 2020 and Government guidance within the NPPF.

31. Prior to the commencement of any development on the site, a detailed Farmland bird compensation and mitigation strategy shall be submitted and approved in writing by the local planning authority. The development shall thereafter be carried out and maintained in accordance with the approved strategy.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the adopted Cherwell Local Plan 2011-2031 and Policy PR6a of the Partial Review Local Plan 2020 and Government guidance within the NPPF.

32. Construction Environmental Management plan (for biodiversity) – Details to be inserted as per SC11.21
33. Prior to the commencement of any development on the site a Noise Assessment shall be carried out in relation to Oxford Road and Park and Ride and strategy which shall include noise insulation and mitigation measures necessary to protect those properties adversely affected by traffic and rail activity noise shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be carried out in accordance with the approved noise assessment and mitigation measures agreed.

Reason: To safeguard the residential amenities and living environment free from intrusive levels of noise for occupiers of the new development in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance within the NPPF.

12

### **Land South of Bloxham Road, Bloxham Road, Milcombe**

The Committee considered application 23/01144/OUT, an outline planning application, together with associated access off Bloxham Road (all other matters reserved), for up to 90 homes (use class C3) together with associated infrastructure and open space, landscaping, including provision of land for new village hall (use class F2(b)) and retail space (use class E) at Land South of Bloxham Road Bloxham Road Milcombe for Neptune Land Promotion Ltd.

Councillor Myra Peters, on behalf of Milcombe Parish Council, addressed the Committee in objection to the application.

Arron Twamley, on behalf of the agent to the application, Arc Planning Associates, addressed the Committee in support of the application.

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

### **Resolved**

That, in line with the officer's recommendation, application 23/01144/OUT be refused for the following reasons:

1. The proposals would result in a disproportionate development when considered against the scale of the existing village and the cumulative impact of growth already carried out in village within the plan period and available facilities within the village and would be predominantly reliant on the private car to carry out day-to-day activity and the application site is not well located to existing services and facilities. The proposals would cause significant adverse landscape impacts to the settlement character which could not be avoided or mitigated by the proposed development, by further development within the open countryside, resulting in further urbanisation of the village. The proposals would be harmful development

to the village of Milcombe and the wider aims of Policies Villages 1 and Villages 2 and result in unsustainable growth that would not be capable of mitigation. The proposals would therefore be contrary to Policies PSD1, BSC1, ESD1, ESD13, ESD15, Villages 1 and Villages 2 of the Cherwell Local Plan 2011 - 2031 Part 1; saved Policies C28 and C30 of the Cherwell Local Plan 1996 and the aims and objectives of the National Planning Policy Framework.

2. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, the local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure/services contributions required as a result of the development, and necessary to make the impacts of the development acceptable in planning terms. As such, the proposal is contrary to Policy INF1 of the Cherwell Local Plan 2011- 2031, CDC's Planning Obligations SPD 2018 and Government guidance within the National Planning Policy Framework.

13 **Land West of Church Ley Field Adjacent to Blackthorn Road, Ambrosden**

The Committee considered application 23/03071/F, an outline application for erection of up to 55 new dwellings, including affordable homes; formation of new pedestrian access; formation of new vehicular access from Blackthorn Road; landscaping; and associated works (resubmission of 22/02455/OUT) at Land West of Church Ley Field Adjacent to Blackthorn Road, Ambrosden for L&Q Estates.

Dawn Seaward, Chair of Ambrosden Parish Council, addressed the Committee in objection to the application.

Stuart Field, on behalf of the applicant, L&Q Estates, addressed the Committee in support of the application.

In reaching its decision the Committee considered the officers' report and presentation, the addresses of the public speakers and the written updates.

**Resolved**

That, in line with the officer's recommendation, application 23/03071/F be delegated to the Assistant Director for Planning and Development to grant permission, subject to:

- (1) The conditions set out below (and any amendments to those conditions as deemed necessary) and
- (2) The completion of a planning obligation under section 106 of the Town and Country Planning Act, as substituted by the Planning and Compensation Act 1991, to secure the following and attached appendix to the minute book (and any amendments as deemed necessary):

Cherwell District Council (all contributions to be index linked)

- a) Provision of 35% affordable housing on site
- b) Payment of a financial contribution towards off site sports and recreation provision in the locality of £2,017.03 per dwelling towards outdoor sport provision, plus £335.32 per occupier of each dwelling (based on an average occupancy rate of 2.4 persons per dwelling) towards indoor sport provision
- c) Payment of a financial contribution towards enhancements at Blackthorn Village Hall based on the requirements to provide 0.185m<sup>2</sup> of community space per occupier of the dwellings at a cost of £2,482 per m<sup>2</sup> (based on an average occupancy rate of 2.4 persons per dwelling)
- d) Payment of a financial contribution of £12,320.00 towards the provision of public art and its management and maintenance
- e) Payment of a financial contribution towards the provision of refuse/recycling bins for the development of £106 per dwelling
- f) Provision of a commuted sum for the maintenance of open space (including informal open space, mature trees, hedgerows, woodland, SuDS etc) or details of long term management provision in accordance with Policy SBC11 of the CLP
- g) Provision of a Local Equipped Area of Play and commuted sum for maintenance or details of other management provisions
- h) Provision of a Habitat Management and Monitoring Plan and long term management arrangements (including funding) for the land proposed for biodiversity enhancement identified in the blue line
- i) Payment of the Council's monitoring costs

Oxfordshire County Council (all contributions to be index linked)

- a) Payment of a financial contribution towards the continuation of bus services in Ambrosden of £62,315
- b) Payment of a financial contribution towards the provision of a bus shelter at either the northbound or southbound stop at Ploughley Road of £15,347 (unless otherwise secured under a S278 or S38 agreement)
- c) Payment of a financial contribution towards improvements to the local public rights of way network of £15,000
- d) Obligation to enter into a S278 agreement will be required to secure mitigation/improvement works, including: new site access bellmouth junction from Blackthorn Road, including 2m footway on east side, and; new 3m wide shared use footway/cycleway, approximately 75m long, and uncontrolled crossing of Blackthorn Road, and; new LTN 1/20 compliant cycletracks and side road crossings, and a parallel crossing of Blackthorn Road (unless previously delivered by application no.22/01976/OUT)
- e) Payment of a financial contribution towards educational infrastructure serving the development of £498,653 (£432,081 towards secondary education capacity, £39,650 towards secondary school land cost, £26,922 towards special school education capacity)
- f) Payment of a financial contribution towards the expansion and efficiency of Household Waste Recycling Centres of £5,168

g) Payment of the Council's monitoring costs

Other

- Payment of a financial contribution towards primary health care provision serving the development of £47,520, based on the predicted population increase arising from the development multiplied by £360 as there is no housing mix available.

Further recommendation: The statutory determination period for the application expires on 13 June 2024. If the section 106 agreement/undertaking is not completed and the permission is not able to be issued by this date and no extension of time has been agreed between the parties, it is further recommended that the Assistant Director for Planning and Development is given the delegated authority to refuse the application for the following reason:

1. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and contrary to Policy INF1 of the Cherwell District Local Plan 2011-2031 Part 1, CDC's Planning Obligations SPD 2018 and Government guidance within the National Planning Policy Framework.

Conditions

**Time Limit**

1. 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 three 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 (Development Management Procedure (England)) Order 2015 (as amended).

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

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 6 of the Town and

Country Planning (Development Management Procedure (England))  
Order 2015 (as amended).

**Compliance with Plans**

3. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application form and the following plans and documents:  
Drawing 382\_L01B, 382\_P01D, 382\_P02B, 382\_P03B, 382\_P04B, 382\_P05B, 382\_P06B, and 080633-CUR-XX-XX-D-TP75004-P08.

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

**Levels**

4. 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: In order to safeguard the visual amenities of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

**Contamination**

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

Reason: To ensure that 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 Policy ENV12 of the Cherwell Local Plan 1996 and government guidance within the National Planning Policy Framework.

**Drainage**

6. The approved drainage system shall be implemented in accordance with the following documents in the Flood Risk Assessment and Drainage Strategy:  
Curtins Ref:080633-CUR-00-XX-RP-D-92001 Rev 05 Date July 2023  
Appendix E BGS Infiltration Report  
Appendix F Thames Water Correspondence  
Appendix G Greenfield Run-off calculations

Appendix H Proposed Drainage Strategy; Proposed Levels Strategy; Proposed Impermeable Catchments Plan Proposed; and Surface Water Drainage Calculations (100 Year +40% Climate Change, +10% Urban Creep)

Reason - To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure compliance with Policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

7. Construction shall not begin until/prior to the approval of first reserved matters; a detailed surface water drainage scheme for the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall include:
- A compliance report to demonstrate how the scheme complies with the “Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire”;
  - Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
  - A Flood Exceedance Conveyance Plan;
  - Comprehensive infiltration testing across the site to BRE DG 365 (if applicable) • Detailed design drainage layout drawings of the SuDS proposals including cross-section details;
  - Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element, and;
  - Details of how water quality will be managed during construction and post development in perpetuity;
  - Confirmation of any outfall details.
  - Consent for any connections into third party drainage systems

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community and to ensure compliance with Policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

8. Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:
- a) As built plans in both .pdf and .shp file format;
  - b) Photographs to document each key stage of the drainage system when installed on site;
  - c) Photographs to document the completed installation of the drainage structures on site;

d) The name and contact details of any appointed management company information.

Reason: In order to avoid adverse environmental impact upon the community and to ensure compliance with Policies ESD6 and ESD7 of the Cherwell Local Plan 2011- 2031 Part 1 and Government guidance within the National Planning Policy Framework.

**Environmental Protection**

9. 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 or other sensitive properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with the occupiers of those properties shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall include the following:
- a) the parking of vehicles of site operatives and visitors;
  - b) loading and unloading of plant and materials;
  - c) storage of plant and materials used in constructing the development;
  - d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - e) wheel washing facilities;
  - f) measures to control the emission of dust and dirt during construction;
  - g) a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - h) measures for the protection of the natural environment; hours of construction, including deliveries;
  - i) the temporary site compound including temporary structures
  - j) the location and noise levels of any temporary generators or other fixed mechanical plant.
  - k) details of external lighting and proposed operation times.
  - l) contact details for the site manager or other persons associated with the management of operations on the site. Thereafter the development shall be carried out in accordance with approved CEMP.

Reason: To ensure the environment is protected during construction in accordance with Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. Prior to the commencement of the development hereby approved a specialist acoustic consultants report that demonstrates that all habitable rooms within the dwelling and external areas will achieve the noise levels specified in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings) shall be submitted to and approved in



writing by the Local Planning Authority. Where acoustic glazing and alternative means of ventilation are required to achieve this standard, full details of these elements shall be submitted with the report for approval. Should alternative means of ventilation be required then an overheating report will also be required. Thereafter, and prior to the first occupation of the dwellings affected by this condition, the dwellings shall be insulated and maintained in accordance with the approved details.

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

11. Prior to the commencement of the development hereby permitted a detailed air quality impact assessment to identify the impact of the development on local air quality shall be submitted to and approved in writing by the Local Planning Authority. The assessment should include damage cost calculations where applicable along with a proposal for abatement measures that will be undertaken in addition to those already required from the developer, in order to address any adverse impacts on local air quality. This shall have regard to the Cherwell District Council Air Quality Action Plan and no development shall take place until the Local Planning Authority has given its written approval that it is satisfied that the impact of the development on air quality has been adequately quantified.

Reason: To ensure the development protects and enhances biodiversity and the natural environment in accordance with the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.

#### **Natural Environment**

12. As part of any reserved matters for layout, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

Reason: To protect the existing trees and hedgerows on site and in the interests of visual amenities of the area to ensure the creation of a pleasant environment for the development and to accord with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.

#### **Highways**

13. Prior to the commencement of the development hereby approved, full design details of the means of access between the land and the highway, including, position, layout, construction, drainage, and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to first occupation the means of

access shall be constructed and retained 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.

14. Prior to the commencement of the development hereby approved, full details of the improvements to footpaths including, position, layout, construction, drainage, vision splays and a timetable for the delivery of the improvements shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the works shall be constructed and retained in accordance with the approved details.

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

15. Prior to first occupation a Residential Travel Plan and Residential Travel Information Pack should be submitted to the Local Planning Authority for approval. Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework.
16. Prior to commencement of the development hereby approved; a construction traffic management plan shall be submitted to and approved by the Local Planning Authority. The CTMP will need to incorporate the following in detail and throughout development the approved plan must be adhered to
  - The CTMP must be appropriately titled, include the site and planning permission number.
  - Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
  - Details of and approval of any road closures needed during construction.
  - Details of and approval of any traffic management needed during construction. Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
  - Details of appropriate signing to accord with standards/requirements, for pedestrians during construction works, including any footpath diversions.
  - The erection and maintenance of security hoarding / scaffolding if required.
  - A regime to inspect and maintain all signing, barriers etc.

- Contact details of the Project Manager and Site Supervisor responsible for onsite works to be provided.
- The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.
- No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will park, and occupiers transported to/from site to be submitted for consideration and approval. Areas to be shown on a plan not less than 1:500.
- Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.
- A before-work commencement highway condition survey and agreement with a representative of the Highways Depot – contact 0845 310 1111. Final correspondence is required to be submitted.
- Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution.
- Any temporary access arrangements to be agreed with and approved by Highways Depot.
- Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.

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

17. No development shall commence above slab level unless and until a scheme for electric vehicle infrastructure to serve each dwelling has been submitted and approved in writing by the Local Planning Authority. The approved electrical vehicle charging infrastructure shall be provide in accordance with the approved details prior to the first occupation of the dwelling it serves.

Reason: To maximise the opportunities to promote the use of sustainable transport modes and the use of renewable energy, and to limit the impact of new development on air quality, to comply with Policies SLE4, ESD1 of the Cherwell Local Plan 2011- 2031 Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996, and Government guidance contained in the National Planning Policy Framework.

**Water**

18. No development shall be occupied until confirmation has been provided that either: - all water network upgrades required to accommodate the additional demand to serve the development have been completed; or - a development and infrastructure phasing plan has been agreed with Thames Water to allow development to be occupied. Where a development and infrastructure phasing plan is agreed no occupation

shall take place other than in accordance with the agreed development and infrastructure phasing plan.

Reason - The development may lead to no / low water pressure and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional demand anticipated from the new development and to comply with Government guidance contained in the National Planning Policy Framework.

### **Ecology**

19. Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a mitigation strategy for great crested newts, which shall include timing of works, the location and design of alternative ponds/habitats together with the timing of their provision, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the mitigation works shall be carried out in accordance with the approved details.

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

20. Where an offence under Regulation 41 of the Habitat and Species Regulations 2010 is likely to occur in respect of the development hereby approved, no works of site clearance, demolition or construction shall take place which are likely to impact on Great Crested Newts until a licence to affect such species has been granted in accordance with the aforementioned Regulations and a copy thereof has been submitted to the Local Planning Authority.

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

21. No development shall commence until a CEMP for biodiversity which includes measures to protect retained vegetation, bat roost checks for any removed trees and protect nesting birds is submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out or managed other than in accordance with the approved.

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

22. The development shall be constructed in accordance with the details agreed within the Ecological Appraisal Reference edp7101 r001c. The

enhancement measures shall be carried out in accordance with the approved details and shall be retained as such thereafter 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.

23. No development shall commence unless and until a Landscape and Ecology Management Plan (LEMP), has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out or managed other than in accordance with the approved LEMP. This should include how created and retained habitats on site will be managed for people and biodiversity and to achieve the habitat conditions denoted within the BIA and how this fits together with the off site plan. This should include measures within the built environment also. CDC seeks the equivalent of a minimum of one provision for bats, birds or invertebrates per dwelling (though these may be clustered) with the majority integrated into the fabric of the buildings. Measures such as hedgehog highways and wildlife friendly planting should also be within the developed areas.

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.

24. No development shall commence until a reptile mitigation strategy including a plan of any receptor sites, details of ecological supervision required, and timing is submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out or managed other than in accordance with the approved.

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.

25. Prior to the installation of any external lighting, a full lighting strategy to include illustration of proposed light spill and which adheres to best practice guidance in relation to ecological impact, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved document.

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

26. Additional surface water treatment and monitoring scheme due to the hydrological connectivity of the application site with Arncott Bridge Meadows SSSI, to ensure the long-term protection of the interest features of the SSSI.

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.

**Sustainability**

27. As part of any submission for reserved matters, full details of a renewable energy strategy for the site in accordance with Policy ESD5 of the Cherwell Local Plan, shall be submitted and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details prior to the first occupation of any building the renewable energy serves.

Reason: To encourage the use of renewable and low carbon energy in accordance with Policy ESD5 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

28. 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.

29. 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.

**Removal of PD Rights**

30. Notwithstanding the provisions of Schedule 2, Part 1, Classes A-C inclusive of the Town and Country Planning (General Permitted

Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order) no enlargement of the bungalows hereby approved shall be undertaken at any time without the prior planning permission of the Local Planning Authority.

Reason - To provide a mix of homes to meet current and expected future requirements in perpetuity, in the interests of meeting housing need and creating socially mixed and inclusive communities, in accordance with Policy BSC4 of Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

INFORMATIVES 1. Any alterations to the Public Highway will be at the applicant's expense and to Oxfordshire County Council's standards and specifications. Written permission must be gained from Oxfordshire County Council's Streetworks and Licensing Team (0345 310 1111). Works required to be carried out within the Public Highway shall be undertaken within the context of a Legal Agreement (such as a Section 278 / 38 Agreement) between the applicant and the Highway Authority.

14

### **Gosford Hill School, Oxford Road, Kidlington, OX5 2NT**

The Committee considered application 24/00070/F for the construction of a new replacement school with associated landscaping, car parking, and the reinstatement of access from Bicester Road, and the demolition of existing buildings at Gosford Hill School, Oxford Road, Kidlington, OX5 2NT for 24/00070/F.

Councillor Ian Middleton addressed the Committee as Local Ward Member.

Nigel Sellars, Headteacher at Gosford Hill School, addressed the Committee in support of the application.

In reaching its decision the Committee considered the officers' report, presentation and addresses from the public speakers.

### **Resolved**

That, in line with the officer's recommendation, application 24/00070/F be approved subject to the conditions set out below (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:

Drawing numbers:

SRP1114-ALA-ZZ-ZZ-D-L-9001 Rev P03 (Site Location Plan)  
SRP1114-ALA-ZZ-ZZ-D-L-9002 Rev P03 (Illustrative Masterplan)  
SRP1114-STL-01-00-D-A-0100 Rev P05 (Proposed Ground Floor Plan)  
SRP1114-STL-01-01-D-A-0101 Rev P05 (First Floor Plan)  
SRP1114-STL-01-02-D-A-0102 Rev P05 (Proposed Second Floor Plan)  
SRP1114-STL-01-R1-D-A-0103 Rev P03 (Proposed Roof Plan)  
SRP1114-STL-01-ZZ-D-A-0210 Rev P03 (Proposed North and East Elevations)  
SRP1114-STL-01-ZZ-D-A-0211 Rev P03 (Proposed South and West Elevations)  
SRP1114-STL-ZZ-ZZ-D-A-0320 Rev P02 (Proposed Site Sections)  
SRP1114-STL-01-ZZ-D-A-0310 Rev P02 (Proposed Building Sections)  
SRP1114-STL-01-ZZ-D-A-0311 Rev P02 (Proposed Building Sections 2)  
SRP1114-ALA-ZZ-ZZ-D-L-9019 Rev P02 (Site Section 1 of 3)  
SRP1114-ALA-ZZ-ZZ-D-L-9020 Rev P02 (Site Section 2 of 3)  
SRP1114-ALA-ZZ-ZZ-D-L-9021 Rev P02 (Site Section 3 of 3)  
SRP1114-STL-01-ZZ-D-A-0501 Rev P02 (Site Solar Study – Autumn Equinox)  
SRP1114-STL-01-ZZ-D-A-0500 Rev P02 (Site Solar Study – Summer Solstice)  
SRP1114-STL-01-ZZ-D-A-0502 Rev P02 (Site Solar Study – Winter Solstice)  
SRP1114-STL-01-ZZ-D-A-0503 Rev P02 (Site Solar Study – Spring Solstice)  
SRP1114-STL-01-ZZ-I-A-0600 Rev P02 (Proposed External Views – Entrance)  
SRP1114-STL-01-ZZ-I-A-0602 Rev P02 (Proposed External Views – Aerial Views)  
SRP1114-STL-01-ZZ-I-A-0601 Rev P02 (Proposed External Views – External Courtyard)  
SRP1114-STL-01-ZZ-I-A-0603 Rev P02 (Proposed Internal Views – Internal Views (1 of 2))  
SRP1114-STL-01-ZZ-I-A-0604 Rev P02 (Proposed Internal Views – Internal Views (2 of 2))  
SRP1114-BNK-00-00-D-X-4000 Rev 00 (Logistics Plan)  
SRP1114-BNK-00-00-D-X-4001 Rev 00 (Logistics Plan – Phase 1)  
SRP1114-ALA-ZZ-ZZ-D-L-9006 Rev P02 (Access and Circulation)  
SRP1114-ALA-ZZ-ZZ-D-L-9010 Rev P03 (Detailed Landscape General Arrangement 1 of 5)  
SRP1114-ALA-ZZ-ZZ-D-L-9011 Rev P03 (Detailed Landscape General Arrangement 2 of 5)  
SRP1114-ALA-ZZ-ZZ-D-L-9012 Rev P03 (Detailed Landscape General Arrangement 3 of 5)  
SRP1114-ALA-ZZ-ZZ-D-L-9013 Rev P03 (Detailed Landscape General Arrangement 4 of 5)



SRP1114-ALA-ZZ-ZZ-D-L-9014 Rev P03 (Detailed Landscape General Arrangement 5 of 5)  
SRP1114-ALA-ZZ-ZZ-D-L-9027 Rev P03 (Tree Retention and Removal Plan 1 of 2)  
SRP1114-ALA-ZZ-ZZ-D-L-9018 Rev P03 (Tree Retention and Removal Plan 2 of 2)  
SRP1114-BNK-00-00-D-X-4002 (Logistics Plan – Phase 2)  
SRP1114-BNK-00-00-D-X-4003 (Logistics Plan – Phase 3)  
SRP1114-ALA-ZZ-ZZ-D-L-9009 Rev P02 (Urban Greening Factors)  
SRP1114-ALA-ZZ-ZZ-D-L-9008 Rev P02 (BB103 Areas)  
SRP1114-ALA-ZZ-ZZ-D-L-9029 Rev P02 (Tree Retention and Removal Plan – Temp Accommodation)  
SRP1114-RPS-ZZ-ZZ-D-E-6314 Rev P01 (External Lighting Layout)  
SRP1114-ALA-ZZ-ZZ-D-L-9004 Rev P04 (Fencing General Arrangement 1 of 2)  
SRP1114-ALA-ZZ-ZZ-D-L-9017 (Planting Strategy)

Documents:

Planning Statement (dated December 2023)  
Design and Access Statement (dated 20 December 2023)  
Bat Emergence and Re-entry Surveys (dated 3 October 2023)  
Primary Ecological Appraisal (dated 19 October 2022)  
Noise Impact Assessment (dated 19 December 2023)  
Statement of Community Involvement (dated 15 December 2023)  
Transport Assessment (dated 18 December 2023)  
Interim Travel Plan (dated 18 December 2023)  
Photovoltaics Statement (dated 19 December 2023)  
Energy Report (dated 20 December 2023)  
Flood Risk Assessment and Drainage Strategy (dated 19 December 2023)  
Phase 1 Geo-environmental Desk Study Report (dated September 2022)  
Arboricultural Impact Assessment (dated March 2024)  
Arboricultural Method Statement (dated March 2024)  
Biodiversity Net Gain Assessment (dated May 2024)  
Habitat Monitoring and Maintenance Assessment (dated May 2024)  
Construction Environmental Management Plan (dated 15 May 2024)

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. Bat licence: Where an offence under Regulation 43 of the Habitats and Species Regulations 2017 ((or any regulation revoking or re-enacting or amending that regulation) is likely to occur in respect of the development hereby approved, no works of site clearance, demolition or construction shall take place which are likely to impact on bats until a licence to affect such species has been granted in accordance with the aforementioned Regulations and a copy thereof has been submitted to the Local Planning Authority.

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

4. Bat boxes: Full details of a scheme for the location of bat boxes shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of any building, the bat boxes shall be installed on the site in accordance with the approved details.

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

5. HMMP: The development shall be undertaken in accordance with the recommendations set out in sections 3-6 of the Habitat Monitoring and Maintenance Plan dated May 2024.

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.

6. Surface and foul water: Before any above ground works commence a scheme for the provision and implementation of foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be constructed and completed in accordance with the approved plans before the first occupation of any of the buildings/dwellings hereby approved and shall be maintained as such thereafter.

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

7. SuDS Details: Prior to occupation of the development hereby approved, a record of the installed SuDS and the site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:
  - 1) As built plans in both .pdf and .shp file format;
  - 2) Photographs to document each key stage of the drainage system when installed on site;
  - 3) Photographs to document the completed installation of the drainage structures on site;
  - 4) The name and contact details of any appointed management company information.

Reason: To ensure satisfactory drainage of the site and appropriate flood prevention and to comply Policy ESD 7 of the Cherwell Local Plan 2011-2031 Part 1 and with Government guidance contained within the National Planning Policy Framework.

8. CEMP: The approved Construction Environmental Management Plan dated 15th May 2024 shall be adhered to throughout the construction period for the development.

Reason: To ensure the environment is protected during construction in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and in the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding network, road infrastructure and local residents, particularly at peak traffic times, and to comply with Government guidance contained within the National Planning Policy Framework.

9. Contaminated Land Desk Study: Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development [or relevant phase of development] is resumed or continued.

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 Government guidance contained within the National Planning Policy Framework.

10. Ventilation Scheme: A scheme for the ventilation and extraction of cooking fumes shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the use hereby approved. This shall include noise and odour assessments undertaken in accordance with the requirements of BS 4142:2014:+A1:2019 Method for Rating and Assessing Industrial and Commercial Sound (or subsequent updates), and the Control of Odour and Noise from Commercial Kitchen Exhaust Systems 2022 EMAQ 2nd Edition (or subsequent updates). The approved system shall be installed and operated in accordance with the approved scheme at all times the building is in use for the purposes hereby permitted.

Reason: To protect the amenities of nearby residents and the character 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.

11. External Lighting: Prior to the first use of the development hereby approved details of the external lighting including the design, position, orientation, times of operation, whether they are controlled by movement sensors and any screening of the lighting shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first use of the development hereby approved the lighting shall be installed and operated in accordance with the approved scheme at all times thereafter.

Reason: To protect the amenities of nearby residents, visual amenity and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

12. MUGA in accordance with plans: The Artificial Grass Pitch and Multi Use Games Area shall be constructed strictly in accordance with drawings numbered SRP1114-ALA-ZZ-ZZ-D-L-9002 Rev P03 (Landscape Illustrative Masterplan), SRP1114-ALA-ZZ-ZZ-D-L-9010 Rev P03 (Detailed Landscape General Arrangement 1 of 5) and SRP1114-ALA-ZZ-ZZ-D-L-9011 Rev P03 (Detailed Landscape General Arrangement 2 of 5).

Reason: To ensure the development is fit for purpose and sustainable and to accord with Policy BSC 10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

13. MUGA details: Prior to the laying of the MUGA all surface pitch hereby approved, full details to include colour and finish shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the all-surface pitch shall be laid and maintained in accordance with the approved details.

Reason: To ensure that the playing field is prepared to an adequate standard and is fit for purpose and to accord with Policy BSC10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

14. Prior to the first use of the four court MUGA and the football pitch, the hours of use shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be used otherwise than in strict compliance with the approved agreement.

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.

15. MUGA and football pitch Community Use: Within 3 months of the date of this planning permission, a community use agreement prepared in consultation with Sport England shall be submitted to and approved in writing by the Local Planning Authority. The agreement shall set out the facilities to which it relates and include details of pricing policy, hours of use, access by non-educational establishment users, management responsibilities and a mechanism for review. The development shall not be used otherwise than in strict compliance with the approved agreement.

Reason: To secure well managed safe community access to the sports facility/facilities, to ensure sufficient benefit to the development of sport and to accord with Policy BSC10 of the Cherwell Local Plan 2011-2031 Part 1 and Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

16. MUGA Maintenance: Before the Artificial Grass Pitch is brought into use, a Management and Maintenance Scheme for the facility including management responsibilities, a maintenance schedule and a mechanism for review shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. This should include measures to ensure the replacement of the Artificial Grass Pitch within the manufacturer's specified time period. The measures set out in the approved scheme shall be complied with in full, with effect from commencement of use of the Artificial Grass Pitch.

Reason: To ensure that a new Artificial Grass Pitch is capable of being managed and maintained to deliver Artificial Grass Pitch which is fit for purpose, sustainable and to ensure sufficient benefit of the development to sport and to accord with Policy BSC 10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

17. No floodlights: No floodlights shall be erected on the land without the prior express planning permission of the Local Planning Authority.

Reason: To protect the amenities of nearby residents and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

18. Landscaping: The development shall not be carried out other than in accordance with Drawings numbered SRP1114-ALA-ZZ-ZZ-D-L-9010 Rev P03 (Detailed Landscape General Arrangement 1 of 5), SRP1114-ALA-ZZ-ZZ-D-L9011 Rev P03 (Detailed Landscape General Arrangement 2 of 5), SRP1114- ALA-ZZ-ZZ-D-L-9012 Rev P03 (Detailed

Landscape General Arrangement 3 of 5), SRP1114-ALA-ZZ-ZZ-D-L-9013 Rev P03 (Detailed Landscape General Arrangement 4 of 5), SRP1114-ALA-ZZ-ZZ-D-L-9014 Rev P03 (Detailed Landscape General Arrangement 5 of 5) and the approved landscaping scheme and hard landscape elements shall be carried out prior to the first use or occupation of the development and shall be retained as such thereafter. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

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

19. Tree Retention and Removal Plan & AIA: The development shall be carried out in line with the recommendations set out within the Tree Retention and Removal Plan (drawing number SRP1114-ALA-ZZ-ZZ-D-L-9029 P02), Arboricultural Impact Assessment undertaken by Middlemarch Environmental Ltd dated March 2024 and Arboricultural Method Statement undertaken by Middlemarch Environmental Ltd dated March 2024.

Reason – To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area and to comply with Policy C28 of the adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

20. Ecological Appraisal: The development shall be carried out in line with the recommendations set out within sections 4.2 and 4.3 of the Preliminary Ecology Appraisal undertaken by Indigo Surveys dated October 2022.

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.

21. Raised zebra crossing: Prior to the first use of the building hereby approved, details of the raised zebra crossing highways mitigation measures shall be submitted to and approved in writing. The mitigation

measures shall be carried out in accordance with the agreed details prior to first occupation.

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

22. Cycle Parking: Prior to the first use or occupation of the development hereby permitted, additional covered cycle parking facilities shall be provided on the site, and land within the site shall be allocated and reserved for future additional cycle parking, in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority. The covered cycle parking facilities so provided, and the land allocated for future cycle parking shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.

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

23. Parking and manoeuvring: Prior to the first use or occupation of the development hereby permitted, a plan detailing the proposed parking, turning, loading/unloading provision for vehicles to be accommodated within the site (including details of the proposed surfacing and drainage of the provision), has been submitted to and approved in writing by the Local Planning Authority. The approved parking and turning/loading/unloading facilities shall be laid out and completed in accordance with the approved details before the first occupation of the buildings. The car parking, turning/loading/unloading spaces shall be retained for the parking, turning/loading/unloading of vehicles at all times thereafter.

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

15

### **242 Broughton Road, Banbury, OX16 9QL**

The Committee considered application 24/00246/F for the erection of a single storey rear extension, to provide all necessary adaptations relating to works required at the above property, providing a ground floor bathroom (LAS) and a kitchen to be safe and usable for disabled occupant at 242 Broughton Road Banbury OX16 9QL for Mrs Yasmin Kousar.

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

## **Resolved**

That, in line with the officer's recommendation, application 24/00246/F be approved 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 drawings numbered 22-Ca-010778-P01 and 22-Ca-010778-P03.

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to safeguard the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031, saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Arboriculture**

3. No development shall take place below ground level unless an appropriately qualified arborist is present and all works in the vicinity of the root zones to the adjacent Oak tree must be carried out in accordance with the advice of a suitably qualified arborist. Subsequently, that is, in relation to all development above ground level, suitably qualified arborists shall (i) monitor the development at regular intervals and (ii) submit monitoring reports to the local planning authority, the frequency of which (in the case of both (i) and (ii)) shall be agreed in writing by the local planning authority before development commences.

Note to applicant: The development below ground level to which this condition refers includes any excavation work particularly the digging and cement foundation setting.

Reason – To ensure the protection of the trees and their root systems and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area and to comply with Policy



ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

4. The block paving to be used under the tree canopy must be of a porous material and shall be retained as such thereafter.

Reason – To ensure that the tree is retained in a safe and healthy condition and is not adversely affected by construction works.

16 **Cherwell District Council, Lock 29, Castle Quay, Banbury, OX16 5UN**

The Committee considered application 24/00600/CDC for new/enlarged shop front windows at Cherwell District Council Lock 29 Castle Quay Banbury OX16 5UN for Cherwell District Council.

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

**Resolved**

That application 24/00600/CDC be approved subject to the conditions listed below (and any amendments 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 application form and the following plans and documents: Drawing No. 7165-GBS-XX-XX-DR-A101-P02, 7165-GBS-XX-XX-DR-A-101-P03 and 7165-GBS-XX-XX-DR-A-103- P02.

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.

17 **Appeals Progress Report**

The Assistant Director Planning and Development submitted a report which informed Members about planning appeal progress including decisions received and the scheduling of public inquiries and hearings for new and current appeals.

**Resolved**

- (1) That the position statement be accepted.

The meeting ended at 8.11 pm

Chairman:

Date:

## CHERWELL DISTRICT COUNCIL

Planning Committee – 11 July 2024

### 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>Item No.</b>	<b>Site</b>	<b>Application Number</b>	<b>Ward</b>	<b>Recommendation</b>	<b>Contact Officer</b>
<b>8</b>	Land North of Manor Farm, Noke	22/01682/F	Launton and Otmoor	Approval*	Rebekah Morgan
<b>9</b>	Land North and Adjacent to Mill Lane, Stratton Audley	22/03873/F	Fringford and Heyfords; Launton and Otmoor; Bicester North and Caversfield; Bicester East	Approval*	Rebekah Morgan
<b>10</b>	Waverley House, Queens Avenue, Bicester, OX26 2PY	23/02355/F	Bicester West	Approval*	Tom Webster
<b>11</b>	Bicester Heritage, Buckingham Road, Bicester	23/01085/F	Launton And Otmoor Fringford and Heyfords	Approval*	Rebekah Morgan
<b>12</b>	OS Parcel 0927 East Of And Adjoining Chacombe Road Wardington	24/00807/F	Cropredy, Sibfords and Wroxton	Approval*	Saffron Loasby
<b>13</b>	Kelberg Ltd, Northampton Road, Weston On The Green, Bicester, OX25 3TH	24/00893/F	Launton And Otmoor	Approval*	Sophie Browne
<b>14</b>	12-14 Sheep Street, Bicester, OX26 6TB	24/00214/F	Bicester East	Approval*	Rebekah Morgan
<b>15</b>	20 Almond Road, Bicester, OX26 2HT	24/00401/F	Bicester East	Approval*	Rebekah Morgan

<b>16</b>	73 High Street, Kidlington, OX5 2DN	23/03368/F	Kidlington West	Approval*	Tomaz Akhter
<b>17</b>	Land East of Banbury Road Ditch And North Of Earls Lane Deddington OX15 0TY	23/02096/OUT	Deddington	Approval*	Katherine Daniels
<b>18</b>	Cornhill Cafe 1 Castle Street Banbury OX16 5NT	24/01153/F	Banbury Cross and Neithrop	Approval*	Katherine Daniels
<b>19</b>	Cattle Market Car Park, Victoria Road, Bicester, OX26 6QB	24/01172/CDC	Bicester East	Approval*	Rebekah Morgan
<b>20</b>	143 The Fairway Banbury OX16 0QZ	24/01117/F	Banbury Ruscote	Approval*	Daisy Kay-Taylor
<b>21</b>	Cherwell District Council Lock29 Castle Quay, Banbury OX16 5UN	24/01224/CDC	Banbury Cross and Neithrop	Approval*	Michael Sackey
<b>22</b>	Castle Quay 2 Spiceball Park Road Banbury Oxfordshire OX16 2PA	24/01150/DISC	Banbury Cross and Neithrop	Approval (discharge of condition)*	Lewis Knox

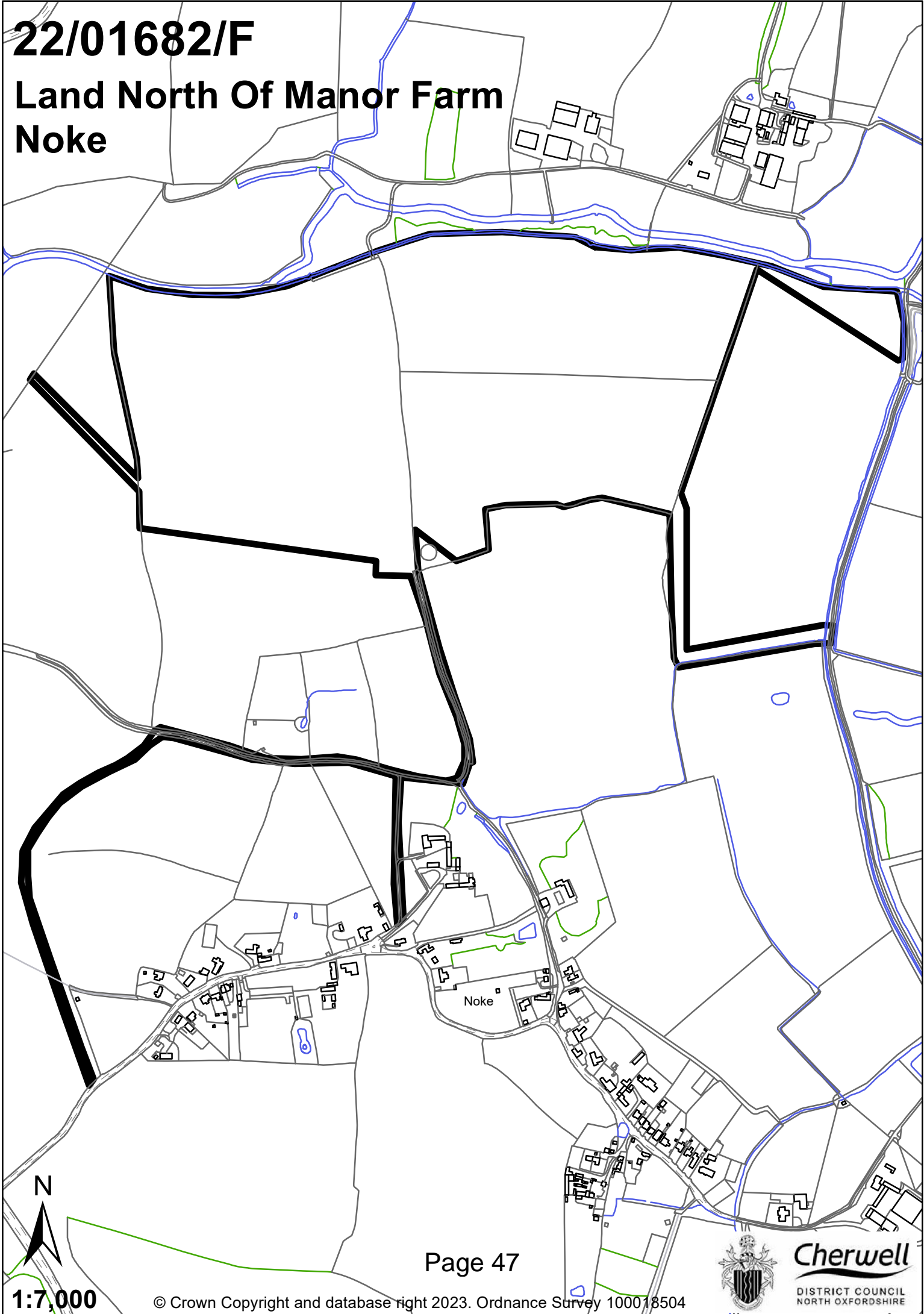
\*Subject to conditions

# Land North Of Manor Farm Noke



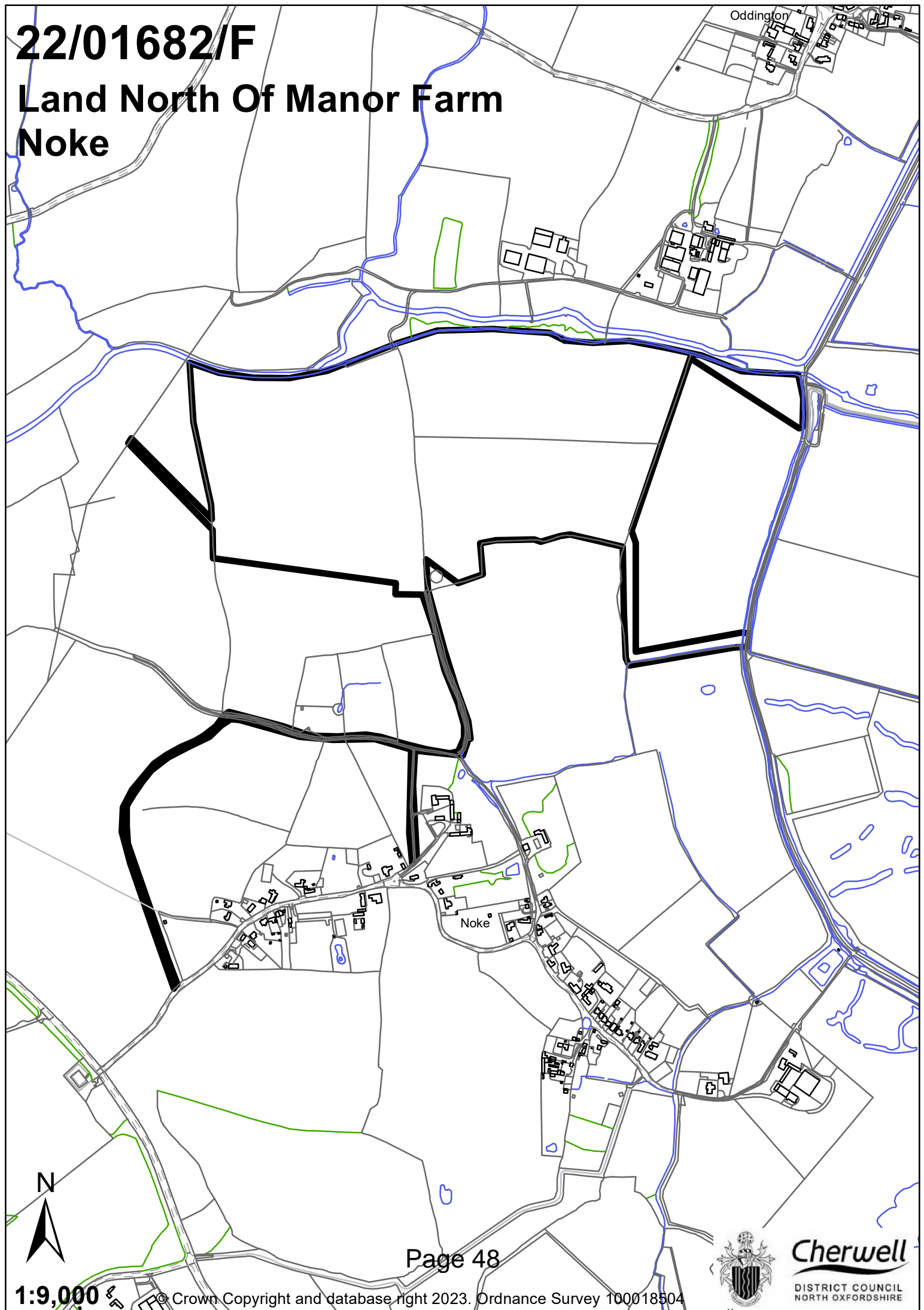
# 22/01682/F

## Land North Of Manor Farm Noke



# 22/01682/F

## Land North Of Manor Farm Noke



1:9,000





**Case Officer:** Rebekah Morgan

**Applicant:** Oxford New Energy

**Proposal:** Development of a ground mounted solar farm incorporating the installation of solar PV panels, associated infrastructure and access, as well as landscape planting and designated ecological enhancement areas.

**Ward:** Launton And Otmoor

**Councillors:** Cllr. Gemma Coton, Cllr. Julian Nedelcu and Cllr. Alisa Russell

**Reason for Referral:** Major development

**Expiry Date:** 16 January 2024

**Committee Date:** 11 July 2024

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**This application was subject to a Committee Members Site Visit, which took place on 11 July 2024.**

**SUMMARY RECOMMENDATION: GRANT PERMISSION**

**MAIN REPORT**

**1. APPLICATION SITE AND LOCALITY**

1.1. The application site comprises 43.78ha of agricultural land located approximately 3.5km to the east of Kidlington and approximately 4.5km north of the built-up area of Oxford. The site is comprised of agricultural land consisting of open fields and vegetative field boundaries. The northern edge of the site is bounded by the River Ray.

**2. CONSTRAINTS**

2.1. The following constraints are relevant to the application:

- The site is within the Oxford Green Belt
- There are Public Rights of Way (PROW) within the vicinity of the site
- The site is adjacent to a RSPB reserve – Otmoor
- Agricultural Land Classification: Grade 3b
- The constraints data identifies the potential presence of a range of protected and notable species on the site.
- The site is within an Archaeological Alert Area
- The site falls within Flood Zones 2 and 3
- The River Ray runs adjacent to the site
- There are Listed Buildings within close proximity of the site
- The site is within 2km of Sites of Special Scientific Interest
- A small part of the site is within a Conservation Target Area
- The site is in close proximity to a Local Wildlife site – RSPB Otmoor
- The site is within a NERC Act S41 Habitat

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

- 3.1. The application seeks consent for a 26.6 MW Solar Photovoltaic (PV) Array for a temporary period of 40 years. The proposal includes the provision of ground-mounted photovoltaic solar arrays and associated infrastructure, access, landscape planting and ecological enhancements. For clarity, the proposal does not include the provision of any battery storage on site.
- 3.2. The drawings show the photovoltaic arrays would be mounted a minimum of 90cm from the ground with the top edge being a maximum of 2.8m from the ground. The panels would be set out in rows. They would be orientated to maximise solar gain. A temporary tract for construction traffic would access the site via a field entrance on a no through road, off the B4027, just before entering the village of Noke. The operational access to the site would be at the other end of the village.

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

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

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

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

20/00653/PREAPP: Development of a ground mounted solar farm incorporating the installation of solar PV panels, associated infrastructure and new access.

The advice concluded that the development could not be supported at the time based on the submitted information. In particular, the following concerns were highlighted:

- The application is significant development within the Oxford Green Belt and is considered inappropriate development. Very special circumstances are therefore required if the principle of development is to be supported, but this has not been demonstrated through the pre-application submission.
- The proposal includes development that would be partly within the Otmoor Conservation Target Area. This has not been justified and neither has it been demonstrated that the requirements of Policy ESD11 of the Local Plan will be met.
- The proposal includes development within Flood Zones 2 and 3. It needs to be demonstrated through an appropriate Flood Risk Assessment that the development is “essential infrastructure” and that the exception and sequential tests can be met.

### **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 **14 June 2023**, 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:

#### **Objections**

- Impact on wildlife
- Impact on the enjoyment of walkers – loss of amenity
- Inappropriate location in the Green Belt
- Loss of agricultural land (Best and Most Versatile)
- Solar arrays are inefficient
- Change to industrial land is unacceptable
- Ecologically important area
- Impact on RSPB wetland
- Impact on migratory birds
- Impact on protected species
- Landscape impact and impact on the character of the area
- Impact on the Otmoor Conservation Target Area
- Traffic impacts
- Increased risk of flooding to Islip and Oxford
- Solar panels should be located on brownfield sites or roofs of existing buildings
- Detrimental to the openness of the Green Belt
- Impact on heritage assets
- Fails to protect the intrinsic character and beauty of the countryside (NPPF)
- Impact on public right of way through site
- Site cannot be screened from viewpoint 5
- Ecological mitigation measures outside red line boundary
- Benefit of scheme exceeds local demand
- Concerns regarding community benefit payment
- Low baseline values of agricultural land not justified
- Assessment on grid connection and availability should be considered impartially
- Minimal contribution to the district's renewable energy production
- Contrary to local and Government policy
- Insufficient justification of very special circumstances
- More suitable alternatives

#### **Support**

- The Pathway to Zero Carbon Oxfordshire report highlights the scale of change needed.
- Addresses climate change
- Support for the principle of the proposal
- Sensitively planned scheme that balances the Green Belt and needs of the area with the need to address climate change
- If executed with care, the land can still provide an ecological environment
- Solar is part of our children's future and needs to go somewhere

#### **General comments**

- Safety concerns about the entry and exit access road
- 'Lake effect' in respect of birds

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.

- 7.2. FENCOTT AND MURCOTT PARISH COUNCIL: no comments or objections received at the time of drafting the report.
- 7.3. HORTON-CUM-STUDLEY PARISH COUNCIL: **object** to the application on the grounds of ecological impacts; impact on Green Belt; lack of very special circumstances to justify development in this instance; landscape and visual harm; seasonal impact on solar energy limits output.
- 7.4. ISLIP PARISH COUNCIL: **object** to the application on the grounds of industrialisation of the Green Belt; visual impact; bird displacement; impact on natural resource of Otmoor; access roads may open up potential for further development; impact on views from surrounding villages; impact on rain infiltration; more suitable sites in District; Oxford refused a similar application; loss of productive farmland.
- 7.5. NOKE PARISH MEETING: **object** to the application on the grounds of landscape and biodiversity impacts, including impact on Conservation Target Areas; visual impact on local landscape; impact on heritage assets and their settings; impact on Green Belt; residential amenity impact.

A request has been made for the permissive footpath to the east to be improved.

A request has also been made for a financial contribution of £20,00 (previously offered by the landowner) to be used by the Noke and Oddington Parish Councils to be spent on community benefits.

- 7.6. ODDINGTON PARISH COUNCIL: **object** to the application on the grounds of adverse effects being far outweighed by benefits of production of renewable energy; contrary to relevant Policy; Green Belt impact; visual impact including from Rights of Way; impact on setting of heritage assets; views of open countryside blocked; energy generated is likely to be less than stated in submission; loss of productive agricultural land; increased biodiversity inconsistent with keeping sheep; impact on nearby RSPB reserve,
- 7.7. BECKLEY AND STOWOOD PARISH COUNCIL: **object** on the grounds of Green Belt impact; impact on nearby RSPB reserve; flood risk; impact on wildlife; loss of agricultural land; impact on views; impact on public rights of way; impact during construction; renewable energy output.
- 7.8. CAMPAIGN TO PROTECT RURAL ENGLAND: **object** on the grounds of Green Belt impact; loss of Best and Most Versatile agricultural land; restrictions on output of the grid connection affect provision of renewable energy potential of site; impact on heritage assets; views of open countryside compromised; impact on biodiversity of site.
- 7.9. BERKS, BUCKS & OXON WILDLIFE TRUST: **object** on grounds of impact on Otmoor SSSI, Impact on Otmoor Local Wildlife site, impact on RSPB reserve, lake effect whereby birds mistake large area of solar panels as a lake, collision with panels, confusion regarding reflections, attempts by birds and bats to feed from the panels. Potential for birds to collide with security fencing. Conditions suggested.
- 7.10. BRITISH HORSE SOCIETY: **comment** that they are concerned regarding the increase in HGV movements during construction and the impact on safety of local horse riders. Request submission of a CTMP with specific section on awareness of equestrian users on the adjoining road network and appropriate measures to ensure all drivers are educated on safe interactions.
- 7.11. ENVIRONMENT AGENCY: **no objection** with regard to biodiversity and ecology.

Following the submission of further details, the Environment Agency has confirmed their previous concerns regarding flood risk have been addressed and they withdraw their previous objection. Detailed comments have been provided and recommendations for planning conditions.

- 7.12. HISTORIC ENGLAND: **comment** that the solar farm would cause less than substantial harm to the scheduled Islip Roman Villa and Grade II listed buildings at Manor Farm, harm results from the change to settings, loss of Roman archaeological remains. Harm is at minor end of scale. Authority to include this harm when carrying out balancing exercise of harm/public benefit. With regard to mitigation of harm to undesignated archaeological remains defer to advice of OCC Archaeology.
- 7.13. LONDON OXFORD AIRPORT: no comments or objections received at the time of drafting the report.
- 7.14. NATIONAL AIR TRAFFIC SYSTEMS: **no objection**.
- 7.15. NATIONAL GRID: no comments or objections received at the time of drafting the report.
- 7.16. NATIONAL PLANNING CASEWORK UNIT: no comments or objections received at the time of drafting the report.
- 7.17. NATURAL ENGLAND: **no objection** and no concern with regard to soil classification.
- 7.18. NATURE SPACE: **comment** that ecological report states that development is at risk of injuring or killing great crested newts and that a licenced approach will be taken either via District Licence scheme or Natural England.
- 7.19. OPEN SPACES SOCIETY: no objections or comments received at the time of drafting the report.
- 7.20. RAMBLERS ASSOCIATION: no objections or comments received at the time of drafting the report.
- 7.21. ROYAL SOCIETY FOR THE PROTECTION OF BIRDS: no objection subject to conditions.
- 7.22. SOUTH OXFORDSHIRE DISTRICT COUNCIL: **comment** that the landscape is sensitive in this area (Ancient Woodland, historic villages with Conservation Areas and listed buildings) and landscape assessment should consider wider landscape impact, including cumulative impact with other solar farms, and impact from views and fabric and character of landscape. Site is in close proximity to Oxford heights landscape character area and Wooded Hills and Valleys sub-area. Request careful management of traffic generated. Close proximity to Woodeaten Quarry, Woodeaton Wood and Otmoor SSSI's.
- 7.23. THAMES VALLEY POLICE (DESIGNING OUT CRIME OFFICER): no comments or objections received at the time of drafting the report.
- 7.24. THAMES WATER: **no comments** to make.
- 7.25. WESTERN POWER: **comment** that it is out of their area.
- 7.26. OCC ARCHAEOLOGY: **no objection** subject to conditions.
- 7.27. OCC HIGHWAY AUTHORITY: **no objection** subject to entering into a Section 278 agreement and conditions.

In response to a discussion relating to requested planning conditions, the Local Highway Officer has confirmed:

- They are happy for the submitted Construction Traffic Management Plan in conjunction with the Transport Technical Note. The development can be conditioned to carry out the works in accordance with these documents.
- The construction access should be temporary only and will not be required beyond the construction phase.
- The required S278 works can be secured via a planning condition.

7.28. OCC LANDSCAPE/GREEN INFRASTRUCTURE: District Council Landscape Officer to be consulted on proposals and comments taken into account.

7.29. OCC LEAD LOCAL FLOOD AUTHORITY: **no objection** subject to conditions.

7.30. OCC RIGHTS OF WAY: no comments or objections received at the time of drafting the report.

7.31. CDC ARBORICULTURE: **no objection**, condition suggested.

7.32. CDC CONSERVATION: **no objection**; less than substantial harm with public benefit of providing green energy to the grid.

7.33. CDC ECOLOGY: **no objection** subject to conditions but comment that they are concerned regarding impact upon wetland or migrating birds and aquatic invertebrates. There is insufficient evidence to show that there will not be any impact. Location is undesirable in ecological terms.

7.34. CDC ENVIRONMENTAL HEALTH: **no comments** to make.

7.35. CDC DRAINAGE: **no objection** as the flood risk at the site has been considered and an acceptable surface water management plan developed that accommodates the small impermeable areas on the site. Acknowledged that the solar farm will provide significant sustainability benefits in generating renewable energy. The Surface Water Management Plan contains appropriate attenuation, and that as the proposal is for carbon free generation of power they are satisfied that the required Exception Test can be passed and all flood risk considerations will be appropriately managed.

7.36. CDC LANDSCAPE SERVICES: **object** on the grounds of landscape and visual harm; inappropriate development in the Green Belt; harm to the openness of the Green Belt.

N.b. The Council choose to engage an independent consultant to review of the Landscape and Visual Assessment as this is not the area of specialism of the Council's landscape officer. The independent appointed was Nicola Brown of Huskisson Brown Associates.

7.37. HUSKINSSON BROWN ASSOCIATES (INDEPENDENT LANDSCAPE CONSULTANT): The Landscape Consultant appraised the applicant's submitted LVIA and provided a detailed 33 page report. The report concluded:

*'Overall, it is considered that the overall landscape effects assessed are slightly understated due to not considering the potential impacts of the proposed planting scheme on the perceptual qualities of the open farmland landscape and in part due to a potential misapplication of the methodology criteria'.*

The issues raised in the detailed report are considered in greater detail in the officer assessment below.

7.38. CDC PLANNING POLICY: **object** in principle as inappropriate development in the Green Belt.

7.39. CDC PROPERTY AND ASSETS: no comments or objections received at the time of drafting the report.

7.40. CDC RIGHTS OF WAY: **no objections** subject to conditions.

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

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

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

### CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2015)

- PSD1: Presumption in Favour of Sustainable Development
- SLE1: Employment Development
- SLE4: Improved Transport and Connections
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD4: Decentralised Energy Systems
- ESD5: Renewable Energy
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD 11: Conservation Target Areas
- ESD13: Local Landscape Protection and Enhancement
- ESD14: Oxford Green Belt
- ESD15: The Character of the Built and Historic Environment

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

- ENV1: Development likely to cause detrimental levels of pollution
- C8: Sporadic Development in the countryside
- C25: Development affecting the site or setting of a schedule ancient monument.
- C28: Layout, design and external appearance of new development

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)

- Cherwell District Council Climate Emergency Declaration & 2020 Climate Action Framework
- British Energy Security Strategy April 2022

## 9. APPRAISAL

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

- Principle of development
- Principle of development in the Green Belt
- Impact on the character and appearance of the area
- Highway safety and impact on Public Rights of Way
- Flooding/Drainage
- Heritage impact
- Ecology impact
- Residential amenity

### Principle of Development

9.2. Paragraph 11 of the NPPF notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.

9.3 The NPPF provides positive encouragement for renewable energy projects. Paragraph 157 of the NPPF states that the planning system should support the transition to a low carbon future and should support renewable and low carbon energy and associated infrastructure. Paragraph 163 of the NPPF states that when determining applications for renewable and low carbon development local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy and recognise that even small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions; and approve such applications if its impacts are (or can be made) acceptable.

9.4 Policy ESD5 of the CLP 2015 states that renewable and low carbon energy provision will be supported wherever adverse impacts can be addressed satisfactorily. The potential local environmental, economic and community benefits of renewable energy schemes will be a material consideration in determining planning applications.

9.5 In principle, therefore, there is policy support for development of this nature. However, the overall acceptability of development is dependent on other material considerations, including the principle of the development in the Green Belt.

### Principle of development in the Green Belt

9.6 The site lies within the Oxford Green Belt and so the proposed development is assessed against Green Belt policy.

9.7 Paragraph 152 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 of the NPPF states that: *“When considering any planning application, Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”*



- 9.8 Paragraph 156 of the NPPF states that when located in the Green Belt elements of many renewable energy projects will comprise inappropriate development and if projects are to proceed developers will need to prove *very special circumstances* such as the wider environmental benefits associated with increased production of energy from renewable sources. All development in the Green Belt needs to preserve the openness of the Green Belt and not conflict with the purpose of including land within it.
- 9.9 Policy ESD14 of the CLP 2015 states that development within the Green Belt will only be permitted if it maintains the Green Belt's openness and does not conflict with the purposes of the Green Belt or harm its visual amenities.
- 9.10 The proposed development constitutes inappropriate development in the Green Belt as it is not one of the exceptions set out at paragraph 154 of the NPPF and substantial weight is given to such harm.
- 9.11 An assessment is required into the impact of the development upon the openness of the Green Belt and on the purposes of including land within it, and then whether the harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify development.
- 9.12 In relation to the purposes of the Green Belt, paragraph 142 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the most important attribute of Green Belts is their openness and permanence. This built development would clearly have an impact upon the openness of the Oxford Green Belt. Furthermore, the proposal conflicts with one of the five purposes of including land within Green Belts as stated in paragraph 143 of the NPPF, in that the proposed development would encroach into the open countryside.
- 9.13 In their Planning, Design and Access Statement the applicant accepts...*that the proposal would cause 'harm' to the Green Belt by reason of inappropriateness and because of the reduction in openness it would involve. In addition, there would be a limited degree of inevitable 'harm' to the landscape, to which moderate weight is attached, and a very minor level of 'harm' to the significance of the Grade II Listed heritage assets at Manor Farm, through changes to their setting, to which limited weight is attached.*
- 9.14 In order to attempt to overcome the harm identified the applicant has presented a very special circumstances (VSC) case which sets out the perceived benefits of the Development which are as follows:
- Assists in reducing carbon emissions and combating climate change and ensuring local energy security which would assist in the Council's commitment to renewable energy set out in the Climate Emergency and Climate Action Framework 2020.
  - no suitable non-Green Belt sites in the District which could accommodate the proposal due to grid connection and land area constraints.
  - Delivering benefits to the local community such as the new permissive footpath.
  - Ecological and arboricultural benefits which, it is argued, result in delivering significant biodiversity net gain.
  - Promotes rural diversification and thereby supports rural businesses

- The agricultural land is not identified as best and most versatile.
- Non-permanent nature of the development and potential for some agricultural use during the lifetime of the development (sheep grazing).

9.15 The final VSC point that the applicant makes is that *there are a number of site-specific environmental considerations waying in favour of the development*. It is the veracity of this statement, assessed in the sections below, that will be the determining factor in the establishing whether the proposal's VSC case overcomes the harm identified, set against the background of recent case law. The preceding points, whilst adding various degrees of weight to the applicant's case, do not introduce arguments that are not normally made in respect of other similar schemes.

#### Impact on character and appearance of the area

9.16 Given the nature and scale of this type of proposal, it is inevitable that a solar farm development would result in some landscape harm. In this context, the NPPF and local development plan policy adopts a positive approach indicating that development will be approved where harm would be outweighed by the benefits of the scheme. There is a distinction to be made between impact on landscape, which should be treated as a resource, and impact on visual amenity, which is the effect on people observing the development in places where the development can be viewed, such as villages, roads, public rights of way and individual dwellings.

9.17 Paragraph 180 of the NPPF indicates that the intrinsic character and beauty of the countryside should be recognised. Although the NPPF does not seek to protect, for its own sake, all countryside from development, it does set out to protect valued landscapes. The concept of valued landscapes is not defined in the NPPF; the application site does not form part of any designated landscape. Although the value of a given area within a particular landscape may depend on the value attributed to it by an individual or groups of people.

9.18 Guidance in determining applications for renewable and low carbon energy projects is set out in the PPG. The PPG advises that "the need for renewable or low carbon energy does not automatically override environmental protection and that cumulative impacts require particular attention, especially the increasing impact that such developments can have on landscape and local amenity as the number of turbines and solar arrays in an area increases". It continues that "particular factors a local planning authority will need to consider include:

- Where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.
- that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;
- the proposal's visual impact, the effect on landscape of glint and glare (see guidance on landscape assessment) and on neighbouring uses and aircraft safety;
- the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;
- the need for, and impact of, security measures such as lights and fencing;

- the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;
- the energy generating potential, which can vary for a number of reasons including, latitude and aspect.”

9.19 Policy ESD13 of the CLP 2015 states that development will be expected to respect and enhance local landscape character securing appropriate mitigation where damage to local landscape character cannot be avoided.

9.20 Given that landscapes will be valued by someone at some time, the term valued landscape must mean that they are valued for their demonstrable physical attributes, which elevate them above just open countryside but below those areas that are formally designated, such as National Parks, AONBs etc. However, there is nothing significant about the application site that would elevate it or the surroundings to that of the NPPF ‘valued’ landscape.

9.21 The planning application was supported by a Landscape and Visual Impact Assessment (LVIA) which concluded the following:

*Overall, the proposed development will result in limited impacts at a localised level. The scale and form of proposed development is likely to result in impacts which are limited to the site area and its immediate context. In the wider landscape, potential views of the proposals are generally filtered by intervening vegetation. Those from elevated positions will be reduced by additional landscape planting along internal field boundaries within the site and along its boundaries.*

9.22 In order to ensure the accuracy of the conclusions reached in respect of the landscape and visual effects of the solar farm, the Council had the LVIA assessed by an independent landscape consultant who specialised in critiquing such reports. The 33 page report identified a number of areas of disagreement in particular: with the methodology; an absence of commentary on certain aspects; and differences in the level of harm attributed.

9.23 The consultant reached the following conclusion:

*Overall, it is considered that the overall landscape effects assessed are slightly understated due to not considering the potential impacts of the proposed planting scheme on the perceptual qualities of the open farmland landscape and in part due to a potential misapplication of the methodology criteria.*

9.24 The consultant concluded that the harm of the solar farm to the landscape character is likely to be more pronounced on completion than stated: *At Year 1, the changes to landscape character and the perceptual, aesthetic and functional aspects of the landscape would be most pronounced for this landscape character type (i.e. seemingly falling into the threshold of ‘Medium’ magnitude in LVIA Table A.3).*

9.25 When assessing the development through time the consultant *consider that a higher magnitude of effect would be expected at Year 1 when the methodology is applied as stated and the impact of planting is considered in the context of the perceptual and functional qualities of the site as open farmland. We would agree that this has the potential to reduce over time, in particular noting the 40 year lifespan of the solar park itself. However as noted, the creation and enhancement of landscape features needs to be weighed against the loss of open qualities.*

9.26 The impact on the landscape as a result of the planting which would not only change the appearance of the open landscape when viewed from a distance, but it is also

argued that the *amenity from the public footpath through and adjoining the site needs to be taken into consideration.*

- 9.27 It is therefore argued that by attempting to screen soften the impact of the solar farm from elevated long range views from public rights of way (PROWs) the proposal would change the open agricultural nature of this part of the landscape whilst also affecting the amenity of people using the footpath surrounding and within the development. As part of their Landscape rebuttal letter, the applicant's agent maintains that *the proposed landscape strategy is considered to be entirely in-keeping with prevailing local landscape character and existing visual experiences, at a local level, when navigating local public rights of way.*
- 9.28 The landscape consultant is broadly supportive of the conclusions reached in the LVIA and accepts that there will be differences in approach when it comes to the methodology employed and the conclusions reached. This point was picked up by the applicant's agent who pointed out that the Landscape Institute guidelines state that it is up to the individual landscape consultant to develop their own methodology for undertaking a Landscape & Visual Impact Assessment. There is however an acceptance by the applicant's agent that the methodological areas of difference relate to the age of the LVIA (produced in 2022) and the subsequent changes to the guidelines.
- 9.29 In conclusion, the proposed solar farm would have an adverse impact on the landscape. The harm identified is going to be most significant in the short-term as the development would be very evident from the footpaths on higher ground overlooking Otmoor. The harm would however reduce through the lifetime of the proposal as the planting becomes more established.

#### Highway safety and impact on Public Rights of Way

- 9.30 Paragraph 114 of the NPPF states that in assessing specific applications for development, it should be ensured that:
- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
  - b) safe and suitable access to the site can be achieved for all users;
  - c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and
  - d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 9.31 In addition, paragraph 115 highlights that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 9.32 The construction phase would require approximately 12 HGV movements per day which whilst on a lightly trafficked road had the potential to result in a safety risk on an S-bend stretch in the road at the construction access point. Following the receipt of additional information in respect of the proposed visibility splays, in respect of the access taken from Noke Village Road, the Local Highway Authority withdrew its objection of the proposal subject to a legal agreement (Section 278) and appropriate

conditions. The proposal is therefore considered to be acceptable in respect of highway safety terms.

- 9.33 In respect of the public rights of ways, the County raised no objections subject to compliance with a number of standard measures and conditions. They had also sought to upgrade an existing and proposed a section of footpath to be converted into a bridleway to enable more riding access to Otmoor. They later withdrew this request once they accepted that it would impinge upon the Ecology Enhancement Area.

#### Flooding/drainage

- 9.34 Government guidance contained within the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. It explains that *'when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*
- a) *within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
  - b) *the development is appropriately flood resistant and resilient;*
  - c) *it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
  - d) *any residual risk can be safely managed; and*
  - e) *safe access and escape routes are included where appropriate, as part of an agreed emergency plan.'*
- 9.35 The NPPF continues by stating that *'major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.'*
- 9.36 Policy ESD6 of the CLP 2015 echoes the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.
- 9.37 Policy ESD7 of the CLP 2015 requires the use of Sustainable Urban Drainage Systems (SuDS) to manage surface water drainage systems. This is with aim to manage and reduce flood risk in the district.
- 9.38 The northern part of the site lies within flood zones 2 and 3, which are considered to be at the highest risk of flooding, although the majority of the site is within flood zone 1. The site is also within 20 metres of a watercourse and there are a number of ponds in the vicinity.
- 9.39 A Flood Risk Assessment has been submitted with the application, explaining that all essential infrastructure would be located within flood zone 1 and all solar panels would be raised 0.90m above ground level, thus rendering the panels to be free from flooding. A number of mitigation proposals are included in order to reduce the risk of flooding to the flood zone to an acceptable level, including spacing between the piles supporting the panels and using the largest reasonably practical mesh in the securing fencing. A swale will be used to capture and store additional surface water run-off,

with an attenuation device provided should percolation testing prove infiltration rates to be poor, attenuating runoff from the site to pre-development greenfield runoff rates.

- 9.40 Given the limited possibilities to connect to the grid, Officers have no reason to dispute the assertion that the proposed solar farm could not be located elsewhere.
- 9.41 The CDC Drainage Officer has confirmed that as “essential infrastructure” for the carbon-free generation of power, they are satisfied that the Exception Test can be passed and that all flood risk considerations will be appropriately managed. Officers agree that the sustainability benefits of the development to the community, through the generation of renewable energy and anticipated reduction in the impact of climate change would outweigh the flood risk in this location. Further, the FRA demonstrates that the development would be safe for its lifetime.
- 9.42 Following the submission of additional information regarding the volume of compensatory storage and the design of the perimeter fencing, the Environment Agency has now withdrawn their objection and confirmed the additional information overcomes their previous concerns.
- 9.43 The proposed development is therefore considered to provide sustainability benefits to the community whilst remaining safe for its lifetime and avoiding the risk of flood risk elsewhere, in accordance with the above Policies.

#### Heritage Impact

- 9.44 The site lies around 600 metres east of a Scheduled Ancient Monument (SAM) known as Islip Roman Villa. The farmhouse and agricultural buildings at Manor Farm in Noke are Grade II listed and positioned to the south of the site. There are a number of other listed buildings further afield surrounding the site, and the Islip Conservation Area lies to the west.
- 9.45 Historic England has advised that the principal significance of the SAM Islip Roman Villa is the below-ground archaeological remains and the important historical information that they contain. There are no above ground remains, although the terracing into the hillside can be appreciated. The northern rural view of the valley of the River Ray, of which the site forms a part, contributes to the setting of the Scheduled Ancient Monument as it illustrates the deliberate siting of the villa on the high ground, and the agricultural surroundings and estate of the villa. The site also forms a part of the setting of the Grade II listed buildings at Manor Farm and plays a role in forming the agricultural character and appearance of the area that explains the development of the surrounding villages and farms, some of which are both designated and non-designated heritage assets.
- 9.46 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.*
- 9.47 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.
- 9.48 Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 205 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.*

- 9.49 The NPPF goes on to explain that any harm to, or loss of, the significance of a designated heritage asset (from its alteration, or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of Grade II listed buildings should be exceptional, and assets of the highest significance such as Scheduled Monuments, should be wholly exceptional.
- 9.50 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. Policy ESD15 of the CLP 2015 echoes this guidance.
- 9.51 Saved Policy C25 of the CLP 1996 states that in considering proposals for development which would affect the site or setting of a Scheduled Ancient Monuments, the Council will have regard to the desirability of maintaining its overall historic character, including its protection, enhancement and preservation where appropriate.
- 9.52 The applicant has undertaken an archaeological assessment of the site, indicating that there is a concentration of archaeological remains in the southern part of the site. The remains found are of a pattern of enclosures, trackways and field boundaries that possibly begin the late iron age, together with quarry pits and evidence of crop processing. Pottery is dated to the 3<sup>rd</sup> or early 4<sup>th</sup> Century, suggesting connection with the later phases of the villa, where similar dated pottery has been found. Historic England has confirmed that they consider the remains to form a part of the setting of the Roman villa, and that they make a minor contribution to its significance, although they are not of national significance.
- 9.53 Historic England has advised that the proposed solar farm would represent a minor change to the northern view from the villa, constituting less than substantial harm to the SAM, but that this is at the minor end of the scale of harm. The loss of archaeological remains would be harmful, although would constitute very minor harm to the significance of the SAM. Temporary harm would be caused during the construction period. Historic England also advise that less than substantial harm would be caused to the setting of the Grade II listed buildings at Manor Farm, although again, this is at the low end of the scale. This is echoed in the response from the Conservation Officer.
- 9.54 Officers are in agreement with the conclusions drawn by both the Conservation Officer and Historic England in that less than substantial harm would be result to the SAM and Grade II listed buildings at Manor Farm through development within their setting. In such cases, as the NPPF advises, this harm must be weighed against the public benefits of the proposal.

#### Ecology Impact

- 9.55 Paragraph 180 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.

- 9.56 Paragraph 186 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.
- 9.57 Paragraph 191 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.
- 9.58 Policy ESD10 of the CLP 2015 seeks 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.
- 9.59 The eastern edge of the site lies within the Otmoor Conservation Target Area (CTA). The principal aim of a CTA is to focus work to restore biodiversity at a landscape scale through the maintenance, restoration and creation of UK BAP priority habitats. CTAs are considered to represent the areas of greatest opportunity for strategic biodiversity improvement in the District and as such, development will be expected to contribute to the achievement of the aims of the target areas through avoiding habitat fragmentation and enhancing biodiversity.
- 9.60 Policy ESD11 of the CLP 2015 states that where a development is proposed within or adjacent to a CTA biodiversity surveys and a report will be required to identify constraints and opportunities for biodiversity enhancement. Development that would prevent the aims of a CTA being achieved will not be permitted. Where there is potential for development, biodiversity enhancement will be secured.
- 9.61 The above policies are supported by Government guidance contained within the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.62 The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.
- 9.63 Natural England Standing Advice states that an LPA need only ask an applicant to carry out a survey if it's likely that protected species are present on or near the proposed site.

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



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

9.64 The Standing Advice sets out habitats that may have the potential for protected species. The site consists predominantly of open agricultural fields, bounded by mature trees and hedgerows. The site is partially within and adjacent to the Otmoor CTA and contains some NERC Act Section 41 habitat as coastal and floodplain grazing marsh. The site is within 2km of the Otmoor and Woodeaton Quarry and Woodeaton Wood SSSI's, and in close proximity to the RSPB Otmoor Local Wildlife Site. A number of ponds have been identified in the vicinity and part of the site with within 20 metres of a watercourse. A number of protected and notable species have been identified in the area. The site is therefore considered to have the potential to be a suitable habitat for a range of protected and notable species.

9.65 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.

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

9.67 An Ecological Appraisal has been undertaken at the site. In summary, the survey identified a number of habitat features including an orchard, pond, hedgerows, semi-natural broad-leaved woodland and a river. In terms of protected and notable species the survey has identified that the site is suitable for use by protected species, although subject to provisions within the security fencing to allow movement and recommendations regarding the timing of works, the survey concludes that the development would not cause harm to badgers, brown hare, hedgehog, harvest mouse, otter, water vole, dormouse, bat, reptiles, invertebrates and birds, with the exception of the loss of nesting sites for 6 breeding pairs of skylarks. There is a risk of development injuring or killing great crested newts, although this is considered to be low. The applicant would need to apply for a licence from Natural England for these works or apply via the District Licence scheme. Biodiversity enhancements are proposed as part of the development and a metric has been submitted to support this.

9.68 Natural England, the Environment Agency and the RSPB have raised no objection to the proposal on ecological grounds. The Council Ecology Officer has raised no objection, although has expressed concern regarding the proximity of the site to the Otmoor Local Wildlife Site, the RSPB nature reserve and the Otmoor SSSI, which are among the most valuable ecological sites in the District. The CDC Ecology Officer clarified on 15 February 2024 that in light of the lack of definitive evidence that harm would arise as a result of the development, and as there is no obligation to consider alternative locations on ecological grounds, no objection was raised.

9.69 BBOWT has maintained their objection the scheme following the submission of an amended Ecological Appraisal, referring to guidance from Natural England and the RSPB advising that utility scale solar development should avoid, or not be built on or

near, protected areas. The concern arises that very large, unbroken expanses of solar panels could potentially mimic water surfaces, resulting in the “lake effect” whereby birds, bats and insects mistake the solar panels for a body of water, however there is currently no clear evidence to support this theory. There is also concern regarding the noise and pollution during construction of the solar farm, and for birds to collide with the proposed fencing. BBOWT consider that there is not yet sufficient evidence that a solar farm can be installed in close proximity to a wildlife site of such value without harm being caused to certain species and have therefore applied a precautionary principle.

- 9.70 Whilst the concerns of BBOWT are acknowledged, given that an ecology assessment has been carried out, together with recommendations for mitigation of harm, and the lack of objection from Natural England, the Environment Agency, the RSPB and the CDC Ecology Officer, and without evidence to confirm that harm would be caused to protected species as a result of a possible “lake effect”, Officers do not consider that the refusal of the application on this ground could be sustained at Appeal.
- 9.71 The applicant has explained that there are no bodies of water within the site, and so it is highly unlikely that low flying wildfowl collide with 2.1 metre tall fencing, given that they would have to have just taken off or be landing on the water. The surface area of the panels would anti-reflective surface and would have pale borders forming a grid in order to differentiate panels which has been proven to significantly reduce the attraction of aquatic insects (as set out in the submitted BSG Ecology ‘Response to Consultee Responses’ letter). Further, the site would only be lit by infrared security lighting, which is not visible to birds or mammals. Skylark plots would also be provided to enhance breeding territories.
- 9.72 Officers are in agreement with the points raised by the applicant, and do not consider the height of the fence to pose a threat to birds. The scope of permitted development with regard to fencing should also be borne in mind. The limited lighting of the site is welcomed, as are the precautions with regard to insects, and these features can be controlled via condition.
- 9.73 With regard to construction noise and disturbance, Officers consider that this is likely to be similar to that of the authorised use of the site for agricultural purposes, of which there is no control at present. However, a Construction Environment Management Plan can be secured via condition to ensure that the development does not result in harm in terms of environmental pollution.
- 9.74 To conclude, Officers are of the opinion that the development will not result in harm to protected species or their habitat, based on the evidence available at the time of writing. Biodiversity enhancements are proposed as part of the scheme, supporting the aims of the Conservation Target Area designation. The proposal therefore accords with the above policies in terms of ecological impact.

#### Residential Amenity

- 9.75 Paragraph 191 of the NPPF advises that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 9.76 These provisions are echoed in Policy ESD15 of the CLP 2015 which states that: ‘new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space’.

- 9.77 Saved Policy ENV1 of the CLP 1996 seeks to ensure that the amenities of the environment, and in particular the amenities of residential properties, are not unduly affected by development proposals which may cause environmental pollution including noise and light pollution and traffic generation.
- 9.78 The Council's Environmental Health Officer considered the inverter noise specification and concluded that the residents of the closest properties would not be unduly affected.
- 9.79 The closest property to the site is Logg Mead House, which is approximately a minimum of 120m to the north of the proposed development. The development is screened from this property by line of trees running along the north edge of the application fields. Officers are satisfied that with the additional proposed planting any harm to residential amenity is going to be negligible and the development would therefore comply with the aforementioned local plan policies and the NPPF.

#### Other matters

- 9.80 Noke Parish Meeting has requested a financial contribution to be paid to both Noke and Oddington Parish Meetings to be spent on community benefits should the application be approved. They advise *'there are many projects in both these rural communities that could benefit from investments so they can be enjoyed by all, including visits by other CDC residents'*.
- 9.81 The PPG 'Planning Obligations' sets out the Government's guidance on securing planning obligations. The guidance advises that planning obligations assist in mitigating the impact of unacceptable development. Planning obligations may only constitute a reason for granting planning permission if they meet the tests. The obligations must be:
- Necessary to make to make the development acceptable in planning terms;
  - Directly related to the development; and
  - Fairly and reasonably related in scale and kind to the development.
- 9.82 The request for a financial contribution is not considered to meet these tests. The request has not explained how the requested sum has been calculated and there is no clear plan or projects identified for spending the money (these would need to be directly related to the impacts of the development). Furthermore, based on the appraisal set out above, a financial contribution is not considered necessary to make the development acceptable in planning terms. Therefore, a contribution has not been requested for this proposal.

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

- 10.1. Planning applications are required to be determined in accordance with the Development Plan unless material considerations indicate earlier. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development and need to achieve the economic, social and environmental objectives in mutually supportive ways.
- 10.1. Economic objectives – The location of the proposed development is in an area where a solar farm development would be economically viable (where there is a gap in the grid capacity) and would provide economic benefits during the construction phase. The development would not result in the loss of Best Most Versatile (BMV) agricultural

land (the importance of protecting BMV land was re-emphasised in a recent ministerial statement which made the point 'food security for our national security').

- 10.2. Social objectives – The applicant is proposing to incorporate a permissive footpath into the scheme. The development would not result in significant detriment to the living amenities of nearby residents.
- 10.3. Environmental objectives – The solar farm, which would only be in place for 40 years, would provide up to 26.6 megawatts of installed electrical generation capacity, delivering significant environmental benefits by reducing carbon emissions. The development would thereby assist with delivering the Council's commitments under the Climate Emergency and Climate Action Framework 2020. There would be biodiversity enhancement which will be of benefit to the Conservation Target Area. There would be harm to the visual amenities of the area particularly when the site is viewed from higher ground. Although this would lessen though time, the planting around the development result in some harm to the open nature of this part of the landscape. There would be less than substantial harm (albeit at the lower end of the scale) to the setting of the nearby scheduled ancient monument.
- 10.4. The relevant pros and cons of the scheme set out above help to establish whether the VSC case is so compelling that outweighs the harm that would result to the openness of the Oxford Green Belt. In order to establish whether such a high bar has been overcome it is important to assess the development in respect of recent case law, whilst accepting the limitations of drawing too many parallels given the number of variables that characterise each individual site.
- 10.5. The applicant cites the solar farm, allowed at appeal, at Rowles Farm (13/01027/F – appeal reference APP/C3105/A/13/2207532) which is approximately 2km from the application site. Despite its proximity and the presences of PROWs running through the site, this is perhaps not a quite an appropriate comparison given that the landscape impact is largely restricted to the confines of the site. The applicant has also provided details of other appeal examples within their summary letter (dated 1<sup>st</sup> February 2024).
- 10.6. A recent appeal recovered by the Secretary of State (SoS) for determination (Hertsmere Borough Council appeal reference N1920/W/22/3295268) gave *very significant positive weights* to a solar farm which would generate 49.9MWs. The attribution of such weight is consistent with other appeal decisions. In this case, the appeal was dismissed as the Inspector/SoS found that the scheme would have a significant impact on the landscape's character as well as the settings of a number of listed buildings. Whilst there are parallels with the scheme under consideration, the landscape harm resulting from the Otmoor site is not considered to be significant. Also, whilst a negative, English Heritage accepts that the *less than substantial harm* to the SAM is at the lower end of the scale.
- 10.7. Another recent appeal recovered by the SoS for determination (North Herts Council appeal reference APP/X1925/V/23/3323321) is perhaps a closer comparison in respect of landscape harm, when the Inspector concluded that there would be *moderate adverse impact on the landscape character area, both following construction (year 0) and when planting had become established (year 10)*. In respect of a nearby SAM the SoS, concluded that there would be a moderate level of harm to its setting. The SoS disagreed with the Inspector's recommendation and approval was granted. This decision reflects the current perception that unless there is relatively significant harm identified, the positive of additional renewable energy is normally sufficient to overcome conflict with green belt policy.

10.8. Whilst this is still a very balanced decision, it is therefore nonetheless concluded that the VSC case outweighs the harm to the openness of the Oxford Green Belt and that therefore when considered as a whole, the economic, social and wider environmental benefits of the scheme outweigh any adverse effects on the landscape and the setting of the SAM. The proposal is therefore considered to represent a sustainable form of development and it is recommended that planning permission be granted.

## **11. RECOMMENDATION**

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

### **Time Limit**

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

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 number P19-2636\_22 Rev B – [Site Location Plan]
  - Drawing number P19-2636\_003\_1 Rev M – [Development Framework Plan]
  - Drawing number GN-NK-PLA-04 Rev 00 – [Inverter Station Elevations and Plan]
  - Drawing number GN-NK-PLA-06 Rev 00 – [40' Spares Container Elevations and Plan]
  - Drawing number GN-NK-PLA-11 Rev 00 – [20ft Welfare Container Elevations and Plan]
  - Drawing number GN-NK-07 Rev 00 – [Private Substation Elevations and Plan]
  - Drawing number GN-NK-PLA-08 Rev 00 – [DNO Substation Elevations and Plan]
  - Drawing number GN-NK-PLA-03 Rev 00 – [PV Module Elevation and Cross Section]
  - Drawing number GN-NK-PLA-09 Rev 01 – [CCTV Detail]
  - Drawing number GN-NK-PLA-10 Rev 00 – [Fence Detail]
  - Drawing number P19-2636\_14H – [Detailed Soft Landscape Proposals – Sheet 1 of 7]
  - Drawing number P19-2636\_15H – [Detailed Soft Landscape Proposals – Sheet 2 of 7]
  - Drawing number P19-2636\_16H – [Detailed Soft Landscape Proposals – Sheet 3 of 7]
  - Drawing number P19-2636\_17H – [Detailed Soft Landscape Proposals – Sheet 4 of 7]

- Drawing number P19-2636\_18H – [Detailed Soft Landscape Proposals – Sheet 5 of 7]
- Drawing number P19-2636\_19H – [Detailed Soft Landscape Proposals – Sheet 6 of 7]
- Drawing number P19-2636\_20H – [Detailed Soft Landscape Proposals – Sheet 7 of 7]
- Drawing number P20-2636-21A – [Illustrative Landscape Sections A-C]
- Drawing number J14174-NUK-ZZ-ZZ-DR-D-3003 Rev V01 – [Floodplain Compensatory Storage]
- Drawing number P19-2636\_004-1 – [Connection Power Line Constraints Map]
- Planning, Design and Access Statement (reference: P19-2636) prepared by Pegasus Planning Group dated May 2022.
- Inverter Noise Specification (reference: SC 4000 UP/SC 4200 UP/SC 4600 UP) prepared by SMA Solar Technology
- Geophysical (Gradiometer) Survey (reference: NGR 454500 214000) prepared by Pegasus Planning Group and Green Nation dated July 2021.
- Construction Traffic Management Plan (reference: P19-2636/TR/01) dated October 2021.
- Transport Technical Note (reference P19-2636 TR02) prepared by Pegasus Planning Group dated October 2022.
- Farm Diversification statement prepared by Manor Farm dated November 2022.
- Network Availability Assessment (reference: 22-669-5002-7.1) prepared by Decerna dated February 2023.
- Pre-development Arboricultural Report and Method Statement (Revision 3) prepared by Wharnccliffe Trees and Woodland Consultancy dated 04 February 2023.
- Ecological Appraisal (reference P20-745 Manor Farm) prepared by BSG Ecology dated 16/02/2023.
- Flood Risk Assessment (reference: J-14174 edition 06) prepared by Nijhuis Saur Industries dated May 2023.

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

#### **Temporary Permission**

3. The permission shall expire no later than 40 years from the date when electricity is first exported from any part of the array to the electricity grid network ('First Export Date'). Written confirmation of the First Export Date shall be provided to the Local Planning Authority no later than one calendar month after the event.

Reason: In order to safeguard the amenities of the area and protect the rural character of the landscape and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. Not later than 24 months before the end of this permission, a decommissioning and site restoration scheme shall be submitted to and approved by the Local Planning Authority, such scheme to include the management and timing of any works and traffic management plan to address likely traffic impact issues during the

decommissioning period. The approved scheme shall be fully implemented within 12 months of the expiry of this permission.

Reason: To ensure the environment is protected during decommission in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Landscaping Scheme**

5. Prior to the commencement of works above slab level in respect of the development the development hereby approved, a scheme for landscaping the site shall be submitted to and approved in writing by the Local Planning Authority which shall include:

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

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

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

(d) details of the enclosures along the boundaries of the site.

All planting, seeding or turfing included in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first use of the development and shall be maintained for a period of 5 years from the first use of the development. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The approved hard landscaping and boundary treatments shall be completed prior to the first occupation of the development and shall be retained as such thereafter.

Reason: To ensure that a satisfactory landscape scheme is provided in the interest of visual amenity of the area 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

### **Landscape Maintenance**

6. Prior to the clearance of the site a schedule of landscape maintenance for a minimum period of 5 years, to include the timing of the implementation of the schedule and procedures for the replacement of failed planting shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the landscape maintenance shall be carried out in accordance with the approved schedule.

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

### **Highways and Public Rights of Way (PRoW)**

7. No development shall commence unless and until full details of the temporary means of access between the land and the highway (construction phase) and the permanent means of access between the land and the highway (post-construction phase), including, position, layout, construction, drainage and vision splays have been submitted to and approved in writing by the Local Planning Authority. The temporary means of access shall be constructed prior to commencement of development in strict accordance with the approved details and shall be retained and maintained as for the period of the construction of the development (Agreed vision splays shall be kept clear of obstructions higher than 0.6m at all times). Within 6 months of the completion of construction of the development, the temporary access shall be replaced with the permanent access which shall be constructed in accordance with the approved details and shall be retained and maintained for the life of the development.

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

8. Prior to commencement of the development hereby approved, full details of any proposed temporary signage related to the construction of the development shall be submitted to and approved in writing. The approved signage shall be installed in accordance with the approved details prior to first use of the construction access and remain in situ for the duration of the construction phase.

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

9. The development shall be carried out in accordance with the Construction Traffic Management Plan (reference: P19-2636/TR/01) dated October 2021 and the Transport Technical Note (reference: P19-2636 TR02) dated October 2022.

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.

10. Prior to commencement of the development hereby approved, full details of any proposed internal access tracks/roads shall be submitted to and approved in writing. The development shall be carried out in accordance with the approved details and retained and maintained thereafter.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. Prior to operation of the site, full details of protection, mitigation and improvements of the existing paths within the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details agreed.

Reason: In order to comply with Government guidance contained within the National Planning Policy Framework.



12. No materials, plant, vehicles, temporary structures or excavations of any kind shall be deposited/undertaken on or adjacent to the Public Right of Way that obstructs the public right of way whilst development takes place. Avoidable damage to Public Rights of Way must be prevented. Where this takes place, repairs to original or better standard should be completed within 24hrs unless a longer repair period is authorised by Oxfordshire County Council Countryside team.

Reason: To protect the Public Rights of Way and to comply with Government guidance contained within the National Planning Policy Framework.

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

Reason: To protect the Public Rights of Way and to comply with Government guidance contained within the National Planning Policy Framework.

### **Flood Risk and Drainage**

14. Prior to commencement of development a scheme to provide compensatory floodplain storage for loss of floodplain storage for all floods up to and including the 1% climate change flood level, based on a level for level and volume for volume principles, shall be submitted to, and approved in writing by, the local planning authority.

Reason: To prevent environmental and amenity problems arising from flooding and to comply with Government guidance contained within the National Planning Policy Framework..

15. No development shall take place until a scheme for the provision and management of a 10 metre wide buffer zone alongside the watercourse 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 scheme. Any subsequent variations shall be agreed in writing by the local planning authority, in which case the development shall be carried out in accordance with the amended scheme. The buffer zone shall be free from built development including lighting, domestic gardens and formal landscaping. The scheme shall include:

- Plans showing the extent and layout of the buffer zone
- Details of proposed planting scheme (native species)
- Details demonstrating how the buffer zone will be protected during development
- Details of any proposed footpaths, fencing bridges, lighting, etc..

Reason: To ensure that the development will conserve and enhance the natural environment and will not cause significant harm to any protected species or its habitat in accordance with Government guidance contained within the National Planning Policy Framework.

16. The approved drainage system shall be implemented in accordance with the approved Detailed Design prior to the use of the building commencing:

- Flood Risk Assessment (reference: J-14174) dated May 2023.
- Drawing number 3002 Rev P06 – [Conceptual Surface Water Drainage Scheme]

- All relevant Hydraulic calculations produced via Microdrainage (File SWALE FOR AREAS 1) dated 19/10/2022
- All relevant Hydraulic calculations produced via Microdrainage (File SWALE FOR AREAS 2) dated 19/10/2022

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

17. Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:

- a) As built plans in both .pdf and .shp file format;
- b) Photographs to document each key stage of the drainage system when installed on site;
- c) Photographs to document installation of the drainage structures on site;
- d) The name and contact details of any appointed management company information.

Reason: To protect the development from the increased risk of flooding and in order to comply with Policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

#### **Archaeology**

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

Reason: To safeguard the recording of archaeological matters within the site in accordance with the National Planning Policy Framework.

19. Following the approval of the Written Scheme of Investigation referred to in condition 16, 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 two years of the completion of the archaeological fieldwork.

Reasons: 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 National Planning Policy Framework.

#### **Ecology and trees**

20. No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP:

Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of 'Biodiversity Protection Zones';
- c) Practical measure (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- h) Use of protective fences, exclusion barriers and warning signs

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

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

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

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

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

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

23. Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a mitigation strategy for birds, which shall include details of the location and design of alternative nest sites to be provided, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the commencement of the development, the

alternative nesting sites shall be provided in accordance with the approved document.

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.

24. Where an offence under Regulation 43 of the Habitats and Species Regulations 2017 ((or any regulation revoking or re-enacting or amending that regulation) is likely to occur in respect of the development hereby approved, no works of site clearance, demolition or construction shall take place which are likely to impact on Great Crested Newts until a licence to affect such species has been granted in accordance with the aforementioned Regulations and a copy thereof has been submitted to the Local Planning Authority.

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

25. No external lighting shall be installed within the site area unless agreed in writing with the Local Planning Authority.

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

26. During the first planting season (mid-November to end of March) following the removal of the tree for which consent has been granted and to comply with section 206(1) of the Town and Country Planning Act 1990, the tree shall be replaced in accordance with [full details of a replacement tree] [siting/species/girth]. Thereafter and if, within a period of five years from being planted the replacement tree dies, is removed or becomes seriously damaged or diseased, it shall be replaced in the current/next planting season in accordance with the approved details and the wording of this condition.

Reason: In the interests of the visual amenities of the area and to comply with good arboricultural practice and Government guidance contained within the National Planning Policy Framework.

### **Planning Notes**

1. The site has been subject to an archaeological evaluation, which recorded an area of Roman settlement including a trackway. Some of the pottery recovered dates from the late Iron Age / Early Roman period, though the majority dates from the 2nd-4th century AD. The remains could suggest a low status Roman settlement, which was deserted in the late 3rd or early 4th century AD. The trackway could be part of a postulated Roman Road recorded from cropmarks.

The evaluation also recorded Medieval remains representing field boundaries and furrows. The Roman remains will need to be investigated through a further phase of archaeological excavation, which can be secured via a condition, once the accepted evaluation report has been submitted.

2. **Correct route of public rights of way:** Note that it is the responsibility of the

developer to ensure that their application takes account of the legally recorded route and width of any public rights of way as recorded in the definitive map and statement. This may differ from the line walked on the ground and may mean there are more than one route with public access. The legal width of public rights of way may be much wider than the habitually walked or ridden width. The Definitive Map and Statement is available online at: [www.oxfordshire.gov.uk/definitivemap](http://www.oxfordshire.gov.uk/definitivemap).

3. **Protection from breaks in public rights of way and vehicle crossings/use of public rights of way:** Many public rights of way are valuable as access corridors and as continuous wildlife and landscape corridors. As a matter of principle, PRoW should remain unbroken and continuous to maintain this amenity and natural value. Crossing PRoW with roads or sharing PRoW with traffic significantly affects wildlife movements and the function of the PRoW as a traffic free and landscape corridor. Road crossings of PRoW should be considered only as an exception and in all cases provision must be made for wildlife access and landscape, and with safe high quality crossing facilities for walkers, cyclists and equestrians according to the legal status of the PRoW. Vehicle access should not be taken along PRoW without appropriate assessment and speed, noise, dust and proximity controls agreed in advance with OCC Countryside Access.
4. **Route alterations:** The development should be designed and implemented to fit in with the existing public rights of way network. No changes to the public rights of way's legally recorded direction or width must be made without first securing appropriate temporary or permanent diversions through separate legal process. Note there are legal mechanisms to change PRoW when it is essential to enable development to take place. But these mechanisms have their own process and timescales and should be initiated as early as possible – usually through the local planning authority. Any proposals for temporary closure/diversion need to have an accessible, level, safe and reasonably direct diversion route provided with necessary safety fencing and stand-off to ensure public amenity is maintained for the duration of the disturbance.
5. **Protection of public rights of way and users.** Routes must remain useable at all times during a development's construction lifecycle. This means temporary or permanent surfacing, fencing, structures, standoffs and signing need to be agreed with Oxfordshire County Council Countryside Access team and provided prior to the commencement of any construction and continued throughout. Access provision for walkers, cyclists and horse riders as vulnerable road users needs to be maintained. This means ensuring noise, dust vehicle etc.. impacts are prevented.
6. **Hedges/Landscaping.** Where hedges/natural vegetation is proposed to buffer/shield the public from glint or glare, or to coincide with new boundaries or to enhance existing boundaries, a lifetime management regime needs to be agreed with Oxfordshire County Council as Local Highway Authority to ensure that public access is not impeded when the vegetation screen is established or during the development's lifecycle. If the line of the Public Right of Way is to be enclosed by new and improved hedging or other vegetation then there should be a minimum of 10m useable width provided or the recorded width, whichever is greater. Fencing or hedging should not have barbs, thorns or prickles within the line of the Public Right of Way and visual amenity should be maintained.

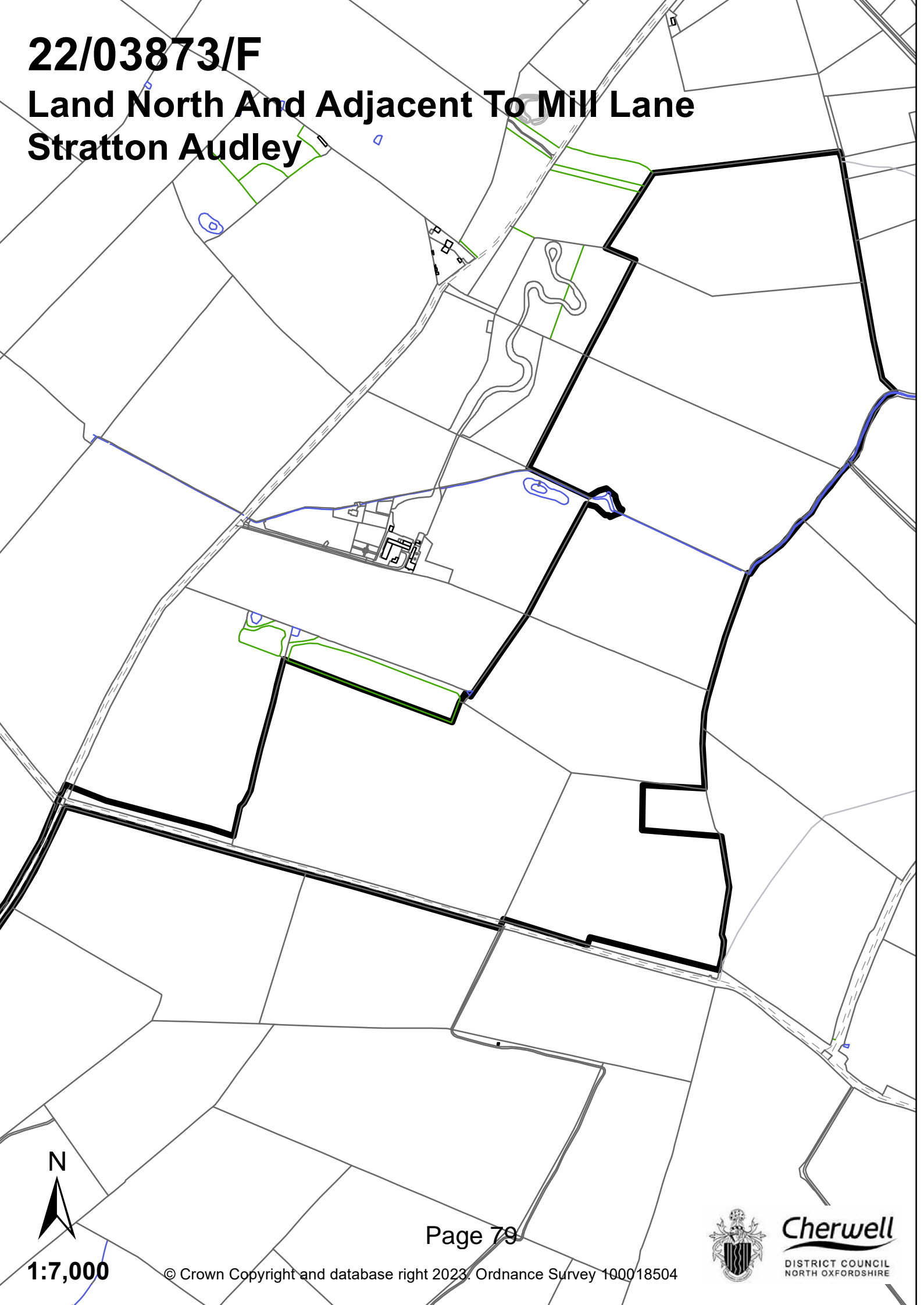
CASE OFFICER: Rebekah Morgan

# Land North And Adjacent To Mill Lane Stratton Audley



# 22/03873/F

## Land North And Adjacent To Mill Lane Stratton Audley

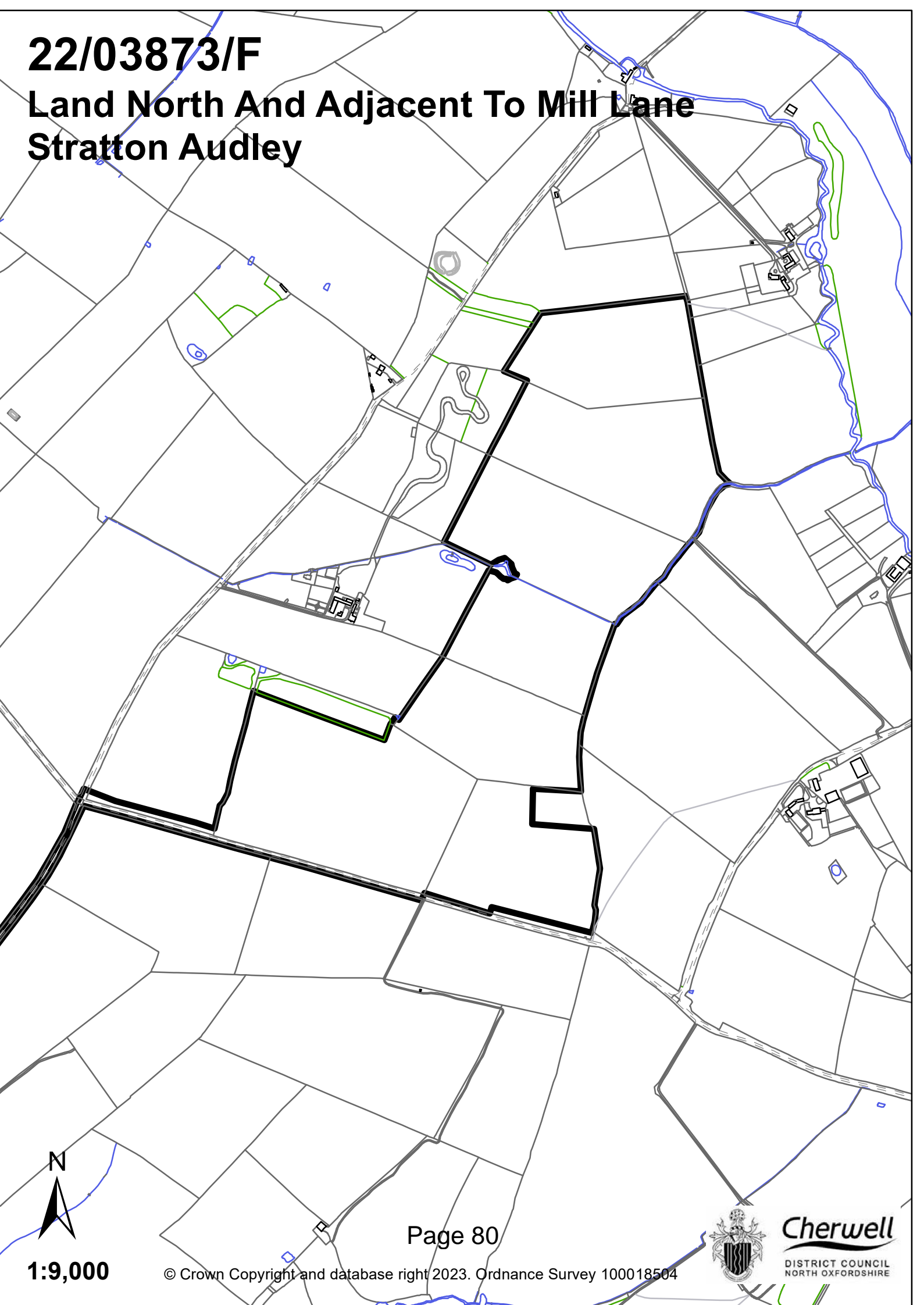


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# 22/03873/F

## Land North And Adjacent To Mill Lane Stratton Audley





**Case Officer:** Rebekah Morgan

**Applicant:** JBM Solar Projects 8

**Proposal:** Installation and operation of a renewable energy generating station comprising ground-mounted photovoltaic solar arrays and battery-based electricity storage containers together with a switchgear container, inverter/transformer units, Site access, internal access tracks, security measures, access gates, other ancillary infrastructure and landscaping and biodiversity enhancements.

**Wards:** Fringford And Heyfords, Launton and Otmoor, Bicester North and Caversfield, and Bicester East.

**Councillors:** **Fringford And Heyfords** – Councillor Grace Conway-Murray, Councillor Nigel Simpson and Councillor Barry Wood  
**Launton and Otmoor** – Councillor Gemma Coton, Councillor Julian Nedelcu and Councillor Alisa Russell  
**Bicester North and Caversfield** – Councillor Simon Lytton, Councillor Nicholas Mawer and Councillor John Willett  
**Bicester East** – Councillor Tom Beckett, Councillor Donna Ford and Councillor Rob Parkinson

**Reason for Referral:** Major development

**Expiry Date:** 18 December 2023

**Committee Date:** 11 July 2024

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This application was subject to a Committee Members Site Visit, which took place on 11 July 2024.

**SUMMARY RECOMMENDATION: GRANT PERMISSION**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is located approximately 0.7km to the northeast of Stratton Audley and approximately 1.5km southeast of Fringford. The application site is comprised of 7 agricultural field parcels in the open countryside and has a site area of approximately 59.4 hectares. The red line boundary includes provision for cabling works (which will run almost entirely below the highway/verge) through the neighbouring villages and therefore the overall site area totals 67.9 hectares. The fields are separated by intermittent hedgerows and low level fencing. The land across the site is relatively flat although the highest points are in central and northern parts of the site.
- 1.2. The surrounding area is predominantly agricultural in nature. Pool Farm sits immediately adjacent to the site and is used as a wedding venue business. The site is accessed via an existing agricultural access point from the adjacent road.

**2. CONSTRAINTS**

- 2.1. The following constraints are relevant to the application:
- There is a public right of way adjacent to the northern boundary of the site (outside of the application site area) – ref: 371 8b/10.

- There are two other public rights of way within close proximity of the site – ref: 225 6/10 (to the east) and 371 3/10 (to the south).
- Agricultural Land Classification: Grade 3b
- The constraints data identifies the potential presence of a range of protected and notable species on the site.
- The site is within an Archaeological Alert Area
- The main area of the site is within Flood Zone 1 (part of the redline area for the cabling works crosses Flood Zones 2 and 3).
- The constraints data identifies the presence of low pressure and high pressure gas pipelines within the vicinity of the site.
- There are Listed Buildings adjacent to the part of the redline line area that identifies the cabling route. There are no listed buildings within the vicinity of the main part of the site.
- The part of the red line area that identifies the cabling route passes adjacent to and through the RAF Bicester Conservation Area.

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

- 3.1. The application seeks consent for a 44 MW Solar Photovoltaic (PV) Array and battery storage. The proposal includes the provision of ground-mounted photovoltaic solar arrays and battery-based electricity storage containers together with a switchgear container, inverter/transformer units, Site access, internal access tracks, security measures, access gates, other ancillary infrastructure and landscaping and biodiversity enhancements.
- 3.2. The drawings show the photovoltaic arrays would be mounted a minimum of 80cm from the ground with the top edge being a maximum of 3m from ground level. The panels would be set out in rows with between 4 and 10m between the rows. They would be orientated to maximise solar gain.

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

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

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

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

22/01796/PREAPP: Proposed erection of a Solar Photovoltaic (PV) Array and battery storage units, with a total export capacity of up to 44 MW

- 5.2. The pre-application enquiry concluded that the broad principle of the development was considered to be acceptable as it was supported by local and national policy. The applicant was advised that a Landscape Visual Impact Assessment would be required to support an application.

### **6. RESPONSE TO PUBLICITY**

- 6.1. This application has been publicised by way of a site notices displayed near the site and by advertisement in the local newspaper. The final date for comments was **14 June 2023**, 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:

### ***Objections***

- Loss of productive agricultural land
- Should be located on land that cannot be used for crop production (i.e. next to a motorway, airfields that do not interrupt safe use and on roofs)
- It should be on brownfield land
- Submitted ecological reports are inaccurate and incomplete
- There are better, alternative locations closer to urban centres
- The length of time (40 years) is not temporary but a permanent development
- Impact of construction work and disruption on local villages
- Question why the site needs to be so large
- Technology is likely to significantly improve in the next 10-20 years, therefore sacrificing farm land for 40 years does not make sense
- Landscape harm and visual impact
- Highly visible from surrounding footpaths
- The batteries should be sunk into the ground and not visible by road users
- Impact on the tranquillity of the area and the footpaths
- Loss of wildlife
- Loss of hedgerows
- Significant amount of crushed concrete and gravel is required to support the fencing, for the pathways/tracks within the site and to provide bases for the battery stations etc..
- Waste and pollution when dismantling the site
- Impact of glint/glare on flight paths
- Cable route not suitable due to Tree Protection Orders and public safety issues
- Highway safety concerns
- Increased traffic
- Roads not suitable for further HGV traffic
- Neighbouring properties will be affected by noise from inverters
- Site security lights will impact on bird life and the sky will be less dark
- Impact on the neighbouring business at Pool Farm
- The project is only for the financial gain of the land owner
- Impact on property value of neighbouring dwelling
- Development would set a precedent resulting in the loss of more countryside
- Dispute the land classification – this is productive agricultural land
- The land classification report has not been independently assessed
- Points raised by the independent landscape review have not been addressed
- Concerns have been raised that some third party comments have been submitted as a result of identity theft

### ***Support***

- Cherwell Policies support green energy and solar power
- Significant contribution towards net zero carbon and supports a greener carbon free future
- Contributes towards managing wholesale electricity prices
- Boost to the UK's energy independence needs
- Biodiversity benefits
- If future circumstances change, the solar farm can be easily removed
- Supports a move away from fossil fuels
- We are in a climate crisis and should support renewable energy

### ***General comments***

- Support Stratton Audley Parish Council's claims for more compensation – the trenches for laying cables in the village should also be used to put the village electricity supply underground.

- Requested conditions relating to electromagnetic compatibility to prevent impacts on broadband users and radio signals etc..

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.

7.2. LAUNTON PARISH COUNCIL: No comments or objections to the proposal.

7.3. STRATTON AUDLEY PARISH COUNCIL: Objection. The Parish Council has submitted a detailed letter of objection covering the following points:

- The landscape and its despoilment for this and future generations
- Interim development in future years
- Disruption during construction
- Construction traffic and highway safety
- Noise and residential amenity
- The land itself and its best and most productive use

7.4. GODINGTON PARISH MEETING: Objection. The Parish Council has submitted a detailed letter of objection covering the following points:

- Cumulative harm to the local countryside
- Construction traffic and highway safety
- Disruption during construction of the grid connection
- Harm to residential amenity
- Land productivity
- Impact on local businesses
- The independent landscape review has raised concerns which have not been addressed
- The noise impact assessment report does not report on the impact on the newly built house in Godington
- Investigations by local residents suggest discrepancies in the soil sample report

7.5. OCC HIGHWAYS: No objection subject to conditions and an obligation to enter into a Section 278 agreement to secure works to the highway.

7.6. OCC ARCHAEOLOGY: *The proposal site lies in an area of archaeological interest, and the approved reports of a geophysical survey and archaeological evaluation have been submitted with this application. The geophysical survey identified a number of weak anomalies which potentially represented ditched enclosures. The trenched evaluation targeted these anomalies, as well as 'blank' areas across the site. Within the trenches, ditches and pits containing later prehistoric, as well as possibly Neolithic pottery, were recorded in the southern part of the site. An undated cremation and a possible oven were also recorded, which along with the enclosures, may represent a dispersed or multi-focal later prehistoric site. A small group of Roman ditches were also recorded in the centre of the site. These features will need to be fully investigated and recorded via archaeological mitigation, in line with the attached conditions.*

7.7. LEAD LOCAL FLOOD AUTHORITY: No objections subject to conditions requiring the approved drainage scheme to be implemented and a record of the installed SuDs to be submitted.

7.8. CDC ENVIRONMENTAL PROTECTION:

*Noise: I have read the Noise Impact Assessment Report provided by the applicant (ref 2061200- RSKA-RP-001, dated January 2023) and noted the predicted noise levels from the proposed inverters and substations which could cause a significant impact to the local noise environment should mitigation not be installed (+20db above background level). I also note that potential mitigation to reduce the noise levels to acceptable levels is discussed but not finalised, therefore I would recommend conditions.*

*Contaminated Land: No comments*

*Air Quality: No comments*

*Odour: No comments*

*Light: No comments*

The following additional comments have been provided regarding the relationship with the new dwelling in Godington:

In the previously recommended condition, the officer has referred to the noise sensitive receptors listed in the acoustic assessment so the condition can be amended to also include the new dwelling as a sensitive receptor location.

The proposed development would only be acceptable with mitigation in place. As a minimum we would expect the rating level of noise to be at least 5dBA below the pre-existing background level.

7.9. CDC CONSERVATION OFFICER: *With respect to impact on heritage assets, a detailed Built Heritage Assessment has been submitted, which has concluded that the site makes no contribution through setting to the significance of Stratton Audley Conservation Area or any Scheduled Monument, Listed Building, proposed Local Heritage Asset, or non-designated heritage asset. No harm to any heritage asset as arising through change to setting has been identified.*

*From the submitted assessment, I would concur with this assessment, and it is considered that there would be no harm to the significance of the heritage assets, with their setting preserved.*

7.10. CDC ECOLOGY OFFICER: No objections subject to conditions. Detailed comments have been provided regarding assessment of Biodiversity Net Gain, District Licence matters and questions regarding decommissioning.

7.11. CPRE: A detailed response has been submitted setting out a number of concerns/objections to the proposal. The letter concludes with the following summary:

*This development will have a highly damaging impact on the rural landscape. This site has not been allocated for development in the currently adopted local plan. CPRE does not believe that development has sufficient support from the local communities that are most affected by it. CPRE further believes that this development does not significantly contribute to the district's net zero objective and there is a surfeit of opportunities that are not being sufficiently explored, such as rooftops and car parks, which cause significantly less harm than this development. CPRE would urge that this development is refused.*

7.12. BBWOT: As a wildlife conservation organisation, our comments refer specifically to potential impacts on wild species and habitats which may occur as a result of the proposal. We have the following comments on this application:

- Potential for serious impact on Oldfields Copse ancient woodland/proposed Cherwell District Wildlife Site (CDWS) and Poodle Gorse CDWS through impact on some of the species that use the sites.
- Potential for serious impact on priority species breeding and wintering birds
- Concern in relation to Biodiversity Net Gain calculations provided
- Mitigation measures
- Concerns relating to lighting
- Concerns relating to fencing

The response provides detailed comments on each of the points raised above.

7.13. NATURE SPACE: *The applicant for the above planning application has now been sent their NatureSpace Report and impact plan which they should shortly submit to yourself. Should you be minded to approve planning for the above planning application there are mandatory conditions and informatives within the Report (on pages 6/7) that must be used in verbatim on the decision notice. This is in order to comply specifically with conditions in the council's district licence.*

*If the district licence conditions are not used in verbatim, it could potentially lead to the LPA being unable to send out authorisation paperwork to the applicant on time and a decision notice needing to be reissued. If the authorisation has been issued to the applicant, then it could also mean that an administrative breach of the licence conditions has occurred.*

## **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 2015)

- PSD1: Presumption in Favour of Sustainable Development
- SLE1: Employment Development
- SLE4: Improved Transport and Connections
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD4: Decentralised Energy Systems
- ESD5: Renewable Energy
- 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

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

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

#### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- 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)
- Cherwell District Council Climate Emergency Declaration & 2020 Climate Action Framework
- British Energy Security Strategy April 2022

## **9. APPRAISAL**

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

- Principle of development
- Impact on the character and appearance of the area
- Highway safety and impact on public rights of way
- Flooding/drainage
- Heritage impact
- Residential amenity
- Ecology impact
- Other matters – impact on neighbouring business

#### Principle of Development

9.2. Paragraph 11 of the NPPF notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.

9.3 The NPPF provides positive encouragement for renewable energy projects. Paragraph 157 of the NPPF states that the planning system should support the transition to a low carbon future and should support renewable and low carbon energy and associated infrastructure. Paragraph 163 of the NPPF states that when determining applications for renewable and low carbon development local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions; and approve such applications if its impacts are (or can be made) acceptable.

9.4 Policy ESD5 of the CLP 2015 states that renewable and low carbon energy provision will be supported wherever adverse impacts can be addressed satisfactorily. The potential local environmental, economic and community benefits of renewable energy schemes will be a material consideration in determining planning applications.

9.3. In principle, therefore, there is policy support for solar farm development. However, the overall acceptability of development is dependent on other material considerations.

### Impact on the character and appearance of the area

- 9.4. Given the nature and scale of this type of proposal, it is inevitable that a solar farm development would result in some landscape harm. In this context, the NPPF and local development plan policy adopts a positive approach indicating that development will be approved where harm would be outweighed by the benefits of the scheme. There is a distinction to be made between impact on landscape, which should be treated as a resource, and impact on visual amenity, which is the effect on people observing the development in places where the development can be viewed, such as villages, roads, public rights of way and individual dwellings.
- 9.5. Paragraph 180 of the NPPF indicates that the intrinsic character and beauty of the countryside should be recognised. Although the NPPF does not seek to protect, for its own sake, all countryside from development, it does set out to protect valued landscapes. The concept of valued landscapes is not defined in the NPPF; the application site does not form part of any designated landscape. Although the value of a given area within a particular landscape may depend on the value attributed to it by an individual or groups of people.
- 9.6. Guidance in determining applications for renewable and low carbon energy projects is set out in the PPG. The PPG advises that “the need for renewable or low carbon energy does not automatically override environmental protection and that cumulative impacts require particular attention, especially the increasing impact that such developments can have on landscape and local amenity as the number of turbines and solar arrays in an area increases”. It continues that “particular factors a local planning authority will need to consider include:
- Where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.
  - that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;
  - the proposal’s visual impact, the effect on landscape of glint and glare (see guidance on landscape assessment) and on neighbouring uses and aircraft safety;
  - the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;
  - the need for, and impact of, security measures such as lights and fencing;
  - the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;
  - the energy generating potential, which can vary for a number of reasons including, latitude and aspect.”
- 9.7. Policy ESD13 of the CLP 2015 states that development will be expected to respect and enhance local landscape character securing appropriate mitigation where damage to local landscape character cannot be avoided.
- 9.8. The site is relatively flat and is currently in agricultural use. It is well screened from the public highway by mature hedges and buildings. However, the proposed



development would be visible from the public rights of way (PROWs) in the immediate vicinity and from viewpoints across the wider landscape.

- 9.9. Given that landscapes will be valued by someone at some time, the term valued landscape must mean that they are valued for their demonstrable physical attributes, which elevate them above just open countryside but below those areas that are formally designated, such as National Parks, AONBs etc. However, there is nothing significant about the application site that would elevate it or the surroundings to that of the NPPF 'valued' landscape. The agricultural nature of the site with its slight undulating nature, despite being close to a number of public rights of way that give it a degree of sensitivity by virtue of it being accessible, does not significantly elevate its status. In other words, there are no attributes that take it to a level just below that associated with designated landscapes.
- 9.10. The application was submitted with a Landscape and Visual Impact Assessment (LVIA) which concluded there would be some impact on the wider landscape, predominantly due to the change in use and loss of openness. The LVIA was independently appraised and whilst it raised some criticism of the methodology, it largely supported the approach taken. The consultant has however questioned the inclusion of a field in the southwestern corner of the site.
- 9.11. The applicant has submitted a Technical Note rebuttal in response to the independent review. The applicant addresses the issue of the southwest field and advises that prior to the submission of the application, the initial plan included another more exposed *circa* 20 acre field (to the west of this field) which was removed following community input. In addition, they argue the field in question will be effectively screened (almost in its entirety) by year 15, as shown in viewpoint 9. In addition, the applicant advises that the field is required to make the scheme viable.
- 9.12. Having reviewed a number of recent appeals, the case law is very clear that any landscape harm would need to be substantial to outweigh the overall public benefits of providing renewable energy. The Inspector for a 2023 appeal in the village of Scranton (ref: APP/G2713/W/23/3315877) concluded that *'The Framework sets out a presumption in favour of sustainable development, and renewable energy development is central to achieving a sustainable future. The appeal scheme would make a valuable contribution to this. In addition, significant biodiversity enhancements would be achieved. The proposal would however be a significant development in the countryside and policy requires that any impacts are, or can be made, acceptable. The only adverse impact identified is a limited localised harm to the landscape character and visual impact. This impact can be effectively mitigated'*.
- 9.13. In this case, the landscape is not designated or considered to be particularly sensitive. Although a longer term temporary use (approx. 40 years) at the end of the life of the development, the land can be restored to its former use and the structures removed.
- 9.14. Concerns have been raised regarding the loss of agricultural land. The application has been submitted with an Agricultural Land Classification Assessment classifies the land as Grade 3b, which is not considered to be 'Best and Most Versatile Land'. This classification is consistent with the Council's constraints data. Therefore, the temporary loss of this land to facilitate the solar farm is acceptable in policy terms.
- 9.15. To conclude although harm would result, the landscape impacts would be localised, and the site has the potential to revert back to its existing condition at the end of the lifetime of the development.

Highway safety and impact on Public Rights of Way

- 9.16. Paragraph 114 of the NPPF states that in assessing specific applications for development, it should be ensured that:
- a) *appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
  - b) *safe and suitable access to the site can be achieved for all users;*
  - c) *the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and*
  - d) *any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*
- 9.17. In addition, paragraph 115 highlights that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 9.18. The Local Highway Authority has raised no objections subject to conditions and legal agreement relating to works to the highway.
- 9.19. The Local Highway Authority note that the proposed access arrangements appear to be satisfactory in principle. A Section 278 agreement is required relating to installation of radii kerb access to ensure the access and visibility splays are suitable for the construction traffic.
- 9.20. Additional comments were provided relating to the removal of the formalised passing places that were previously installed for East West Rail construction traffic. The comments state *'I understand that the improved junctions at the A4421 and Mill Road are to remain, as will one passing bay close to the A4421. The estimated daily average of 11 two-way HGV movements (5.5 inbound and 5.5 outbound) is likely to result in very few instances of HGVs having to pass on this relatively short stretch of road, so the existence of passing places is not considered necessary. The level of generated traffic, over a relatively short six-month duration, cannot be demonstrated to have an unacceptable impact on highway safety, nor can the impacts on the road network be considered as severe'*.
- 9.21. Subject to the recommended conditions it is considered that the proposals, are unlikely to have any adverse impact upon the local highway network from a traffic and safety point of view.
- 9.22. With regards to PROWs, the proposal commits to provide a permissive footpath route over the lifetime of the development. This is noted by Oxfordshire County Council and welcomed as it will provide an important connection in the local rights of way network. Conditions will be required to ensure the details of the PROW are suitable in terms of access, signage, suitable landscaping and maintenance.

#### Flooding/drainage

- 9.23. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 173 of the NPPF states that *'when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood risk assessment. Development should only be*

allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- a) *within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
- b) *the development is appropriately flood resistant and resilient;*
- c) *it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
- d) *any residual risk can be safely managed; and*
- e) *safe access and escape routes are included where appropriate, as part of an agreed emergency plan.'*

9.24. Paragraph 175 of the NPPF continues by stating that '*major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.*'

9.25. Policy ESD6 of the CLP 2015 replicates national policy in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.

9.26. Policy ESD7 of the CLP 2015 requires the use of Sustainable Urban Drainage Systems (SuDS) to manage surface water drainage systems. This is with aim to manage and reduce flood risk in the district.

9.27. This site lies within Flood Zone 1 which is areas at the lowest risk of flooding. A Flood Risk Assessment and Outline Drainage Strategy has been submitted with the application. The FRA concludes that 'the site is currently a greenfield site and is existing agricultural land. The proposed development will only alter the impermeable area on site by a diminutive amount, resulting in a negligible increase in surface water runoff. The solar panels will not increase the impermeable area on-site, and therefore will not increase the volume of surface water runoff'.

9.28. The Lead Local Flood Authority has raised no objections subject to conditions requiring the implementation of the drainage scheme. Therefore, the development complies with Policy ESD6 of the CLP 2015.

#### Heritage impact

9.29. The main body of the site (where the solar array and equipment would be located) is not within a Conservation Area or close to any listed buildings, however it is within an Archaeological Alert Area.

9.30. A section of the application site relating to the provision of cabling works crosses through both the Stratton Audley Conservation Area and RAF Bicester Conservation Area. In addition, this element of the scheme passes close to a number of listed buildings.

9.31. 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.*

9.32. 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.*

- 9.33. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 205 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 2015 echoes this guidance.

#### *Listed Buildings and Conservation Areas*

- 9.34. The element of the scheme that passes through the Conservation Areas and close to Listed Buildings is related to cabling work to connect the proposed development into the National Grid network. The proposed works would be underground and would not result in built form. Therefore, the proposals would not have a detrimental impact on the character and appearance of the Conservation Areas or the setting of Listed Buildings.

#### *Archaeology*

- 9.35. Policy ESD15 of the CLP 2015 requires that where archaeological potential is identified applications should include an appropriate desk-based assessment and if necessary, a field evaluation. The site lies in an area of archaeological interest, and as requested by Oxfordshire County Council's Archaeologist, the approved reports of a geophysical survey and archaeological evaluation have been submitted with this application.
- 9.36. The County Archaeologist has commented that *'The geophysical survey identified a number of weak anomalies which potentially represented ditched enclosures. The trenched evaluation targeted these anomalies, as well as 'blank' areas across the site. Within the trenches, ditches and pits containing later prehistoric, as well as possibly Neolithic pottery, were recorded in the southern part of the site. An undated cremation and a possible oven were also recorded, which along with the enclosures, may represent a dispersed or multi-focal later prehistoric site. A small group of Roman ditches were also recorded in the centre of the site. These features will need to be fully investigated and recorded via archaeological mitigation, in line with the attached conditions'*.
- 9.37. Subject to conditions relating to archaeology, the proposal would not cause harm to heritage assets and is considered to comply with Policy ESD15 of the CLP 2015 and Government guidance contained within the NPPF.

#### Ecology impact

- 9.38. Paragraph 180 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.
- 9.39. Paragraph 186 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.

- 9.40. Paragraph 191 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.
- 9.41. Policy ESD10 of the CLP 2015 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.
- 9.42. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.43. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.
- 9.44. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:
- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

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

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
  - an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 9.45. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site comprises mostly open agricultural fields, with a number of mature trees and hedgerows, therefore the site has the potential to be a suitable habitat for a range of protected and notable species and this is supported by the Council's constraints data.
- 9.46. 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.

- 9.47. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.
- 9.48. The application is supported by a Biodiversity Net Gain Assessment, Landscape and Ecological Management Plan and Nature Space District Licence Report.
- 9.49. A range of comments have been received regarding ecology and biodiversity, including those from BBOWT. The Council's Ecologist has had ongoing discussions during the course of the application with additional information being submitted. The Council's Ecologist has concluded that: *'The applicants have now submitted the full metric as part of their biodiversity impact assessment. This proposes a net gain of over 200%. I have some reservations about the aim of achieving moderate condition for the grassland within the compounds as this does not allow for the fact that much of the grassland is actually covered with a sealed surface of panels (at least half by surface area is impacted at least by shading) – it does not seem accurate to treat this the same as the creation of 49 hectares of 'other neutral grassland' in the traditional sense. Whilst I appreciate there is no habitat class of 'grassland with solar panels' – I think as a minimum it should be accepted that the grassland is likely to achieve fairly poor condition at best. However, even changing the condition proposed to this lower level leads to a 100% net gain for biodiversity on site and so I have no objection on these grounds but suggest the applicant may wish to consider what is feasible in their HMMP for the site.*

*I support the proposed change in seed mix to a now more beneficial type and appreciate the clarity over lighting and fencing.*

*Ideally a comparative monitoring scheme is carried out to monitor bat and breeding bird activity changes over time across the site in comparison to baseline, even if only at 3, 5 and 10 years. There is a relative paucity of information on the impacts of solar farms in these habitat conditions and this would contribute to the knowledge base for our locality. This could be factored into the LEMP or HMMP. Note this is a request as opposed to requirement'.*

- 9.50. A certificate and impact risk map for the Great Crested Newt District Licence has been submitted. The Council's Ecologist has confirmed that the conditions recommended by Nature Space need to be included in the decision notice.
- 9.51. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

#### Residential amenity

- 9.52. Paragraph 191 of the NPPF advises that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

- 9.53. These provisions are echoed in Policy ESD15 of the CLP 2015 which states that: 'new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space'.
- 9.54. Saved Policy ENV1 of the CLP 1996 seeks to ensure that the amenities of the environment, and in particular the amenities of residential properties, are not unduly affected by development proposals which may cause environmental pollution including noise and light pollution and traffic generation.
- 9.55. A full noise assessment has been submitted with the application. The assessment is based on 'worst-case' scenarios in terms of potential impacts. The assessment concludes:
- When assessing against WHO guidelines for environmental noise, the predicted levels are shown to be at or below the threshold laid out in WHO guidelines for external amenity spaces, and internal amenity spaces, both at night-time and during the day.
  - Furthermore, a number of assumptions have been made with respect to the typical operational capacity of the development that are considered to over-estimate the noise emissions and, subsequently, the degree of impact.
  - Accounting for the points raised above, it is considered that the likelihood of significant adverse impact upon the amenity of nearby NSRs is low.
- 9.56. The Council's Environmental Protection Officer has considered the report and advised that significant impact to the local noise environment would occur should mitigation not be installed, therefore conditions are recommended to ensure the appropriate mitigation is installed and maintained.
- 9.57. Third Party comments have raised concerns that a new dwelling (at Land adjacent to Merrick Hill Stud, Godington) was not considered in the assessment as it is a new dwelling. The property is approximately 400m away from the closest point of the proposed site. This is closer than Godington Hall (approx. 900m), but further away than Pool Farm that sits adjacent to the site.
- 9.58. The Council's Environmental Protection Officer was asked to consider this point and specifically the potential impact on the dwelling at Merrick Hall Stud. They have advised that as this dwelling is not listed as one of the sensitive receptors, the wording of the noise conditions should be amended to specifically reference this property to ensure appropriate mitigation is in place.
- 9.59. As with the other residential properties in the area, Officers are satisfied that given the nature of the development and the distances involved the residential amenities of the neighbours would not be unduly compromised.
- 9.60. Overall, with appropriate mitigation measures, the proposal is not considered to have significant impacts on the amenity of any of the local residents in the area.

#### Other matters

- 9.61. The application site is adjacent to Pool Farm which is currently used as a wedding venue including use of some of the outside space. It is acknowledged that during the construction phase, there could be noise/disturbance that has the potential to impact on the use of parts of the neighbouring site and the potential perception of disruption could deter customers from booking the site. In the longer term, the proposed development should only have a limited impact on the neighbouring business once construction is complete. There may be some locations where the solar panels may

be visible and this is likely to impact on potential photographic locations for the weddings, however it is a large site and alternative locations within the site could be used for this purpose.

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

- 10.1. Planning applications are required to be determined in accordance with the Development Plan unless material considerations indicate earlier. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development and need to achieve the economic, social and environmental objectives in mutually supportive ways.
- 10.2. Economic objectives – The location of the proposed development is in an area where a solar farm development would be economically viable (where there is a gap in the grid capacity) and would provide economic benefits during the construction phase. The development would not result in the loss of Best Most Versatile (BMV) agricultural land (the importance of protecting BMV land was re-emphasised in a recent ministerial statement which made the point ‘food security for our national security’).
- 10.3. Social objectives – The applicant is proposing to incorporate a permissive footpath into the scheme. The development would be of significant detriment to the living amenities of nearby residents.
- 10.4. Environmental objectives – The solar farm, which would only be in place for 40 years, would provide up to 44 megawatts of installed electrical generation capacity, delivering significant environmental benefits by reducing carbon emissions. Although some harm would result, the visual impact on the land, which is not considered to be visually sensitive, and has no designation, can be largely mitigated with planting. The application will also result in significant Biodiversity Net Gain.
- 10.5. When considered as a whole, the economic, social and wider environmental benefits of the scheme outweigh any adverse effects on landscape character and the visual amenities of the area. The proposal is therefore considered to represent a sustainable form of development and it is recommended that planning permission be granted.

## **11. RECOMMENDATION**

**DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS 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 number 1120022-ADAS-XX-XX-DR-P-8001 - [Site Location Plan



- A]
- Drawing number 1120022-ADAS-XX-XX-DR-P-8002 - [Site Location Plan B]
- Drawing number 1051745-ADAS-XX-XX-DR-PL-8000 - [Site Layout Plan Overall]
- Drawing number 1051745-ADAS-XX-XX-DR-PL-8001 - [Site Layout Plan 1 of 4]
- Drawing number 1051745-ADAS-XX-XX-DR-PL-8002 - [Site Layout Plan 2 of 4]
- Drawing number 1051745-ADAS-XX-XX-DR-PL-8003 - [Site Layout Plan 3 of 4]
- Drawing number 1051745-ADAS-XX-XX-DR-PL-8004 - [Site Layout Plan 4 of 4]
- Construction Compound drawing Rev A - [Indicative Construction Compound]
- Typical battery station drawing - [Typical battery stations ancillary drawing]
- Typical inverter + DC batteries drawing Rev A - [Typical battery stations ancillary drawing]
- Typical cable route trench drawing Rev A - [Typical Cable Route Trench Sections Details]
- Comm mast details drawing Rev A - [Comms and Weather Station mast]
- Customer switchgear drawing Rev A - [Customer Switchgear Details]
- DNO building drawing Rev A - [DNO Building Details]
- Fence & CCTV details drawing Rev A - [Fence, Track and CCTV]
- Inverter building drawing Rev A - [Inverter Station Details]
- 3P table drawing Rev A - [PV table details]
- Spares container drawing Rev A - [Spares Container Details]
- Trench section drawing Rev A - [Trench Sections Details]
- Access gate drawing Rev A - [Access Gate]
- Drawing number 111299-10-01 - [Indicative Access Junction]
- Drawing number 111299-10-02 Rev A - [Indicative Access Junction Swept Path Analysis Generic Low Loader (18m)]
- Drawing number 111299-10-03 Rev A - [Indicative Access Junction Visibility Splay 2.4m x 215m]
- Drawing number 111299-10-04 - [Indicative Access Junction Visibility Splay 2.4m x 120m]
- Preliminary Ecological Appraisal by Western Ecology dated July 2022
- Breeding bird surveys by Western Ecology dated November 2022
- Great Crested Newts Survey Report by Western Ecology dated November 2022
- Wintering birds survey by Western Ecology dated November 2022
- Landscape and Visual Appraisal by RSK ADAS Ltd dated November 2022
- Review of Landscape and Visual Appraisal by Huskinson Brown Associates dated February 2024
- Landscape and Ecological Management Plan by RSK ADAS Ltd dated November 2022
- Site Enhancement Strategy
- Biodiversity Net Gain Assessment by RSK ADAS Ltd dated December 2022
- Transport Statement by RSK ADAS Ltd dated November 2022
- Arboricultural Planning Statement by RSK ADAS Ltd dated November 2022
- Flood Risk Assessment & Outline Drainage Strategy by RSK ADAS Ltd dated November 2022
- Built Heritage Assessment by Pegasus Group dated November 2022

- Archaeological Desk Based Assessment dated November 2022
- Geophysical Survey Report by Magnitude Surveys dated October 2022
- Solar Photovoltaic Glint and Glare Study dated November 2022
- Agricultural Land Classification by Amet Property dated November 2022
- Statement of Community Involvement by JBM Solar dated December 2022
- Technical Statement on Battery Energy Storage Systems by JBM Solar dated December 2022
- Landscape and Ecological Management Plan RSK ADAS Ltd dated May 2023

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

### **Temporary Permission**

3. The permission shall expire no later than 40 years from the date when electricity is first exported from any part of the array to the electricity grid network ('First Export Date'). Written confirmation of the First Export Date shall be provided to the Local Planning Authority no later than one calendar month after the event.

Reason: In order to safeguard the amenities of the area and protect the rural character of the landscape and to comply with Policies ESD 13 and ESD15 of the Cherwell Local Plan 2011-2031 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. Not later than 24 months before the end of this permission, a decommissioning and site restoration scheme shall be submitted to and approved by the Local Planning Authority, such scheme to include the management and timing of any works and traffic management plan to address likely traffic impact issues during the decommissioning period. The approved scheme shall be fully implemented within 12 months of the expiry of this permission.

Reason: To ensure the environment is protected during decommission in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Landscaping Scheme**

5. Prior to the clearance of the site a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-
  - i. Details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
  - ii. 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,
  - iii. details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps

The development shall not be carried out other than in strict accordance with the approved scheme and the hard landscape elements of the scheme shall be

fully implemented prior to the first operation of the development and shall be retained as such thereafter.

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

#### **Landscaping Implementation**

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

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

#### **Landscape Maintenance**

7. Prior to the clearance of the site a schedule of landscape maintenance for a minimum period of 5 years, to include the timing of the implementation of the schedule and procedures for the replacement of failed planting shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the landscape maintenance shall be carried out in accordance with the approved schedule.

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

#### **Highways and Public Rights of Way**

8. Prior to the first use of the solar farm hereby approved, details of the raised kerbed bell mouth site access plan as shown indicatively on the Indicative Access Junction drawing no. 111299-10-01 shall be submitted to and approved in writing. The mitigation measures shall be carried out in accordance with the agreed details prior to first occupation.

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

9. Other than the approved access no other means of access whatsoever shall be formed or used between the land and the highway.

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

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

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

11. No development shall commence until full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays have been submitted to and approved in writing by the Local Planning Authority. The means of access shall be constructed prior to commencement of development in strict accordance with the approved details and shall be retained and maintained as such thereafter. Agreed vision splays shall be kept clear of obstructions higher than 0.6m at all times.

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

12. Prior to operation of the site, full details of the permissive path through the site, including the route, width, signage and access furniture, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details agreed.

Reason - In order to comply with Government guidance contained within the National Planning Policy Framework.

13. Prior to operation of the site, full details of protection, mitigation and improvements of the existing paths within the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details agreed.

Reason - In order to comply with Government guidance contained within the National Planning Policy Framework.

#### **Flood Risk and Drainage**

14. The approved drainage system shall be implemented in accordance with the approved Detailed Design prior to the use of the building commencing:

Document: Drainage Response Date: 13/04/2023

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal.

15. Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:

- a) As built plans in both .pdf and .shp file format;
- b) Photographs to document each key stage of the drainage system when installed on site;
- c) Photographs to document installation of the drainage structures on site;
- d) The name and contact details of any appointed management company information.

Reason: To protect the development from the increased risk of flooding and in order to comply with Policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

**Environmental protection**

16. Prior to the commencement of the development hereby approved, full details of a noise mitigation scheme including the noise levels to be achieved with the mitigation at the Noise Sensitive Receptors listed in the noise report (ref 2061200-RSKA-RP-001, dated January 2023) and at the dwelling at Merrick Hall Stud, Godington, shall be submitted to and agreed by the LPA. Thereafter, and prior to the first use of the development, the development shall be carried out and retained in accordance with the approved details.

Reason: To ensure the creation of a satisfactory environment free from intrusive levels of noise in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

17. Prior to the commencement of the development, a Construction Environment Management Plan (CEMP) which takes account of the Council's published recommended hours for noisy construction work and 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 ensure the creation of a satisfactory environment free from intrusive levels of noise in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

**Archaeology**

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

Reason: To safeguard the recording of archaeological matters within the site in accordance with the National Planning Policy Framework.

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

Reasons: 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 National Planning Policy Framework.

### **Ecology**

20. No development hereby permitted shall take place except in accordance with the terms and conditions of the Council's Organisational Licence (WML-OR112, or a 'Further Licence') and with the proposals detailed on plan "Padbury Brook: Impact Plan for great crested newt District Licensing (Version 3) (Sheets 1 and 2)", dated 22nd January 2024.

Reason: In order to ensure that adverse impacts on great crested newts are adequately mitigated and to ensure that site works are delivered in full compliance with the Organisational Licence (WML-OR112, or a 'Further Licence'), section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006.

21. No development hereby permitted shall take place unless and until a certificate from the Delivery Partner (as set out in the District Licence WML-OR112, or a 'Further Licence'), confirming that all necessary measures regarding great crested newt compensation have been appropriately dealt with, has been submitted to and approved by the planning authority and the authority has provided authorisation for the development to proceed under the district newt licence. The delivery partner certificate must be submitted to this planning authority for approval prior to the commencement of the development hereby approved.

Reason: In order to adequately compensate for negative impacts to great crested newts, and in line with section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006.

22. No development hereby permitted shall take place except in accordance with Part 1 of the Great Crested Newt Mitigation Principles, as set out in the District Licence WML-OR112 (or a 'Further Licence'), and in addition in compliance with the following:

- Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians.
- Capture methods must be used at suitable habitat features prior to the commencement of the development (i.e., hand/destructive/night searches), which may include the use of temporary amphibian fencing, to prevent newts moving onto a development site from adjacent suitable habitat, installed for the period of the development (and removed upon completion of the development).

Reason: In order to ensure that adverse impacts on great crested newts are adequately mitigated and to ensure that site works are delivered in full compliance with the Organisational Licence (WML-OR112, or a 'Further Licence'), section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006.

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

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of 'Biodiversity Protection Zones';
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- h) Use of protective fences, exclusion barriers and warning signs

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

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

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

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

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

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

**Lighting**

26. No external lighting shall be installed within the site area unless agreed in writing with the Local Planning Authority.

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

## Planning Notes

1. It is recommended that the NatureSpace Best Practice Principles are considered and implemented where possible and appropriate.
2. It is recommended that the NatureSpace certificate is submitted to this planning authority at least 6 months prior to the intended commencement of any works on site.
3. It is essential to note that any works or activities whatsoever undertaken on site (including ground investigations, site preparatory works or ground clearance) prior to receipt of the written authorisation from the planning authority (which permits the development to proceed under the District Licence WMLOR112, or a 'Further Licence') are not licensed under the great crested newt District Licence. Any such works or activities have no legal protection under the great crested newt District Licence and if offences against great crested newts are thereby committed then criminal investigation and prosecution by the police may follow.
4. It is essential to note that any ground investigations, site preparatory works and ground / vegetation clearance works / activities (where not constituting development under the Town and Country Planning Act 1990) in a red zone site authorised under the District Licence but which fail to respect controls equivalent to those detailed in the planning condition above which refers to the NatureSpace great crested newt mitigation principles would give rise to separate criminal liability under the District Licence, requiring authorised developers to comply with the District Licence and (in certain cases) with the GCN Mitigation Principles (for which Natural England is the enforcing authority); and may also give rise to criminal liability under the Wildlife & Countryside Act 1981 (as amended) and/or the Conservation of Habitats and Species Regulations 2017 (as amended) (for which the Police would be the enforcing authority).

CASE OFFICER: Rebekah Morgan



23/02355/F

Agenda Item 10

Central Government  
Registrar  
Waverley House  
Queens Avenue  
Bicester  
OX26 2PY

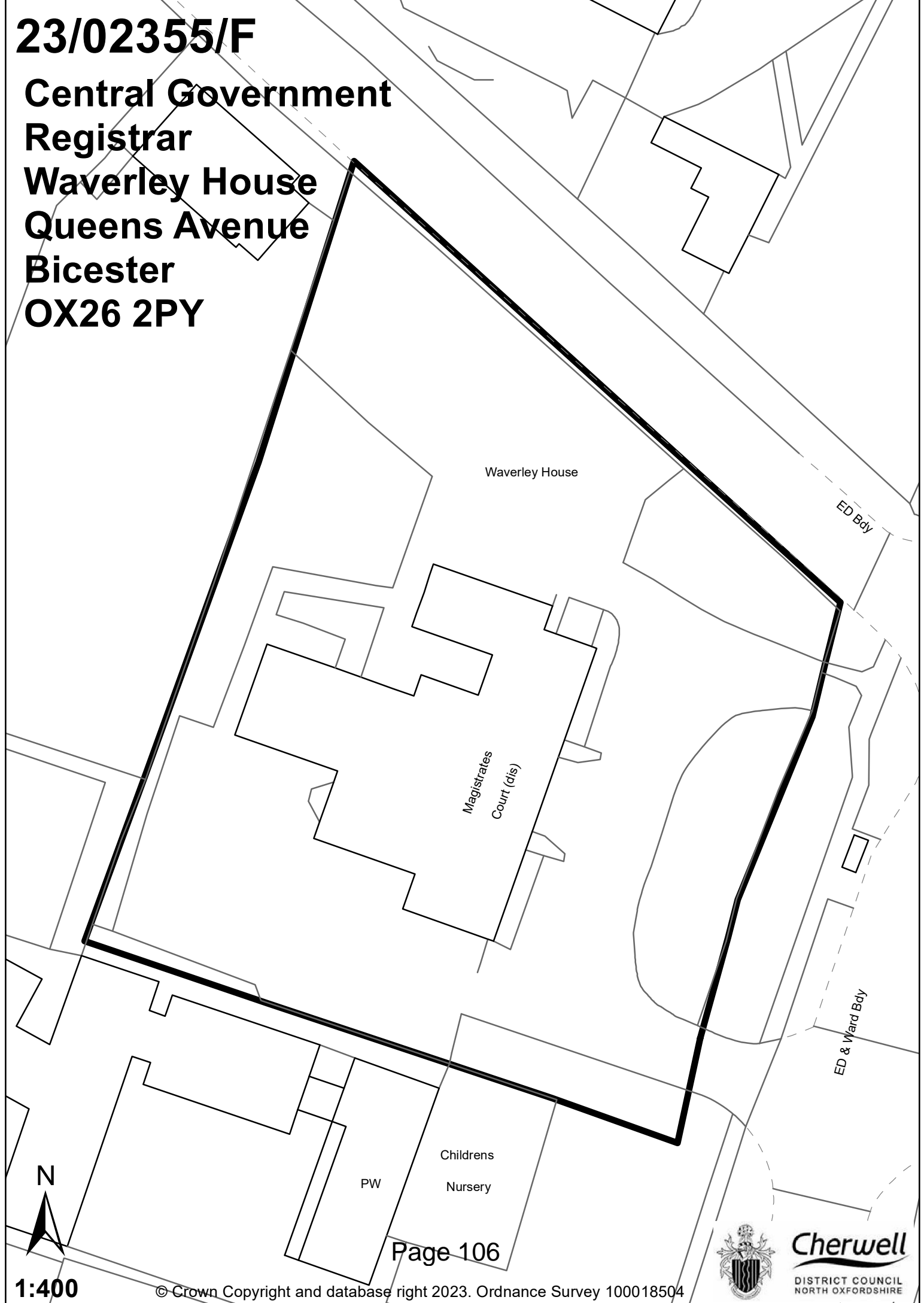


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**23/02355/F**

**Central Government  
Registrar  
Waverley House  
Queens Avenue  
Bicester  
OX26 2PY**



Waverley House

ED Bdy

Magistrates  
Court (dis)

ED & Ward Bdy

Childrens  
Nursery

PW

Page 106

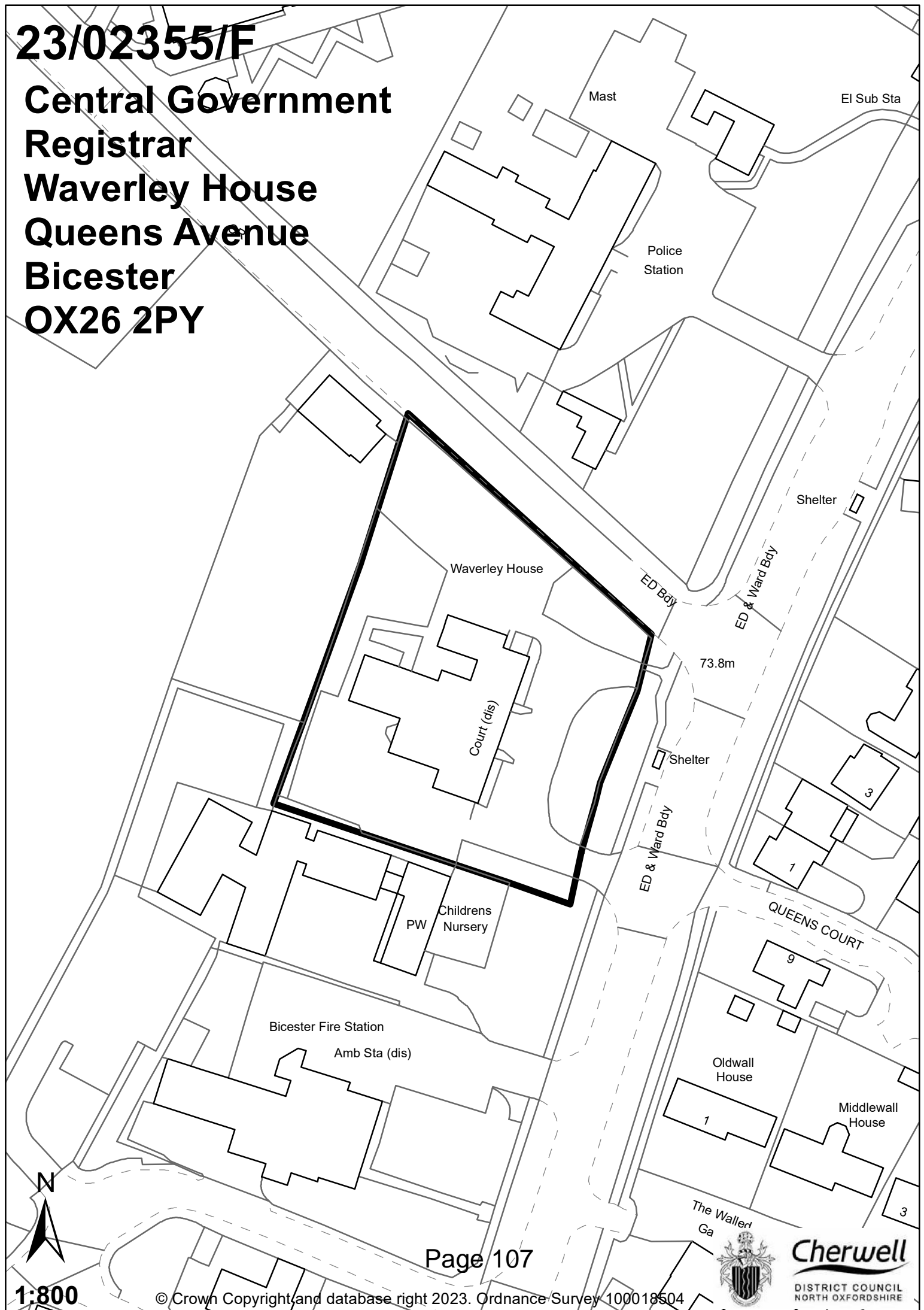


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**23/02355/F**

**Central Government  
Registrar  
Waverley House  
Queens Avenue  
Bicester  
OX26 2PY**



**Case Officer:** Tom Webster

**Applicant:** GG Oxford Investments Ltd

**Proposal:** Demolition of existing building and construction of 32 No apartments together with landscaping, car parking, bin stores, secure cycle parking and associated infrastructure - re-submission of 21/02573/F

**Ward:** Bicester West

**Councillors:** Cllr. Broad, Cllr. Knight and Cllr. Sibley

**Reason for Referral:** Major development and called in by Cllr. Les Sibley

**Expiry Date:** 15 July 2024

**Committee Date:** 11 July 2024

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

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site comprises a t-shaped, two storey, red bricked building with a hipped roof, known as Waverley House. The building is identified as 'locally listed' within Appendix 3 of the Bicester Conservation Area Appraisal (August 2011) and is, therefore, a non-designated heritage asset. It is centrally located on an irregular shaped piece of land and has been extended significantly to the rear. It has a gross internal floor area of 833sqm.
- 1.2. Waverley House, which is currently vacant, was formally used as Bicester Magistrate Court (and originally built as Council offices in the style of the adjacent police station).
- 1.3. In fact, this building is one of four red brick civic buildings which share the same 1950s civic architectural style and siting: they are each set back by 19.2 metres from Queens Avenue and allow for substantial landscaping and parking facilities. These setbacks give the buildings an additional prominence.
- 1.4. The application site, which is 0.32ha in size, is a corner plot, situated on the edge of Queens Avenue, directly opposite Bicester town centre boundary line and 65m from Bicester Conservation Area.
- 1.5. The boundary lines of the application site are defined by mature trees to the east and south, trees and hedging to the west and a matured vegetal boundary to the north. This northern boundary frames an access road which serves the Bicester School, Bicester Leisure Centre, the Technology Studio and St. Mary's Catholic Primary School.
- 1.6. Queens Avenue is an interesting road with strong characteristics. This section of the road was developed in the late 20th Century on an area that was originally outside

the built-up limits of the town. It has a distinctive character of its own. It is tree lined and there is an attractive stone wall (part of which is listed) which runs, almost continuously, in parallel with the eastern stretch of the road, screening a number of two storey red brick-built dwellings and a cluster of stone-built buildings. These stone buildings are located inside what is the curtilage of a Grade II listed building (Bicester House).

- 1.7. The western part of Queens Avenue is distinguished by a sense of spaciousness; the quality of space and openness washes all over this part of Queens Avenue.
- 1.8. This characteristic results in a calming environment and an interesting approach to the adjacent two parts of Bicester Conservation Area: The Kings End Character Area to the south west and the North Street Character Area to the north east.

## **2. CONSTRAINTS**

- 2.1. The application site is a short distance from Bicester town centre and lies just outside the Bicester Town Centre Extension (Area of Search). Although not located within the Bicester Conservation Area, the existing building is recorded as a locally listed building / non-designated heritage asset. The site is located within the Bicester Air Quality Management Area.

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

- 3.1. The application seeks to demolish the existing two storey T-shaped building (known as Waverley House) and replace it with a three-storey building to allow for 32 apartments. It will be accessed via the existing access point off Queens Avenue.
- 3.2. The residential mix of the replacement building would be:
  - 9 x 1 bed apartments
  - 23 x 2 bed apartments
- 3.3. The development would be a car free scheme with no car parking provision provided on site for the future occupiers. There would be 12 visitor parking bays, 2 of which would be for electric vehicles and 1 would be use as a disabled bay.
- 3.4. Cycle storage will be provided internally on the ground floor. The cycle storage provision will allow for:
  - 64 x bikes (two tier system)
  - 1 x cargo bay; and
  - 1 x inclusive bay
- 3.5. A single storey red brick bin store (45sqm in size) with a hipped, tiled, roof would be located on the north west part of the site (to the rear of the apartment block).
- 3.6. The apartment block would be L-shaped and have a varied roof line: a mixture of hipped and gabled roofs. There would also be a variety (4) of different brick colours and tones (variations on the red brick theme of the original and neighbouring buildings).
- 3.7. The building will be sited on the same site as the existing building albeit it will have a greater height and will come further south towards the southern boundary. The total floor area of the building would be 2,590sqm GIA.

- 3.8. The proposal was initially designed in response to the Inspector's decision letter, but it has also been amended during the course of this application following officer advice.
- 3.9. Seven trees on-site would be lost as part of the redevelopment process. None of the trees have Tree Preservations Orders attached to them.

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

- 4.1. The following planning history is considered relevant to the current proposal:
- 4.2. An application that sought to demolish the existing building and replace it with 48 residential units was refused by the Council on the 18th July 2022 for five reasons. Those reasons for refusal were:

1. *By virtue of its forward position, that removes the current set back of the building line within the street scene; its height, bulk and scale, that fills the available space with the site; and inappropriate use of render, in an area characterised by brick; the proposal represents a form of development that would be out of keeping with the form and pattern of development in the local area, resulting in significant and demonstrable harm to the character and appearance of the area and in harm to the Bicester Conservation Area through change to its setting. The proposal therefore conflicts with Policy ESD15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996, the Cherwell Residential Design Guide, and Government guidance in Section 12 of the National Planning Policy Framework including paragraph 130.*
2. *The former Bicester Magistrates Court is a locally listed building and as such a non-designated heritage asset which along with others has historic significance in the local context. The demolition of the building would result in a substantial harm to the asset, and less than substantial harm to the character and appearance of the Bicester Conservation Area through change to its setting. Notwithstanding that the development would provide housing in a sustainable location to meet the Council's identified need, it is considered that the proposal fails to provide sufficient public benefits to outweigh the harm identified and therefore fails to comply with the Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 as well as the aims and objectives of the National Planning Policy Framework, in particular Section 16.*
3. *Notwithstanding the details provided in the Flood Risk Assessment July 2021 Report REF: BMC-LE-GEN-XX-RP-CE-FRA01 by Link Engineering Ltd the analysis of the details has shown that the applicant has failed to demonstrate construction details for the proposed SuDS and drainage infrastructure on the site, has not demonstrated calculations for the permeable paving, has not provided a surface water flood exceedance plan has failed to provide a ground investigation report and infiltration testing in accordance with BRE 365. In the absence of this information the applicant has failed to demonstrate that the proposal would not lead to increased flood risk or result in increased surface water run off or adversely affect ground water quality. The proposed development therefore conflicts with Policies ESD1, ESD6 and ESD7 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within paragraphs 159 – 165 and 167 of the National Planning Policy Framework.*

*Note to Applicant: If the Lead Local Flood Authority withdraws its objection then this reason will not be pursued by the Council.*

4. *Notwithstanding the promotion of the site as a car free development, the lack of useable visitor parking spaces on the site would result in inappropriate parking in near-by roads to the detriment of local residents and highway safety. The proposal therefore fails to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996, and Government guidance in Section 9 Of the National Planning Policy Framework.*
5. *In the absence of a satisfactory planning obligation, the applicant has failed to adequately demonstrate a contribution as requested by Oxfordshire County Council to encourage walking and cycling as an alternative to the use of the private car. The contribution requested is directly required as a result of the lack of parking on the site. This would be contrary to Policies BSC3 and INF1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within paragraphs 34, 56 and 57 of the National Planning Policy Framework.*

*Note to Applicant: This reason for refusal is capable of being addressed and is added in order to protect the Council's interests in the event of any further application or appeal in relation to this development proposal.*

- 4.3. The decision was subsequently appealed by the applicants. The Planning Inspector dismissed the appeal on the 9th May 2023
- 4.4. The following site history is also relevant to this application:

*23/03441/DEM – Proposed Demolition of Waverley House as part of redevelopment works at the site – Prior Approval Not Required (16<sup>th</sup> January 2024)*

*23/02204/DEM – “Proposed Demolition of Waverley House as part of redevelopment works at the site” – Refused on the 6<sup>th</sup> September 2023*

*23/02604/DEMPA - Determination as to whether prior approval should be granted in respect of method of demolition and any proposed restoration of the site pursuant to application number 23/02204/DEM – Withdrawn on the 6<sup>th</sup> December 2023*

## **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 **15 March 2024**. Comments received after this date have been accepted on the basis that the application remains under consideration.
- 6.2. There were 10 objections, 40 submissions of support and 1 comment received. The comments raised by third parties are summarised as follows:
- 6.3. The main thrust of the objections is:
  - Loss of an important Non-Designated Heritage Asset, which is a very special feature of the town

- The proposal is not in keeping with the street scene
- This is one of the most significant thoroughfares in Bicester (because of the openness, stone wall and similar designed civic buildings)
- The proposal represents an over development of the site,
- This could lead to other detrimental planning applications on Queens Avenue
- The loss of landscaping and trees is impactful.
- It would be better if the building was retained and used for a community use, be it
- It would have a harmful impact on the Conservation Areas and neighbouring civic buildings and the school and leisure buildings behind
- The site is not allocated for housing
- Lack of adequate safe turning circles for vehicles on site. Lack of EV charging points for the number of available car and motor cycle parking bays. No EV charging points/ or covered parking bays for users of mobility scooters.
- The refuse collection requires the use of a non adopted road and the agreement of the leaseholder
- No affordable housing or s106 contributions – the scheme will not mitigate its own impact
- Revised plans do not address any of the concerns
- New residents will park their cars in Queens Court -will have an impact on access to emergency residents
- Not against the smaller proposal, per se, but on street parking is a concern
- The solutions in the Parking Management Strategy are not practical
- GP surgery with associated health services, a theatre, arts centre, a church, a community centre, a museum or a new Town Council building.
- Better to convert the building into flats
- Front hedging to be protected

6.4. The comments of support included:

- It would be a good use of an underused site.
- It will rejuvenate the site
- New homes are required to help as many people as possible
- There is a real need for a 1 and 2 bed properties in the area, especially for the younger generation.
- It will put less pressure on the Council.

6.5. 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. BICESTER TOWN COUNCIL: **Object** to the proposal and request that the building is retained for use by the local community.
- 7.3. CDC ENVIRONMENTAL PROTECTION: **No objection**, subject to conditions, they raised no objection on Noise, Lighting, Air Quality, Odours or Contaminated Land grounds.
- 7.4. OCC HIGHWAYS: Seeks a contribution of **£46,880** towards proactive travel measures on Queens Avenue along the development frontage. This will comprise two new footways. The Highways Officer also made the following comments, and **objects** on the grounds of insufficient cycle parking provision:

*Transport Strategy*

The County is currently developing and implementing active travel measures along key transport corridors in Bicester to facilitate and encourage walking and cycling. Various measures are under development for the Kings End / Queens Avenue / Buckingham Road corridor and the County requires a Section 106 contribution of £46,880 towards the funding of these measures as they pass the frontage of the proposed development. The proposed parallel crossing should be delivered as part of this application.

*Access arrangements*

The site is accessed via an existing opening onto Queens Avenue, the access point poses good visibility in both directions. The proposed site is largely a 'car free' development, with a few spaces being reserved for visitors. As a result, the proposed development is likely to create less vehicle trips than the original land use, resulting in a minimal risk to highway safety.

*Sustainable transport connectivity/transport sustainability*

The site is within close proximity to the bus stops on Queens Avenue which can be used to access Bicester Town Centre or Oxford. The site is also within walking distance to Bicester Town centre and is within 0.5 miles of both railway stations. There has been a request for funding within the S106 to improve the active travel infrastructure on Queens Avenue.

*Car and cycle parking*

The applicant has proposed for the development to be car free for residents of the site, with a small number of spaces for visitors. Under the previous submission 21/02573/F the proposal was for a provision of 48 dwellings with a provision of 3 vehicle spaces for visitors, which ultimately fell short of requirement for visitor parking under the vehicular parking standards. At appeal, the planning inspectorate decided that the provision of vehicle parking was not sufficient to cope with the potential demand created by visitors of the site and that the potential for overspill on nearby streets was a detriment to residents and highway safety. The most recent submission is for 33 dwellings with 12 visitor spaces on site. The current guidance for OCC visitor parking is 1 space per 5 dwellings, meaning the required provision for this development is 7 (rounded up). This indicates that the revised plans exceed OCC's guidance in relation to visitor parking.

However, given the planning inspectorate's previous concerns regarding the detriment of overspill parking, OCC will not require a reduction in vehicle spaces in order to reduce the risk of parking overspill. The applicant has outlined a plan for a maintenance team that will deal with many aspects of the site once it is in operation, this includes the management of parking.

The cycle parking standards have changed since the submission of 21/02573/F. The requirement for flats now is a provision of 2 spaces per bedroom, with an additional visitor space per flat. The proposed cycle store and visitor stands have outlined a provision of 145 cycles within a covered cycle store and Sheffield hoops for visitors, conforming to the provision outlined within the Adopted Parking Standards. The provision is provided largely by a doubled stacked system, which is not considered desirable in many circumstances as they are often linked to issues surrounding accessibility. However, in this case I think it is appropriate given the number of cycle spaces required as part of this development.

However, more detail must be provided on the function of the doubled stacked cycle facility to show its accessibility and it may be necessary to widen the cycle store to accommodate for any amendments. The cycle store only identifies one space for accessible cycles and cargo cycles. As the development is car free, a greater provision of accessible / cargo cycle spaces (4-5) must be provided to ensure there are enough available to residents.

This provision can be accommodated with outside stands, but inside is preferable. The location of accessible cycle spaces should be as close to access points as possible to increase their accessibility and reduce tight manoeuvres.

Update comments from OCC Highways on the 28.8.2024: The increased separation distances between the stands is now acceptable.

#### 7.5. OCC STRATEGIC PLANNING: **Objection** -

*“OCC Estates have highlighted that the proposed bin store access would require agreement from Oxfordshire County Council and Activate Learning Education Trust.*

*To reiterate our previous strategic comments:*

*The applicant’s viability report concludes (page 21): “there is still no financial headroom for the scheme to afford to provide any affordable housing or pay any S106 contributions” OCC continue to maintain that the development would not be acceptable without the highway, education and waste management contributions detailed in our response dated 04/10/23.”*

#### 7.6. STRATEGIC HOUSING: No comments to make

#### 7.7. NHS/BOBICS: No comments received.

#### 7.8. CDC RECREATION AND LEISURE: Seek the following contributions:

- Community Halls: **£24,684,98**
- Outdoor Sports: **£64,544.96**
- Indoor Sports: **£18,026**
- Public Art: **£6,400**

#### 7.9. OCC ARCHAEOLOGY: **No Objections.** The OCC Archaeologist has commented that the proposals outlined would not appear to have an invasive impact upon any

known archaeological sites or features. As such, there are no archaeological constraints to this scheme.

7.10. OCC WASTE MANAGEMENT: **No objection** subject to a contribution of **£3,101** Household Waste Recycling Centre Contribution indexed from Index Value 327 using BCIS All-in Tender Price Index

7.11. OCC EDUCATION: No objection subject to the following contributions:

- Secondary School Education: **£132,948**
- Secondary School Land: **£12,200**

7.12. OCC ESTATES: Comments – *“The proposal provides for the collection of residents’ waste by opening up a new access onto the entry road used by schools and Bicester Leisure Centre off Queens Avenue. This is an unadopted, private access road, and agreement would be needed to gain side access from Waverley House for bin collection. The access road forms part of Oxfordshire County Council’s freehold estate and is subject to a lease to the Activate Learning Education Trust and rights of access for the schools and the Leisure Centre”.*

7.13. THAMES WATER: **No objection** subject to informative

7.14. CDC ECOLOGY: **No objection**, subject to conditions.

7.15. BICESTER BUG: Made the following comments:

- *The proposed parallel crossing alongside the existing zebra crossing should be delivered at the same time as the proposed development in order to assist cycle users across the crossing in the immediate term.*
- *In accordance with the Bicester LCWIP and LTN 1/20, there needs to be segregated cycling and pedestrian paths along the frontage of the development, and the route linking to the proposed parallel crossing alongside the existing zebra crossing. This may be done by way of a contribution to provide segregation in the future.*
- *The crossings over minor roads and access points, such as the entrance to the Bicester School and Leisure centre, should provide priority crossing for cycle users and pedestrians. This may also be done by way of a contribution to provide this in the future, along with the segregation works.*
- *The proposed cycle storage lacks detail of how the two-tier system will operate. The submitted design does not detail how much room users will have to operate the system in the space provided. The proposed capacity for one cargo bike and one inclusive space is also not suitable nor sufficient for a car free development of 33 dwellings, where the need for these spaces will exceed what is currently proposed – there needs to be capacity for at least 4 cargo bikes and at least 5 inclusive spaces, that can accommodate longer and wider than standard cycles and trailers. The inclusive cycle space is also located in the corner, with little turning space and behind the cargo bike space; these spaces should be located close to or opposite the door with easy access and wide turning space.*

7.16. THAMES VALLEY POLICE: **No objection**. Provided some suggested security measures/precautions.

7.17. CDC ARBORICULTURALIST. No objections, subject to condition .

The proposal details 21 total arboricultural features, requiring facilitative removal of 8. Of the 8, 5 are individual BS5837 category C, 2 are group category C, and 2 are individual category U. The proposed removal of low quality, or trees with only temporary amenity conforms with BS5837, and is evidenced as being appropriately scored within the submitted impact assessment.

The proposal retains all high category A and B features and references suitable methodologies which could be employed to incorporate them into the proposal. However, the report is very clear that due to facilitative works being required both within retained tree RPAs, and potentially above ground crowns, a full arboricultural method statement should be conditioned. I support the assessments made within the report however, may require further discussion with the project arboriculturalist during review of the method statement with regard to ground protection, proposed surface materials and working practices within RPAs.

I would like to request should the proposal be approved, a pre commencement arboricultural method statement be submitted for consideration.

Whilst only low category trees are proposed for removal, space on the northern side of the site would allow for replanting, I would like to propose a landscaping/tree planting scheme also be submitted for consideration.

7.18. CDC LANDSCAPE: No comments received.

7.19. CDC DRAINAGE: **No objection**

7.20. ENVIRONMENTAL AGENCY: 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 2015)

- PSD 1: Presumption in Favour of Sustainable Development
- SLE 4: Improved Transport and Connections
- BSC 1: District Wide Housing Distribution
- BSC 2: The Effective and Efficient Use of Land – Brownfield Land and Housing Density
- BSC 3: Affordable Housing
- BSC 4: Housing Mix
- BSC 10: Open Space, Outdoor Sport and Recreation Provision
- BSC 11: Local Standards of Provision – Outdoor Recreation
- BSC 12: Indoor Sport, Outdoor Sport and Recreation Provision
- ESD 1: Mitigating and Adapting to Climate Change

- ESD 2: Energy Hierarchy and Allowable Solutions
- ESD 3: Sustainable Construction
- ESD 4: Decentralised Energy Systems
- ESD 5: Renewable Energy
- ESD 6: Sustainable Flood Risk Management
- ESD 7: Sustainable Drainage Systems
- ESD 8: Water Resources
- ESD 15: The Character of the Built and Historic Environment
- INF 1: Infrastructure

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

- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- C31: Compatibility of proposals in residential areas
- ENV1: Environmental pollution
- ENV12: Potentially contaminated land
- TR1: Transportation funding

#### Other Material Planning Considerations

- National Planning Policy Framework (NPPF) (December, 2023)
- Planning Practice Guidance (PPG)
- Parking Standards for Cherwell Urban Area
- Cherwell Residential Design Guide Supplementary Planning Document (2018)
- Oxfordshire County Council Residential Road Design Guide (2003) - Second Edition (2015)
- Oxfordshire County Council Cycling Design Standards A guide for Developers, Planners and Engineers 2017
- Oxfordshire County Council Suds Policy
- Bicester Conservation Area Appraisal (2011)

## **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
- Affordable Housing
- Highways
- Ecology impact
- Sustainability
- Drainage
- S106 contributions
- Other matters

#### Principle of Development

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

- 9.3. The recently amended National Planning Policy Framework (NPPF) December 2023, which sets out the Government's planning policy for England and how this should be applied, is also a material consideration.

*Development Plan*

- 9.4. The Development Plan for this area comprises the adopted Cherwell Local Plan 2011-2031 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996 ('CLP 1996').
- 9.5. Policy PSD1 of the CLP 2015 states that when considering development proposals, the Council will take a proactive approach to reflect the presumption in favour of sustainable development contained in the National Planning Policy Framework. The policy continues by stating that planning applications that accord with the policies in this Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.
- 9.6. Policy BSC1 states that Cherwell District will deliver a wide choice of high quality homes by providing for 22,840 additional dwellings between 1 April 2011 and 31 March 2031. 1,106 completions were recorded between 2011 and 2014 leaving 21,734 homes to be provided between 2014 and 2031.
- 9.7. Paragraph E.10 of the Plan states, '*Housing delivery will be monitored to ensure that the projected housing delivery is achieved. The District is required by the NPPF and the NPPG (to maintain a continuous five year supply of deliverable (available, suitable and achievable) sites as well as meeting its overall housing requirement*'.
- 9.8. Paragraph E.19 of the Local Plan states, "*If the supply of deliverable housing land drops to five years or below and where the Council is unable to rectify this within the next monitoring year there may be a need for the early release of sites identified within this strategy or the release of additional land. This will be informed by annual reviews of the Strategic Housing Land Availability*".
- 9.9. Paragraph B88 of the CLP 2015 also highlights the importance of focusing development in and around the towns of Bicester and Banbury in order to ensure that the housing growth (which the District needs) primarily takes place in the locations that are the most sustainable and most capable of absorbing this new growth.
- 9.10. Moreover, Policy BSC2 of the CLP 2015 makes clear that housing developments in the district are expected to make effective and efficient use of land.
- 9.11. The Policy also encourages the re-use of previously developed land in sustainable locations, adding that new housing should be provided on net developable areas at a density of at least 30 dwellings per hectare unless there are justifiable planning reasons for lower density development.

*NPPF*

- 9.12. A key material consideration is the NPPF which sets out the Government's planning policy for England. The NPPF is supported by Planning Practice Guidance (PPG).
- 9.13. The 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.
- 9.14. So that sustainable development is pursued in a positive way, the NPPF includes a 'presumption in favour of sustainable development' (para. 10). Paragraph 11 states that applying the presumption to decision-making means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites), granting permission unless:
  - i. the application of policies in this framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;
  - ii. or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

9.15. The position in which the most important policies are considered to be out-of-date because of the absence of a five-year housing land supply is often referred to as the 'tilted balance'.

9.16. Paragraph 12 advises, '*The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.*'

9.17. Section 5 of the NPPF covers the issue of delivering a sufficient supply of homes and states, '*To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay*'.

9.18. Paragraph 76 highlights the need for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old (unless these strategic policies have been reviewed and found not to require updating as in Cherwell's case).

#### *Assessment*

9.19. The Council has a housing supply position of 5.8 years. This means that the relevant development plan policies are up to date and that development proposals must be assessed in accordance with the Development Plan. Whilst the NPPF states the requirement to have a 5-year supply is not a cap on development, the housing policies of the Development Plan are the starting point for decision taking and are afforded full weight. Notwithstanding these points, the delivery of homes across the district remains an important material consideration in the planning balance.

9.20. This site is in the right place for redevelopment. It is a very sustainable and accessible brownfield site located inside the urban area of Bicester town centre.

- 9.21. The front of the site faces Queens Avenue, a major road within Bicester. Immediately to front of the site is a bus stop served by route 26 which runs into Bicester Town centre and Bicester Village, on a half hour service.
- 9.22. The site is also within 12-minute walking distance and 3-minute cycling distance of Bicester North Train Station.
- 9.23. The building has been vacant since 2016 when it ceased to be used as a magistrates' court. Therefore, demolishing the building and introducing residential accommodation will breathe new life into the site.
- 9.24. Moreover, the proposal, because of its proximity (450m to the nearest town centre shop) will help bolster the vitality of the town centre facilities and provide much needed housing, particularly to those in need of 1 and 2 bed flatted accommodation (nb: a great number of houses in new build developments in and around Bicester are for 1, 2, 3 and 4 bed dwellings). Furthermore, the close proximity and easy access to town centre facilities often attract first time buyers as well as people 'downsizing', so these 32 apartments could be a really useful asset to two social demographics wishing to move to, or to remain, in the area. These are all planning benefits which need to be weighed in the planning balance.
- 9.25. It is also noteworthy that the Council, when assessing the previous residential application for this site, did not raise any objection to the principle of residential use of the site.
- 9.26. As with the previous application, I note that a number of people have written in to object/raise concerns over the loss of the building, as a potential community asset. Instead, their preference would be for the building to be retained and used as a community hall / Special Therapeutic School / music venue/GP Surgery/Reformed Church etc.
- 9.27. Whilst I appreciate and understand the motivation to retain and re-use the building for community purposes, planning applications for those concepts are not before the Council, and the Council is required to consider the application presented at the current time and to determine whether this proposal is acceptable in planning terms.
- 9.28. Alternative uses of the site would have different implications in terms of highway movements / parking, noise levels and potential disturbance on the local residents. There is no detailed information provided and, therefore, these ideas cannot be considered as part of this application. The Council is required to determine the application before it and must not compare the proposal against a hypothetical alternative use which is not before this Committee.
- 9.29. Therefore, for the reasons set out above, is compliant with Policies PSD1, BSC1 and BSC2 of the CLP 2015 and the NPPF.

### Design

- 9.30. The NPPF confirms that the Government attaches great importance to the design of the built environment, and notes 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. Planning policies relevant to design are set out in the Policies C28 and C30 of the CLP 1996, Policy ESD15 of the CLP 2015 and section 12 of the NPPF.



- 9.31. The National Design Guide (September 2019) is also pertinent and explains (using case studies and examples of good practice) how the Government's expectations for high quality design can be delivered.
- 9.32. Saved Policies C28 and C30 of the CLP 1996 exercise control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context. New housing development should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 9.33. 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 ensuring a high-quality design.
- 9.34. Section 12 of the NPPF is clear that good design is a fundamental to what the planning and development process should achieve. Paragraph 135 of the NPPF states that planning decisions should ensure that developments:
- *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
  - *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
  - *are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change*
- 9.35. This proposal represents a significant improvement on the existing situation on site (and the earlier appeal scheme). It would replace the 1950's building with a building that is sharper and more detailed. The elevational detailing of the proposed building is contemporary in nature but, through the use of red bricks, the appropriate siting and scale, it would relate well to the neighbouring civic buildings.
- 9.36. A key characteristic of Queen's Avenue, which connects King's End Character Area with North Street Character Area, is the wide thoroughfare. The four civic buildings (the application site, the adjacent former Police Station, the Fire & Ambulance Station and the former Civic Defence Training Centre, now the Redeemed Christian Church of God) on the western side of the road, with their significant setbacks, offer a sense of spaciousness, which contribute positively to the character and distinctiveness of this road. They also offer a uniform building line.
- 9.37. This proposal would retain that sense of spaciousness and the uniform building line because it would not project forward of the building line of the current building. The proposal seeks to draw reference from adjoining civic buildings to provide continuity, but at the same time provide some identity of its own. Some profiled edging of brickwork, a variety (4) of red brick colours and differing protruding bricks will add texture and shadowing affects and greater depth than the existing building experiences. The use of metal copper surrounds on the front and side (north facing) windows, and the main entrance, accentuate the building features and add interest.
- 9.38. The existing building and the neighbouring former police station both currently have handsome entrances, framed by stone surrounds (layered in the case of Waverley House). The entrance to this proposal has been revised from the first submission to pay homage to that 1950s civic entrance style and is a welcome addition and an important reference to the past.

9.39. The previous appeal proposal, Officers believe, got the materials (which included natural stone and white render) and scale (3,958sqm) wrong as well as the siting. In the Council's Statement of Case Officers observed:

*"the proposal would be of a height, bulk and form that would be wholly disproportionate and of a scale inappropriate to its context. Whilst there is a three-storey building (The Technology Studio) to the rear (west) of the appeal site, it does not have the same scale and massing, and it is not in such a prominent position. There is also a certain irony that the current building, which was designed to emulate the neighbouring former Police Station, is now proposed to be demolished and replaced by a building that would completely undermine the former police station building, in terms of scale, siting and materials.*

*"The siting of this appeal scheme, so close to Queens Avenue, where most of the properties are two storeys, would have a dominating affect and would be keenly felt by people using this route. It would also read as being a tightly packed development with little room for a meaningful landscaping scheme to breathe and give any relief. This is a scheme which would break new ground in the local context and would exceed the height, scale and massing of any comparable building in the context in which the building would be experienced."*

9.40. The Inspector, in paragraphs 11 to 15 of his decision letter, reached the same conclusions that the Council had. He wrote:

*11. Variety does not necessarily lead to harm. Whilst the contemporary style design of the proposed building, making a clear distinction between the original building and the new addition, has some merits, the scale and massing of the proposed building would nevertheless be substantial in this location. Although set back from the boundaries and set down at roof level, the overall scale and massing of the proposed building would be significantly larger than the existing building on the site and would be positioned in closer proximity to the front and side boundaries of the site than the existing building. Such positioning would compromise the sense of space and openness and interrupt the established pattern of development in this particular location.*

*12. These shortcomings would be exacerbated by the proposal's prominent corner position which would be visible from a number of public vantage points along Queens Avenue. The position of the proposed building in close proximity to the boundaries, in particular along the northern boundary overlooking the access along Queens Avenue to the schools and leisure centre at the rear of the site, would be particularly prominent and provide limited opportunity to soften the impact of development through a comprehensive landscaping scheme. The use of contrasting materials contributes to the overall scale of the building, giving it particular prominence in relation to its surroundings.*

*13. I therefore consider that the proposed development, by virtue of its scale, layout and design, would fail to promote or reinforce the distinctive characteristics of the area and would adversely harm rather than positively contribute to the character and appearance of the area.*

*14. I have considered the appellant's arguments that the design and layout of the proposed building have been carefully considered in order to provide an innovative design solution to the development of the site and to minimise any impacts on the adjacent properties and the area. However, whilst the use of locally used materials and fenestrations together with the landscaping and the boundary treatment would assist in integrating the proposal with the area, these aspects do not overcome the adverse effects outlined above.*

15. *Given the location of the appeal site within the setting of the CA, special attention has to be paid to the desirability of preserving or enhancing the character or appearance of the area. Similarly, a balanced approach is required to assess the effect on the setting of the locally listed building at the Police House as a non-designated heritage asset, in accordance with the National Planning Policy Framework (the Framework). I consider that the appeal scheme, by virtue of its scale, layout and design would have a negative material impact and would fail to preserve or enhance the setting of the CA and would harm the setting of the adjacent locally listed building.*

9.41. Although this proposal would be three stories high (and therefore taller and larger than the historical size and scale of Waverley House) its roof line would be broken up and varied, so it would not appear as one unbroken mass (another problem with the appeal scheme), and, Officers conclude, it would sit very well with the neighbouring former police station building.

9.42. Officers also note that this proposal would have a footprint that is approximately 1363sqm smaller than the appeal proposal. The scale is now far more in keeping with the existing situation and the applicants have got the balance right of making efficient and effective use of the site whilst not undermining the integrity of the area. The height and scale would be comparable with Bicester School and Bicester Leisure Centre behind. Finally, the use of reveals, with a minimum depth of 1000mm, (secured by condition) would add further depth and character to the proposed building; they will make it appear slimmer.

9.43. The proposed bin store, with its red tiled roof and red bricks, is in keeping with the former Police Station next door and the two other civic buildings. It would be a single storey building which is fairly low key in appearance and one that is well screened from Queens Avenue access road, and from the main road.

9.44. Paragraph of the applicants' Arboricultural report advises that the proposal would result in the loss of seven trees,

9.45. Paragraph 8.14 then adds:

*"The proposed individual and groups of trees for removal are confined to category C and U (low quality) features set within the confines of the Site and which are largely obscured from view beyond the Site boundaries. As such, their removal will have minimal impact on the amenity value and scene of the wider surrounding area."*

9.46. Following an inspection of the site, Officers would agree with that statement. Moreover, the Council's Arboriculturist has raised no objections subject to a pre commencement arboricultural method statement being secured via condition.

9.47. Overall, the shortcomings of the appeal scheme have now been overcome and a far more responsive and sensitive development which references the past has been found.

### Heritage

9.48. Policy ESD15 of the CLP 2015 makes it clear that new development to, or near, non-designated heritage assets, should:

*"Conserve, sustain and enhance designated and non-designated 'heritage assets' (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG. Proposals*

*for development that affect non-designated heritage assets will be considered taking account of the scale of any harm or loss and the significance of the heritage asset as set out in the NPPF and NPPG.”*

9.49. Paragraph 209 of the NPPF states that *“the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”*

9.50. Officers are sympathetic to the objectors who have written requesting that this building is retained. In paragraphs 8.3 to 8.5 of the Council’s Statement of Case for the appeal scheme, it was written:

*“The demolition of the existing building would result in material harm to a Non-Designated Heritage Asset which is of historical and communal importance to the local context (further details on this point are set out in Jennifer Ballinger’s Conservation Statement in Appendix CDC2).*

*Considered in isolation, the existing building has a pleasant appearance, but is not remarkable. Its significance lies in its grouping with the other three civic buildings, reflecting the period in which they were erected (the 1950s). These buildings, and their siting, were designed to invoke the attitudes and ideals of that period.*

*The existing building’s prominent position and general appearance, along with the civic campus it is part of, generates a sense of history and community tradition and, for this reason it should be seen as a heritage asset that continues to form a valued component of the local environment. Its removal would undermine a long-standing association of civic development in the immediate locality which is why the Council’s view is that its retention would be preferable to its replacement.”*

9.51. The Inspector, however, took a contrary position and in paragraph 30 of his decision letter, he stated that because he had concluded that the significance of the building is low, *“the weight to be afforded to the harm resulting from its loss is also low.”* His decision letter is a material consideration, and, on this basis, Officers accept that the principle of the demolition of this building is now acceptable.

9.52. Moreover, in the next paragraph of his decision letter (31), the Inspector commented that the *“existing appeal building currently has a neutral material impact on the significance of the setting of the CA. As such, I consider the demolition and loss of the appeal building in its own right would preserve the setting of the CA.”*

9.53. A further material consideration is that subsequent to the appeal decision, the applicants have gone through the Prior Approval process and established that the building can be demolished without planning permission. This is a legitimate fallback position and significant weight should be attached to it.

9.54. In light of these material considerations, the demolition of Waverley House is considered to be acceptable.

#### Residential Amenity

9.55. The NPPF identifies, as a core planning principle, that planning should always seek a high quality of design and a good standard of amenity for all existing and future occupants of land and buildings.

- 9.56. Saved Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2015 which states, amongst other things, 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.
- 9.57. Given the significant separation distance (approximately 35m) between the proposed residential units in the closest residential buildings on the other side of Queens Avenue, and the significant mature tree coverage outside the site which is being retained, the proposal is unlikely to result in the loss of daylight/sunlight, privacy or overbearing impact on the occupiers of those properties.
- 9.58. All of the new residential accommodation satisfies the space standards set out in the Department for Communities and Local Government's (DCLG's) Technical Housing Standards -Nationally Described Space Standard" (2015). Fifteen of the flats would benefit from dual aspect windows enabling natural cross-ventilation and good levels of amenity for their occupants. The remaining flats will all be served by multiple large horizontal windows. Each flat would also benefit from having its own private balcony.
- 9.59. A small hard and soft landscaped private amenity area is proposed to the rear of the building and, if landscaped well, could be a pleasant feature and experience for the residents.
- 9.60. The Council's Environment Protection Officer has also, subject to conditions, raised no objection from an air quality, noise or light perspective. For these reasons, the proposal accords with Policies C30 and ENV1 of the CLP 1996 and Policy ESD15 of the CLP 2015.

#### Affordable Housing

- 9.61. The Council is acutely aware that housing delivery is a top planning priority for England, and it shares the Government's objective of increasing housing delivery. House prices are arguably one of the most significant issues facing the South East and there is also a significant need for affordable housing in Bicester: it experiences homelessness and a reliance on temporary accommodation, and the market sales and rental prices are high.
- 9.62. Therefore, it is of very great importance that affordable housing, where a scheme is viable, is delivered as part of all major residential developments in Bicester, either on-site or through an off-site contribution.
- 9.63. This approach is in line with the Government guidance set out in paragraph 64 of the NPPF. This paragraph states that "*where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site unless:*
- a. *off-site provision or an appropriate financial contribution in lieu can be robustly justified; and*
  - b. *the agreed approach contributes to the objective of creating mixed and balanced communities.*
- 9.64. Paragraph 66 of the NPPF also makes it clear that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly

prejudice the ability to meet the identified affordable housing needs of specific groups.

9.65. In this instance, 10% affordable home ownership would not exceed the level of affordable housing in Bicester and would, instead, contribute to reducing the shortfall in affordable housing provision.

9.66. This need for affordable housing in Bicester is why Policy BSC3 of the CLP 2015 requires residential development with 11 dwellings or more, in 'Bicester', to deliver 30% affordable housing provision. That would equate to 9.6 affordable housing units on site, in this case.

9.67. However, in this instance, Vacant Building Credit (VBC) applies which reduces the amount of affordable housing required from the development from 9.6 affordable houses down to 6.6 affordable houses.

9.68. The NPPF addresses VBC in just one paragraph in the whole document: paragraph 64. This paragraph states that:

*"Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount 31"*

9.69. The policy intention and practical application of VBC is set out in the PPG:

*"The policy is intended to incentivise brownfield development, including the reuse or redevelopment of empty and redundant buildings. In considering how the vacant building credit should apply to a particular development, local planning authorities should have regard to the intention of national policy."*

9.70. The PPG explains the process for determining VBC:

*"Where there is an overall increase in floorspace in the proposed development, the local planning authority should calculate the amount of affordable housing contributions required from the development as set out in their Local Plan. A 'credit' should then be applied which is the equivalent of the gross floorspace of any relevant vacant buildings being brought back into use or demolished as part of the scheme and deducted from the overall affordable housing contribution calculation. This will apply in calculating either the number of affordable housing units to be provided within the development or where an equivalent financial contribution is being provided. The existing floorspace of a vacant building should be credited against the floorspace of the new development. (4)"*

9.71. Although the NPPF/PPG do not set 'criteria', they pose a number of questions:

1. There must be a building.
2. It must be vacant.
3. The building must not be abandoned.
4. The floorspace of the vacant building should be calculated.
5. Whether the building has been made vacant for the sole purposes of redevelopment.
6. Whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development

9.72. For completeness, the worked calculation for this scheme is:

<p>Proposal: Housing development of 32 dwellings</p> <ul style="list-style-type: none"> <li>• <b>Affordable housing requirement:</b> 30% (for a site in Bicester)</li> <li>• <b>Proposed Gross Internal Floor Area (GIA):</b> 2,595sqm</li> <li>• <b>Existing Gross Internal Floor Area (GIA):</b> 833sqm</li> </ul>		
<b>Step 1</b>	Calculate the affordable housing contribution based on the total number of eligible dwellings and the affordable housing percentage required by the Council's affordable housing planning policy (e.g. 30% for Bicester sites)	Affordable housing contribution 32 units x 30% = <b>9.6 units</b>
<b>Step 2</b>	Calculate the amount of existing floorspace, if any, as a proportion of the proposed floorspace of the development: $E/P \times 100$ (where E = existing floorspace and P = proposed floorspace)	$833 \text{ sqm} / 2595 \text{ sqm} \times 100 = \mathbf{32\%}$
<b>Step 3</b>	Calculate the amount of affordable housing credit: Affordable housing units (Step 1) x Proportion of proposed floorspace that is vacant (Step 2)	$9.6 \text{ units} \times 32\% = \mathbf{3 \text{ units}}$
<b>Step 4</b>	Deduct the affordable housing credit from the policy compliant affordable housing contribution: Affordable housing units (Step 1) – Affordable housing credit (Step 3)	$9.6 \text{ units} - 3 \text{ units} = \mathbf{6.6 \text{ affordable homes (to be delivered on-site)}}$

9.73. I accept that the VBC formula should be applied to this application because:

1. There is a building.

2. It is vacant.
  3. It has been vacant for 8 years which is not long enough to constitute an abandoned building.
  4. As the proposal will be re-using brownfield land the existing floorspace should be calculated
  5. The building was made vacant when it stopped being used as a Magistrates Court and Homes England bought the property before selling it to the applicants, three years later. This means it was not contrived for the building to become vacant for the purposes of this re-development proposal.
  6. There are no extant planning permissions associated with this site.
- 9.74. On this basis, the affordable housing percentage has been reduced from 30% down to 20.6%, which equates to an affordable housing requirement of 6.6 units.
- 9.75. Notwithstanding this, policy BSC3 of the Local Plan, in line with Government guidance, allows for applicants in the district to submit an 'open-book' viability assessment, where the viability of the scheme is a concern.
- 9.76. Paragraph 6 of policy BSC3 also allows for a reduced amount of affordable housing to be delivered if it is demonstrated that the viability of a scheme would be compromised through affordable housing provision. It states:
- "Where development is demonstrated to be unviable with the affordable housing requirements, further negotiations will take place. These negotiations will include consideration of: the mix and type of housing, the split between social rented and intermediate housing, the availability of social housing grant/funding and the percentage of affordable housing to be provided."*
- 9.77. This part of policy BSC3 is triggered in this instance because the applicant has raised concerns over their ability to provide affordable housing either on site, or through an off-site affordable housing contribution. They submitted a viability appraisal (written and prepared by RCA) which concluded that due to current day construction costs the scheme would be unviable with a 100% market housing scheme based on RICS accepted practice of 15.5% to 20% developer profits.
- 9.78. The Council sought an independent review of this viability appraisal and instructed Pathfinder to undertake this work. Pathfinder reached the same conclusion as RCA which is that the proposal is currently not in a position to provide *any* affordable housing.
- 9.79. It should be noted that the property market has experienced significant changes (in house prices and build costs) in recent years. Therefore, the viability of a scheme may be notably different by the time it is implemented, due to uncertainties in relation to aspects of a viability assessment at the application stage, and the potential for changes to market conditions.
- 9.80. In view of the changeable nature of the property market, the practice of reviewing development viability to ensure that proposals are based on an accurate assessment of viability (at the point of delivery or once an agreed percentage of market housing has been sold) has become well established across the country.
- 9.81. Moreover, given the pressing need for affordable housing in Bicester, it is vital that the Council tries to ensure that the appropriate amount of affordable housing is provided in line with Policy BSC3. It is on this basis that Officers informed the applicant that a viability review mechanism should be included in the Section 106 Agreement.



The applicant has agreed to having a viability review mechanism in the S106 Agreement.

- 9.82. The absence of any certainty of affordable housing provision, either on or off-site, is a shortcoming of the scheme and weighs against it in the planning balance.

### Highways

- 9.83. Paragraph 114 of the NPPF states that in assessing specific applications for development, it should be ensured that:

- a. appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b. safe and suitable access to the site can be achieved for all users;
- c. the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and
- d. any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

- 9.84. In addition, paragraph 115 highlights that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 9.85. Policy ESD15 of the CLP 2015 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.”*

- 9.86. The proposal seeks to retain the existing single access point from Queens Avenue. The replacement building, as with the existing building, will be set back from Queens Avenue by 19.2m. This allows for the safe provision of 12 visitor parking spaces, delivery vans and taxi drop offs.

- 9.87. The applicants’ proposal is for the scheme to be a car free development due to its central location close to Bicester Town centre. In principle this would mean there will be significantly less strain on the local road network than most residential developments.

- 9.88. The site is very well placed for access to shops, restaurants, entertainment, and leisure facilities. Public transport links are many and easily reached (bus stop directly outside the front of the site: route 26 to Bicester Village), the site is within 12 minutes walking distance to Bicester North train station, with links to London, and regular bus service to Bicester Village Station and its train links to Oxford and London.

- 9.89. For urban living with all the amenities that follow, this area scores very highly making it a prime location for sustainable residential development. Therefore, this would be the preferable location for a proposed car free development.

- 9.90. In order to help deliver this car free concept, the proposal would provide a significant level of cycle parking spaces inside the building: 64 cycle bays, 1 cargo bay and 1 inclusive bay. Whilst this is well below the amount that OCC Highways are seeking (145 bays, and I note their objection), it equates to an average of 2 cycles spaces per

flat. Given the proximity to the public transport and town centre amenities, I think this would be an acceptable level of cycle provision because not every resident will own or require a bike and some may even store their bikes in their apartments. OCC had also objected on the grounds that there was not enough separate distance between the cycle bays<sup>1</sup>. This has now been addressed and the separation distance has been increased from 1.5m to between 2.375m and 3.175m.

9.91. Despite the significant viability issues with the scheme, the applicants have indicated that they are prepared to reduce their profit level and pay the OCC Highways contribution of **£46,880** (to be secured through a s.106 agreement). This money will be spent on:

- Continuous footways (£20,000 each)
- 43 meters of new traffic-free routing across the property frontage (£160 per meter)

9.92. These works would help OCC Highways develop an active transport corridor along this part of Bicester to encourage walking and cycling.

9.93. Paragraph 8 of the applicants Transport Statement also proposes to convert the existing zebra crossing into a parallel crossing. OCC Highways are comfortable with this proposal and request that it is secured via a s278 agreement.

9.94. Officers had concerns that a car free development would be difficult to achieve in practice. Several of the third party consultees also raised concerns that the proposal would have the potential for on-street parking on Kingsclere Road and Queens Court and increased congestion.

9.95. In response to these concerns, the applicants have prepared and submitted a Parking Management Strategy (March 2024). This document sets out a number of measures to ensure that car ownership of the future occupiers will be very limited. For the ease of reference, the key measures would be:

- *The lease agreement for residents will state that car ownership is not permitted and residents parking on site is not permitted.*
- *Provide a Car Park Guide to all residents. The guide will state that the parking of residents cars on site is not permitted. Parking is provided for visitors and operational uses only. The Car Park Guide would include a map of parking options in Bicester (attached). The parking of cars on Queens Court (opposite the site) is not permitted. The Car Park Guide would invite residents of each apartment to provide details of two visitor cars for approval in using on-site visitor spaces. Review annually and manage updates.*
- *The developer would provide a contact number for the management company to a representative of Queens Court. Therefore, if residents at Queens Court become aware of intermittent or regular parking by residents of the development on the cul-de-sac then an official line of complaint is available and the appropriate action can be taken.*
- *Automatic Number Plate Recognition technology will be installed. Therefore, all vehicles on-site are recorded and can be cross-referenced with authorised*

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<sup>1</sup> LTN 1/20 states that the length of a standard cycle is approximately 1.8m. Therefore there should be a minimum of 2.0m -2.5m of space between the cycle racks, so that there is adequate space to store / remove cycles.

*vehicles. Short stay of unauthorised vehicles (e.g., amazon deliveries) will be permitted.*

9.96. The applicants will also:

- *provide a cycle voucher for use at Broadribb Cycles, Bicester. A resident (one person per apartment) can use the voucher to receive 25% off the purchase price up to a maximum of £250 (purchase price of up to £1,000). The voucher can be used for cycle repairs, purchase of a new bicycle and accessories. An example voucher is attached to this statement.*
- *provide a Travel Pack for all apartments. The Travel Pack would raise awareness of travel options apart from the private car. The Travel Pack highlights the health benefits in sustainable travel as well as providing information on cycling, buses and rail travel. A draft Travel Pack has been submitted as part of the planning application documents and would be updated and expanded in the event that planning permission is secured.*

9.97. Moreover, the applicants have agreed to a condition that requires a further, more detailed Parking Management Plan to be submitted prior to the first occupation of the development. This document will provide more precise details, for example, specifying the appropriate person/management company who shall be contacted.

9.98. For the reasons above, I believe the car ownership for the scheme would be very low indeed. A big concern of Members previously (and upheld by the Inspector in the recent appeal case) was the insufficient provision of visitor parking bays. This has been more than addressed through this proposal with 5 more visitor parking bays being provided than required. Whilst the OCC Highways Officer would like to see a greater level of cycle bay provision, he has raised no objections to the proposal on highways safety grounds.

9.99. One final point regarding highway safety, I note that it is proposed to locate the bin storage building near to the northern corner of the site so that it can be picked up along the Queens Avenue access road, a road which leads to St. Mary's Roman Catholic Primary School, Bicester Leisure Centre and Bicester Community College.

9.100. This works best from a visual and practical perspective because it simultaneously allows the site to retain its large open frontage and it also avoids the need for refuse vehicles to stop along the main part of Queens Avenue.

9.101. The Council's Waste & Recycling Officer has no objections to this proposed arrangement. The OCC Estates officer has commented that this section of Queens Avenue is not an adopted section of highway, because whilst it is owned by Oxfordshire County Council, it is leased to Activate Learning Education Trust who allow rights of access for the schools and the Leisure Centre. Therefore, the applicants, outside of the planning system, will need to liaise with the Activate Learning Education Trust.

9.102. During the previous appeal scheme, the Council's Waste Team advised that this would not be an issue in that the schools and the leisure centre all have refuse collected from unadopted roads and therefore this site would be no different. NB: I have sought clarity on this matter and will provide a further update at Planning Committee.

9.103. In short, the proposal complies with Policies ESD1 and ESD15 of the CLP 2015 and the NPPF.

## Ecology

- 9.104. Paragraph 180 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.
- 9.105. Paragraph 186 states that when determining planning applications, local planning authorities (LPAs) 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.
- 9.106. Paragraph 191 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.
- 9.107. Policy ESD10 of the CLP 2015 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.
- 9.108. 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.
- 9.109. 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.
- 9.110. The PPG 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 LPAs 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*

- 9.111. The applicants' updated Ecology Appraisal confirmed that the existing building on site has a bat roost. However, due to the amount of time lapsed since the most recent bat activity surveys, the Council's Ecologist requested that the applicants provide an updated emergence/re-entry surveys.

9.112. The applicants then submitted a Bat Roost Characterisation and Mitigation Report (dated 25 March 2024), prepared by Wharton Natural Infrastructure Consultants. This report concludes that the mitigation measures should include:

- *the provision of one Habitat bat box (or similar), have been to ensure that the favourable conservation status of the species*
- *roosting at the Site is maintained upon completion of the Proposed Development.*
- *A lighting scheme should be designed in accordance with current guidance on bats and lighting (ILP, 2018) to ensure no long-term adverse effects to bat roosts. Lighting detail may be secured through an appropriately worded planning condition.*

9.113. The Council's Ecologist confirmed that the proposed mitigation (to be secured by condition) is sufficient.

9.114. Returning to the Updated Ecology report, Section 4 of this document recommends that the following safeguarding measures should be followed:

- vegetation clearance outside breeding bird season
- precautions for mammals (backramps in excavations, covering piperwork etc)
- An invasive species eradication plan
- A lighting design for biodiversity
- All trees and hedgerows should be protected during construction. Any trees or hedgerows being removed to facilitate the development should be replaced at a 2:1 ratio (this would be mitigation/compensation, not enhancement).

9.115. The Biodiversity Net Gain of the proposal is not known at this stage. Section 4 of the Updated Ecology Appraisal advises that an Ecological Enhancement Plan (EEP) is produced once plans of the Proposed Development have been finalised to assess how the Site can be enhanced for biodiversity. Accordingly, this would be secured by condition. Therefore, subject to appropriate conditions this proposal complies with Policies ESD10 and ESD11 of the CDL 2015 and the NPPF.

### Sustainability

9.116. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 150 states that new development should be planned for in ways that:

- a) *avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and*
- b) *can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards.*

- 9.117. Paragraph 151 continues by stating, amongst other things, that *in order to help increase the use and supply of renewable and low carbon energy and heat, plans should:*
- c) *identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.*
- 9.118. Policy ESD1 of the CLP 2015 covers the issue of Mitigating and Adapting to Climate Change and includes criteria under which application for new development will be considered. Included in the criteria is the requirement that development will incorporate suitable adaptation measures to ensure that development is more resilient to climate change impacts. These requirements will include the consideration of, *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 (through the provision of green infrastructure including open space and water, planting, and green roofs).*
- 9.119. Policy ESD2 covers the area of Energy Hierarchy and Allowable Solutions. This policy seeks to achieve carbon emissions reductions, where 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.* Any new development will be expected to take these points into account and address the energy needs of the development.
- 9.120. Policy ESD3 covers the issue of Sustainable Construction and states amongst other things 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 in line with Government policy.*
- 9.121. The Policy continues by stating that *Cherwell District is in an area of water stress and as such the Council will seek a higher level of water efficiency than required in the Building Regulations, with developments achieving a limit of 110 litres/person/day.*
- 9.122. The Policy also makes clear that *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.*
- 9.123. The applicants' Energy Statement (prepared by Falcon Energy Limited) advises that the building would be fitted with an Air Source Heat Pump system and a Ground Source Heat Pump system would also be installed. It is also proposes the use of Solar photovoltaic (PV) technology which is a semi-conductor-based technology that

converts the energy in sunlight into electricity. It recommends that 165 solar panels are installed on the hipped roof of the main part of the building. This would generate 61.05 kWp for the site.

- 9.124. The Energy Statement concludes that these sustainability measures, along with the fact that the built form would be constructed to an improved fabric with better insulation, would yield a 69.58% reduction over the Part L SAP 10 standard.
- 9.125. Based on the above points it is considered that the applicants have demonstrated that the proposal would comply with the requirements of Policies ESD1, ESD2 and ESD3 of the CLP 2015

#### Drainage

- 9.126. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraphs 173 of the NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that: a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location; b) the development is appropriately flood resistant and resilient; c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate; d) any residual risk can be safely managed; and e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
- 9.127. Paragraph 173 of the NPPF continues by stating that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should: a) take account of advice from the lead local flood authority; b) have appropriate proposed minimum operational standards; c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and d) where possible, provide multifunctional benefits.
- 9.128. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.
- 9.129. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.
- 9.130. The site is located wholly within Flood Zone 1 which is land that has a less than 1 in 1,000 annual probability of river flooding. Notwithstanding this the applicant has provided a surface water drainage strategy in support of the application.
- 9.131. The building will make use of the existing foul sewer connection into Queens Street and will need to confirm there is sufficient capacity with Thames Water.
- 9.132. The proposed surface water drainage strategy is an attenuated discharge to the off-site Thames Water sewer. In the Flood Risk Assessment, it is quoted that Thames Water have stipulated a maximum discharge to which the developer's on-site drainage has been designed.

- 9.133. Both the Local Lead Flood Authority Officer and Thames Water have raised no objections to the proposal.
- 9.134. Similarly, OCC Flood Officer raised no objections on the basis that the approved drainage system shall be implemented in accordance with the approved Detailed Design (BMC-LE-GEN-XXRP-CE-FRA01 FLOODRISKASSESSMENT REVB).
- 9.135. Therefore, this aspect of the proposal complies with ESD6 and ESD 7 of the CLP 2015 and the NPPF.

#### S106 Contributions

- 9.136. The use of planning obligations to address the impact of development and ensure they are acceptable in planning terms is well established in legislation and national, regional, and local planning policy. The NPPF and Swale Borough Council's Local Plan both recognise the importance of addressing the impacts of development and having effective mitigation in place to ensure that development can be accommodated sustainably.
- 9.137. The Council is keen to ensure that new development (particularly much-needed housing) continues to be delivered, as detailed in its Local Plan and the emerging Local Plan Review. However, new development of this scale and size, which adds to the residential population, places significant additional pressure on the local environment, infrastructure, and public facilities. The Local Plan and Local Plan Review not only sets out plans for the delivery of development but also provides the basis on which development can be delivered sustainably, and in a way that respects environmental limits and resident's quality of life.
- 9.138. In line with this, the Council's Developer Contributions SPD (2018) details requirements required from new development to mitigate impacts associated with development.
- 9.139. The total contribution required to mitigate the impacts of this development is **£291,205.08**
- Highways Works Contribution **£46,880**
  - Bins: **£3,006.72**
  - Secondary School: **£132,948**
  - Secondary School Land Contribution: **£12,200**
  - Outdoor Sports: **£64,544.96**
  - Indoor Sports: **£18,026**
  - Public Art: **£6,400**
  - OCC Monitoring fee: **£4,700**
  - CDC Monitoring Fee: **£2,500**

- 9.140. As discussed in the affordable housing chapter, the viability constraints of the scheme is a material consideration. The advice I have received from Pathfinders, who independently reviewed the applicant's RCA Viability appraisal, sales prices have not kept pace with construction and labour costs post the pandemic and presently, the scheme cannot afford to pay any of the contributions when applying the RICS accepted level of profit between 15.5% and 20%.



- 9.141. Notwithstanding this, the applicants have said that by substantially lowering their profit margin to 2%, there would be enough money in the pot to pay the Highways Works Contribution and the Bins contribution.
- 9.142. The fact that the development will not, at this stage, be able to fully mitigate its own impacts weighs is a concern and weighs against the scheme in the planning balance. However, the applicants have agreed to a viability review mechanism in the s.106 agreement which means that, in the event that the development becomes more viable, further monies will be secured for the remaining infrastructure mitigation measures.

Other Matters

- 9.143. Whilst Officers note the concern of Thames Valley Police (TVP) that the size of the bin storage area might potentially be too big, Officers do not believe it is oversized and would meet the requirements of the residents’ waste and needs. Other matters raised by TVP such as the need for automatic closers for the bin stores, cycle storage security, landscaping and lighting plans can be dealt with by condition or informative. The suggestion that merged cores should be removed from the development is not considered appropriate as they are a building regs requirement

**10. PLANNING BALANCE AND CONCLUSION**

- 10.1. A key objective of the planning system is to bring forward development that is appropriate and in the right place. This is made clear in the NPPF, which states that there should be a presumption in favour of sustainable development.
- 10.2. The site is well-placed for a redevelopment of this scale – it is a sustainable and accessible Brownfield site in a residential area with strong transport connections.
- 10.3. As a piece of architecture, the proposal derives from the best of its context and would improve the character and appearance of the area.
- 10.4. The proposed use would also add to the vitality of the town centre and Bicester housing market and provide more choice for first time buyers and those wanting to downsize. It will also be a development that is not car dependent.
- 10.5. There are disbenefits of the proposal which weigh against the scheme: the absence of affordable housing provision or leisure, education and public art developer contributions, in the first instance, due to viability constraints. That is a shortcoming albeit one that can potentially be improved upon through the viability review mechanism. Therefore, in this context, the harm does not outweigh the benefits, in this specific location.
- 10.6. In summary, the proposal would transform an underused site into an important and valuable piece of townscape, and the delivery of this scheme would be consistent with the broad aims of the NPPF and its presumption in favour of sustainable development.

**11. RECOMMENDATION**

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

**I. THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND**

**II. 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, (AND ANY AMENDMENTS AS DEEMED NECESSARY):**

**FURTHER RECOMMENDATION: IF THE SECTION 106 AGREEMENT / UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED, AND, NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:**

**In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and contrary to Policy INF1 of the adopted Cherwell Local Plan 2011-2031 Part 1, CDC Planning Obligations SPD 2018 and Government guidance contained within the NPPF.**

**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 application form and following approved plans:

Site location Plan PA 100; Existing Site Plan PA 101; Existing Ground Floor Plan PA 102; Existing First Floor Plan PA 103; Existing Roof Plan PA 104; Existing Elevations 1 PA 105; Existing Elevations 2 PA 106; Proposed Site Plan PA 107 Rev A; Cycle Store Plan PA 119 Rev B; Proposed Ground Floor PA 108 Rev B; Proposed First Floor Plan PA 109 A; Proposed Second Floor Plan PA 110 A; Proposed Roof Plan PA 111 A; Proposed Elevations Plan 1 112 A; Proposed Elevations Plan 2 PA 113 A; Updated Preliminary Ecology Report (Sep 2023); Bat Roost Characterisation Report and Mitigation Plan (March 2024); MEC - Acoustics Assessment (August 2023) - 25944-ENV-0402; Energy Statement (August 2023); BMC-LE-GEN-XXRP-CE-FRA01 FLOODRISKASSESSMENT REV B

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

**Materials**

3. No development of the building and associated structures above slab level, with the exception of underground enabling works, shall take place until samples including sample panels of the materials to be used in the construction of the external surfaces has been prepared on site for inspection and approved in writing by the Local Planning Authority. The samples and panels shall be at least 2.5m x 2.5m and show the proposed palette of materials (including plant screening, metal cladding, brickwork/masonry, etc.) to be used in the development. The development shall be constructed in accordance with the approved samples, which shall not be removed from site until the completion of the development.

Reason – To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011–2031 Part 1, Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Window Reveals**

4. Details of the window reveals which shall be a minimum of 150mm deep, shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the development above slab level. The development shall thereafter be completed in accordance with the approved details.

Reason – To ensure that the windows are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011–2031 Part 1, Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Ecology/Nesting Season**

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

Should work be required in the nesting season, a pre-works nesting bird check will be required to ensure no nesting birds are present. An Ecological Clerk of works will be required to supervise any vegetation clearance within the nesting bird season (March to July inclusive) and works will adhere any measures to protect the nesting bird interest on the site as required.

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

#### **Ecology/Protected Species**

6. Prior to, and within two months of, the commencement of the development, the site shall be thoroughly checked by a suitably qualified ecologist to ensure

that no protected species, which could be harmed by the development, have moved on to the site since the previous surveys were carried out. Should any protected species be found during this check, full details of mitigation measures to prevent their harm shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved mitigation scheme.

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

### **Ecology Appraisal**

7. The development hereby permitted shall be carried out in accordance with the recommendations set out in Ecological Appraisal by Wharton dated September 2023 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect habitats and/or species of importance to nature conservation from significant harm in accordance with the Government's aim to achieve sustainable development as set out in Government guidance contained within the National Planning Policy Framework.

### **Landscape & Ecology Plan**

8. No development shall take place until a Landscape and Ecology Management Plan has been submitted to and agreed in writing by the Local Planning Authority which demonstrates that a biodiversity net gain can be achieved. The scheme of biodiversity enhancement measures identified in the Landscape and Ecology Management Plan, which should include swift bricks and bird boxes, shall be carried out in accordance with the approved details prior to the first occupation of the building.

Reason: To ensure that the proposals deliver appropriate an amount and variety of habitats and support the biodiversity net gain opportunities in accordance with the submitted Environmental Statement to comply with Policy ESD10 of the Cherwell Local Plan Part 1 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

### **Landscaping Scheme**

9. Prior to the development progressing above slab level, a Landscaping Scheme for the site shall be provided to and approved in writing by the Local Planning Authority. The Landscaping Scheme shall include:-
  - a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch etc),
  - b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,

- c) details of the hard landscaping including hard surface areas, pavements, pedestrian areas and steps.

All planting, seeding or turfing comprised in the approved Landscaping Scheme shall be carried out 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. All hard landscaping elements shall be provided prior to the first occupation of the building(s).

The planting shall be maintained for a period of 5 years from the completion of the development. Any trees and/or shrubs which within a period of five years from the completion of the development which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

Reason: To ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity and to accord with Policy ESD15 of the Cherwell Local Plan 2011–2031 Part 1, Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Arboricultural Method Statement**

10. Prior to the commencement of development, an arboricultural method statement shall be submitted to and improved in writing by the Local Planning Authority. The development shall be carried out in accordance with the statement's recommendations.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity in accordance with Policies ESD10 and ESD13 of the Cherwell Local Plan Part 1 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

#### **Residential Travel Plan**

11. Prior to the first occupation of the development hereby approved, a Residential Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans" and its subsequent amendments (and a Travel Plan Statement setting out how this phase will contribute to the overall site wide Residential Travel Plan), shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Travel Plan shall be implemented and operated in accordance with the approved details.

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

#### **Cycle Parking Facilities**

12. Prior to the first occupation of the development hereby permitted, the cycle parking facilities as shown on approved plans Cycle Store Plan PA 119 Rev B shall be provided on the site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The cycle parking

facilities so provided shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.

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

### **Drainage**

13. Prior to the commencement of the development hereby approved, full details of a drainage strategy for the entire site, detailing all on and off site drainage works required in relation to the development, including the prevention of drainage onto the public highway, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the drainage works shall be carried out and completed in accordance with the approved strategy, until which time no discharge of foul or surface water from the site shall be accepted into the public system.

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community in accordance with Government guidance contained within the National Planning Policy Framework.

### **Bin Storage**

14. Prior to the first occupation of the development hereby permitted, full details of the bin storage for the site, including the enclosure details, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the building, the bin storage area shall be provided in accordance with the approved details and retained unobstructed except for the storage of refuse bins.

Reason: In order that proper arrangements are made for the disposal of waste, and to ensure the creation of a satisfactory environment free from intrusive levels of litter in accordance with Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Contaminated Land**

15. No part of the development hereby permitted shall take place until a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model has been carried out by a competent person and in accordance with DEFRA and the Environment Agency's "Land Contamination Risk Management (LCRM)" 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 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 Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Contaminated Land outcome**

16. If a potential risk from contamination is identified as a result of the work carried out under condition 15, 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 "Land Contamination Risk Management (LCRM)" 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 Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Further Contaminated Land**

17. If contamination is found by undertaking the work carried out under condition 16, 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 "Land Contamination Risk Management (LCRM)" 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 Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Unexpected Contaminated Land at a later date**

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

Reason: To ensure that 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 Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

#### **Noise**

19. Prior to the development commencing full details of the mitigation measures (glazing and alternative means of ventilation) required to achieve satisfactory internal levels in all habitable rooms as specified in BS8233:2014 (Guidance

on sound insulation and noise reduction for buildings) shall be submitted to and approved in writing by the Local Planning Authority.

Thereafter, and prior to the first occupation of the dwellings affected by this condition, the dwellings shall be insulated and maintained in accordance with the approved details.

Reason: In the interests of amenity and sustainable development in accordance with Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Environmental Protection – Lighting**

20. Prior to the installation of any external lighting, a full lighting strategy to include illustration of proposed light spill and which adheres to best practice guidance in relation to ecological impact, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved document.

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

### **CEMP**

21. 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 that Demolition and construction works do not adversely affect residential / commercial 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 ensure the environment is protected during construction in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Construction Method Statement**

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

- a) The parking of vehicles of site operatives and visitors;
- b) The routeing of HGVs to and from the site;
- c) Loading and unloading of plant and materials;
- d) Storage of plant and materials used in constructing the development;
- e) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;



- f) Wheel washing facilities including type of operation (automated, water recycling etc) and road sweeping;
- g) Measures to control the emission of dust and dirt during construction;
- h) A scheme for recycling/ disposing of waste resulting from demolition and construction works;
- i) Delivery, demolition and construction working hours;

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

Reason: To ensure the environment is protected during construction in accordance with Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

**SuDS:**

23. The approved drainage system shall be implemented in accordance with the approved Detailed Design (BMC-LE-GEN-XXRP-CE-FRA01-FLOODRISKASSESSMENTREVB) prior to the use of the building commencing:

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

**Surface Water Drainage**

24. Construction shall not begin until/prior to the approval of first reserved matters; a detailed surface water drainage scheme for the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall include:

- A compliance report to demonstrate how the scheme complies with the “Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire”;
- Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
- A Flood Exceedance Conveyance Plan;
- Comprehensive infiltration testing across the site to BRE DG 365 (if applicable)
- Detailed design drainage layout drawings of the SuDS proposals including cross-section details;
- Detailed maintenance management plan in accordance with Section 32 of CIRIA
- C753 including maintenance schedules for each drainage element, and;
- Details of how water quality will be managed during construction and post development in perpetuity;
- Confirmation of any outfall details.
- Consent for any connections into third party drainage systems

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with Policies ESD6 and ESD7 of the Cherwell

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

### **SuDS As Built and Maintenance Details**

25. Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:

- As built plans in both .pdf and .shp file format;
- Photographs to document each key stage of the drainage system when installed on site;
- Photographs to document the completed installation of the drainage structures on site;
- The name and contact details of any appointed management company information.

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

### **Sustainable Construction**

26. Prior to the construction of any building above slab level, details of the materials and measures to be used to increase energy efficiency and thermal performance and reduce carbon emissions including the provision of renewable energy measures including PV shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme of materials and measures and the provision of renewable energy measures shall be installed prior to the first occupation of the building.

Reason: To encourage the use of renewable and low carbon energy in accordance with Policy ESD5 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

### **Final Parking Management Plan**

27. Prior to the first occupation, a final updated Parking Management Plan shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highways safety and to maximise opportunities for sustainable transport in accordance with Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Tom Webster

### **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 form and following approved plans:

Site location Plan PA 100; Existing Site Plan PA 101; Existing Ground Floor Plan PA 102; Existing First Floor Plan PA 103; Existing Roof Plan PA 104; Existing Elevations 1 PA 105; Existing Elevations 2 PA 106; Proposed Site Plan PA 107 Rev A; Cycle Store Plan PA 119 Rev B; Proposed Ground Floor PA 108 Rev B; Proposed First Floor Plan PA 109 A; Proposed Second Floor Plan PA 110 A; Proposed Roof Plan PA 111 A; Proposed Elevations Plan 1 112 A; Proposed Elevations Plan 2 PA 113 A; Updated Preliminary Ecology Report (Sep 2023); Bat Roost Characterisation Report and Mitigation Plan (March 2024); MEC - Acoustics Assessment (August 2023) - 25944-ENV-0402; Energy Statement (August 2023); BMC-LE-GEN-XXRP-CE-FRA01 FLOODRISKASSESSMENT REV B

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

### **Materials**

3. No development of the building and associated structures above slab level, with the exception of underground enabling works, shall take place until samples including sample panels of the materials to be used in the construction of the external surfaces has been prepared on site for inspection and approved in writing by the Local Planning Authority. The samples and panels shall be at least 2.5m x 2.5m and show the proposed palette of materials (including plant screening, metal cladding, brickwork/masonry, etc.) to be used in the development. The development shall be constructed in accordance with the approved samples, which shall not be removed from site until the completion of the development.

Reason – To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part

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

### **Window Reveals**

4. Details of the window reveals which shall be a minimum of 150mm deep, shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the development above slab level. The development shall thereafter be completed in accordance with the approved details.

Reason – To ensure that the windows are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Ecology/Nesting Season**

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

Should work be required in the nesting season, a pre-works nesting bird check will be required to ensure no nesting birds are present. An Ecological Clerk of works will be required to supervise any vegetation clearance within the nesting bird season (March to July inclusive) and works will adhere any measures to protect the nesting bird interest on the site as required.

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

### **Ecology/Protected Species**

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

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

### **Ecology Appraisal**

7. The development hereby permitted shall be carried out in accordance with the recommendations set out in Ecological Appraisal by Wharton dated September 2023 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect habitats and/or species of importance to nature conservation from significant harm in accordance with the Government's aim to achieve sustainable development as set out in Section 15 of the National Planning Policy Framework.

### **Landscape & Ecology Plan**

8. No development shall take place until a Landscape and Ecology Management Plan has been submitted to and agreed in writing by the Local Planning Authority which demonstrates that a biodiversity net gain can be achieved. The scheme of biodiversity enhancement measures identified in the Landscape and Ecology Management Plan, which should include swift bricks and biat and bird boxes, shall be carried out in accordance with the approved details prior to the first occupation of the building.

Reason: To ensure that the proposals deliver appropriate an amount and variety of habitats and support the biodiversity net gain opportunities in accordance with the submitted Environmental Statement to comply with Policy ESD10 of the Cherwell Local Plan Part 1 2011-2031 and Government guidance contained within the National Planning Policy Framework.

### **Water Efficiency/Building Regs**

9. Prior to the first occupation of the development hereby permitted, written confirmation that the development achieves a water efficiency limit of 110 litres/person/day under Part G of the Building Regulations shall be submitted to and approved in writing by the Local Planning Authority.

Reason: Cherwell District is in an area of water stress, to mitigate the impacts of climate change and in the interests of sustainability, to comply with Policies ESD1 and ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.

### **Landscaping Scheme**

10. Prior to the development progressing above slab level, a Landscaping Scheme for the site shall be provided to and approved in writing by the Local Planning Authority

The Landscaping Scheme shall include:-

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

(b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each

tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,  
(c) details of the hard landscaping including hard surface areas, pavements, pedestrian areas and steps.

All planting, seeding or turfing comprised in the approved Landscaping Scheme shall be carried out 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. All hard landscaping elements shall be provided prior to the first occupation of the building(s).

The planting shall be maintained for a period of 5 years from the completion of the development. Any trees and/or shrubs which within a period of five years from the completion of the development which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

Reason: To ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity and to accord with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Arboricultural Method Statement**

11. Prior to the commencement of development, an arboricultural method statement shall be submitted to and improved in writing by the Local Planning Authority.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity in accordance with Policies ESD10 and ESD13 of the Cherwell Local Plan Part 1 2011-2031 and Government guidance within the National Planning Policy Framework.

#### **Residential Travel Plan**

12. Prior to the first occupation of the development hereby approved, a Residential Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans" and its subsequent amendments (and a Travel Plan Statement setting out how this phase will contribute to the overall site wide Residential Travel Plan), shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Travel Plan shall be implemented and operated in accordance with the approved details.

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

#### **Cycle Parking Facilities**

13. Prior to the first occupation of the development hereby permitted, the cycle parking facilities as shown on approved plans Cycle Store Plan PA 119 Rev B shall be provided on the site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The cycle parking

facilities so provided shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.

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

### **Drainage**

14. Prior to the commencement of the development hereby approved, full details of a drainage strategy for the entire site, detailing all on and off site drainage works required in relation to the development, including the prevention of drainage onto the public highway, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the drainage works shall be carried out and completed in accordance with the approved strategy, until which time no discharge of foul or surface water from the site shall be accepted into the public system.

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community in accordance with Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

### **Bin Storage**

15. Prior to the first occupation of the development hereby permitted, full details of the bin storage for the site, including the enclosure details, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the building, the bin storage area shall be provided in accordance with the approved details and retained unobstructed except for the storage of refuse bins.

Reason: In order that proper arrangements are made for the disposal of waste, and to ensure the creation of a satisfactory environment free from intrusive levels of litter in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Contaminated Land**

16. No part of the development hereby permitted shall take place until a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model has been carried out by a competent person and in accordance with DEFRA and the Environment Agency's "Land Contamination Risk Management (LCRM)" 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 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.

#### **Contaminated Land outcome**

17. If a potential risk from contamination is identified as a result of the work carried out under condition 16, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's "Land Contamination Risk Management (LCRM)" 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.

#### **Further Contaminated Land**

18. If contamination is found by undertaking the work carried out under condition 17, 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 "Land Contamination Risk Management (LCRM)" 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.

#### **Unexpected Contaminated Land at a later date**

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



Reason: To ensure that 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.

### **Noise**

20. Prior to the development commencing full details of the mitigation measures (glazing and alternative means of ventilation) required to achieve satisfactory internal levels in all habitable rooms as specified in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings) shall be submitted to and approved in writing by the Local Planning Authority.

Thereafter, and prior to the first occupation of the dwellings affected by this condition, the dwellings shall be insulated and maintained in accordance with the approved details.

Reason: In the interests of amenity and sustainable development in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme

### **Environmental Protection – Lighting**

21. Prior to the installation of any external lighting, a full lighting strategy to include illustration of proposed light spill and which adheres to best practice guidance in relation to ecological impact, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved document.

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

### **CEMP**

22. 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 that Demolition and construction works do not adversely affect residential / commercial 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 ensure the environment is protected during construction in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

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

### **Construction Method Statement**

23. No development shall take place, including any works of demolition until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The statement shall provide for at a minimum:
- a) The parking of vehicles of site operatives and visitors;
  - b) The routeing of HGVs to and from the site;
  - c) Loading and unloading of plant and materials;
  - d) Storage of plant and materials used in constructing the development;
  - e) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - f) Wheel washing facilities including type of operation (automated, water recycling etc) and road sweeping;
  - g) Measures to control the emission of dust and dirt during construction;
  - h) A scheme for recycling/ disposing of waste resulting from demolition and construction works;
  - i) Delivery, demolition and construction working hours;

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

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

### **SuDS:**

24. The approved drainage system shall be implemented in accordance with the approved Detailed Design (BMC-LE-GEN-XXRP-CE-FRA01-FLOODRISKASSESSMENTREVB) prior to the use of the building commencing:

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal.

### **Surface Water Drainage**

25. Construction shall not begin until/prior to the approval of first reserved matters; a detailed surface water drainage scheme for the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall include:
- A compliance report to demonstrate how the scheme complies with the “Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire”;

- Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
- A Flood Exceedance Conveyance Plan;
- Comprehensive infiltration testing across the site to BRE DG 365 (if applicable)
- Detailed design drainage layout drawings of the SuDS proposals including cross-section details;
- Detailed maintenance management plan in accordance with Section 32 of CIRIA
- C753 including maintenance schedules for each drainage element, and;
- Details of how water quality will be managed during construction and post development in perpetuity;
- Confirmation of any outfall details.
- Consent for any connections into third party drainage systems

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal.

### **SuDS As Built and Maintenance Details**

26. Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:

- (a) As built plans in both .pdf and .shp file format;
- (b) Photographs to document each key stage of the drainage system when installed on site;
- (c) Photographs to document the completed installation of the drainage structures on site;
- (d) The name and contact details of any appointed management company information.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal.

### **Sustainable Construction**

27. Prior to the construction of any building above slab level, details of the materials and measures to be used to increase energy efficiency and thermal performance and reduce carbon emissions including the provision of renewable energy measures including PV shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme of materials and measures and the provision of renewable energy measures shall be installed prior to the first occupation of the building.

Reason: To encourage the use of renewable and low carbon energy in accordance with Policy ESD5 of the Cherwell Local Plan 2011-2031 Part 1.

### **Final Parking Management Plan**

28. Prior to the first occupation, a final updated Parking Management Plan shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of Highways Safety and to maximise opportunities for sustainable transport in accordance with Government guidance contained within the National Planning Policy Framework and Policy EVI 8 of the Oxfordshire Electric Vehicle Infrastructure Strategy

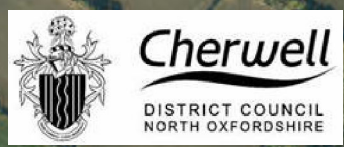
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Agenda Item 11

**Bicester Heritage  
Buckingham Road  
Bicester**

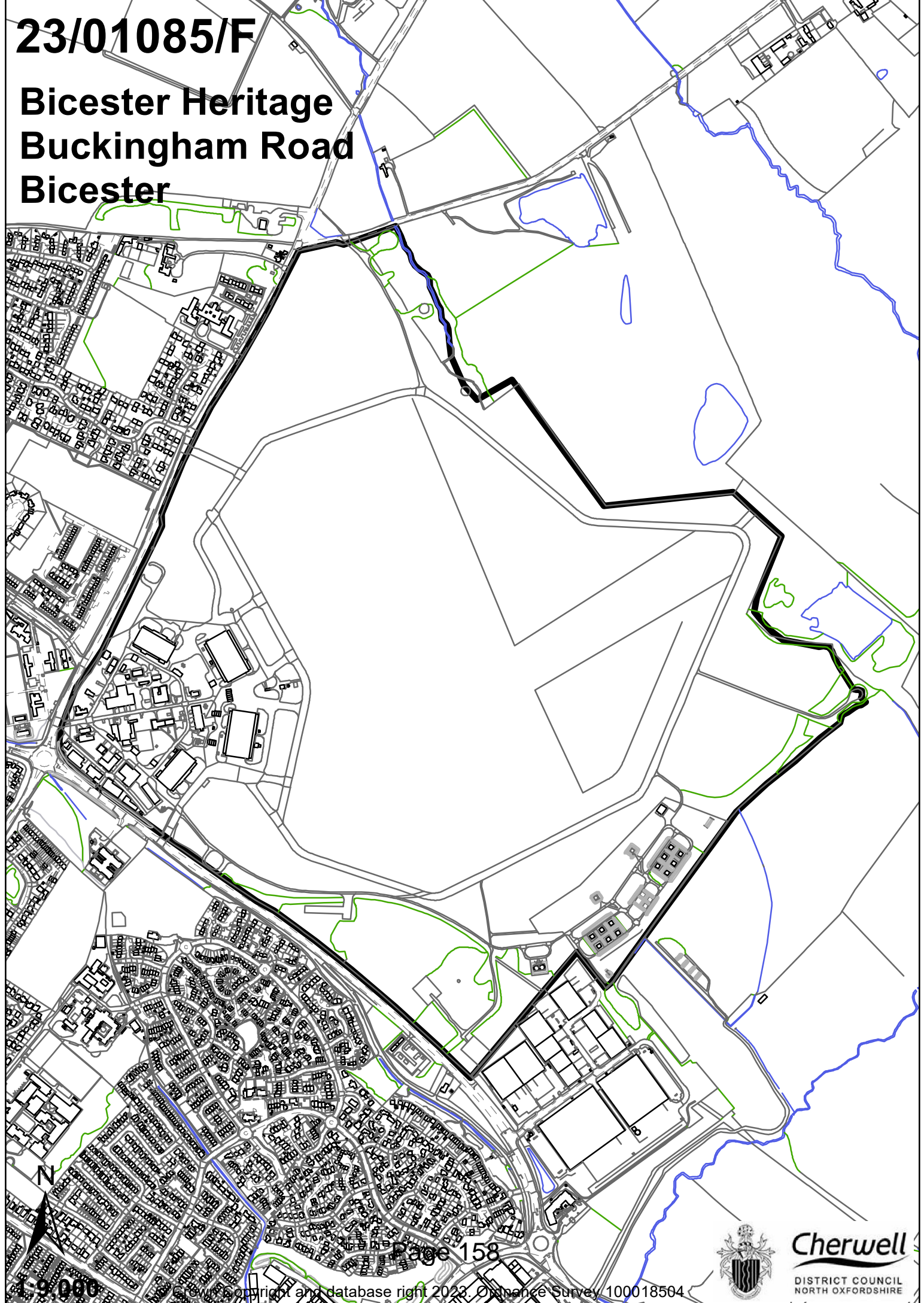


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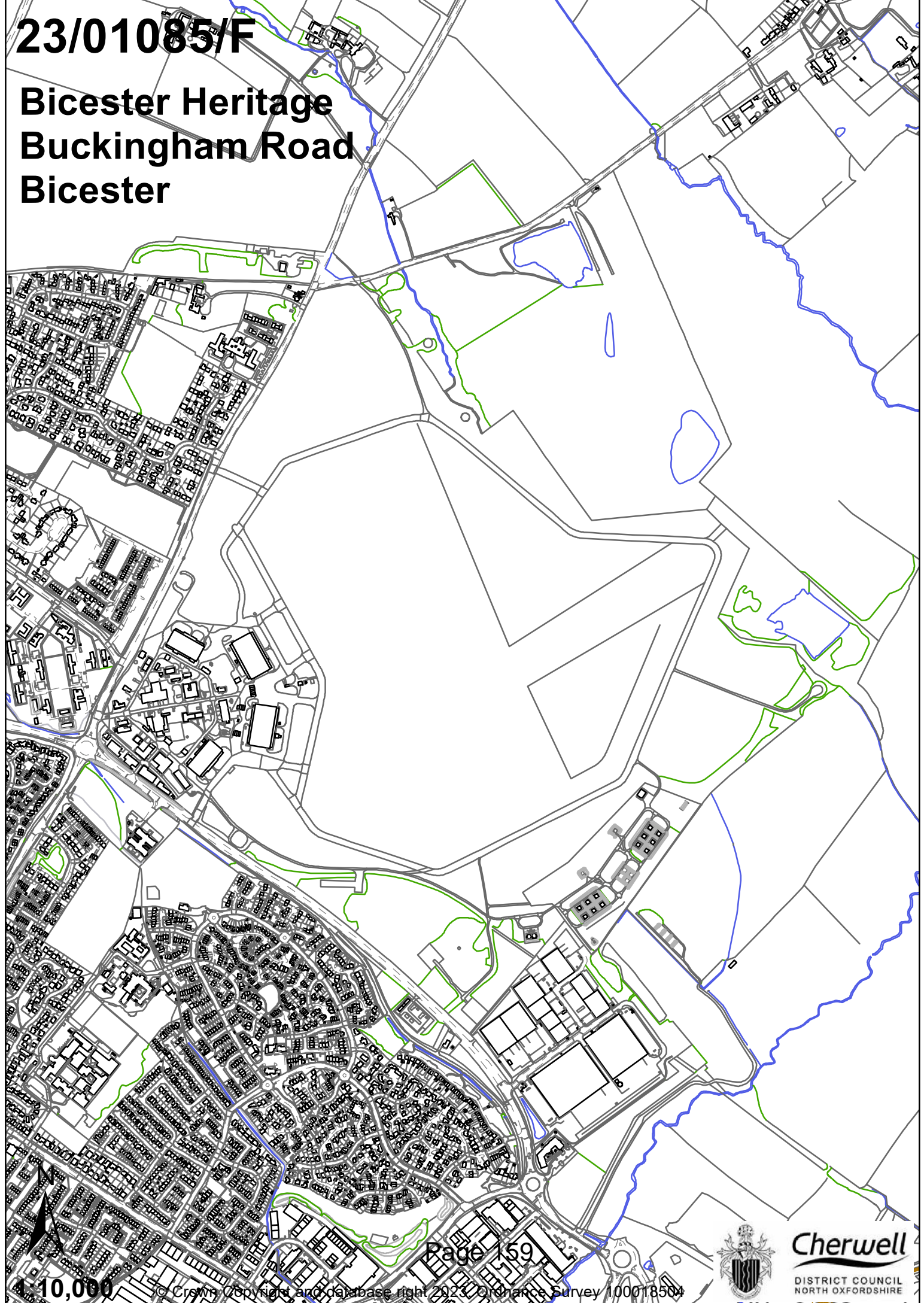
**23/01085/F**

**Bicester Heritage  
Buckingham Road  
Bicester**



**23/01085/F**

**Bicester Heritage  
Buckingham Road  
Bicester**



**Case Officer:** Rebekah Morgan

**Applicant:** Bicester Motion

**Proposal:** RETROSPECTIVE - Change of Use of land to allow for aviation, vehicle exercising and other uses/events

**Ward:** Launton And Otmoor  
Fringford and Heyfords

**Councillors:** Cllr. Gemma Coton, Cllr. Julian Nedelcu and Cllr. Alisa Russell  
Cllr. Grace Conway-Murray, Cllr. Nigel Simpson and Cllr. Barry Wood

**Reason for Referral:** Referred by Assistant Director for Planning and Development for the following reasons: The application is considered to have significant local interest.

**Expiry Date:** 15 July 2024

**Committee Date:** 11 July 2024

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

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site and red-line boundary includes the majority of the Bicester Heritage site including the flying field and technical site. Areas that are specifically excluded are a parcel of land in the south east corner of the airfield that has consent for commercial units, the adjacent former quarry site to the north of the airfield and the existing individual buildings on the wider site.
- 1.2. The site is part of the wider former RAF Bicester Airfield, which is located to the north of Bicester on the outskirts of the town. The site is now occupied by Bicester Motion, a company specialising in historic motoring and aviation. The site occupied by Bicester Motion comprises the main 'technical site' area (where most of the buildings are located) and the flying field which extends to the north and east of the main technical site area, totalling around 141.5 hectares.
- 1.3. The whole of the site (including the flying field) is designated a conservation area and most of the buildings within the main technical area are listed (Grade II). The few remaining unlisted buildings are considered to 'make a positive contribution' to the area in the Conservation Area Appraisal and would therefore be considered as non-designated heritage assets. Existing vehicular and pedestrian access to the technical site is gained just north of the roundabout on Buckingham Road. A second access off Skimmingdish Lane serves as access to the airfield. There are residential properties located to the west and southwest of the site. There are also several Scheduled Monuments located on the edges of the flying field and within the main technical area.

**2. CONSTRAINTS**

- 2.1. The following constraints apply to the site:
  - The site is located within the Conservation Area of RAF Bicester;
  - The wider Bicester Motion site contains 22 Grade II Listed Buildings, with the remaining buildings making a positive contribution to the character and



appearance of the conservation area and are therefore considered to be non-designated heritage assets;

- The site lies within the wider setting of Scheduled Monuments to the south;
- There is a Site of Special Scientific Interest (SSSI) within 2km of the site (the quarry to the north);
- The site is within a designated Local Wildlife Site, which extends all around the perimeter of the airfield;
- There is an electricity distribution site to the south, beyond Skimmingdish Lane;
- The site lies within an area of archaeological interest;
- The Bicester Motion site is bordered to the south by the A4421 Skimmingdish Lane and to the west by the A4421 Buckingham Road;
- There are residential properties to the south, south-west and west of the Bicester Motion site (on the opposite sides of the bordering roads);
- The site is allocated in the Cherwell Local Plan for mixed use development including employment uses (Policy Bicester 8)

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

- 3.1. The application seeks a retrospective change of use of the land to allow for aviation, vehicle exercising and other uses/events. The planning statement lists the following as 'typical uses': airfield flying operations, promotional (including film and photoshoot), Bicester Heritage tenant use (test driving etc.), external experience days (for example, young driver training), vehicle exercising, community and leisure uses (e.g. bike club training, triathlon training), event uses (including Bicester Heritage event days, external events and car club meets) and promotional videos/filming.
- 3.2. It is noted that whilst the application is described as retrospective, the nature, frequency and intensity of the uses have changed overtime. Therefore, whilst it is acknowledged the application seeks to regularises 'uses' that may have occurred historically, the frequency/intensity of the proposed uses may not be retrospective.

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

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

18/01253/F: Erection of hotel and conference facility with associated access, parking and landscaping. Application permitted.

18/01333/F: Extension to existing Technical Site to provide new employment units comprising flexible B1(c) light industrial, B2 (general industrial), B8 (storage or distribution) uses with ancillary offices, storage, display and sales, together with associated access, parking and landscaping. Application permitted.

*It should be noted that subsequent Section 73 applications (19/02275/F, 20/00475/F, 20/00832/F and 20/00842/F) relating to application 18/01333/F have also been granted consent to allow change of use and external alterations to individual buildings within the Technical Site area.*

19/02708/OUT: Outline: Provide new employment units comprising B1 (Business), B2 (General Industrial), B8 (Storage) and D1 (Education) uses with ancillary offices, storage, display and sales, with all matters reserved except for access. Application permitted.

*It should be noted that subsequent Section 73 application (23/01941/F) to vary the parameter plans and reserved matters applications (23/03438/REM and 24/00380/REM) for the detailed design have been granted.*

- 4.2. The above site history represents the three major developments that have been permitted on the wider Bicester Motion site; the hotel, extension to the technical site area and employment development to the southeast of the flying field. The original technical site has a detailed planning history with several planning applications and listed building consent applications associated with individual buildings, including a site wide consent for commercial uses.
- 4.3. The general approach taken on the technical site has been to allow changes of use that fit with the commercial nature of the site and minor physical changes to the buildings to ensure their long-term use and viability with an aim of conserving the heritage assets on the site.

## 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 **15 June 2023**, 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:

### *Objections:*

- Noise concerns relating to cars being driven around the tracks and increased level of activity on the site
- Noise impacts on amenity of neighbouring residential properties
- Traffic impacts and road congestion
- Increased traffic makes it more difficult to use cycle and pedestrian lanes and public transport in the area
- Lack of traffic management for large events
- Impact on ecology and the SSSI at Stratton Audley
- Impact on the character and appearance of the Conservation Area
- Air pollution
- Light pollution
- Impact local residents overall well being
- Residents receive no benefits such as free access to events
- Impact of race track on ecology
- Music festival causes noise and disruption to residents
- Increased aircraft activity and noise will impact on residents
- No community benefits
- Not regularisation of existing activities – it's an increase in activity
- Would not want a retrospective application to permit activity beyond those currently taking place without consent
- Excessive amount of large events are proposed – increase in frequency and intensity

### *Support:*

- The site has brought a great deal to the town
- The site creates jobs that boost the local economy
- Bicester Motion are a considerate and thoughtful neighbours
- The noise will be closely monitored

- Track is useful for demonstrating and testing vehicles, so there is no need to use local roads
- No other location within the areas offers these facilities for our business
- Provides a safe environment for the testing of vehicles
- Events support the businesses on the site
- Events attended by many local residents and families
- Events allow local charities (include those on site) to raise awareness and funds
- Positive impacts for tourism

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.

7.2. STRATTON AUDLEY PARISH COUNCIL: **Object**, a detailed letter of objection has been submitted. The concerns are summarised as such:

- The retrospective proposal highlights the complete disregard of the applicants for the planning system
- Failure to assess noise impact on Stratton Audley
- Notwithstanding the lack of assessment, vehicle noise limits proposed are excessive
- Aviation – no details of the type or movements of aircraft
- Significant expansion of large events on the site
- Traffic and community nuisance
- Radio controlled aircraft flying appears to be unregulated at the site

7.3. LAUNTON PARISH COUNCIL: No comments or objections to the proposal.

7.4. BICESTER TOWN COUNCIL: Welcomes this application and the boost in tourism and employment it will have to the town.

7.5. OCC HIGHWAYS: **No objection**, *The Highway Authority understands that this application proposes to formally regulate the activities that have already been taking place at the Bicester Motion site for a number of years and that a significant increase in the frequency or type of events held at the site is not planned. It is also noted that planning permission for the Experience Quarter has recently been granted and that there appears to be a fairly significant degree of overlap between the existing activities and those permitted under that application. On this basis the county council does not object to the application.*

*I note that the planning application proposes to enable larger events to be held at the site, as have been for a number of years. These typically take place during the weekend, usually on a Sunday, when traffic levels on the local highway network are typically lower than on weekdays. However, these events do still have the potential to cause disruption and congestion it is therefore necessary to ensure that all larger events are subject to Event Day Traffic Management Plans which are to be agreed with the Highway Authority prior to such events taking place. The Highway Authority would welcome a suitably worded condition to ensure that this occurs.*

- 7.6. HISTORIC ENGLAND: In this case we are not offering advice. This should not be interpreted as comment on the merits of the application. We suggest you seek the views of your specialist conservation and archaeological advisers.
- 7.7. CDC CONSERVATION OFFICER: **No objection**, it understood that the application is for a continuation of the use of the site for a range of activities and events. In terms of heritage only the continuation of uses is not considered to result in harm to the significance of any of the heritage assets.
- 7.8. CDC ENVIRONMENTAL PROTECTION OFFICER: No comments with regards to contaminated land, air quality, odour or light.

Noise: Having read the noise report provided I am satisfied with its methodology and findings. As this is a retrospective application for the current usage of the site the proposals will improve the noise management on the site and will ensure that the noisiest vehicles are limited to the days and length of times in those days they can operate. I would like the following conditions added to any permission granted:

The noise management plan shall be supplied to and agreed with the LPA within 1 month of the date of the permission being granted. Thereafter any updates to the plan shall be agreed with the LPA prior to their use.

The noise monitoring system referred to in the noise report shall be installed within 1 month of the date of the permission granted. This shall be maintained and updated as per the manufacturer's requirements. Any changes to this system shall be agreed with the LPA prior to the changes being made.

Days on where the ambient noise level at the residential monitors is increased by 12dB LAeq,1hr due to circuit activity, should be restricted to 12 days per year, and no more than 90 minutes in a day and details of those days shall be supplied to the LPA and communicated to local residents at least 1 month in advance of those days.

## **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 2015)

- BICESTER 8: RAF Bicester
- PSD1: Presumption in favour of Sustainable Development
- SLE3: Supporting Tourism Growth
- ESD10: 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
- ENV1: Development likely to cause detrimental levels of pollution
- ENV12: Development on Contaminated Land

### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- RAF Bicester Conservation Area Appraisal – November 2008
- RAF Bicester Planning Brief 2009
- 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 impact on heritage assets
- Residential amenity
- Highway safety
- Ecology and biodiversity

#### Principle of Development

##### *Policy context*

- 9.2. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 9.3. Paragraph 11 of the National Planning Policy Framework sets out a presumption in favour of sustainable development and states for decision taking, this means '*approving development proposals that accord with an up-to-date development plan without delay*'. The presumption in favour of sustainable development is reiterated in Policy PSD1 of the Cherwell Local Plan 2031.
- 9.4. The application site is allocated in the Cherwell Local Plan 2031 under Policy Bicester 8 for '*conservation-led proposals to secure a long lasting, economically viable future for the Former RAF Bicester technical site and flying field*'. The Policy states '*it will support heritage tourism uses, leisure, recreation, employment and community uses*'.
- 9.5. Policy SLE3 supports tourism growth '*in sustainable locations, where they accord with other policies in the plan, to increase overnight stays and visitor numbers within the District*'.
- 9.6. The Council's five year review of Local Plan policies (February 2023) concluded that policy Bicester 8 was "*...a site-specific policy that is generally consistent with the NPPF and local circumstances do not indicate that the policy needs updating at this time. The policy will be reviewed through the Local Plan Review 2040.*". Policy Bicester 8 refers to a Planning Brief for the former RAF Bicester. Whilst still material to the implementation of the policy and the consideration of the application, the Brief was prepared in 2009 and there has been subsequent development of the site. The document provides only informal development principles and does not have the status of a Supplementary Planning Document. Its stated purpose was '*to respond quickly to provide guidance on the future of this important site to advise potential purchasers*'. Nevertheless, the 2009 Brief was specifically referenced by the Local Plan Inspector in his consideration of Policy Bicester 8 in 2015. As such, the Planning Brief is still relevant. The document sets out the Council's aspirations for the site and future uses that would be considered appropriate.
- 9.7. The site has been occupied by Bicester Heritage (now part of Bicester Motion) since 2013, who have developed the site as a focus for historic motoring interests and technology with associated employment, leisure and apprenticeship opportunities.

Paragraph 85 of the NPPF states '*Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development*'. It goes on to suggest an approach where areas build on their strengths and is particularly important where Britain can be a global leader in driving innovation.

#### *Assessment*

- 9.8. The application site is part of the wider RAF Bicester site which is allocated under Policy Bicester 8. The policy seeks to establish uses which will be complementary to, and help enhance, the character and appearance of the Conservation Area and the nationally important heritage value of the site whilst securing an economically viable future for the site. Policy Bicester 8 is a permissive policy setting out a number of acceptable uses including employment uses, tourism, leisure and community uses.
- 9.9. The land allocated within Policy Bicester 8 includes the technical site and the whole of the flying field. The Policy is supportive in general of tourism, leisure and commercial uses on the site. The policy does not stipulate which parts of the overall site are suitable for development, but the policy does state (inter alia) that proposals must maintain and enhance the character and appearance of the conservation area...and preserve the openness of the airfield".
- 9.10. The Planning Brief for the allocated site supports the continued use of the flying field for aviation and non-aviation uses that retain the openness of the flying field. The document states '*Other temporary uses considered appropriate in the 2003 study include temporary festival uses and outdoor concerts. Occasional markets and shows could also be acceptable provided that this did not involve the erection of any permanent structures on the flying field or temporary structures that caused harm*'.
- 9.11. The wider aspirations for the site are to create a tourist destination offering visitor experiences that tie in with the 'automotive' nature of the site. This would complement the future hotel (which has extant planning permission) and would be considered in accordance with Policy SLE3 which seeks to increase visitor numbers to the district and overnight stays in sustainable locations.
- 9.12. The uses set out in the application are linked to the wider use of the Bicester Heritage site providing links with existing business on site but also providing tourism and leisure uses that would link with the extant outline permission for the automotive experience quarter (ref: 21/01224/OUT) which already includes the use of the perimeter track.

#### *Conclusion*

- 9.13. The NPPF states that achieving sustainable development means the planning system has three overarching objectives: an economic objective, a social objective and an environmental objective. The objectives need to be balanced to ensure they can be pursued in a mutual supportive way.
- 9.14. The application sets out a range of uses that would support existing businesses on the site and provided tourism and leisure uses that would support the local economy and create additional jobs (including casual roles associated with events), providing economic benefits. The proposal would allow some access for visitors to the historic parts of the sites during events. The tourism nature of the proposal would help meet social needs of the local and wider community. As will be set out in later sections of this report, the proposal would respect the historic and natural environmental context of the site, providing mitigation and enhancement where required, and the use of the site for aviation will not be unduly compromised. Therefore, the development is

considered to constitute '*sustainable development*' and the presumption in favour must apply.

- 9.15. The uses would provide additional commercial, leisure and tourism development on an allocated site in accordance with Policies Bicester 8 and SLE3 of the CLP 2015. The uses accord with the types of uses supported within the 2009 Planning Brief. The principle of employment development on the site is considered to be acceptable.

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

- 9.16. Policy ESD15 of the CLP 2015 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 standards and should respect the historic environment including conservation areas and listed buildings. Policy Bicester 8 of the CLP 2015 also makes it clear that development at this site is to be 'conservation led', therefore meaning that it is what is appropriate for the site in terms of heritage related issues that must be at the forefront at all times.
- 9.17. Both of these policies are supported by Government guidance contained within the NPPF (sections on design and heritage) which states that good design is a key aspect of sustainable development to create better places (para. 131). Section 16 on the historic environment acknowledges that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance (Para. 195).
- 9.18. Paragraph 195 of the NPPF states 'Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations'.
- 9.19. The application site is within the RAF Bicester Conservation Area, and therefore falls into the NPPF definition of a designated heritage asset. There are Scheduled Ancient Monuments elsewhere on the RAF Bicester Site and a large proportion of the original buildings (including the hangars) within the technical site are listed buildings.
- 9.20. Paragraph 203 of the NPPF states 'In determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - c) the desirability of new development making a positive contribution to local character and distinctiveness
- 9.21. The application seeks a change of use of the land only and does not propose any permanent built development. Therefore, the overall character and appearance of the site would not change as a result of this application.
- 9.22. The types of uses proposed include event days and festivals which are likely to require temporary structures (such as marques, food trucks, stages etc..). As these are temporary structures and only erected for the period of the event and removed after, they are not considered to cause harm to the heritage assets.

9.23. The proposal would not have a detrimental impact on the character and appearance of the area and would not cause harm to heritage assets. The proposal complies with Policy ESD15 of the CLP 2015 and Government guidance contained within the NPPF.

#### Residential amenity

9.24. Paragraph 135 of the National Planning Policy Framework includes, as a core 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 2015, which states that '*new development proposals should: consider the amenity of both existing and future development, including matters of privacy, outlook, natural light, ventilation, and indoor and outdoor space*'.

9.25. The nature of the proposal set out in the application includes a range of activities to take place outside on the airfield including the demonstration and exercising of vehicles and large events. There are residential properties to the east of Buckingham Road and south of Skimmingdish Lane, with the village of Stratton Audley to the northwest of the site. Potential impact upon these residential properties needs to be carefully considered.

9.26. It is noted that a number of objections raises concerns regarding impacts on neighbouring amenity, the objections focus on the following key points:

- Existing noise from vehicles using the site
- Noise from previous events – specifically larger, festival type events
- Existing noise from aviation uses at the site
- Noise from the proposed use of the tracks
- Noise from proposed large scale events including late night music

9.27. With regards to noise from aviation uses at the site, the site is an historic airfield which is still in active use. The use and management of the airfield for aviation purposes is outside of the control of the Local Planning Authority (LPA), as such the LPA cannot restrict the level of use or type of aircraft that utilise the airfield.

9.28. With regards to the use of the perimeter track for the demonstration and exercising vehicles, it should be noted that consent was granted for a similar proposal seeking the re-use of the perimeter track as part of the automotive experience quarter application (ref: 21/01224/OUT), although this also includes the introduction of new tracks.

9.29. With regards to the use of the track, the application concluded that with the correct mitigation the potential noise levels from vehicles could be reduced to low impact as defined by the NPPF. Furthermore, the Council's Environmental Protection Officer considered that correct management of the use of the tracks had the potential to improve the current situation which is unregulated.

9.30. Application 21/01224/OUT includes noise management conditions requiring a comprehensive noise management plan and the use of a live noise monitoring system. As this application seeks consent for a similar use of the perimeter track for vehicles, it would be appropriate to impose similar conditions to safeguard the amenity of the residential properties in the area. By imposing identical conditions, this would also ensure there is no conflict if the extant consent for the automotive experience quarter is implemented.

9.31. The Council's Environmental Protection Officer supports this approach with conditions requiring the submission of the noise management plan and installation of the noise monitoring system within 1 month of the date of a permission. In addition, a condition



would restrict the number of days (maximum 12 days) when ambient noise levels due to track use would exceed a set level, but for no more than 90 minutes on each day. The conditions would encompass all vehicle activities on the track at all times, this would be regardless of them being associated with a larger event or small daily activities related to businesses on the site.

- 9.32. The second area of noise concern raised appears to relate to the larger scale events at the site. This has historically included event days such as scrambles (large event showcasing motor vehicles) and vegan festival (including a music stage). The smaller scale events and leisure activities (such as bike meets and triathlon training) do not appear to raise the same levels of concern.
- 9.33. The larger events, especially if they involve music have the potential to cause a nuisance to neighbouring properties if they are occurring frequently or late at night. The submitted information suggests the frequency of these larger events would be limited and the applicant has suggested limited the number of events via planning condition.
- 9.34. The applicant has also opted to use the Safety Advisory Group (SAG) to agree details prior to larger events. SAG made up of officers from the district council, county council, police and other relevant bodies who consider matters such as timing of events, noise levels, traffic impacts etc... and then advised and agree the details of events. They also take account of any previous complaints and the frequency of events. Although this is optional, following a discussion with the Council's Environmental Protection Officer, it has been recommended that the applicant be required to use SAG (or its successor at any future point) for all large events exceeding 5000 attendees. It has been advised that using SAG to agree matters such as operating hours for each event is more advantageous than blanket restrictions on timing as various factors including previous complaints can be considered.
- 9.35. Whilst some events may still cause a temporary nuisance/annoyance to some of the surrounding residential properties, with adequate controls on the frequency of larger events and the requirement to agree events with SAG, these are not considered to be harmful to residential amenity.

#### Highway safety

- 9.36. Paragraph 115 of the NPPF states '*Development should only be prevented or refused on highways grounds if there would be unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*'.
- 9.37. Paragraph 117 of the NPPF goes on to state '*All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement so that the likely impacts of the proposal can be assessed*'.
- 9.38. The application has been submitted with a detailed transport assessment that has been reviewed by the Local Highway Authority (LHA), and they raise no objections to the application as they acknowledge there is a fairly significant overlap between the existing activities on the site and those set out in the application.
- 9.39. The application does not propose any additional highway works and would utilise existing access points to the site.
- 9.40. The Local Highway Authority notes a number of larger events are included in the application, although these tend to occur at weekends, usually Sundays, when levels of traffic on the local highway network are typically lower. However, they acknowledge

that these events have the potential to cause disruption and congestion on local network. Therefore, it is recommended that a condition is imposed requiring larger events to submit 'Event Day Traffic Management Plans' for approval by the Local Highway Authority.

- 9.41. Subject to appropriately worded conditions to manage traffic associated with larger events, the proposal would not cause harm to the safety and convenience of highway users and complies with Government guidance contained within the National Planning Policy Framework.

#### Ecology and biodiversity

- 9.42. Paragraph 186 of the NPPF states 'When determining applications, local planning authorities should apply the following principles:

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons<sup>67</sup> and a suitable compensation strategy exists; and
- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

- 9.43. The application proposes a change of use only and does not include any built development that would impact on biodiversity or protected species. However, it is acknowledged that parts of the site are more sensitive in terms of biodiversity activity within these areas has the potential to cause harm.

- 9.44. The application has been submitted with an ecological briefing note. The notes states that '*whilst no additional biodiversity impacts are anticipated to arise, it is acknowledged that the completion of certain activities could, in the absence of sensitive management, give rise to potential adverse impacts on faunal species*'. The technical note goes on to set appropriate safeguards and management to ensure events can proceed in a manner which avoids potential ecological harm in accordance with planning policy and legislation of relevance to biodiversity.

- 9.45. The management measures consider aerodrome use, off-road trails, track related events and site wide events. Conditions are recommended requiring compliance with the management measures identified in the technical note.

9.46. With appropriate management, the use of the site would not have a detrimental impact on ecology and biodiversity and accords with Policy ESD10 of the CLP 2015 and Government guidance contained within the NPPF.

**10. PLANNING BALANCE AND CONCLUSION**

- 10.1. Achieving sustainable development comprises of three objectives; an economic objective, a social objective and an environmental objective. The objectives need to be balanced to ensure they can be pursued in a mutual supportive way.
- 10.2. The application sets out a range of uses across the wider site that would support existing business on the site and provide tourism, leisure and community uses that will support the local economy and create additional jobs, providing an economic benefit thereby meeting the economic objective.
- 10.3. The proposal would not alter the character or appearance of the site, nor would it impact on heritage assets as the application does not propose any built development. The use of the site would allow additional (controlled) access to the historic parts of the site. The creation of jobs and increased access to the historic site contributes to creating vibrant communities thereby meeting the social objective.
- 10.4. The proposal would respect the historic and natural environmental context of the site, providing careful management of ecologically sensitive areas which would thereby meet the environmental objective. As a result, the development is considered to constitute 'sustainable development'.
- 10.5. The application site is an allocated site under Policy Bicester 8 of the CLP 2015. The proposal, including the uses applied for, complies with the details of the allocation and the uses considered appropriate with the RAF Bicester Planning Brief.
- 10.6. As set out in the assessment above, the proposal, subject to condition, is not considered to cause harm to residential amenity, highway safety or ecology.
- 10.7. The application is therefore considered to comply with the relevant policies of the Development Plan set out in the report, specifically Policy Bicester 8 of the CLP 2015 and Government guidance contained within the National Planning Policy Framework, and permission should be granted.

**11. RECOMMENDATION**

**DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS 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 application form and following approved plans:
  - Planning Statement prepared by Edgars dated April 2023
  - Transport Statement prepared by Mode Transport Planning dated April 2023
  - Environmental Noise Impact Assessment (ref: 28453-AASP-ZZ-XX-DN-Y-1001-S1-P03) prepared by Hydrock dated 13 April 2023

- Ecological Briefing Note prepared by Ecology Solutions
- Drawing number 5002854-RDG-Z05-ST-PL-A-0010 Rev F - [Site Location Plan]

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

2. Within 1 month of the date of this decision, a noise management plan shall be submitted to the Local Planning Authority. The noise management plan shall include a review mechanism which requires the applicant to update the Council's Environmental Health Team as the need arises and should include (but not be limited to) such matters as numbers of days allowed for noisier vehicle use, hours of use, absolute noise limits set, actions taken when these are exceeded and communication with the local community. The approved noise management plan shall be implemented in full from the date of the discharge of this condition and be accorded with for the lifetime of the development.

Reason: To protect the amenities of nearby residents and to comply with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

3. Within 3 months of the date of this decision, details of the SPL Track Drive By System or similar shall be submitted to and approved in writing by the Local Planning Authority. The approved system shall be implemented and be fully operational within 1 month of the date of the discharge of the condition. The system shall be maintained and operated in accordance with the approved details. Prior to any amendment to the system, full details of the revised/alternative system shall be submitted and approved in writing prior to its installation. The alternative system shall be installed in accordance with the approved details and be operational prior to any further use of the track.

Reason: To protect the amenities of nearby residents and to comply with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. No event exceeding 5,000 attendees in total during the event shall take place until the applicant has secured the written agreement of the Cherwell Safety Advisory Group or any future successor advisory group.

Reason: To protect the amenities of nearby residents and to comply with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. No event exceeding 5,000 attendees in total during the event shall take place until an 'Event Day Traffic Management Plan' has been agreed in writing with the Local Highway Authority. The event shall be carried out in strict accordance with the approved Event Day Traffic Management Plan.

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

6. The number of events with the number of attendees between 5000-7000 attendees in total during the event shall not exceed 10 events in any calendar year and such events shall not exceed 3 days in total. Any amendment to these

restrictions shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To protect the amenities of nearby residents and to comply with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework..

7. The number of events with the number of attendees exceeding 7,001 attendees in total during the event shall not exceed 3 events in any calendar year. Such events shall not exceed 3 days in total. Any amendment to these restrictions shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To protect the amenities of nearby residents and to comply with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. The use of the site shall be carried out in compliance with the safeguards and management of ecological areas in strict accordance with the Ecological Briefing Note submitted with the application.

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

#### **Planning Notes**

1. The applicant should note that the site area excludes all of the existing buildings on the site and therefore the change of use granted by this decision does not apply to any individual buildings on the site.

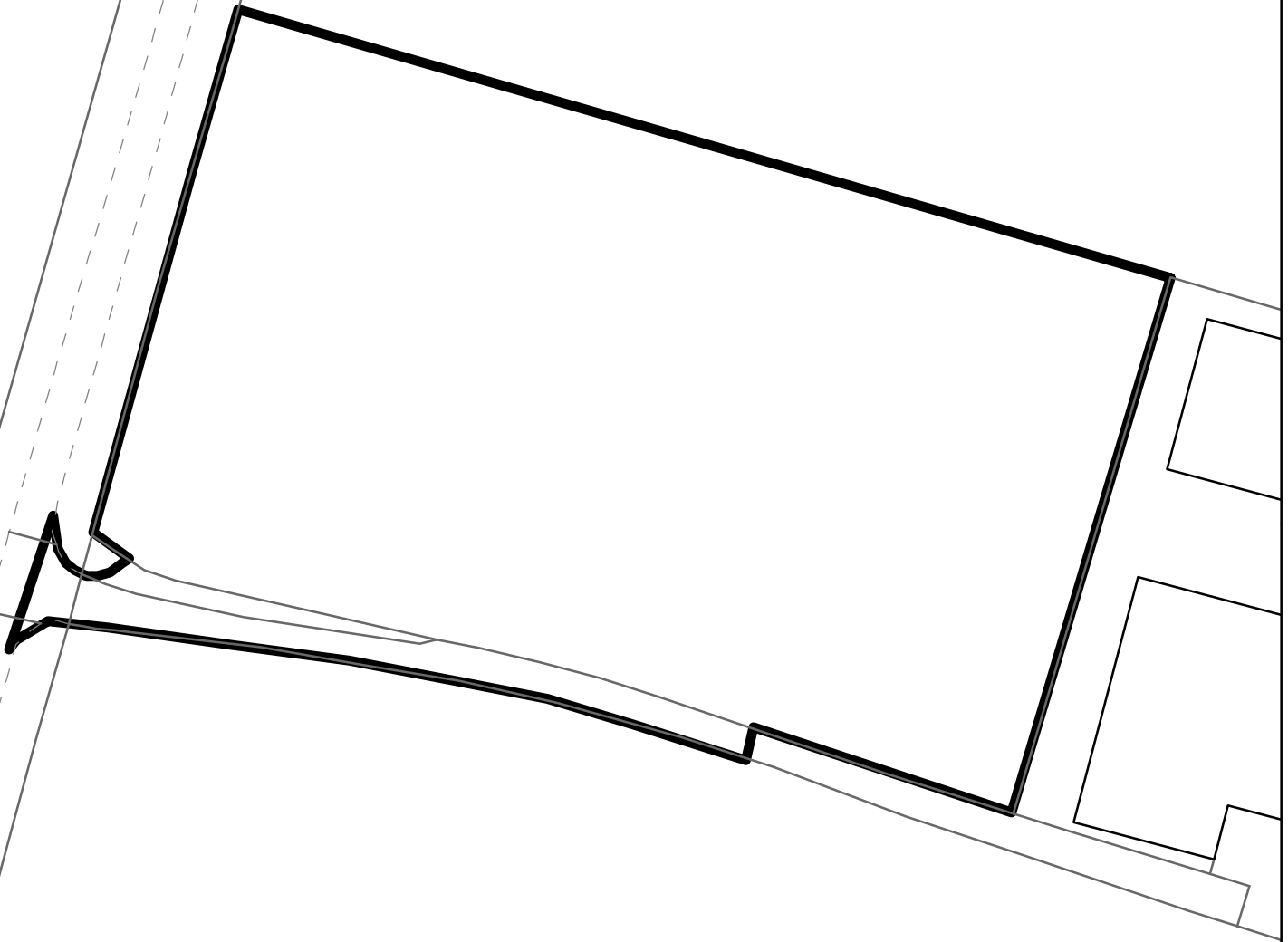
CASE OFFICER: Rebekah Morgan

**OS Parcel 0927 East Of And Adjoining  
Wardington Road  
Wardington**



**24/00807/F**

**OS Parcel 0927 East Of And Adjoining  
Wardington Road  
Wardington**



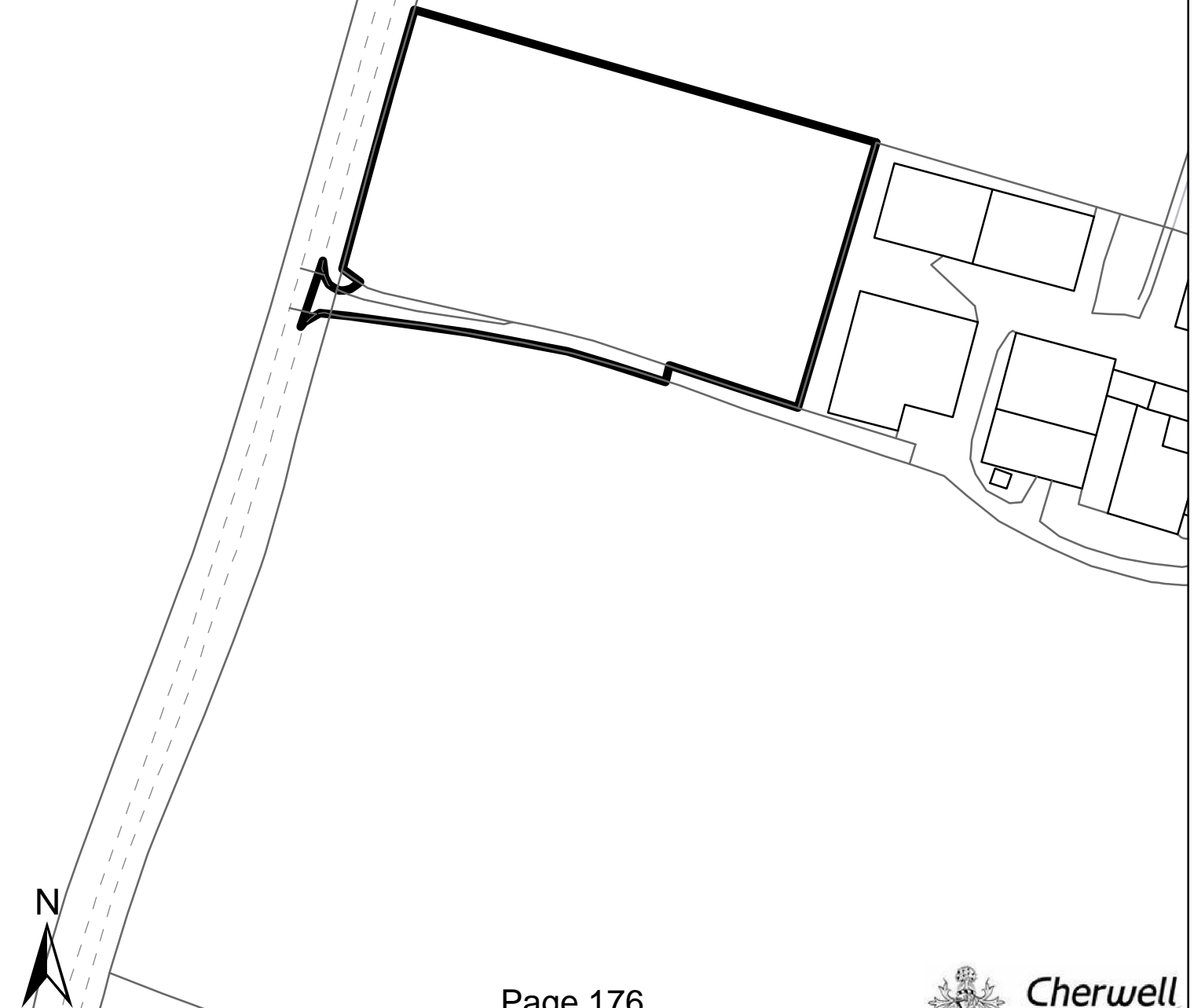
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**24/00807/F**

**OS Parcel 0927 East Of And Adjoining  
Wardington Road  
Wardington**

WARDINGTON ROAD





**Case Officer:** Saffron Loasby

**Applicant:** DSV United Kingdom Ltd.

**Proposal:** New detached offices and agricultural buildings for a new agricultural seed facility, including access road, parking, landscaping, and associated facilities

**Ward:** Cropredy, Sibfords and Wroxton

**Councillors:** Councillors Chris Brant, Phil Chapman and Douglas Webb

**Reason for Referral:** Major Application - 1,000+ sq. m floor space created

**Expiry Date:** 21 June 2024

**Committee Date:** 11 July 2024

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**SUMMARY RECOMMENDATION: APPROVE SUBJECT TO CONDITIONS AND COMPLETION OF A LEGAL AGREEMENT WITH REGARDS TO CONTRIBUTIONS TO HIGHWAYS AND OFFSITE BIODIVERSITY NET GAIN**

**MAIN REPORT**

**1. APPLICATION SITE AND LOCALITY**

1.1. The application site lies to the east of the Wardington Road, just south of the village of Wardington and 5 miles northeast of the town of Banbury, in the Cherwell valley, north Oxfordshire.

1.2. The site is accessed from an existing private highway junction that currently serves various farm barns and a farm storage facility. Whilst the site is described as open countryside, directly adjacent to the eastern boundary are numerous agricultural buildings. These are mostly modern steel framed buildings with exposed concrete panel lower walls, box profile tin clad sides and cement fibre sheet roofs.

1.3. The site is currently used for arable crops, which is part of the DSV trial crop land, which the company used to rent locally. The site has now been purchased outright by DSV Ltd. The existing DSV site is located approximately 300m north of the application site.

1.4. The application has been submitted with the following supporting documents:

- Design and Access Statement
- Planning Statement
- Drainage Statement V3
- Drainage Calculations x 3
- Transport Appraisal
- Landscape and Visual Impact Assessment with appendices.
- Ecological Appraisal
- BNG Feasibility Assessment and metric calculation tool
- Letters of Support

## **2. CONSTRAINTS**

- 2.1. The application site is within the countryside, designated as Category 1 Best and Most versatile land (BMV) and a public right of way (footpath 23 route, code 393/23/10) runs from the village (approx. 730m) north of the application site, through the farm buildings, that are located (approx. 45m) to the east and continues south towards Coton Farm, north of Chacombe. There is a Listed barn located approximately 80m east of the application edge and a small pond is marked on the constraints map (albeit not visible when the site visit was carried out).
- 2.2. The site is bound on the south and west by a low well-trimmed hedgerow. There is one mature tree located close to the entrance of the site.
- 2.3. The site is in Flood Zone 1 with limited key landscape features on the actual application site. The site is flat and visibility from the site to the village and surrounding countryside is extensive. There are limited tree copses or wooded areas that break up the line of sight and therefore the site is predominantly surrounded by open countryside bar the existing neighbouring farm structures.

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

- 3.1. The scheme proposes new offices and agricultural buildings for a new agricultural seed facility, including access road, parking, landscaping, and associated facilities.
- 3.2. The proposal comprises the erection of 4 main buildings with a large glasshouse. These are described in more detail below.
- 3.3. The office space differs from the previously submitted scheme in that it is no longer detached and the large glazed entrance that was facing Wardington Road has been removed. It still comprises a two-storey building that will adjoin building 2, and is set behind the existing hedgerow, proposed landscaping, and a new large pond.
- 3.4. The main entrance into the building faces south towards the new greenhouse with views across the proposed access and relocated parking. The form of the building has been simplified and is primarily square in footprint under a low-pitched roof. The glazed link has also since been removed. A spiral staircase on the north elevation is the first floor fire escape route.
- 3.5. Internally the ground floor offers 198 sq.m of gross internal floor area comprising a lobby and waiting area upon entry, 3 offices with approximately eight desk spaces. There is a canteen and staff room, lift, disabled WC, toilet and shower space and storage cupboard for cleaning equipment.
- 3.6. At first floor the offices comprise a further 187 sq.m, and four further offices. Also, a landing/informal meeting area, equipment store, kitchenette, two additional toilets and a meeting room people.
- 3.7. Materials across the 4 buildings comprise sheet metal roofing, aluminium windows, a mixture of smooth and profile metal wall cladding on a brick plinth and natural cedar timber cladding, primarily to the office building. The previously proposed braise soleil have since been removed from the ground floor openings.
- 3.8. Building 2 and 3 are linked together by a large roller shutter door internally. Building 2 measures 20.6m x 20m, is two storeys high and is referred to as the small seed processing unit. It has a mezzanine at first floor comprising storage space, a Laboratory area and milling room. At ground floor there is further office space, toilets

and changing facilities. Both floors are accessible from the office building at ground and first floor.

- 3.9. Building 3 comprises 35.9m x 20.6m, with a 4m overhanging roof. This is referred to as the 'large seed processing building' and whilst tall only has one ground floor level. Both buildings 2 and 3 measure approximately 8.7m to the ridge and 6m to the eaves. Both buildings comprise similar materials to those of the office building, detail under paragraph 3.6 above. Eighteen rooflights are proposed in building 2 and 37 rooflights in building 3.
- 3.10. Building 4 is referred to as the machinery hall and comprises 34.m x 21m, made up of the same materials, similar dimensions and with 48 rooflights.
- 3.11. Finally, the proposed glasshouse and boiler room would be sited along the south boundary of the application site and measure 4m to the eaves, 36m x 12m. This would consist of mostly glass and profile sheet metal.
- 3.12. Associated car parking space would be provided to the south of the proposed buildings and to the north of the glasshouse. The bulk of the parking has been removed providing 19 car parking spaces on site. The car access would remain where it currently sits on site and the tractor and lorry access would be provided to the eastern part of the application site, accessed directly from the farm track.

*DSV Ltd, justification for relocation and the proposed development*

- 3.13. This application has been submitted with a separate and more detailed Planning Statement prepared by Chadwick Town Planning. This document aims to address some of the concerns raised under the earlier application and the recommendation of refusal prior to its withdrawal. Importantly it includes and considers alternative site assessments, what exceptional circumstances exist, and justification for its size, location, and design. This will be discussed in more detail under the Principle of Development section of this report.
- 3.14. Extract from the applicant's website: *DSV United Kingdom Ltd are part of an International plant breeder based in Germany and with subsidiaries across the world. DSV UK operates from it breeding and trials centre at Wardington in Oxfordshire comprising of around 50ha of land used to breed winter wheat and forages and for National List trials of wheat and grass.*
- 3.15. At present the applicant is located on land to the north of the application site at Top Dawkins Farm. DSV has occupied this facility for 15 years, they rent local land and work with local farmers. The land is shared with the working farm and two of the newest agricultural buildings on site are used for this purpose (the farm). DSV is currently located in the other barns and has a shared access and a glasshouse. A Prior Notification for Agricultural building application was refused for a portacabin to be located to the south of the existing building as it did not meet the legislation requirements for this type of application. One of which was with regard to the building not being for agricultural use.
- 3.16. Previous discussions with the agent informed officers that the existing buildings comprise a total floor area of 2,305 sq.m, including 771 sq.m that is currently being rented. If the rented space was included the existing space would be close to that proposed on the application site. The glass house is larger than the existing as it includes the space the polytunnels currently use and a new boiler room.
- 3.17. Land is currently rented by the applicant from four local farmers. Two of which are in the village of Wardington, the others being in Edgecote and Great Bourton. One farm,

closest to the new and existing sites, has good quality land (management, topography and soil type) for the trials and plant breeding that is carried out; thus remaining local to the existing facilities would enable DSV to continue its research. DSV is increasing the land it rents from farmers as the business grows but the increase in field trials does not equate to an increase in facilities.

- 3.18. Wardington is the only facility in the UK and is currently the HQ of the UK operations. This would not change in the future. Additionally, DSV run field trials with third parties at multiple locations in the UK. The activity at the new site would not differ from what is currently carried out on the existing site.
- 3.19. Clearly, the existing site was not originally designed for DSV, and it is understood that DSV lacks the space to carry out business in an efficient manner. The existing site incorporates work carried out on small machines with the large seed handling unit where the forklift operates. The proposal aims to separate these two activities for efficiency and staff safety.
- 3.20. Currently the offices and working areas are within what was originally a cattle barn and as such it has proved difficult to heat efficiently. The new premises would be more environmentally friendly regarding energy consumption. Fire exits and signage into the existing infrastructure are not optimal, and the new facility would have fire safety built into the design.
- 3.21. It is understood that DSV stores seed as part of the business and it can be costly in terms of energy in the existing facility. The new site would be insulated and include efficient drying systems without having to move seed to third-party storage off-site.
- 3.22. Creating a machinery hall with workshop keeps machinery away from pedestrian working areas and allows the safe and efficient movement of vehicles. Due to lack of space, vehicles are currently stored in the working space, having to move them outside and out of the way before starting any process, thus having an impact on safety and efficiency.
- 3.23. Staff: At present there are 10 staff working on site with 5 further members working from home. The plan is to have all staff under one roof and capacity to hot desk and have meetings on site when needed. Staff on the current site all live within a 10-mile radius (with one in Daventry, 12 miles away). Two members of staff live in the village of Wardington and last year, two seasonal staff members were also from the village. DSV Ltd contracts the services of local farmers as well as local cleaners and maintenance staff. Machinery service engineers are also small local business owners. Much of what DSV Ltd does seek to support local community and foster relationships with local businesses.
- 3.24. The applicant has advised that it does not intend to rent out office space and that if required a legal agreement related to DSV's sole use would be acceptable.

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

- 4.1. The only planning history to this site is the previously withdrawn scheme for the same development. This was recommended for refusal for the following reason, but was withdrawn prior to determination.

*The proposal represents unsustainable development because it conflicts with the spatial strategy of Cherwell Local Plan 2011-2031 by proposing development on an unallocated site. The scale and nature of the use is considered inappropriate in this rural location and the application fails to demonstrate exceptional circumstances or adequate justification for why the development should be the size and scale proposed*

*and located on an unallocated rural site. Given its location remote from towns, larger villages and key amenities, the proposal would be sited in a geographically unsustainable location and would promote reliance on the private car. In addition, by reason of its scale and design, the proposal would have an adverse effect on the character and appearance of the area. The proposal therefore conflicts with Policies PSD1, ESD1 and SLE1 of the Cherwell Local Plan 2011-2031 and Government guidance in the National Planning Policy Framework.*

- 4.2. Additionally, given the applicant already uses premises locally (approximately 370m to the north of the application site) it is considered appropriate to look at the planning history of this site to fully understand how the site has established over time. The site is shared as part of a working farm and therefore applications on this site are relevant to both Top Dawkins Farm (landowner) and DSV Ltd (the applicant).
- 4.3. **00/01530/F** – Change of use from agricultural to light industrial and office use B1 and warehousing and distribution use B8 – Refused 25/09/2000. (Top Dawkins Farm)
- 4.4. **10/00943/F** – Erection of Venlo glass house – Permitted 10/08/2010. (DSV)
- 4.5. **13/00288/F** – Alterations to the existing access – Permitted 19/04/2013. (DSV)
- 4.6. **15/00161/F** – General Purpose Agricultural building – Permitted 25/03/2015 (Top Dawkins Farm)
- 4.7. **21/01472/AGN** – Erection of general-purpose farm building – Permitted 13/01/2022 (Top Dawkins Farm)
- 4.8. **22/03265/AGN** – Portacabin. Planning Permission required. 22/11/2022 (DSV)

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

- 5.1. No pre-application discussions have taken place with regard to this proposal, however there has been discussion during the application process prior to withdrawal of the last scheme and prior to presentation at committee for this scheme.

## **6. RESPONSE TO PUBLICITY**

- 6.1. This application has been publicised by way of a site notice displayed near the site and central to the village of Wardington, by advertisement in the local newspaper. The final date for comments was **28th May 2024**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. One letter of representation has been received that raises the following concerns:
  - DSV do not 'have to move' because 'their rent is coming to an end'. The current lease expires in 2025 and there is scope to renew it.
  - DSV do not 'have to move' because the 'buildings are unfit for purpose'. The buildings are not purpose built but they are perfectly adequate for the use.
  - It is inaccurate to suggest that DSV cannot expand or reconfigure the existing site. Previous discussions have led to expansion and there is more space to expand if needed through negotiation.
  - Inaccurate to suggest that DSV have outgrown the site and that the existing site cramped. The new building does not vary in size to that being proposed.

There is scope to expand. The new site has boundary constraints whilst the existing does not.

- Inaccurate to suggest there are no suitable alternative premises available when the current site offers plenty of opportunities and has been since 2006.
- Inaccurate to suggest DSV needs suitable permanent premises to “remain effective, consolidate and grow” as it suggests the current arrangement and future opportunities are not suitable or permanent.
- Inaccurate to suggest that DSV cannot carry out their working activities as the workspace is combined for work and storage of machinery. Space has been provided through the erection of other buildings on site and having exclusive use of them.
- Inaccurate to state that the existing facility makes it difficult to mitigate against noise and dust. DSV have recently fitted a dust extractor unit at Top Dawkins Farm and therefore a result of the plant used on site and not the quality of the building.
- The existing site is adjacent to a 29-acre field used every year for over 18 years by DSV for grass trials and polytunnels.
- DSV claim that the proposal will help the business grow and become more sustainable but how so when the scheme proposes development on prime agricultural land when it is not necessary.
- Additional traffic along Wardington /Chacombe Road

## 7. RESPONSE TO CONSULTATION

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

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. WARDINGTON PARISH COUNCIL: The Parish Council supports this application as a permanent building for the business will help to keep this employer in the area. **No objection.**

### OTHER CONSULTEES

- 7.3. BUILDING CONTROL: **No objections** to the application. Confirm a building regulations application will be required for this approval.
- 7.4. CDC ARBORICULTURE: **No objection.** I have no objections to the proposal from an arb point of view, the proposal seeks to retain much of the existing vegetation. However, I am unable to locate detail/information as to how the protection of the existing tree/hedges is to be implemented. Therefore, I would request the following pre commencement conditions be placed:

*Prior to commencement an Arboricultural method statement in line with BS5837:2012 is to be submitted for review, outlining protective measures, and working practices to allow retention of existing trees/hedges.*

- 7.5. The submitted Landscape plans provide sufficient detail to ensure successful establishment to enhance the location and development. I would welcome a condition to ensure the maintenance and successful establishment is secured. As an observation I note that detail with regards to the installation of root barrier within 3m of existing underground services, as a suggestion it may be beneficial to extend the installation of root barrier where a tree is to be planted within proximity to the proposed parking spaces.
- 7.6. OCC HIGHWAYS: Original **Objection** following further consultation. See documents on file. This is a very similar application to 23/01164/F which was withdrawn. Car parking has been reduced and this is welcome. A pedestrian access has been provided to the adjacent farm track, which leads to a public footpath linking to Wardington. The Transport Statement states that agreement has been reached with the adjacent landowner to permit access to employees from the development across their land to access the public footpath. This would provide a basic level of pedestrian connectivity to nearby housing and bus stops, which is considered acceptable for an employment development of this size. However, improvements to the access from Wardington Road, which were required and offered the previous application, are expressly excluded from this application.
- 7.7. Second response from OCC Highways following revision to the original document to include the missing information – still awaited at the time of writing this report. Members to be updated before or at Committee meeting.
- 7.8. OCC DRAINAGE: **Holding Objection** - I cannot find any detailed calculations for the application to confirm the storage volumes. These must be provided. There is reference to the use of Microdrainage to calculate approximate storage volumes which sounds like the preliminary estimates, which it is specifically not recommended to use for detailed design.
- 7.9. Second response from OCC Drainage following addition information being submitted - still awaited at the time of writing this report. Members to be updated before or at Committee meeting.
- 7.10. OCC ARCHAEOLOGY: **No objections** - The proposals outlined would not appear to have an invasive impact upon any known archaeological sites or features. As such there are no archaeological constraints to this scheme.
- 7.11. CDC ECOLOGY: **Concerns** raised regarding Biodiversity Net Gain and securing it through a S106, bat surveys and protection, the requirement for a Construction and Environmental Management Plan (CEMP), a Landscape and Environmental Management Plan (LEMP), lighting limitations and appropriate conditions securing them.
- 7.12. A full Habitat Management and Monitoring Plan (HMMP) will be needed to ensure habitats are created and managed appropriately for at least 30 years. This should be conditioned.
- 7.13. CDC ENVIRONMENTAL HEALTH: **No objection** subject to conditions.
- 7.14. CDC Legal Services Public Right of Way – No further comments to submit on this application.
- 7.15. No comments have been received from CDC Economic Growth, Landscape Services, Natural England or Thames Water.

## 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 2015)

- PSD1: Presumption in Favour of Sustainable Development
- SLE1: Employment Development (site not allocated).
- SLE4: Improved Transport and Connections
- ESD1: Mitigating and Adapting to Climate Change
- ESD3: Sustainable Construction
- ESD7: Sustainable Drainage Systems
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment

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

- EMP1: Employment Generating Development (retained with regard to rural sites – site allocated).

#### 8.3. Other Material Planning Considerations

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

### **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
- Ecology impact
- Highways
- Other Matters

#### Principle of Development

##### *Policy Context*

- 9.1 Criteria listed below within Policy SLE1 of the CLP 2015 are relevant to the first four key issues. The site is not allocated, and the criteria therefore need to be met to support new employment proposals within rural areas on non-allocated sites. In order to conduct a proper review of the proposal’s policy compliance, these criteria are considered separately, within the sub-sections of this Appraisal.



- 9.2 The site is located in the open countryside, on category 1 best and most versatile land and on an un-allocated employment site. Policy SLE1 of the CLP 2015 states that employment development will be focused on existing employment sites and permitted subject to compliance with other policies in the Plan and other material considerations. It continues:
- 9.3 Unless exceptional circumstances are demonstrated, employment development in the rural areas should be located within or on the edge of those villages in Category A (see Policy Villages 1).
- 9.4 New employment proposals within rural areas on non-allocated sites will be supported if they meet the following criteria:
- a. They will be outside of the Green Belt, unless very special circumstances can be demonstrated.
  - b. Sufficient justification is provided to demonstrate why the development should be located in the rural area on a non-allocated site.
  - c. They will be designed to very high standards using sustainable construction and be of an appropriate scale and respect the character of villages and the surroundings.
  - d. They will be small scale unless it can be demonstrated that there will be no significant adverse impacts on the character of a village or surrounding environment.
  - e. The proposal and any associated employment activities can be carried out without undue detriment to residential amenity, the highway network, village character and its setting, the appearance and character of the landscape and the environment generally including on any designated buildings or features (or on any non-designated buildings or features of local importance).
  - f. The proposal will not give rise to excessive or inappropriate traffic and will wherever possible contribute to the general aim of reducing the need to travel by private car.
  - g. There are no suitable available plots or premises within existing nearby employment sites in the rural areas.
- 9.5. Policy PSD1 of the CLP 2015, relating to a presumption in favour of sustainable development, seeks to secure development that improves the economic, social and environmental conditions in the area.
- 9.6. Paragraph 85 of the NPPF states that planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements. The use of sites that are physically well-related to existing settlements should be encouraged where suitable opportunities exist.

#### *Assessment*

- 9.7. Policy SLE1 of the CLP 2015 relates to employment development, defined as B Use Classes, and has a strong urban focus. In this instance the applicant also proposes a business that is also heavily related to Research and Development. In the rural areas it states that unless exceptional circumstances are demonstrated employment development should be located within or on the edge of Category A villages.

- 9.8. The proposal is approximately two miles from Cropredy, with farmland dividing the two. It therefore fails to meet the requirement to be within or on the edge of a Category A village. Wardington is classified as a Cat B village.
- 9.9. In terms of the sustainability of the location, if accessing the site on foot there are no public footpaths along the main roads for 0.5 miles (0.7km) and no street lighting for on the walk along Wardington Road to the bus stop on Mount Pleasant. The public right of way accessed from the same point and across open countryside measures approximately the same distance and also unlit. At present there are also two stiles to cross on this route. Walkable / wheeling neighbourhoods are defined within Manual for Streets (MfS) as up to about 800m and bus stops should be within 400m. It is understood that the No. 200 bus service that ran between Daventry and Banbury, calling at Wardington was cut in April of last year. At present this is insufficient as an adequate means of commuting to and from work. As such, the development would promote a reliance on the car whether employees worked locally or not. It is therefore not an environmentally sustainable or policy compliant location for new B class development.
- 9.10. Paragraphs 88 and 89 of the NPPF sit alongside the Local Plan policies which allows for such development where it is adequately justified. The NPPF is not considered to be interpreted as unconditional support for the provision and expansion of rural businesses or farm diversification in geographically unsustainable locations and still needs to be balanced against other objectives such as reducing the need to travel, reducing car dependency and associated carbon reductions. Policy SLE1 and ESD1 which sits alongside this are therefore considered to be consistent with the NPPF and given full weight.
- 9.11. Policy SLE1 goes on to note that the Local Plan has an urban focus, and that justification will be required for new sites in rural areas, and this should include applicants demonstrating a need for and benefits of employment development in a particular location and explaining why the proposed development should not be located at the towns.
- 9.12. In addition to the policy requirement to demonstrate exceptional circumstances, Policy SLE1 goes on to note that new employment proposals within rural areas on non-allocated sites will be considered against a list of criteria. These are also considered to be relevant to the assessment of whether the location has been adequately justified. Below is an assessment of the proposal against the most relevant these criteria:
- 9.13. *Be outside of the Green Belt* – The proposal meets this criterion.
- 9.14. *Sufficient justification has been provided to demonstrate why the development should be located in a rural area on a non-allocated site* – The applicants advise that the new development *must* be next to the fields it uses for its research. However, this was previously questioned given the distance of the existing site to Edgecote and Great Bourton, both approximately 2km from the application site.
- 9.15. As a plant breeding company that researches and develops new varieties of wheat and forage grasses for UK farmers and businesses the majority of the research is carried out in the form of field trial, close to farm fields on high quality agricultural land. They work closely with local farmers, renting land to conduct studies and have their own farm machinery which necessitates a location with a rural setting and being a short distance from the fields.
- 9.16. The Planning Statement (in part) provides the following justification for this site:

- 9.17. *DSV or Deutsche Saatveredelung AG is one of the leading plant breeding and seed companies in Germany with an annual turnover of €241 million having operated successfully for almost 100 years. It has around 900 shareholders, mainly farmers and employees holding the share capital of DSV (10% maximum/shareholder).*
- 9.18. *DSV is a full-service provider in the seed market with services extending from research and breeding, through production, processing and distribution of seeds. The company has various seed breeding stations, numerous testing stations and a nationwide, regionally distributed network of branch offices and advisory services with its own processing plants, seed storage and distribution facilities.*
- 9.19. *DSV has been established in the UK for over 40 years with an exemplary track record of providing the best seed for many popular agricultural crops including oilseed rape, grasses, winter wheat, barley, maize, cover crops, lupins and linseed. Part of the international plant breeding business based in Germany, DSV UK operates from its breeding and trials centre at Top Dawkins Barn and adjacent land at Wardington, which is used to breed winter wheat and forages and for National List trials of wheat and grass. DSV is predominantly known for its oilseed rape varieties with high gross outputs combined with low growing costs alongside important agronomic features such as protection diseases.*
- 9.20. *DSV currently rent approximately 2,000 sqm of barn, greenhouse and office space and have done so for about fifteen years; they also rent about 11ha of farm land at Wardington for agricultural trials work, needing to rotate around fields (i.e. crop rotation) so rent other land of between 15 hectares to 20 hectares each year. This is over three farms: one is in Wardington next to the proposed site (same farm) and the other two are at Edgcote in West Northamptonshire and Great Bourton, 2 miles away across the Cherwell valley.*
- 9.21. *The benefit of plant breeding is substantial through yield and quality improvements and increased resilience to changing climatic conditions. The food supply chain contributed 7% of gross value added to the UK economy (£109 billion) at 2016 prices and most of this, whether crops or animals, is underpinned by plant breeding. The UK market for seeds is relatively small, compared to France or Germany, and the UK is a net importer of seeds, hence the need to support the industry for economic, resilience and other reasons.*
- 9.22. *Most plant breeding companies in the UK are located in Cambridgeshire. DSV's location further west allows them to develop wheat varieties with a certain profile which differs to those developed in the eastern part of the country. These include improved disease resistance. The site at Wardington is also good for the development of forage grass varieties as this area has more animal-based farming than the east of the country. DSV have special skills in running agricultural trials which they carry out for other breeding companies not present in this part of the country. Staff are trained in a number of areas including variety identification, crop husbandry, laboratory skills, data analysis.*
- 9.23. *The improved research and other facilities will allow DSV to branch into the testing of other agricultural crops and to provide demonstration plots to showcase their work to farmers both locally and nationally, which is supported by the German parent company, who are keen to invest in the project. This is surely a prestigious business, which is an asset to Cherwell and should be supported.*
- 9.24. *This proposal is clearly for an exceptional business of high quality, skill, intelligence and innovation; the company is established in Wardington and in Cherwell, is a market leader operating nationally and part of a parent company operating globally, significantly contributing to both the local and national economies and thereby*

*demonstrating a set of “exceptional circumstances” that support the proposal as required by Policy SLE1 of the Local Plan Part 1. This supported by the British Society of Plant Breeders, Openfield Agriculture and Dalton Seeds – see their letters attached as Appendices 2, 3 and 4.*

- 9.25. *High quality design, appropriate in scale and respect the character of the villages and surroundings* – Officers agree that buildings 2 to 4 are well designed and respect the character of the agricultural area. There were concerns regarding the proposed office building - its design, need, future functions and concerns regarding the scale of the proposal as a whole. The assessment of the impact on the character and appearance is outlined later in the report.
- 9.26. *No detrimental impact on amenity or highway network* – The Local Highway Authority raised concerns that appear could be overcome with an agreement to invest in footpath improvements. However, officers have concerns with the sustainability of the location along with the principal policy conflict; officers are also of the view that improvements to the footpath, whilst a planning gain would not justify or satisfactorily mitigate the locational sustainability concerns, and also having concerns regarding the visual impact of future footpath improvements in the countryside. See the Highway Safety sub heading below.
- 9.27. *No suitable available plots or premises within existing nearby employment sites in rural area* – Additional information has been provided in this regard to justify the rural location and in turn why the proposal is cannot be suitably located within or on the edge of a Category A village. The Planning Statement at para 4.43 informs of the analysis process in the search for alternative available premises. The Planning Statement also details the scale, locations and their suitability. The findings suggest that there are no other suitable premises for this specialist requirement.
- 9.28. However, whilst the buildings on the existing site are not bespoke, they have served the business for 15 years. Officers consider it necessary that justification is also provided as to why the existing site cannot be developed and smaller buildings considered across a wider area rather than building them all in one location.
- 9.29. Paragraph 4.45 advises that:
- “This proposal represents a considerable investment by the Applicant so it is not unreasonable for them to wish to provide a comprehensive facility on one site that meets their operational requirements. They are already established in Wardington, have been operating out of Top Dawkins Barn for 15 years and existing premises are not fit-for-purpose. The application site provides an ideal opportunity for relocation (being beside land which they already work) and is perfect for DSV’s varied office, storage, research, seed production and other operations. This site, and the purpose-built premises, provide the opportunity for DSV to operate more effectively, to grow as a business, employ a few more people and become more efficient, sustainable and retain staff”.*
- 9.30. In response to this query and the comments made by the one representation received, DSV states that it has indeed appreciated a long-term good working relationship at their current premises, where the landlord has always been very helpful, allowing DSV to adapt the site accordingly. However, whilst there is room for further negotiations, the existing site is not providing a return on investment and the improvements remain the property of the landlord. Making improvements to the existing site to make it fit for purpose is not commercially viable for DSV.
- 9.31. The need to move from the existing premises is to secure long-term commitment and investment from DSV’s parent company in their research and development

programme with the view to grow and develop their trials as well as the long-term financial viability of the company so that they can continue to operate efficiently and support local businesses and staff. The landlord has offered us a lease extension and this additional rent has been included in our cost-benefit calculations with a new DSV-owned facility being the necessary option for the business.

- 9.32. Over the last 4 years the number of employees that work from the site has doubled. It is not only the floor area that is important for DSV but to also have all the facilities for staff on one site. The existing site could be completely reconfigured, but this would disrupt work and increases costs and the financial viability of the business as well as not securing any future commitment or growth from their parent company.
- 9.33. The new site is not much larger than the existing site and that expansion is currently possible. The new site has been designed in a way to meet all of DSV requirements and priorities and also allow for future growth as well as a much more efficient way of working and use of space. The new site would be much more efficient in terms of workflows and DSV will make much better use of the available space. There are expansion options available at our existing site but, again, at a cost. To convert this to office space is of course possible but not a simple undertaking. The landlord refers to the option he presented to DSV, building new offices on the site and paying a ground rent. Clearly this would be a very similar to what we are currently seeking to do but with the additional benefit to the landlord of a ground rent, DSV would not have full control over any future modifications and not maintain ownership or ultimate control of the asset.

#### *Conclusion*

- 9.34. The spatial strategy of a Local Plan is to direct growth towards the most suitable locations and to limit growth in rural areas. The site is not an environmentally sustainable location and conflicts with the locational strategy of Policy SLE1. However, it is considered that exceptional circumstances have been demonstrated as required by SLE1 and justification has been provided for this scale of development only a short distance from its existing premises. It has demonstrated that there are no suitable sites for the premises and why the scheme is in its rural location. Given that the principle of development rests on the exceptional circumstances of the case, and the scale and design of the buildings, it is necessary that a condition is imposed on any permission given to limit the use to that which is proposed.
- 9.35. Officers consider there is still some harm that would arise as a result of the proposed siting of the development; however, the submission documents have appropriately addressed the elements that would otherwise be in direct conflict with the spatial strategy, with Policies SLE1, ESD1 and PSD1 of the CLP 2015 and with the provisions of the NPPF. The assessment here on in is whether the balance of the benefits of this scheme outweigh the harm. This is assessed further below.

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

##### *Policy context*

- 9.36. Policy ESD13 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. It also states that proposals will not be permitted if they would cause undue visual intrusion into the open countryside, cause undue harm to important natural features, be inconsistent with local character, harm the setting of settlements, or harm the historic value of the landscape. Policy ESD15 states successful design is founded upon an understanding and respect of an area's

unique built and natural context and should contribute to an area's character respecting the traditional form, scale and massing of buildings.

*Impact due to scale and visibility of the proposal*

- 9.37. It is understood that the existing site (comprising approximately 0.45ha) is not entirely fit for purpose for the growth of DSV. The revised proposal comprises excess of 2,000 sq.m of new floor area on high quality agricultural land. The design and layout have been amended to reduce areas of proposed hardstanding and parking provision is reduced from 30 to 19 car spaces. The two separate areas for access and turning are for different purposes aimed at avoiding conflict of vehicles across the wider site. The buildings proposed for development, whilst agricultural in character, are closely comparable to the buildings located on the farm site to the east in terms of floor area. These buildings are very apparent from a number of surrounding views and the proposed scale will have a significant impact on the wider countryside and landscape character. The office building has been amended in design terms to visually appear more agricultural in character, despite its office/research and development uses. This has improved the appearance of the buildings in the wider countryside; however, the proposed scheme would have a significant material visual impact on the wider countryside views. Planting and 'softening' of the site would be limited due to the openness of the location.
- 9.38. The application site is within 100m of a listed barn; however, given the immediate farm surroundings it is considered to be sufficiently visually detached so as to not have an adverse impact on its immediate or wider setting.
- 9.39. The scheme suggests retention of the existing hedges, except for where further visibility is needed at the access point. New planting is proposed along the north and east boundaries. Whilst it is appreciated that the landscape character does not lend itself to large screening tree belts some mitigation is further considered in the revised scheme and is referred to in the conclusions of the submitted Landscape and Visual Impact Assessment (LVIA). This document also advises hedges should be improved and enhanced, allowing growth to 3m, additional structural planting to the north elevation and wider landscape planting to mitigate the proposed buildings on the wider landscape.
- 9.40. Officers mostly agree with the content in the submitted LVIA, but disagree with the assessment specifically in respect of Views 5, 6 and 17. Whilst most Views have been given minor to negligible outcomes, this is based on the existing neighbouring farm buildings as a backdrop or continuation of development. In some instances (View 6) the continuation of farm buildings include the existing DSV site, the existing farm buildings to the east and the expanse of the proposed development as one long continuation of built form that is vast in scale and considered to have an adverse impact on the countryside.
- 9.41. Figure 8 'Visual Envelope' of the LVIA (pg 11 of Appendix 1) clearly shows the openness of the site and expanse of surrounding landscape whereby the proposed development would have predominantly unobstructed views.

*Conclusion*

- 9.42. Officers agree partially with the content of the submitted LVIA, but not in respect of certain key views. The changes in design would go some way in improving the impact in the countryside and their more rural appearance and colours would result in the site becoming more recessive in appearance over time.

- 9.43. However, given its scale and location, the proposed development would still result in some harm arising from the visual impact of the proposed development on the rural character of the area. There would be some conflict with Policies ESD13 and ESD15 of the CLP 2015, and with the provisions of the NPPF. This weighs against the proposal.

### Ecology Impact

#### *Legislative context*

- 9.44. 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.
- 9.45. 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.
- 9.46. 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.
- 9.47. 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.
- 9.48. 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, pipelines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

### *Policy Context*

- 9.49. 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.
- 9.50. Paragraph 175 states that when determining planning applications, local planning authorities (LPAs) 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.
- 9.51. 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.
- 9.52. Policy ESD10 of the CLP 2015 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.
- 9.53. 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.
- 9.54. 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.
- 9.55. 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 LPAs 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*

- 9.56. 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:
- a. present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development



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

- b. 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
- c. 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')

9.57. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the applicant has submitted an ecological assessment. In general, there are few protected species issues on site that cannot be dealt with by conditioning a CEMP for Biodiversity.

9.58. The Biodiversity Net Gain Feasibility Study report (Griffin Ecology, March 2024) demonstrates a unit gain of 10.71% habitat units and 10.36% hedgerow units. These gains consist of onsite and offsite habitat creation and enhancement. Because the applicants are relying on offsite gains to achieve a 10% net gain, this will need to be secured by way of a legal agreement. This offsite habitat is proposed as 'moderate' condition Other Neutral Grassland.

9.59. Further questions about the use of the land have been raised, particularly with regard to its use and benefit. This could impact the condition of the grassland, which would impact the ability for the site to achieve net gain – particularly since the proposed net gain is only 10% and there isn't a large buffer to fall back on if 'moderate' condition is not met. Clarification from the applicant advises that there would be no public access to this land. Therefore, the condition of the grassland would not be impacted.

9.60. This application would be subject to the biodiversity gain condition, which is a pre-commencement condition. Once planning permission has been granted, a Biodiversity Gain Plan must be submitted and approved by the LPA before commencement of the development. As such, we would not need to attach a BNG condition. However, we would need a Habitat Management and Monitoring Plan (HMMP) to ensure habitats are created and managed appropriately for at least 30 years. This HMMP should be conditioned. We should also include information about the biodiversity gain condition in the decision letter.

9.61. Bats - The PEA report (Griffin Ecology, 2022) states 'should the development not take place prior to October 2023 the standard tree should be re-surveyed to ensure an up to date understanding of the potential ecological impacts of the proposals' in relation to bat roosting potential. This survey should be undertaken and the results submitted, so that we know if impacts to bats would be likely. This should be prior to determination as per Section 99 of the Government circular 06/2005 on biodiversity and geological conservation which 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.'* And *'Use of planning conditions to secure ecological surveys after planning permission has been granted should only be applied in exceptional circumstances.'* However, if this tree is to be retained, and buffered during the construction phase of the development, then this survey can be included in the CEMP as a pre-commencement check.

9.62. The lighting plan should ensure that no lights are installed on or near this tree unless it can be confirmed that bats are not using it to roost. CEMP for biodiversity The PEA recommends that precautionary works are undertaken to avoid impacting nesting

birds, badgers, hedgehogs, reptiles, and amphibians. A CEMP should be produced which outlines the measures required to protect these species during construction. This includes (but is not limited to) timing of works for nesting birds, pre-commencement checks and precautionary measures for terrestrial mammals, and a RAMMS for amphibians and reptiles. This should be attached as a pre-commencement condition.

- 9.63. Biodiversity Enhancements - We should be seeking a net gain in biodiversity in line with the NPPF and local plan. This includes species-specific enhancements in addition to the BNG habitats being created to achieve a 10% net gain. Species-specific enhancements, such as bird/bat bricks, insect bricks, hedgehog houses, and hibernacula should be incorporated into the plans. The number and location of these enhancements should be shown on any such plan and should be included in the LEMP – which should be conditioned.
- 9.64. Lighting - A suitable lighting strategy should be designed to ensure that and lighting, temporary or permanent, will be installed in line with the BCT guidance note 08/23 'Bats and Artificial Lighting at Night' and demonstrate that the lighting would not disturb bats or prevent them from using their territories. This lighting plan should be conditioned.

#### *Conclusion*

- 9.65. Officers are satisfied, on the basis of the advice from the Council's Ecologist and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land would continue and be safeguarded 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.

#### Highways

- 9.42 Paragraph 110 of the NPPF states that in assessing specific applications for development, it should be ensured that:
- a) *appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
  - b) *safe and suitable access to the site can be achieved for all users;*
  - c) *the design of streets, parking areas, and other transport elements and the content of associated design standards reflects the current national guidance, including the National Design Guide and the National Model Design Code; and*
  - d) *any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

- 9.43 In addition, paragraph 111 highlights that development “should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”.

#### *Assessment*

- 9.44 The proposed development would be accessed from an existing access serving the agricultural uses to the east i.e., no new access onto the highway. The Local Highway Authority has no objection to the proposals and based on the LHA's views there is no objection to the scheme on highway safety grounds, subject to conditions and agreement via a Unilateral Undertaking to connect the footpath with the site and

improvement to the public footpath. These would comprise replacing the existing stiles with kissing gates and improvement to the path to prevent mud build up.

### *Conclusion*

- 9.45 Given the support of the LHA it would be difficult to include a reason for refusal on highway safety, however officers are still concerned over the sustainability of this site for cyclists, pedestrians and future growth or future occupiers of the building.

### Other matters

- 9.45. The proposal is located away from residential properties and would not appear to adversely impact on their amenity.
- 9.46. Regarding drainage and flood risk, the site is not in Flood Zones 2 or 3, and the lead local flood authority has no objection; the proposal is thus considered acceptable in this regard.
- 9.47. The applicant has expressed agreement to legally tying the new buildings to the specific business use. In addition, a condition is required to limit the use to the use class proposed as to remove permitted development rights for extensions in order to allow for future assessment of any forthcoming future application.

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

- 10.1. The economic objective of the NPPF would be partially satisfied because the proposal would allow an existing rural based business to expand and grow. The proposal is closely related to farming, food production and sustainable agricultural practices. It has operated nearby for 15 years and now requires suitable, permanent premises to remain effective, consolidate and grow.
- 10.2. The Planning Statement advises the following:

*A decade ago DSV had six employees working on site and since then the marketing and sales office has been merged with this site, resulting in 10 staff on site and a further 5 employees working from home who also need space when visiting for meetings. The proposal will allow DSV's full workforce of 15 to be on site with plans to increase employment by 3 during the summer months.*

*The cost of the project is estimated at about £4 million. In addition, current investment includes around £25,000 to four local land owners annually. It also includes investment in two local mechanics for machinery-servicing amounting to about £16,000. DSV also employ a cleaner locally, hire extra summer staff from the village as well as using the nearby Garden Centre and Farm Shop for supplies. DSV did a cost comparison of the proposal against remaining on the current site. It worked out that whilst the initial upfront cost is substantial, the company would 'break even' within ten years of moving premises compared to paying their projected annual rent on the current site.*

- 10.3. However, conversely, this would allow another business to relocate into the old building thus potentially creating further intensification over and above that of the existing business to the detriment the countryside and adversely impacting on sustainability.
- 10.4. The social objective of the NPPF seeks the provision of strong, vibrant and healthy communities. In social terms, the proposal promotes and improves its chances of

local staff retention. The new facilities aim to tackle issues such as staff mental health and the health and safety of DSV staff.

- 10.5. The proposal has a strong functional link to agriculture which benefits society through food and plant production. This ensures food supply, addresses poverty, creates opportunities throughout the food system, makes farming more sustainable and adds value to communities, provides materials for other businesses, helps balance ecosystems and the provision of food for animals.
- 10.6. The environmental objective of the NPPF seeks to protect and enhance our natural environment. The site is an environmentally unsustainable location; however, it is considered that exceptional circumstances have been demonstrated which justify the location. Given its scale and location, the proposed development would result in some harm arising from the visual impact of the proposed development on the rural character of the area. There would be some conflict with Policies ESD13 and ESD15 of the CLP 2015, and with the provisions of the NPPF. This weighs against the proposal. That said, the office building, which was one of the major concerns in the previous application, has been amended in terms of design and is now more sympathetic to the site and its agricultural surroundings.
- 10.7. On balance, it is considered that the adverse effects of the revised proposal do not significantly outweigh the benefits. The revised proposal is considered to be in accordance with the most relevant policies and thrust of the Development Plan but also supported by other material considerations, including the NPPF and other recent Government initiatives to support food production, rural businesses and recognise their important contribution to the local and national economies. The proposal is considered to represent sustainable development and is therefore recommended for approval subject to the following conditions and a legal agreement securing offsite Biodiversity net gain and a footpath link.

## **11. RECOMMENDATION -**

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

- **THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS 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):**
  - **CONTRIBUTIONS TO HIGHWAYS AND**
  - **OFFSITE BIODIVERSITY NET GAIN**

### Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

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

Site location Plan 1:1250 and 1:2500 494-01 Rev C

Proposed Site Layout Plan 1:200 494-100 Rev H

Proposed Ground Floor Offices 1:50 494-110 Rev E

Proposed Offices First Floor Plan 1:50 494-111 Rev E

Proposed Offices Roof Plan 1:50 494-112 Rev B

Proposed Buildings 1 and 2 Elevations 1:100 494-200 Rev B

Proposed Buildings 2 and 3 Floor Plans 1:100 494-120 Rev D

Proposed Buildings 2 and 3 Elevations 1:100 494-201 Rev B

Proposed Building 4 Floor Plan 1:100 494-140 Rev D

Proposed Building 4 Elevations 1:100 494-202 Rev B

Site Elevations 1:100 494-20 Rev A

Greenhouse Elevations 4152-01 Rev 2

Greenhouse Floor Plans 4152-02 Rev 1

Proposed Material Schedule 494-205 Rev A

Tree Protection Plan 23.1754.001 Rev A

Received 22/03/2024

Infiltration Basin Calculations

Porous Paving calculations

Received 14/05/2024

Proposed Material Schedule 494-205 Rev A received 11/06/2024

3. No development shall commence above slab level unless and until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

- details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
- 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,
- details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps.
- details of the proposed boundary treatment

The development shall not be carried out other than in accordance with the approved details and the hard landscape elements shall be carried out prior to the first occupation of the development and shall be retained as such thereafter.

Reason: To protect the visual amenity and ecology of the area. To accord with Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.

4. 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.

5. No development shall commence unless and until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The statement shall provide for at a minimum:
  - a. The parking of vehicles of site operatives and visitors;
  - b. The routing of HGVs to and from the site;
  - c. Storage of plant and materials used in constructing the development;
  - d. Wheel washing facilities/ road sweeping;
  - e. Measures to control the emission of dust and dirt during construction;
  - f. Delivery and construction working hours;
  - g. Biodiversity impact assessment
  - h. The approved CEMP shall be adhered to throughout the construction period for the development.

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

6. No development shall commence, including any demolition, any works of site clearance and or the introduction of any construction machinery onto the site, unless and until protective fencing and warning notices have been erected on the site in accordance with the approved [construction method statement, ecological report, CEMP]. All protective fencing and warning signs shall be maintained in accordance with approved details for the entirety of the construction phase.

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.

7. No development shall commence unless and until full specification details (including construction, layout, surfacing and drainage) of the turning area and parking spaces within the curtilage of the site, arranged so that motor vehicles may enter, turn round and leave in a forward direction and vehicles may park off the highway, have been submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Thereafter, and prior to the first occupation of the development, the turning area and car parking spaces shall be constructed in accordance with the approved details and shall be retained for the parking and manoeuvring of vehicles at all times thereafter.

Reason - In the interests of highway safety, to ensure the provision of off-street car parking and to comply with Government guidance contained within the National Planning Policy Framework.

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

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

9. Prior to the first occupation of the development, details of a proposed external lighting scheme shall be submitted to the local planning authority. The scheme shall set out the steps that will be taken to ensure that external lighting, including zonal/security lighting and column lighting within development promotes a secure environment and does not cause a nuisance to local residents or wildlife.

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.

10. No development shall commence above slab level until a schedule of materials and finishes for the external walls and roof(s) of the development hereby approved has been 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 safeguard the character and appearance of the area 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.

11. Prior to the first use or occupation of the development hereby permitted the cycle parking as shown on the approved plans shall be provided in accordance with the approved plans, except that they shall be covered. The said cycle parking facilities shall be permanently retained and maintained thereafter for the parking of cycles in connection with the development.

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

12. DRAINAGE CONDITIONS AS REQUIRED BY LLFA

13. TRANSPORT CONDITIONS AS REQUIRED BY THE LHA

14. SECURE HMMP CONDITION

15. Notwithstanding the provisions of Part 7, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, the approved building shall not be extended or altered without the grant of further specific planning permission from the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain planning control over the development of the site in order to safeguard the amenities of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

16. The buildings hereby permitted shall be used only for purposes falling within research and development (Class E(g)(ii)) as specified in Schedule 2 to the Town and Country Planning (Use Classes) Order 1987 (as amended) with ancillary agricultural and for no other purpose(s) whatsoever.

Reason: To enable the Local Planning Authority to retain planning control over the development of the site, in the interests of sustainable development and in order to maintain the character of the area in accordance with Saved Policy C28 of the Cherwell Local Plan 1996, Policies SLE1 and ESD 15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

17. No development shall commence unless and until an Arboricultural method statement in line with BS5837:2012 has been submitted for review, outlining protective measures, and working practices to allow retention of existing trees/hedges.

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

18. Prior to the first occupation of the development, a scheme for the provision of vehicular electric charging points to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The vehicular electric charging points shall be provided in accordance with the approved details prior to the first occupation of the unit they serve and shall be retained as such thereafter.

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 114(a) of the National Planning Policy Framework.

CASE OFFICER: Saffron Loasby



**24/00893/F**  
**Kelberg Ltd**  
**Northampton Road**  
**Weston On The Green**  
**Bicester**  
**OX25 3TH**



**1:800**

**24/00893/F**

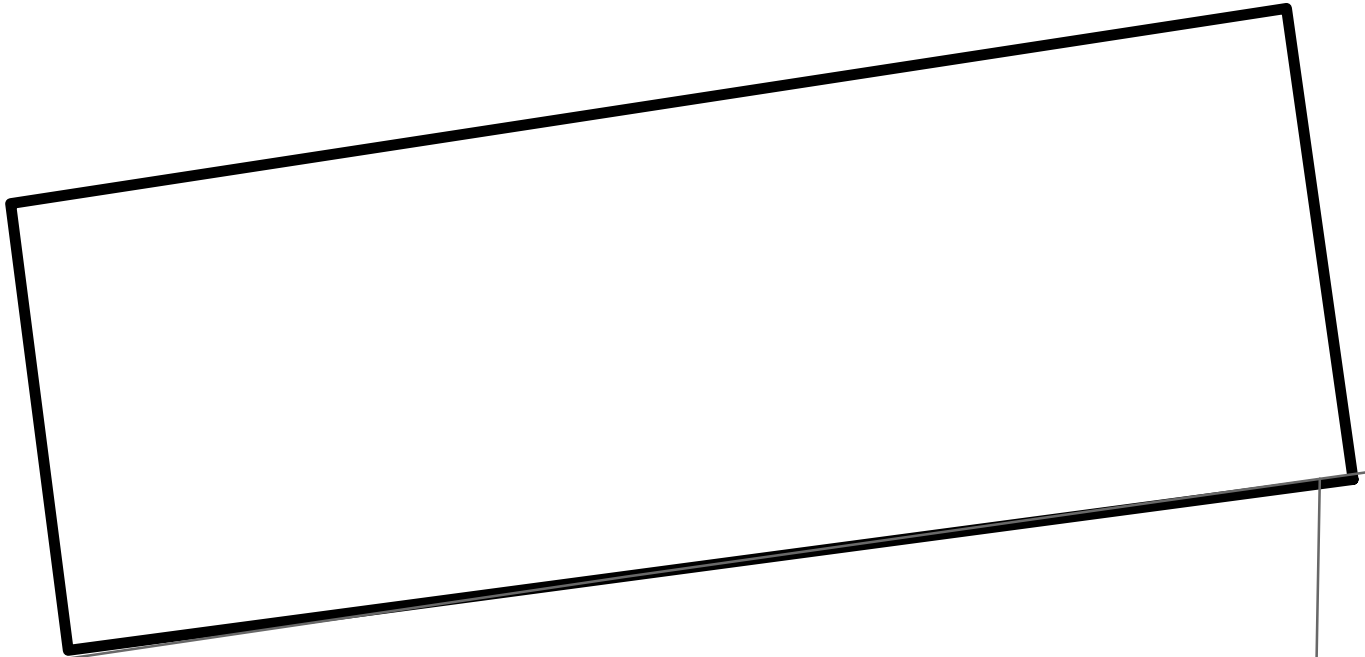
**Kelberg Ltd**

**Northampton Road**

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**Bicester**

**OX25 3TH**



Medley

House



**1:400**

Page 202

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**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**24/00893/F**

**Kelberg Ltd**

**Northampton Road**

**Weston On The Green**

**Bicester**

**OX25 3TH**

Kelberg House

Medley  
House

Tank



**Case Officer:** Sophie Browne

**Applicant:** Kelberg Trailers And Trucks Ltd

**Proposal:** Proposed erection of 8-bay workshop and associated works

**Ward:** Launton And Otmoor

**Councillors:** Cllr Gemma Coton, Cllr Julian Nedelcu and Cllr Alisa Russell

**Reason for Referral:** Major development

**Expiry Date:** 25 July 2024

**Committee Date:** 11<sup>th</sup> July 2024

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**SUMMARY RECOMMENDATION: GRANT PERMISSION SUBJECT TO NO OBJECTIONS FROM THE ARBORICULTURAL OFFICER AND SUBJECT TO CONDITIONS**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is an area of hardstanding on the southern boundary of the wider Kelberg Trailers and Trucks Limited site. The wider site is a relatively large established commercial site comprising a two storey office building and attached workshops with a second detached workshop immediately west of this, a large area of hardstanding to the south, and additional hardstanding adjacent to the highway to the east for staff and visitor parking with two vehicular access points. The site is well-contained with mature trees and vegetation lining the northern, southern and western boundaries. Kelberg Ltd has occupied the site for over twenty years and designs, manufactures, services and repairs trucks and trailers.
- 1.2. The surrounding area consists of a collection of commercial units located in the open countryside around 1.2km north of Weston-on-the-Green. There are also a limited number of residential properties in the cluster of development and a gliding club is located on the opposite side of Northampton Road (the B430), which bounds the site to the east. Weston Business Park is located to the south of the site.

**2. CONSTRAINTS**

- 2.1. The application site is identified as potentially contaminated land and is approximately 775m north/north east of the Weston Fen SSSI. Due to the proximity of RAF Weston-on-the-Green, it is within a Ministry of Defence (MOD) safeguarding area requiring MOD consultation for all development proposals. The site is not within a conservation area nor are there any listed buildings in the area. The site is in Flood Zone 1.

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The application is for the erection of a new eight bay workshop, located on the existing hardstanding to the south of the existing workshop and approximately 55m back from

the front of the site. It would measure approximately 53m in length by 24.5m wide, with a ridge height of approximately 10.3m and eaves at 7.3m with a dual-pitched roof and rectangular plan form. The walling and roofing materials would be profiled grey metal cladding to match the existing workshop and it would have thirty two rooflights evenly spaced across the entirety of the roofslopes. Eight roller shutter doors would be spaced evenly across the northern elevation, with personnel escape doors to the southern and eastern elevations.

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

- 4.1. Kelberg Ltd has occupied the site for a number of years and it has a lengthy planning history. The following planning history covers the last twenty-odd years of the site history and is considered most relevant to the current proposal:

00/00784/F: 'Demolition of workshop and replacement with larger building and full landscape of site (as amended by revised plans received 14.06.00)'. Permitted 22.6.2000.

01/00623/F: 'Single storey extension to provide staff mess room'. Permitted 25.6.2001.

06/01321/F: 'Extension to industrial building'. Refused 25.8.2006.

14/02019/F: 'Extension to existing workshop including enclosure of vehicle wash bay'. Permitted 20.3.2015.

16/00830/F: 'Extension to industrial building'. Permitted 4.7.2016.

17/01223/F: 'Retrospective – Extension to building'. Permitted 20.7.2017.

18/01157/F: 'Erection of detached steel portal framed workshop'. Permitted 29.8.2018.

22/02075/F: 'Change of use from paddock to vehicle and trailer parking area'. Withdrawn 13.10.2022.

23/01641/F: 'Change of Use from paddock to vehicle and trailer parking area – re-submission of 22/02075/F'. Permitted 18.10.2023.

#### **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, expiring **25 May 2024**, by advertisement in the local newspaper, expiring **24 May 2024**, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. Owing to a late consultee consultation, the final date for comments is **10 July 2024**.

- 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.
- 7.2. WESTON ON THE GREEN PARISH COUNCIL AND NEIGHBOURHOOD PLAN: **General comments** submitted jointly, stating that "*the Parish Council has significant concerns that the site will continue to seek extension of the commercial area by further incremental encroachment onto agricultural land, which the Parish Council would find unacceptable.*" Concerns are raised that the proposed workshop would be sited on an existing parking area, with parking moved to recently acquired land to the rear of the site "*which has recently been rezoned from agricultural land for use as a parking area.*" The Parish Council highlights the long history of development on the site and concerns about overdevelopment and seeks assurance that, should the workshop be permitted, no further change of use of surrounding land or expansion of the site would be permitted in future.
- 7.3. OCC HIGHWAYS: **no objection.**
- 7.4. CDC ENVIRONMENTAL PROTECTION OFFICER:  
 Noise and light: **no objection** subject to conditions.  
 Contaminated land, air quality, odour: 'no comment' response.
- 7.5. MOD SAFEGUARDING: **no objection** subject to condition.
- 7.6. CDC ECOLOGIST: **no objection** subject to conditions.
- 7.7. CDC ARBORICULTURAL OFFICER: **additional information required.**
- 7.8. OCC LEAD LOCAL FLOOD AUTHORITY (LLFA): no comments received at the time of writing.
- 7.9. THAMES WATER: no comments received at the time of writing.

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

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

### CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2015)

- PSD1 – Presumption in Favour of Sustainable Development
- SLE1 – Employment Development
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement

- ESD15 - The Character of the Built and Historic Environment

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

- C28 – Layout, design and external appearance of new development
- ENV1 – Environmental pollution
- TR7 – Development attracting large commercial vehicles

8.3. Under Section 38 of the Planning and Compulsory Purchase Act 2004, a Neighbourhood Plan that has been approved at referendum also forms part of the statutory development plan for the area. In this case, the application site falls within the Weston on the Green Neighbourhood Plan (WOTGNP), which was made in May 2021, and the following Policies of the Neighbourhood Plan are considered relevant:

- E1 – Development to protect and conserve locally distinctive character and enhance biodiversity
- E3 – Develop previously developed land rather than greenfield
- E4 – Avoidance of light pollution
- C3 – High standards of broadband/telecoms connectivity
- 

8.4. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)

## **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 and environmental impacts
- Drainage and flood risk
- Ecology impact
- Arboricultural impacts
- Highways matters
- Aerodrome safety

#### Principle of development

##### *Policy Context*

9.2. Paragraph 11 of the NPPF states that a presumption of sustainable development should be seen as approving development proposals that accord with an up-to-date development plan without delay. Paragraph 8 states that, to achieve sustainable development, economic, social and environmental gains are interdependent and need to be pursued in mutually supportive ways.

9.3. CLP 2015 Policy PSD1 reflects this and commits the Council to a proactive approach to securing development that improves the economic, social and environmental conditions in the area.

- 9.4. CLP 2015 Policy SLE1 relates to employment development and seeks to focus this at allocated employment sites. It supports the retention of existing employment sites and the intensification of use of existing sites, including in the rural areas, subject to compliance with other local and national policies and material considerations. This accords with Section 6 of the NPPF (*“Building a strong, competitive economy”*), which states at paragraph 85 that *“Planning policies and decisions should help to create the conditions in which businesses can invest, expand and adapt”*, advising that significant weight should be attached to the support of economic growth and productivity. Paragraph 88 states, amongst other things, that *“decisions should enable the sustainable growth and expansion of all types of businesses in rural areas”*.
- 9.5. WOTGNP Policy E3 states that *“development that makes use of previously developed land will generally be preferred to greenfield locations”*.

#### *Assessment*

- 9.6. The covering email accompanying the application package states that demand for the company’s services and equipment has continued to increase and is now beyond the scope of the current workshop facilities. The company has continued to expand over recent years, with 2019 seeing an increase in workshop capacity from 8 to 16 bays and an expansion of a further 8 bays is now required to keep up with demand. It is anticipated that the additional workshop would initially employ a further 6 full time members of staff in the locality.
- 9.7. The proposed development would support the expansion of an established local business that has been operating at the site for a substantial length of time, in accordance with guidance in Section 6 of the NPPF, providing economic and social benefits in support of the aims of CLP 2015 Policy PSD1 and NPPF paragraph 11 by supporting economic growth and providing local employment opportunities. The proposed development would represent an intensification of use at an existing employment site in the rural area, which complies with CLP 2015 Policy SLE1.
- 9.8. The proposed development would be located within the existing boundaries of the Kelberg site on an area of existing hardstanding, thereby utilising previously developed land in accordance with the requirements of WOTGNP Policy E3.
- 9.9. The Parish Council and Neighbourhood Plan comments regarding the recent expansion of the site and concerns in relation to the potential for future further expansion are noted. The enlargement of the site permitted under application 23/01641/F was assessed in relation to relevant local and national policies and considered to be compliant with these and other material considerations. The current application must be assessed, as presented, in the same way and any future applications for further enlargement, intensification, or other development at the site would similarly be assessed on their own merits. Whilst the concerns of the Parish Council are acknowledged, therefore, it is not within the scope of the assessment and determination of this application to provide reassurances or restrictions relating to any potential future development of the site.

#### *Conclusion*

- 9.10. The proposed development would comply with the relevant requirements of CLP 2015 Policies PSD1 and SLE1, WOTGNP Policy E3, and guidance within the NPPF, and the principle of the development can therefore be supported subject to compliance with other relevant policies and material considerations.

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



### *Policy Context*

- 9.11. CLP 2015 Policy ESD13 seeks to protect and enhance the character and appearance of the landscape, including avoiding harm to important natural landscape features and topography, to the setting of settlements, buildings, structure or other landmark features, or to the historic value of the landscape, preventing impacts on areas with high levels of tranquillity, avoiding undue visual intrusion into the open countryside, and ensuring that development is consistent with local character.
- 9.12. CLP 2015 Policy ESD15 seeks, *inter alia*, to secure high quality development that contributes positively to the character and identity of the area.
- 9.13. CLP 1996 Policy C28 exercises control over all new development to ensure that standard of layout, design and external appearance are sympathetic to the character of the area.
- 9.14. WOTGNP Policy E1 seeks to ensure that development contributes positively to the locally distinctive character and conserves the setting of the village. Amongst other things, it requires proposals to "*recognise the importance of open space, rural character and important views*" and to "*avoid development outside the village confines along the B430 unless it is in accordance with Policies in this Plan and the adopted Cherwell Local Plan*".
- 9.15. Section 12 of the NPPF seeks to achieve "*well-designed and beautiful places*". Of particular relevance is paragraph 135, which sets out design expectations for decision-making including that developments "*are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change*".

### *Assessment*

- 9.16. The proposed development would be located within the existing boundaries of the established business. The design, materials and external finishes would match those of the existing workshop buildings and the new workshop would be sited on an area of hardstanding opposite the existing workshop. The new building would be sited against the southern site boundary approximately 15m from the existing buildings at the nearest point (being set at an angle to them) and approximately 55m back from the frontage of the site. It is therefore considered that the site can comfortably accommodate the proposed new building without resulting in a cramped form or sense of overdevelopment. The matched appearance of the proposed new building with the existing workshop on the site is considered to prevent any appearance of incongruity and to aid visual recession within the existing site context. Whilst the proposal is for a large new commercial structure in a largely rural setting, therefore, it is considered that it relates well to the existing development on the well-contained existing commercial site and would not appear incongruous or intrusive in the wider landscape setting. It is therefore considered to represent high quality design that is sympathetic to the character of the area.
- 9.17. WOTGNP Policy E1 seeks to restrict development along the B430 outside the settlement itself unless it is in accordance with other Neighbourhood and Local Plan policies. As evidenced throughout this report and assessment, the proposal is considered to accord with all other relevant policies of the Local Development Plan, in light of which it is also considered to comply with this requirement of Policy E1.

### *Conclusion*

- 9.18. Given the above, the proposed development is considered to be of an appropriate design that would not appear incongruous in its surroundings nor intrude into the open countryside or otherwise adversely affect the rural character of the area. It is therefore considered to accord with the relevant requirements of CLP 2015 Policies ESD13 and ESD15, CLP 1996 Policy C28, WOTGNP Policy E1, and guidance within Section 12 of the NPPF.

### Residential amenity and environmental impacts

#### *Policy Context*

- 9.19. *Amongst other matters, CLP 2015 Policy ESD15 requires that new development should “consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space” and that it should limit the impact of light pollution on local amenity.*
- 9.20. *CLP 1996 Policy ENV1 seeks to prevent development that would result in materially detrimental level of environmental pollution, including noise, vibration, smell, smoke and fumes.*
- 9.21. *WOTGNP Policy E4 states that “any lighting proposed should be designed to ensure that it does not cause visual intrusion, nor cause adverse effects due to light pollution”.*
- 9.22. Section 12 of the NPPF requires, *inter alia*, that policies and decisions should create places with a high standard of amenity for existing and future users. Section 15 of the NPPF seeks to conserve and enhance the natural environment, including through the prevention of development that would result in unacceptable levels of environmental pollution. Paragraph 191 requires decision-makers to consider the likely effects of pollution from new development on health, living conditions and the natural environment.

#### *Assessment*

- 9.23. The nearest dwellinghouse is located approximately 27m south east of the proposed location for the new workshop. The proposed new building would not result in loss of privacy owing to its use, nature and design, and the relative orientation of the two buildings would prevent any impingement on residential amenity arising from loss of light or overshadowing. Given the site context, degree of separation, building design, and existing mature treeline along the southern site boundary, it is considered that the proposed development would not result in overbearing or otherwise impinge on neighbouring residential amenity. Owing to the degree of separation and existing intervening development, it is considered that no other nearby dwellinghouses would be affected by the proposed development.
- 9.24. The Environmental Protection Officer has confirmed that there are no objections to the proposal, which would not give rise to unacceptable adverse impacts having regard to air quality, odour, or health implications arising from potentially contaminated land. Conditions have been requested to ensure that noise levels arising from any new plant, machinery or equipment installed in association with the development are restricted to acceptable levels and that details of any external lighting must be approved by the LPA prior to installation, in order to protect residential amenity in accordance with CLP 2015 Policy ESD15, WOTGNP Policy E4 and NPPF Section 12, and to prevent adverse environmental effects as required by CLP 1996 Policy ENV1, WOTGNP E4 and NPPF Section 15.

### *Conclusion*

- 9.25. The proposed development would not result in unacceptable adverse impacts on neighbouring residential amenity or unacceptable levels of environmental pollution. It is therefore considered to accord with the relevant requirements of CLP 2015 Policies ESD15, CLP 1996 Policy ENV1, WOTGNP Policy E4, and guidance within Sections 12 and 15 of the NPPF.

### Drainage and flood risk

#### *Policy Context*

- 9.26. CLP 2015 Policy ESD6 relates to sustainable flood risk management, advocating a sequential approach to development and specifying when a site specific flood risk assessment should be required.
- 9.27. CLP 2015 Policy ESD7 requires the incorporation of sustainable urban drainage systems (SuDS) for the management of surface water run-off in all development.
- 9.28. Section 14 of the NPPF relates, amongst other things, to addressing flood risk. Paragraph 173 states that “*when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere*”. Paragraph 175 requires major developments to incorporate sustainable drainage systems except where it can be evidenced that this would be inappropriate.

#### *Assessment*

- 9.29. No comments have been received from the LLFA at the time of writing, which is a statutory consultee on all major applications. However, the application site is in Flood Zone 1, which has the lowest risk of flooding. The proposed development type is classed as ‘less vulnerable’ in terms of flood risk vulnerability and is therefore compatible with the flood zone and a site specific flood risk assessment is not required. The proposed new workshop would be constructed on an area of existing hard standing and would not therefore increase the impermeable area within the site. Given this, it is considered highly unlikely that the proposal would result in increased flood risk within the site or on neighbouring land. In light of this, and subject to a condition to secure an appropriate surface water drainage scheme in accordance with the requirements of CLP 2015 Policy ESD7, the proposal is considered to meet the relevant requirements of CLP 2015 Policies ESD6 and ESD7 and guidance within Section 14 of the NPPF.

### *Conclusion*

- 9.30. Subject to the LLFA raising no objections in their consultation response, it is considered that the proposed development would not result in unacceptable adverse drainage or flood risk impacts in accordance with the requirements of CLP 2015 Policies ESD6 and ESD7 and guidance within Section 14 of the NPPF.

### Ecology Impact

#### *Policy Context*

- 9.31. Paragraph 180 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.

- 9.32. Paragraph 186 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.
- 9.33. Paragraph 191 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.
- 9.34. Policy ESD10 of the CLP 2015 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.
- 9.35. This policy is 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.
- 9.36. 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.
- 9.37. WOTGNP Policy E1 seeks to secure biodiversity net gain for the parish in association with all new development and to “*implement a biodiversity measure for all development proposals*”.

#### *Assessment*

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

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

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

9.39. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the proposed location of the new workshop would be on an existing area of hardstanding. Having considered Natural England's Standing Advice and taking account of the site constraints it is considered that the site has limited potential to contain protected species. As such no formal survey is required and in the absence of which this does not result in a reason to withhold permission. The proposed workshop would be located in close proximity to the established vegetation along the southern site boundary which is likely to function as an important wildlife corridor in the area but a grassed buffer of at least 5m will be left between the building and the hedgerow and the Council's Ecologist confirms that this is sufficient to protect the wildlife corridor. On this basis, and subject to conditions to secure a biodiversity enhancement scheme (to include management of this buffer) and details of any proposed external lighting, the proposed development is considered to accord with the relevant requirements of CLP 2015 Policy ESD10, WOTGNP Policy E1, guidance within the NPPF and other material considerations.

### Arboricultural impacts

#### *Policy Context*

- 9.40. CLP 2015 Policy ESD10 seeks to protect and enhance biodiversity and the natural environment, including encouragement of the protection of trees.
- 9.41. Amongst other matters, CLP 2015 Policy ESD15 requires that new development should integrate and enhance green infrastructure.
- 9.42. CLP 2015 Policy ESD17 relates to green infrastructure and sets out measures through which this will be maintained and enhanced within the District. These include *"protecting and enhancing existing sites and features forming part of the green infrastructure network and improving sustainable connectivity between sites"* and requiring development proposals to maintain and extend green infrastructure links.
- 9.43. Section 12 of the NPPF recognises the contribution that trees make to the character and quality of the urban environment and supports the incorporation of trees into new development and retention of existing trees where possible. Section 15 of the NPPF similarly recognises the contribution that trees and woodland make to the intrinsic character and beauty of the countryside.

#### *Assessment*

- 9.44. The proposed new workshop would be sited in close proximity to the existing planting along the southern site boundary and separating the existing hardstanding from the new parking area to the west (permission 23/01641/F). The Arboricultural Officer has requested additional details of the proposed siting and extent of excavations required for the new building in order to assess whether an arboricultural impact assessment and method statement are required pre-determination or whether these can be conditioned. A more detailed site plan was subsequently submitted and information regarding the extent of excavations is still awaited. Notwithstanding this, the existing planting primarily comprises shrubby hedgerow and immature trees along the southern site boundary and a line of conifers separating the hardstanding from the newer parking area. None of the existing trees that may be affected by the development appear to be particularly high quality or of high amenity value and any likely losses could be compensated for by replacement planting. Given this, and subject to confirmation from the Arboricultural Officer, it is considered that any arboricultural impacts arising from the proposal can be adequately mitigated and this can be controlled by condition.

### *Conclusion*

- 9.45. Subject to receipt of an arboricultural impact assessment and method statement, either pre-determination or to be secured by condition, the proposal is considered to accord with the relevant requirements of CLP 2015 Policies ESD 10, ESD 15, and ESD17 and guidance within Sections 12 and 15 of the NPPF.

### Highways matters

#### *Policy Context*

- 9.46. CLP 2015 Policy ESD15 seeks to deliver safe and healthy places to live and work in. Amongst other things, it requires new development to integrate with existing streets and patterns of routes and spaces and requires that the principles set out in The Manual for Streets should be followed.
- 9.47. CLP 1996 Policy TR7 states that *“development that would regularly attract large commercial vehicles or large numbers of cars onto unsuitable minor roads will not normally be permitted”*.
- 9.48. Section 9 of the NPPF promotes sustainable transport. Paragraph 108 requires transport issues including the potential impacts of development on transport networks and the environmental impacts of traffic to be considered from the earliest stages of development proposals. Paragraph 115 states that *“development should only be prevented or refused on highways grounds if there would be an unacceptable impacts on highway safety, or the residual cumulative impacts on the road network would be severe”*.

#### *Assessment*

- 9.49. The Local Highways Authority considers that the proposed development is unlikely to significantly increase vehicle trips in addition to the existing site use and confirms that the existing site access has sufficient visibility in both directions to ensure highway safety. The proposed developments is therefore considered to integrate with existing streets and patterns of routes and to follow the principles set out in The Manual for Streets, as required by CLP 2015 Policy ESD15, to properly to consider the potential impacts of the proposal on transport networks and the environmental impacts of traffic in accordance with NPPF paragraph 108, and to comply with the requirements of CLP 1996 Policy TR7 and paragraph 115 of the NPPF.

### *Conclusion*

- 9.50. The proposed development is considered to accord with the relevant requirements of CLP 2015 Policy ESD15, CLP 1996 Policy TR7, and Section 9 of the NPPF, in light of which it is considered acceptable in relation to highway impacts.

### Aerodrome safety

- 9.51. The application site is within the statutory safeguarding zones surrounding RAF Weston on the Green, in particular the height and birdstrike safeguarding zones.
- 9.52. Whilst the MoD raises no objection to the proposed development having regard for the height of the proposed new building in relation to air traffic approaches and the line of sight of navigational aids and transmitters/receivers, it raises concerns that cranes or other tall construction equipment used during the construction phase may affect the safe operation of the aerodrome. A condition is therefore requested to secure the agreement of a construction management strategy prior to

commencement of development, detailing any cranes/tall construction equipment to be used along with obstacle lighting, and this is considered reasonable.

- 9.53. No concerns are raised in relation to the potential for the proposed development to increase birdstrike incidence.
- 9.54. Given the above, the proposed development is considered to safeguard Weston on the Green aerodrome in accordance with Government guidance.

#### Other matters

- 9.55. WOTGNP Policy C3 states that “*all developments must provide connectivity (virtual services such as broadband, telecoms) to the highest standard available at the time of the proposal*”.
- 9.56. The proposed development would be located within an established commercial site with existing sufficient connectivity to meet the needs of the business. It is considered unlikely that the proposed new workshop would require high levels of connectivity and that connection to the existing networks serving the business would therefore be adequate. On this basis, it is considered that the proposal meets the requirements of WOTGNP Policy C3.

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

- 10.1. The fundamental aim of the planning system is to contribute to the achievement of sustainable development, in relation to which three overarching objectives are to be pursued: an economic objective, a social objective, and an environmental objective. These should be delivered through the implementation of plans and the application of policies within the NPPF.

#### *The Economic Objective*

- 10.2. The proposed development would support the expansion and growth of an established local business, supporting the local economy and providing an additional six full time employment opportunities. The intensification of use at an existing employment site is supported by CLP 2015 Policy SLE1 and Section 6 of the NPPF, and is given moderate positive weight in the planning balance.
- 10.3. In addition to the above, the proposed development would provide short-term economic benefits during the construction phase by providing local employment opportunities, which is also afforded positive weight.

#### *The Social Objective*

- 10.4. The proposal would support the social objective of sustainable development by providing full time local employment opportunities, helping to support a vibrant local community, and this is afforded moderate positive weight.

#### *The Environmental Objective*

- 10.5. The proposed development is well-designed and would integrate well with the existing site context in accordance with CLP 2015 Policy ESD15, CLP 1996 Policy C28, WOTGNP Policy E1 and Section 12 of the NPPF. It would protect the character and appearance of the wider rural landscape in compliance with CLP 2016 Policy ESD13 and Section 15 of the NPPF. This is afforded moderate positive weight.
- 10.6. The proposed development would respect existing residential amenity and any potential disturbances to amenity or the wider natural environment arising from noise

or light pollution can be controlled for by condition. The compliance of the proposal with these elements of CLP 2015 Policy ESD15, CLP 199 Policy ENV1, WOTGNP Policy E4, and Sections 12 and 15 of the NPPF is afforded neutral weight.

- 10.7. The proposal would incorporate sustainable drainage systems and would affect drainage and flood risk in a neutral manner, in light of which compliance with CLP 2015 Policies ESD6 and ESD7 and Section 14 of the NPPF is also given neutral weight.
- 10.8. The proposed development may adversely affect existing trees on the site but this can be controlled for and mitigation secured by condition. Overall biodiversity net gain can similarly be secured by condition and the proposal would not result in loss of or damage to existing ecological networks or habitat. It therefore complies with the relevant requirements of CLP 2015 Policies ESD10, ESD15 and ESD17, WOTGNP Policy E1, and Section 15 of the NPPF. Given the potential for adverse impacts to existing trees that would require mitigation, the overall biodiversity net gain to be secured is afforded limited positive weight in the planning balance.
- 10.9. The proposal is likely to result in a small increase in vehicle movements to and from the site but this would not be significant enough to raise highway safety concerns. Nevertheless, this would contribute to environmental pollution and so, whilst the proposal complies with the relevant requirements of CLP 2015 Policy ESD15, CLP 1996 Policy TR7 and Section of the NPPF, limited negative weight is attached to the environmental consequences of the development in relation to highways matters.
- 10.10. There are no concerns in relation to increased aerodrome safety risk arising from the proposed development and any potential impacts due to the use of tall equipment or machinery during construction can be controlled by condition. This is afforded neutral weight in the planning balance, as is the compliance of the proposal with WOTGNP Policy C3 in providing sufficient connectivity to meet the needs of the business.

#### *The Planning Balance*

- 10.11. In light of the above, and taking into account other material considerations, the balance weighs in favour of the proposal being sustainable development and it is therefore recommended for approval.

## **11. RECOMMENDATION**

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

- **NO OBJECTIONS FROM THE ARBORICULTURAL OFFICER AND**
- **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: unnumbered location/site plan (submitted 2.4.2024) and drawing number 2024-728-20.

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. Development shall not commence until a construction management strategy has been submitted to and approved in writing by the Local Planning Authority covering the application site and any adjoining land which will be used during the construction period. Such a strategy shall include the details of cranes and other tall construction equipment (including the details of obstacle lighting). The approved strategy (or any variation approved in writing by the Local Planning Authority) shall be implemented for the duration of the construction period.

Reason – To ensure that construction work and construction equipment on the site and adjoining land does not obstruct air traffic movements or otherwise impede the effective operation of air traffic navigation transmitter/receiver systems and in accordance with Government guidance contained within the National Planning Policy Framework.

4. Before any above ground works commence a scheme for the provision and implementation of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The drainage works shall be constructed and completed in accordance with the approved plans before the first use of the building hereby approved and shall be maintained as such thereafter.

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

5. A method statement for enhancing the site for biodiversity shall be submitted to and approved in writing by the Local Planning Authority prior to the development reaching slab level, which shall include details of the planting and management of the 5m grassed buffer against the southern site boundary. It could include measures such as additional landscaping within the wider site or appropriate inclusion of bat/bird/invertebrate boxes on the building hereby approved. Thereafter, the biodiversity enhancement measures approved shall be carried out prior to occupation and retained in accordance with the approved details.

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

6. All plant, machinery and equipment to be used by reason of the granting of this permission shall be so installed, maintained and operated so as to ensure that

the rating noise level from the equipment shall be at least 5 dB(A) below the pre-existing background noise level (dBLA90) when measured at the nearest noise sensitive premises/site boundary. Measurements and rating of noise for the purpose of this conditions shall be in accordance with BS 4142:2014:+A1:2019 Method for Rating and Assessing Industrial and Commercial Sound (or subsequent updates).

Reason – To ensure the creation of a satisfactory environment free from intrusive levels of noise in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

7. Prior to the first use of the development hereby approved details of the external lighting, including security lighting and/or floodlighting, and including the design, position, orientation and any screening of the lighting shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first use of the development hereby approved the lighting shall be installed and operated in accordance with the approved scheme at all times thereafter.

Reason - In the interests of visual amenity and to protect the amenities of nearby residents and to ensure that the development does not cause harm to any protected species or their habitats in accordance with Policies ESD10 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996, and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Sophie Browne

24/00214/F

12-14 Sheep Street  
Bicester  
Oxfordshire  
OX26 6TB

Agenda Item 14



1:600



**24/00214/F**

**12-14 Sheep Street  
Bicester  
Oxfordshire  
OX26 6TB**

House  
1 to 4

White House

Club

Post  
Office

16

14

12

10

8

9

4

PH

The Cottage

Cane House

Flora Court

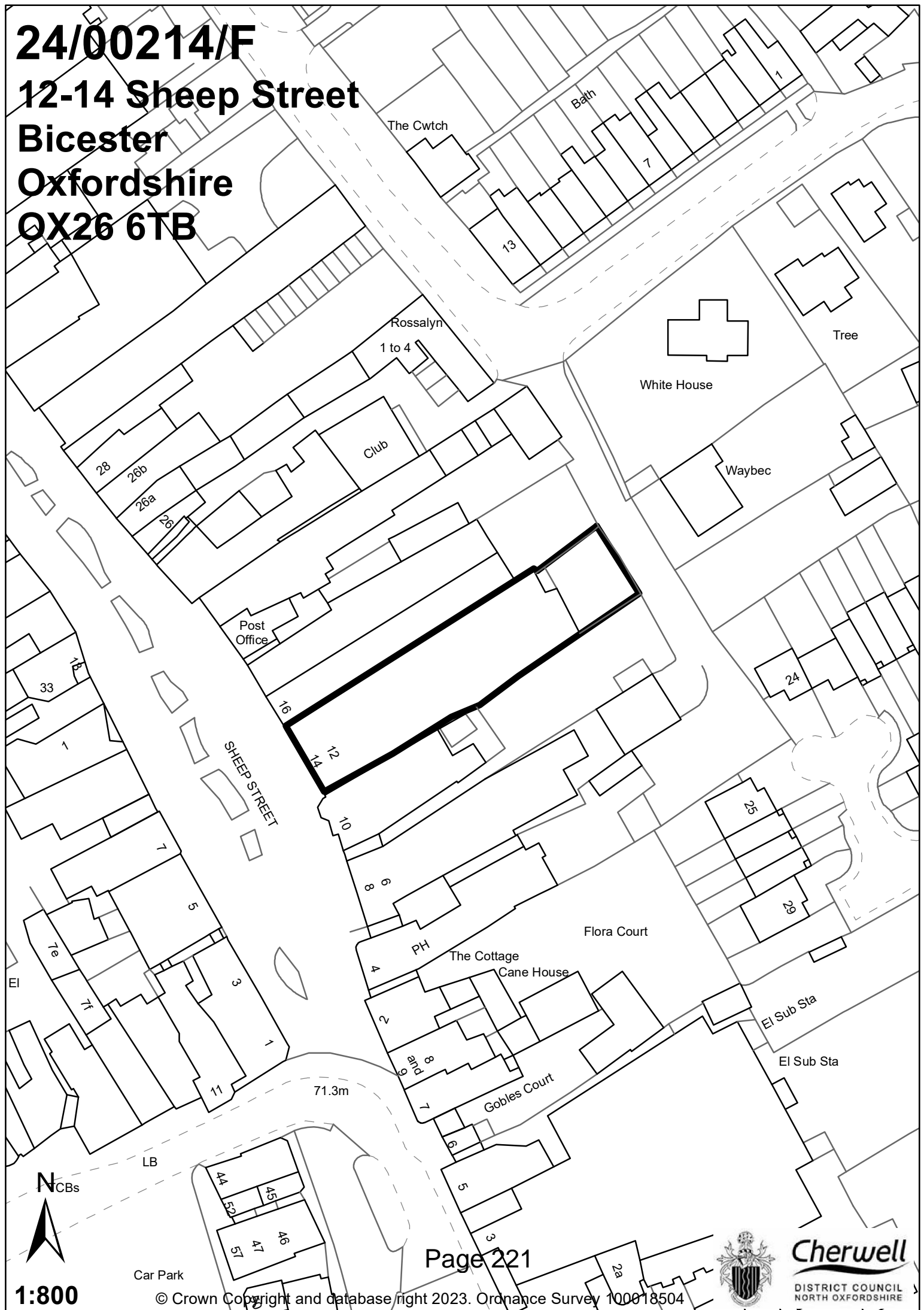


**1:400**



# 24/00214/F

## 12-14 Sheep Street Bicester Oxfordshire OX26 6TB



1:800



**Case Officer:** Rebekah Morgan

**Applicant:** Haithwell Ltd

**Proposal:** Conversion of part of the first and the second floor to residential together with a set-back rear extension at second floor and a lightwell formed at first floor providing 10 flats, with retention of the ground floor and part of the first floor as a commercial unit

**Ward:** Bicester East

**Councillors:** Cllr. Tom Beckett, Cllr. Donna Ford and Cllr. Rob Parkinson

**Reason for Referral:** Major development

**Expiry Date:** 12 July 2024

**Committee Date:** 11 July 2024

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**SUMMARY RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS, THE RESOLUTION OF THE DRAINAGE OBJECTION AND SUBJECT TO A SECTION 106 AGREEMENT TO SECURE FINANCIAL CONTRIBUTIONS.**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application property is a three storey, mid-terrace building located on Sheep Street (pedestrianised shopping area) in Bicester. The property is a long and narrow building with the second-floor element only comprising a small section at the front of the building. The property currently has a retail unit on the ground floor and the remainder of the building is used for commercial uses in connection with the retail unit.
- 1.2. When viewing the property from the front, the ground floor is a modern shop frontage with retail signage. The first and second floors are finished in buff coloured concrete panels with large windows.
- 1.3. The rear of the property is finished in red brick with a split elevation. One section includes a loading bay area with a blank elevation above. The projecting section includes access doors and windows.
- 1.4. To the rear is a carpark/delivery area that is surfaced in concrete with brick boundary walls.

**2. CONSTRAINTS**

- 2.1. The following constraints apply to the site:
  - The site lies within the Bicester Conservation Area
  - The adjacent building is a Grade II Listed Building
  - The site is situated within Bicester town centre with the ground floor retail premises being primary shopping frontage
  - The site is within an area identified as potentially contaminated land
  - The site is within an area of archaeological interest

- Notable and protected species are identified within the area

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

- 3.1. The application is seeking consent to extend and convert part of the building to create 10 flats. The flats would be accessed from the existing car park area of the building, with a separate entrance lobby created on the ground floor. Bin storage and cycle parking (20 cycles) would be provided within the lobby area.
- 3.2. Part of the first floor (front section overlooking Sheep Street) would be converted to create 3 flats and a courtyard area for flat 3. The existing second floor, which only covers the front part of the building, would be converted into 4 flats. Towards the rear of the building on the second floor an extension is proposed to create 3 flats. The roof section between the existing second floor and the proposed extension would be used to create a roof terrace.
- 3.3. The proposed extension on the second floor is set back slightly from the existing rear elevation to enable the creation of small terraces/balconies.
- 3.4. The proposal comprises 10 flats comprising a mix of 7 x studio apartment, 2 x 2-bedroom apartment and 1 x 1-bedroom apartment.
- 3.5. The majority of the ground floor (with the exception of a new entrance lobby and amended staircase) and part of the first floor would be retained for commercial use, including the retail element on the ground floor.

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

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

09/00884/F: New customer entrance and shop front including new signage, punched and glazed roller shutter to entrance lobby and air conditioning system. APPROVED.

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

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

23/01510/PREAPP: Pre-application submission for the proposed conversion of the first and second floors to residential together with a set-back rear extension at second floor and a lightwell formed at first floor providing residential 16 units with retention of the ground floor commercial unit.

23/02952/PREAPP: Proposed conversion of part of the first and the second floor to residential together with a set-back rear extension at second floor and a lightwell formed at first floor providing 10 flats with retention of the ground floor and part of the first floor as a commercial unit (follow-up to 23/01510/PREAPP).

- 5.2. The principle of development was supported as the proposal retained the existing retail use whilst providing additional housing. The design approach was considered to be acceptable. The proposal was unlikely to impact on the amenity of neighbouring properties and the amenity of future occupiers had also been adequately considered. Guidance was provided on requirements for cycle parking.

### **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 **27 February 2024**, 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:
- Balcony would overlook neighbouring properties
  - Impact on light
  - Backway Road (where the development would be accessed) is an unadopted road
  - Impact of construction traffic on the road surface
  - Access not suitable for construction traffic
  - Disruption of construction
  - Risk that construction activity could damage heritage walls in the area
  - No car parking provision
  - Access for emergency vehicles
  - The surface road has no lighting and is not suitable for pedestrians
  - The design will be very different to the other properties in the area
  - Concerns they would be used as short term lets
  - Impact on value of neighbouring properties
- 6.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

## **7. RESPONSE TO CONSULTATION**

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

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. BICESTER TOWN COUNCIL: Strong concerns due to:
- Overdevelopment of Backway Road
  - Backway Road is a private service road which needs to be adopted
  - There are no street lights
  - Footpath will need to be enhanced
  - Front of the development needs readdressing
  - Balconies at the rear of the site will impact on neighbouring residents privacy
  - Limited parking for residents
  - Poor quality housing may result in a reduction in natural light for residents
  - Close proximity to the White Hart may result in noise pollution

### CONSULTEES

- 7.3. OCC HIGHWAYS: **Objection**, more information is required to show the functionality and the accessibility of the proposed cycle storage.

#### Car Parking:

The site is located within a sustainable location and is within walking distance to frequent public transport networks and essential amenities. It therefore qualifies as a site suitable for car-free development.

#### Cycle Parking:

The Design and Access Statement states that there is to be a provision of 20 cycle spaces to accommodate for the 10 units proposed on site. The current OCC Standard



for cycle parking provision is 2 spaces per bedroom, there are 12 bedrooms proposed on site and the provision must be amended to 24 cycle spaces.

Plans must be submitted to show the function of the double stacked cycle parking infrastructure, OCC policy outlines that double-stacked cycle parking is not desirable due to accessibility reasons, however it is acceptable in certain circumstances. Given the constraints of the site it can be considered acceptable under this proposal, but diagrams demonstrating its accessibility and function must be submitted to ensure it is appropriate. A plan must also be submitted showing the access to the highway from the cycle store.

- 7.4. LEAD LOCAL FLOOD AUTHORITY: **Objection**, insufficient information has been submitted.
- 7.5. OCC EDUCATION: **No objection** Due to the nature of this application, generating very low pupil numbers, no Section 106 contributions towards education provision will be sought in this instance.
- 7.6. OCC ARCHAEOLOGY: **No Objection** The proposals outlined would not appear to have an invasive impact upon any known archaeological sites or features. As such there are no archaeological constraints to this scheme.
- 7.7. OCC WASTE MANAGEMENT: **No objections** subject to a financial contribution towards household waste and recycling centres.
- 7.8. THAMES WATER: **No objection** 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.
- 7.9. THAMES VALLEY POLICE DESIGN ADVISOR: Detailed comments have been provided relating to crime prevention features that should be incorporated within the development. A condition is requested requiring the development to meet Secured By Design standards.
- 7.10. BICESTER BIKE USER GROUP:

Bicester Bike Users' group supports plans to create housing close to Bicester town centre, which gives easy access to rail and bus services as well as making active travel by foot or cycling a good option. However, the proposed cycle parking facilities do not meet current guidelines. Please see details below.

The number of cycle parking spaces in the plans is in line with current OCC guidance (two per bedroom) but the proposed provision appears to be a two tier system, which can be difficult to use and is of no value to riders of vehicles which deviate from the typical design. Cargo bikes and three wheeled vehicles are increasingly being seen in Bicester, whose flat terrain is well suited to them. OCC guidelines on parking follow national standards set out in government guidance (LTN1/20) in stating that two tier stands are of limited value and that Sheffield Stands, with a separation from walls and one another specified in LTN1/20 to allow the convenient parking of a wide range of cycles, should be used (Parking Standards For New Developments Section 4.11 page 6 ). Specifically, "double decked or vertical cycle parking should not be used unless agreed by OCC in specific circumstances". In order to comply with local and national

guidelines the outside part of the residents' entrance may need to be modified to create adequate space for user friendly cycle parking.

- 7.11. CDC ENVIRONMENTAL PROTECTION: No comments relating to contaminated land, air quality, odour or light.

Noise: Having read the noise report provided I am satisfied with its contents and findings. I would recommend that the following condition be placed on any permission granted:

Prior to the first occupation of the residential dwellings all mitigation as laid out in the noise report (Clement Acoustics ref 18824-EBF-01, dated 21st December 2023) shall be in place and confirmation sent to the LPA. Thereafter this mitigation shall be maintained in accordance with the approved details.

- 7.12. CDC CONSERVATION: **No objections**, the property is located within a conservation area and is adjacent to a Grade II Listed Building. Due to the nature of the building and the proposals, little will change when viewed from the front and the extensions are not considered to be detrimental to the character of the building. The proposals are not considered to result in harm to the significance of the Listed Buildings through development within their setting or the conservation area.

- 7.13. CDC HOUSING: No comments received.

- 7.14. CDC ECOLOGY: Preliminary Roost Assessment (PRA) was provided by Daniel Ahern Ecology in January 2024. The PRA classified the building as negligible for roosting bats and recommended that at least two bat boxes and an insect brick are installed on site to enhance biodiversity.

I would recommend that we condition a Biodiversity enhancement plan. This should include the bat bricks and insect bricks recommended in the PRA. I would also encourage the Biodiversity enhancement plan to include some greenery on the roof terrace. There are lots of way to enhance the roof terrace for biodiversity which would also benefit the residents of the new flats. Additionally, due to records of swifts in the area, I would recommend that two swift bricks/boxes are installed as high as possible on the east elevation.

- 7.15. CDC WASTE AND RECYCLING: No comments received.

- 7.16. CDC PLANNING POLICY: No comments received.

- 7.17. CDC BUILDING CONTROL: The proposed work is subject to the Building Regulations and will require approval. The Fire & Rescue Service will need to be consulted on fire safety matters in addition to the Building Control body.

Note that the plans show deviations from the approved documents in respect of fire safety matters, which could be regarded as non-compliances. These include: the siting of the waste bin storage adjacent to the escape route; excessive travel distances from the entrance doors of the flats to the protected stair lobbies; lack of smoke ventilation in the protected stair lobbies and corridors.

- 7.18. BICESTER DELIVERY TEAM: 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 2015)

- PSD1: Presumption in Favour of Sustainable Development
- SLE2: Securing Dynamic Town Centres
- BSC1: District Wide Housing Distribution
- ESD1: Mitigating and Adapting to Climate Change
- ESD3: Sustainable Construction
- ESD5: Renewable Energy
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15: The Character of the Built and Historic Environment
- BIC5: Strengthening Bicester Town Centre
- INF1: Infrastructure

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

- C28: Layout, design and external appearance of new development
- C30: Design Control
- ENV1: Development likely to cause detrimental levels of pollution

### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Bicester Conservation Area Appraisal
- 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 and impact on heritage assets
- Residential amenity
- Transport and highway safety
- Drainage
- Ecology and biodiversity
- Other matters
- Affordable housing and planning contributions

### Principle of Development

- 9.2. Paragraph 11 of the National Planning Policy Framework (NPPF) states that decisions should apply a presumption of sustainable development. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.
- 9.3. Paragraph 12 of the NPPF notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.
- 9.4. Policy PSD1 contained within the CLP 2015 echoes the NPPF's requirements for 'sustainable development' and that planning applications that accord with the policies in the Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.
- 9.5. Policy Bicester 5 of the CLP 2015 states that '*residential development will be supported in appropriate locations in Bicester town centre except where it will lead to a loss of retail or other main town centre use*'. It goes on to state '*residential development will be encouraged within the primary shopping frontage above ground floor level*'.
- 9.6. The NPPF supports this approach to residential development in town centres with paragraph 90 (f) stating that planning policies should '*recognise that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites*'.
- 9.7. The submitted plans show that the existing large retail unit at the ground floor level would be retained with a mixture of storage (associated with the retail unit) and residential units proposed on the first and residential units proposed on the second floor of the building. The site is within an area defined as 'primary shopping frontage', therefore this approach to the use of the building is consistent with Policy Bicester 5 of the CLP 2015.
- 9.8. The site is well connected to local transport routes and ideally located for future occupiers to utilise opportunities for active travel. Being in the town centre, there is easy access to local amenities including shops and community facilities. The location of the site is considered to be sustainable and the principle of residential development is acceptable, subject to the other material planning considerations set out below.

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

- 9.9. The site is within the Bicester Conservation Area and the neighbouring building is a Grade II listed building.

#### *Policy Context*

- 9.10. 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*.
- 9.11. 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.*

- 9.12. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 205 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 2015 echoes this guidance.
- 9.13. 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 139 of the NPPF states that *'development that is not well designed should be refused, especially where it fails to reflect local design policies and national guidance on design'*.
- 9.14. Paragraph 135 of the NPPF states that planning policies and decision should ensure that developments:
- a) *Will function and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
  - b) *Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
  - c) *Are sympathetic to local character and history including the surrounding built environment and landscape setting, while not preventing or discouraging innovation or change (such as increased densities);*
  - d) *Establish or maintain a strong sense of place, using arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
  - e) *Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
  - f) *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.*
- 9.15. Policy ESD15 of the CLP 2015 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.

- 9.16. Policy C28 of the CLP 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.
- 9.17. The Cherwell Design Guide (2018) 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.

#### *Appraisal*

- 9.18. The main part of the application is seeking to convert the upper floors of the existing building and this element of the work would have only limited external changes. The application does include a proposal to add a section to the second floor and this would be the largest external change to the building.
- 9.19. The front elevation of the building faces onto the pedestrianised shopping area in Bicester town centre. The ground floor has a modern 'shop front' with the front of the upper floors being finished in concrete panels (to give a type of stone effect). The only proposed changes to the front elevation are the replacement of some of the windows and the replacement of the infill panels below the second-floor windows. These changes are minor and will not alter the overall character of the building.
- 9.20. The main external changes would be on the rear elevation of the building. The proposal includes the addition of two windows at first floor level and the addition of an upward extension to create an additional section on the second floor and would increase the height of the building by approximately 3.2m. The extension would be set back from the existing rear elevation by approximately 3.6m with the provision of balconies.
- 9.21. The design of the extension is a simple, flat roof addition that would be constructed in brick to match the existing building. The proposal includes large glazing and balconies that would give a more domestic appearance in contrast to the existing functional design that reflected the commercial nature of the site.
- 9.22. The application site is within the Bicester Conservation Area. The site is within the 'Sheep Street' character area which is characterised by predominantly three storey buildings facing onto the main shopping street. The appraisal notes the original burgage plots are still discernible; these are the long thin plots including the application site.
- 9.23. When viewed from the rear, many of the properties on Sheep Street, including the application site, have been altered with modern alterations/extensions to accommodate the commercial nature of the retail units which has resulted in a mixture of designs. Therefore, the proposed development would not appear out of keeping within this context.
- 9.24. The Council's Conservation Officer has advised that '*due to the nature of the building and the proposals, little will change when viewed from the front and the extensions are not considered to be detrimental to the character of the building. The proposals are not considered to result in harm to the significance of the Listed Building through development within their setting or the Conservation Area*'.
- 9.25. In conclusion, the proposed development would not be detrimental to the character of the area, would not be detrimental to the character and appearance of the Bicester Conservation Area and would not cause harm to the setting of the neighbouring listed

building. As such, the proposal complies with saved Policy C28 of the CLP 1996, Policy ESD15 of the CLP 2015 and Government guidance contained within the NPPF.

#### Residential amenity

- 9.26. Paragraph 135 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.
- 9.27. Policy ESD15 of the CLP 2015 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.
- 9.28. The proposal includes the addition of a second floor extension with balconies and additional first floor windows facing northeast. The nearest residential property is approximately 26m from the existing building (front of the property faces the application site); this accords with the Council's Residential Design Guide which suggests a minimum distance of 22m between properties to safeguard from direct overlooking.
- 9.29. Some views may be gained on neighbouring gardens, but this would not be dis-similar to the existing relationship between properties in the area and is not considered to be harmful.
- 9.30. Although the proposal adds an additional storey to the rear of the existing building, there is sufficient distance to the neighbouring properties that the proposal would not appear overbearing or impact detrimentally on the general outlook from the residential properties.
- 9.31. With regards to amenity for future occupiers, The Governments 'Technical housing standards – nationally described space standard' guidance sets out minimum requirements for dwellings and the proposed flats comply with the minimum space standards set out in this guidance. The flats are laid out in a manner that would not result in direct overlooking between the flats. Those flats that have windows facing onto the communal space have a small amount of defensible around the windows that could be protected by fencing.
- 9.32. Outdoor space has been provided in the form of roof top terraces and balconies. Some of the space is associated with individual flats and a larger communal space is provided on the second floor. The space is secure and could only be accessed by residents of the flats. The provision of some outdoor space is a benefit for town centre flats.
- 9.33. The proposal would not have a detrimental impact on the residential amenity of neighbouring properties and would provide suitable standards of amenity for future occupiers of the development. The proposal would comply with Policy C30 of the CLP 1996, Policy ESD15 of the CLP 2015 and Government guidance contained within the NPPF.

#### Transport and highway safety

- 9.34. Policy ESD15 of the CLP 2015 states, amongst other matters, that new development proposals should: "*Be designed to deliver high quality safe...places to live and work in.*"

9.35. Oxfordshire County Council's document '*Parking Standards for New Developments*' states that OCC fully support the concept of car free developments and sets out the following criteria:

- a) *the proposed site is located within, or on the edge of a city/town with (or will be provided with) parking restrictions imposed within its vicinity.*
- b) *the site has access (or will be provided with) excellent connections to pedestrian and cycle infrastructure and should be within 400m direct walking distance of frequent (15-20min) public transport services.*
- c) *the site is to be located within 800m walking distance to a range of local amenities and services.*
- d) *consideration is to be given to parking provisions for people with impaired mobility.*

9.36. The Highways Officer has advised the proposal meets the criteria for a car free development. The site is suitable located within the centre of Bicester with good access to walking/cycling infrastructure, public transport and local amenities.

9.37. The site is accessed from the rear of the building. The existing loading/parking area is served by a private road (Backway Road) off Victoria Road. There is a section of pedestrian footway (however, third parties have advised this was provided by the owners of a property on Backway Road) that connects to the footway on Victoria Road. The distance from the site to Victoria Road is approximately 40m with good visibility. The road is also already used by pedestrians to access other residential properties. The access is considered to be suitable for pedestrians and cyclists.

9.38. The Highways Officer has raised concerns regarding the number of cycle parking spaces and the use of a two-tiered storage rack. The applicant proposes provision for 20 cycles for the 10 flats. OCC guidance suggests 2 cycle spaces per bedroom which would require 24 cycle spaces for the development. The proposal includes studio flats and the plans suggest accommodation for a total of 16 occupants, therefore the small shortfall in provision is considered to be acceptable as this still exceeds 1 bike space per occupant. The plans show the cycle parking to be provided within an enclosed, secure area and full details of the bike stand can be secured via condition.

9.39. The proposal is suitable as a car free development and provides sufficient pedestrian/cycle access for the site. The proposal would not cause harm to the safety and convenience of highway users in accordance with Policy ESD15 of the CLP 2015 and Government guidance contained within the NPPF.

#### Drainage

9.40. Policy ESD7 of the Cherwell Local Plan 2015 states '*All development will be required to use sustainable drainage systems (SuDS) for the management of surface water run-off*'.

9.41. Paragraph 175 of the NPPF states: '*Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The system used should:*

- a) *take account of advice from the lead local flood authority;*
- b) *have appropriate proposed minimum operational standards;*
- c) *have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*



d) *where possible, provide multifunctional benefits*'.

9.42. The Lead Local Flood Authority has raised an objection due to insufficient information relating to surface water drainage. The application site is an existing building, and the proposal includes a second floor extension, however the overall amount of the site covered with buildings would not increase, therefore it is anticipated the applicant will be able to overcome this objection. Additional information has been requested, which will be re-consulted upon. The recommendation below reflects this issue; any approval would be subject to the resolution of the drainage objection.

#### Ecology and biodiversity

9.43. Paragraph 180 of the NPPF states that *Planning policies and decisions should contribute to and enhance the natural and local environment by: a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan) 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.*

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

9.45. It should be noted that this application was submitted prior to the introduction of the mandatory biodiversity net gain requirements.

9.46. The application seeks to primarily convert an existing building with the small addition to the second floor. A Preliminary Roost Assessment (PRA) was submitted with the application, which classified the building as negligible for roosting bats. The report recommends that bat boxes and insect bricks are installed on site to enhance biodiversity.

9.47. The Council's Ecologist has assessed the submitted information and raises no objections to the proposal. They note there are lots of ways to enhance the roof terrace for biodiversity and recommends the installation of swift bricks/boxes due to the record of swifts in the area.

9.48. A condition is recommended requiring the submission of a biodiversity enhancement and management plan. This can capture the recommended bat boxes, insect bricks, swift bricks/boxes and consider the potential for other biodiversity enhancements within the roof terrace.

9.49. The proposal would not result in demonstrable harm to protected species and biodiversity enhancements can be secured via a planning condition. Therefore, the proposal complies with Policy ESD10 of the CLP 2015 and Government guidance contained within the NPPF.

#### Other matters

9.50. Thames Valley Policy Crime Prevention Advisor has appraised the scheme and provided detailed comments on Secured by Design features that could be incorporated within the scheme. Concerns were raised regarding the roof top terrace area and the risk of anti-social behaviour; however, this area is only designed to be accessible by residents and has the benefit of providing outdoor amenity space for the flats. Those properties facing onto this area will have protected space around their windows to prevent overlooking. Conditions can be used to secure the details of the

communal space and to ensure appropriate Secured by Design features are provided within the development.

#### Affordable housing and planning contributions

- 9.51. Policy BSC3 of the CLP 2015 sets the thresholds for the provision of affordable housing. Within Bicester the threshold is 11 or more dwellings; therefore, as the proposal is for 10 dwellings, the application is not required to provide affordable housing.
- 9.52. A planning contribution has been requested by Oxfordshire County Council towards the expansion and efficiency of Household Waste Recycling Centres (HWRC) capacity. Justification has been provided to support the request and calculations demonstrating how the total contribution was reached. A total of £940 (index linked) has been requested.
- 9.53. Cherwell District Council, Communities and Leisure Team has requested contributions towards the following:
- Community Hall facilities: Bicester East Community Centre and/or a community centre in the locality. A total of £11,020.08 (index linked) has been requested.
  - Outdoor Sports Provision: Off-site contribution towards the provision of a 3G football pitch in Bicester to meet a need that has been identified in the recent Playing Pitch Strategy. A total of £20,170.30 (index linked) has been requested.
  - Indoor Sports Provision: Off-site contribution towards improvements at Bicester Leisure Centre, specifically the provision of an additional pool. A total of £8,047.68 (index linked) has been requested.
- 9.54. The contributions requested have been justified and are required to make the development acceptable. The requests are considered to meet the tests for contributions set out in the PPG 'Planning Obligations'. Therefore, the contributions are being sought and would be secured through a Section 106 agreement.

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

- 10.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 10.2. The development would be located within a sustainable location within the town centre of Bicester. The site is close to good public transport links, there is suitable access for pedestrians and cyclist which would encourage the use of active travel methods. The site is close to local amenities including shops, leisure and community uses which would be easily accessible for future residents. The development would provide 10 additional dwellings which would contribute to the District's Housing Land Supply.
- 10.3. The application proposes residential units above the existing retail units which would contribute to the vibrancy of the town centre by bringing new residents to the area, whilst retaining the retail uses and associated jobs. The construction work would also provide short term additional employment in the area contributing to the local economy.
- 10.4. The design of the development is considered acceptable and would not have a detrimental impact on heritage assets. The design and layout are compatible with the surrounding properties and would not detrimentally affect the neighbouring properties.

## 11. RECOMMENDATION

### DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION, SUBJECT TO

- THE RESOLUTION OF THE DRAINAGE OBJECTION
- 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:
  - a) Payment of a financial contribution towards the expansion and efficiency of Household Recycling Centres (HWRC) of £940 (index linked)
  - b) Payment of a financial contribution towards Community Hall Facilities of £11,020.08 (index linked)
  - c) Payment of a financial contribution towards Outdoor Sports Provision of £20,170.30 (index linked)
  - d) Payment of a financial contribution towards Indoor Sports Provision of £8,047.68 (index linked)

### 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 application form and the following plans and documents:

- Planning, Heritage, Design and Access Statement dated January 2024
- Preliminary Roost Assessment prepared by Daniel Ahern Ecology dated January 2024
- External Building Fabric Assessment (noise assessment) prepared by Clement Acoustics, reference 18824-EBF-01 dated 21 December 2023
- Drawing number 22.1353/011 – [Site Location Plan]
- Drawing number 22.1353/015 – [Proposed Block Plan]
- Drawing number 22.1353/003 Rev C – [Proposed Ground Floor Plan]
- Drawing number 22.1353/004 Rev B – [Proposed First Floor Plan]
- Drawing number 22.1353/005 Rev A – [Proposed Second Floor Plan]
- Drawing number 22.1353/008 Rev A – Proposed Rear Elevation]
- Drawing number 22.1353/013 Rev A – [Proposed rear elevation from side road (off Victoria Road)]
- Drawing number 22.1353/010 – [Proposed Front Elevation]
- Drawing number 22.1353/007 Rev A – [Proposed Section A-A]
- Drawing number 22.1353/014 – [Proposed Front Elevation (B-B, C-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.

3. The materials to be used for the external walls and roof of the development hereby permitted shall match in terms of colour, type and texture those used on the existing building.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. Prior to the commencement of works above slab level in respect of the development the development hereby approved, a scheme for landscaping the site shall be submitted to and approved in writing by the Local Planning Authority which shall include:
  - a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch, etc.),
  - b) details of the hard landscaping including hard surface areas,
  - c) details of the enclosures within the communal rooftop terrace area,
  - d) details of any fixed furniture within the communal rooftop terrace area.

All planting, seeding or turfing included in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) [or on the completion of the development, whichever is the sooner,] and shall be maintained for a period of 5 years from the completion of the development. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The approved hard landscaping and boundary treatments shall be completed prior to the first occupation of the development and shall be retained as such thereafter.

Reason: To ensure that a satisfactory landscape scheme is provided in the interest of visual amenity of the area 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.

5. The development shall not be occupied unless and until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out strictly in accordance with the approved schedule and shall be retained as such thereafter.

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

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

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

7. A method statement for enhancing the biodiversity (including bat boxes, swift brick/boxes and other enhancements within the rooftop terrace) shall be submitted to and approved in writing by the Local Planning Authority prior to the development reaching slab level. Thereafter, the biodiversity enhancement measures approved shall be carried out prior to occupation and retained in accordance with the approved details.

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

8. 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 have first been submitted to and approved in writing by the Local Planning Authority. The covered cycle parking facilities so provided shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.

Reason: In the interests of promoting sustainable transport modes in accordance with Policy ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

9. The development hereby approved shall not be occupied until details of how Secured by Design measures have been incorporated into the development have been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt the details of how the scheme accords with the secure by design principles shall include: details of all bedroom doors being certified to PAS24, with a door viewer installed; details of a secure postal strategy; and details of a visitor notification system (doorbell) for each bedroom. The Secure by Design measures shall be implemented in accordance with the approved detail and be retained and maintained in perpetuity.

Reason: In the interests of promoting sustainable transport modes in accordance with Policy ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

10. Prior to the first occupation of the residential dwellings all mitigation measures as set out in the noise report (Clement Acoustics ref 18824-EBF-01, dated 21st

December 2023) shall be implemented. Thereafter this mitigation shall be maintained in accordance with the approved details.

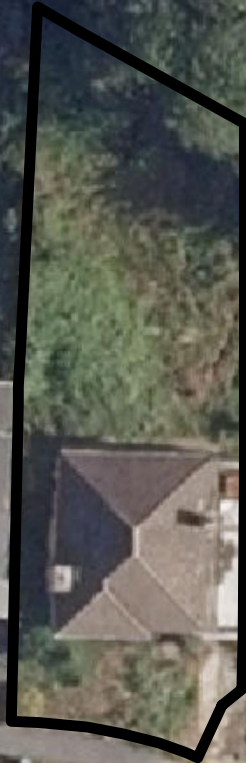
Reason: To ensure the creation of a satisfactory environment free from intrusive levels of noise in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Rebekah Morgan

24/00401/F

20 Almond Road  
Bicester  
OX26 2HT

Agenda Item 15



1:400

**24/00401/F**

**20 Almond Road**

**Bicester**

**OX26 2HT**



ALMOND ROAD

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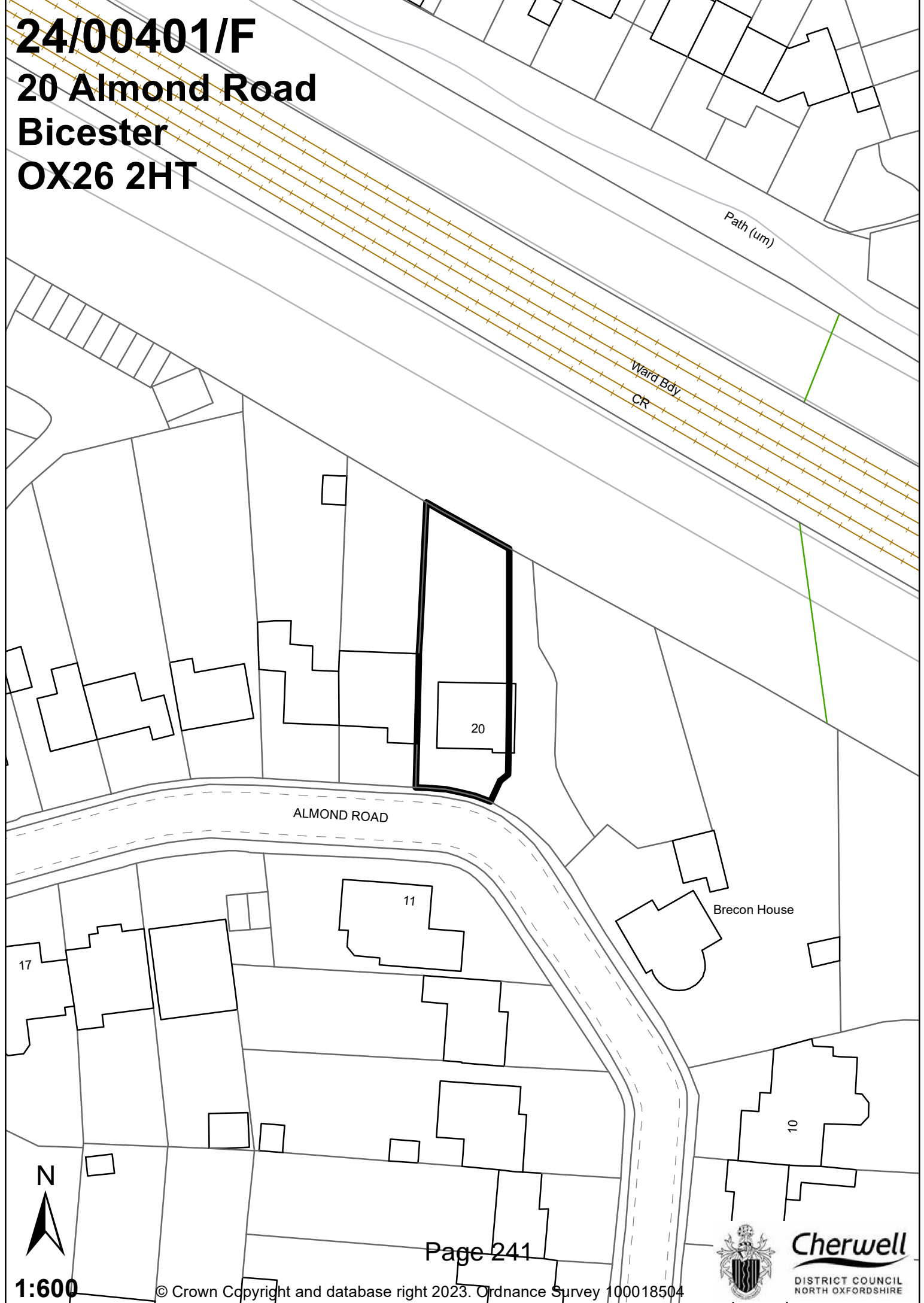


**24/00401/F**

**20 Almond Road**

**Bicester**

**OX26 2HT**



ALMOND ROAD

Brecon House

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**Case Officer:** Rebekah Morgan

**Applicant:** Mr John Prpa

**Proposal:** Two storey front bay extension, two storey rear extension, hip-to-gable roof extensions, roof conversion and associated alterations - (re-submission of 23/02412/F)

**Ward:** Bicester West

**Councillors:** Cllr. John Broad, Cllr. Harry Knight and Cllr. Les Sibley

**Reason for Referral:** Referred by Assistant Director for Planning for the following reasons: The application is considered to be controversial due to the planning history on the site and the objections raised.

**Expiry Date:** 15 April 2024

**Committee Date:** 11 July 2024

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**SUMMARY RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS.**

**1. APPLICATION SITE AND LOCALITY**

1.1. The application site is a detached dwelling situated on a residential estate central to Bicester. The existing dwelling is two storey in height and constructed from Bradstone under a tiled roof with timber framed opening. There is a driveway to the front of the house with space for two cars to park. The surrounding area is residential in nature with a mixture of house types that are predominantly constructed from brick. There have been a number of alterations to dwellings within the area that results in a varied street scene.

**2. CONSTRAINTS**

- 2.1. The application site is not within a conservation area and there are no listed buildings within close proximity of the site.
- 2.2. The site is identified as potentially contaminated land given the proximity to a railway line. There is a railway embankment to the rear of the site.

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The application seeks planning permission for extensions and alterations to the existing dwelling. The proposed works include:
- Two storey front extension (bay window)
  - Two storey rear extension
  - Roof side extension (hip to gables)
  - Conversion of roof space to provide additional accommodation
  - Associated alterations
- 3.2. The two storey front extension comprises an alteration to the existing bay window at ground floor and first floor. The alteration would alter the bay window feature into a front gable feature and extend forward approximately 0.5m.

- 3.3. The two storey rear extension would measure approximately 7.5m (width) and extend to the rear of the existing property by 4.8m. The extension would have an eaves height of approximately 4.8m and a ridge height of approximately 8.2m.
- 3.4. The proposal includes hip to gable roof extensions on both sides of the property with a ridge height of approximately 8.2m. This would enable the conversion of the roof space to provide additional accommodation. This element includes the insertion of rooflights.
- 3.5. Associated alterations are proposed to the site to provide parking spaces at the front of the property and including alterations to the dropped kerb.

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

- 4.1. There is no planning history directly relevant to the current proposal:

23/03397/CLUP: Certificate of Lawfulness of Proposed Development for rendering existing external Bradstone block walls using Weber monocouche through coloured render (colour of render 'buff' similar colour/appearance to existing Bradstone block). REFUSED

23/03400/CLUP: Certificate of Lawfulness of Proposed Development for 'hip to gable' extension to existing roof with conversion of roof attic. APPROVED

23/02412/F: Two storey front extension (bay window), two storey rear extension, roof side extensions (hip to gables), raise ridge height 900mm with attic conversion. Associated alterations. REFUSED

19/01834/F: Proposed two storey rear extension. APPROVED

- 4.2. The following applications relate to the dwelling and the vacant land adjacent to the dwelling:

23/03109/F: Subdivision of land at 20 Almond Road to form site for 2 no. new dwellings with associated parking and gardens. REFUSED

23/01818/F: Variation of condition 2 (plans) of 21/01400/F - Having reviewed the design for the approved new dwellings and the refurbishment of the existing dwelling our client feels that the design can be improved, to enhance the accommodation provided and the amenities for the occupants of the dwellings. WITHDRAWN

21/01400/F: 2 no new detached three bedroom dwellings and refurbish exiting 3 bed house with associated parking and gardens (resubmission of 20/03330/F). APPROVED

20/03330/F: Erection of 2no detached, three-bedroom dwellings with associated parking and gardens. WITHDRAWN

16/02231/F: Erection of 3 No two storey blocks containing 6 No apartments. WITHDRAWN

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

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

## 6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **12 March 2024**, 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:
- Overdevelopment of the site (especially when combined with the adjoining land and proposals for new dwellings)
  - The size, mass and footprint will be greatly increased
  - Out of keeping with the character of the area
  - Overlooking of neighbouring properties
  - Insufficient parking provision for size of the property
  - Impact on highway safety if cars park on the bend
  - Impact of construction traffic
  - No details of cycle parking spaces
  - No information on the air source heat pump
  - Impact on sewerage and drainage due to number of bathrooms
  - Concerned it will be used as a House in Multiple Occupation (HMO)
- 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.
- 7.2. BICESTER TOWN COUNCIL: **Strongly object**, due to overdevelopment of the site and being out of character with the street scene.
- 7.3. NETWORK RAIL: **No objection** in principle to the proposal but lists requirements which must be met as the proposal includes works within 10m of the railway boundary and an interface with the railway boundary.
- 7.4. OCC HIGHWAYS: **No objection**, this application is largely similar to the proposal submitted under 23/02412/F, OCC Highways responded with no objections to this proposal. The Parking Standards for New Developments stipulates up to two parking spaces for a dwelling of this size in a town setting, so the proposed provision is acceptable. The spaces as shown will be very tight, but there is additional area that will allow vehicles to be parked at an angle or where the driveway area is deeper.

The amendment to the dropped kerb is subject to an S184 agreement.

- 7.5. CDC ENVIRONMENTAL PROTECTION:

Noise: Protection would make no adverse comment regarding the proposed heat pump subject to it meeting the Ministers recommendation in respect of noise as determined for the nearest window serving a noise sensitive room at the nearest neighbouring property as detailed in S8.4 to s8.6 & s9.1 of The Town & Country Planning (General Permitted Development) (Amendment) (England) Order 2011 No. 2056 (i.e. 42 dB. LAeq, 5 min noise limit, as measured 1 metre from the window of a habitable room in the facade of any neighbouring residential property. The applicant should therefore be required to provide a copy of an appropriate certificate issued upon installation which demonstrates that whichever heat pump model is installed that

it satisfies standards specified in Microgeneration Certificate Scheme MCS 020(b) in terms of the noise limit stipulated in the Explanatory Memorandum to Permitted Development Order 2011 No. 2056.

Contaminated land: Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development [or relevant phase of development] is resumed or continued.

No comments with regards to air quality, odour and light.

- 7.6. CDC BUILDING CONTROL: The proposal will require a Building Regulations application.

## **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 2015)

- ESD1: Mitigating and Adapting to Climate Change
- ESD15: The Character of the Built and Historic Environment

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

- C28: Layout, design and external appearance of new development
- C30: Design of New Residential Development
- ENV1: Development likely to cause detrimental levels of pollution
- ENV12: Development on contaminated land

- 8.3. Other Material Planning Considerations
- National Planning Policy Framework (NPPF)
  - Planning Practice Guidance (PPG)
  - Cherwell Design Guide (2018)
  - Home Extensions and Alterations Design Guide (2007)

## **9. APPRAISAL**

- 9.1. The key issues for consideration in this case are:
- Design and impact on the character of the area
  - Residential amenity
  - Highway safety
  - Other matters

Design and impact on the character of the area

- 9.2. Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 9.3. Policies C28 and C30 of the CLP 1996 exercise control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context as well as compatible with the existing dwelling. New housing development should be compatible with the appearance, character and scale of existing dwellings in the vicinity.
- 9.4. Policy ESD15 of the CLP 2015 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.
- 9.5. The previous application (23/02412/F) was for a similar proposal and was refused for the following reason:

*Due to the height and mass of the proposed roof extension and the proposed materials, the proposed extension would result in an incongruous addition to the street scene causing significant visual harm. The proposal would therefore be contrary to 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 with the National Planning Policy Framework.*

- 9.6. The case officer's report stated: *'the proposed roof extension and increase in height would be highly visible from the street scene. 20 Almond Road already has the tallest ridge height of any dwellings in the surrounding area, and the proposal to further increase this height is not sympathetic to the surrounding area. Furthermore, the hip to gable extension of the roof form exacerbates this issue by making the increased ridge height more visually prominent and appear bulkier from the street. The development would create a visual impact that will lead to a visually overbearing and overly prominent building when viewed in relation with the surrounding street scene'*. Concerns were also expressed regarding the materials which proposed a large quantity of render on the side and rear elevations.
- 9.7. The existing street scene consists of a variety of house types and materials, and it is these differences that form the character of the area. The existing dwelling occupies a prominent position upon a bend in the road.
- 9.8. The current application differs from the previous application as it is no longer proposing an increase in the overall height (the previous scheme proposed a 0.9m increase in the ridge height) and the proposed materials for the extension have been changed from the previously proposed render to brick. The current application has increased the rear projection of the extension by 0.8m (from 4m to 4.8m).
- 9.9. The roof alterations still include the hip to gable extensions on both sides. A Certificate of Lawfulness Proposed (23/03400/CLUP) has been issued which confirmed these works could be carried out by utilising permitted development rights for the property. The previous case officer was concerned the hip to gable extensions would exacerbate the visual prominence of the roof, however as this work could be undertaken without the requirement for planning permission and the proposal no longer includes the overall increase in ridge height, officers do not consider a reason for refusal on this basis could be reasonably sustained.

- 9.10. The application proposes the extensions to be constructed in brick which is the prominent material in the area.
- 9.11. The application also proposes to replace the existing bay window with splayed returns with a two-storey front extension. This front extension does not significantly impact the street scene and remains consistent with the character of the existing building.
- 9.12. The proposed rear extension is larger than previously proposed extending 4.8m to the rear of the property. Given the positioning of the properties on the road, the rear extension would not be a visually prominent feature within the street scene and would have a similar appearance to the previously approved extension. The extension is in keeping with the character of the property and the wider residential area.
- 9.13. The proposed development would not be detrimental to the character and appearance of the area and as such, complies with Policy C28 of the CLP 1996, Policy ESD15 of the CLP 2015 and Government guidance contained within the NPPF.

#### Residential amenity

- 9.14. Both the NPPF and Policy ESD15 of the CLP 2015 seek to ensure development proposals provide a good standard of amenity for both existing and proposed occupants of land and buildings relating to privacy, outlook, natural light and indoor and outdoor space. This is reflected in Policy ESD15 of the CLP 2015, 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.
- 9.15. 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.
- 9.16. Due to the position and orientation of the closest neighbouring property (No. 22 Almond Road) the extension would only project approximately 1.5m beyond the rear of this neighbour. The extension would not be harmful to the general outlook from this neighbouring property.
- 9.17. The first-floor bedroom windows, in the rear elevation, would have some views of the neighbouring gardens, however this would be similar to the existing relationship between the residential properties in this area and is not considered to be harmful.
- 9.18. The proposed side elevation facing No. 22 Almond Road does include first floor windows. However, these serve a bathroom and staircase and therefore conditions have been recommended that these windows are obscurely glazed to ensure that there is no loss of privacy.
- 9.19. With regards to impacts on the approved new dwellings to the east (ref: 21/01400/F), the only first floor windows on the facing side elevation provide light for a stairwell and an en-suite, which would also be obscurely glazed. The approved properties on the adjacent site are very slightly angled away from the application site, as they start to follow a bend in the road, therefore the proposed rear extension would not extend beyond a line drawn at a 45° angle, as measured horizontally from the mid-point of the nearest habitable room window on the approved dwelling. Therefore, the proposal would not have a detrimental impact on outlook or loss of light to the future occupiers of these properties.
- 9.20. Third party comments have raised concerns about potential overlooking of other properties within Almond Road. However, given the relationship with the surrounding

properties and the distance between properties, other than the immediate neighbours (who are considered above), there would be no harm to neighbouring amenity.

- 9.21. The proposed development would provide a good standard of amenity for any future occupants of the site with a substantial quantity of private amenity space retained.
- 9.22. Concerns have been raised regarding potential noise from a air source heat pump. The Council's Environment Protection Officer has raised no objections and confirmed there are guidelines relating to noise from heat pumps. It is recommended a condition is included to require the applicant to submit a copy of the relevant certificates to ensure noise restrictions are adhered to.
- 9.23. Given the adjacent context, location, and design of the proposal, it is unlikely to give rise to any significant residential amenity impacts in terms of overlooking, loss of daylight, enclosure or other environmental impacts. As such, the proposal complies with Policies C30 and ENV1 of the CLP 1996, Policy ESD15 of the CLP 2015 and Government guidance contained within the NPPF.

#### Highway safety

- 9.24. Policy ESD15 of the CLP 2015 states, amongst other matters, that new development proposals should: *be designed to deliver high quality safe...places to live and work in.*
- 9.25. Paragraph 115 of the NPPF states '*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*'
- 9.26. The proposed development would result two additional bedrooms, creating a five-bedroom dwelling. Two parking spaces are proposed in front of the dwelling.
- 9.27. The Local Highway Authority has raised no objections to the proposal. The comments provided advise that the level of parking proposed accords with guidance set out within the *OCC Street Design Guide and the Parking Standards for New Developments 2022*. This stipulates up to two parking spaces for a dwelling of this size in a town setting. As such, Officers consider that the parking arrangement is acceptable.
- 9.28. The proposed parking spaces would each measure 2.6m x 5m. The Highways Officer has advised there is sufficient space to provide two parking spaces within the site and a condition is recommended requiring full details of the parking area. A Section 184 agreement will also be required separately to create the dropped kerb.
- 9.29. The proposal is not considered to be detrimental to the safety and convenience of highway users and therefore complies with Policy ESD15 of the CLP 2015 and Government guidance contained within the NPPF.

#### Other matters

- 9.30. A number of the objections raise concerns that the application property would be used as Houses in Multiple Occupation (HMO). The application is seeking consent for extensions and alterations to the existing property. Small HMOs (up to 6 occupants) fall within Use Class C3 and therefore a change of use is not required to change a residential property to a small HMO as is the case with any of the properties on Almond Avenue. If the applicant intends to use the dwellings as a large HMO separate planning permission would be required and the implications of such a change of use would be assessed in such an eventuality.



9.31. Policy ESD1 of the CLP 2015 seeks to mitigate the impacts of developments on climate change. The current proposal is a householder development relating to an existing property. The scheme includes the provision of solar panels and an air source heat pump which will improve the energy efficiency of the property. Furthermore, the proposed extensions will be required to comply with current building regulations with regards to sustainable construction.

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

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

10.2. The application proposes alterations to an existing dwelling in a sustainable location within Bicester. The property is well located within walking/cycling distance of local facilities and public transport links.

10.3. The design of the extensions and alterations are in keeping with the surrounding residential area, the Local Highway Authority has no objections in terms of highway safety and the proposal would not have a detrimental impact on existing properties.

10.4. Having regard to the report above, it is considered that the proposed development would be in accordance with the provisions of the relevant development plan policies and would therefore represent sustainable development, therefore, it is recommended that planning permission be granted.

## **11. RECOMMENDATION**

**DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS 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
- Design Statement
- Site Location Plan
- Block Plan
- Drawing number PRPA/S9/05 Rev A – [Proposed floor plans and elevations]

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

3. Notwithstanding the details submitted, no development shall commence above slab level until and unless a plan detailing the proposed car parking provision for two spaces to be accommodated within the site (including details of the proposed surfacing and drainage of the provision), has been submitted to and approved in writing by the Local Planning Authority. The approved parking facilities shall be laid out and completed in accordance with the approved details before the first occupation of the dwelling. The car parking spaces shall be retained for the parking [turning/loading/unloading] of vehicles at all times thereafter.

Reason: In the interests of highway safety, to ensure the provision of off-street car parking and to comply with Government guidance contained within the National Planning Policy Framework.

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

Reason: To ensure that 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 Government guidance contained within the National Planning Policy Framework.

5. No development shall commence above slab level until samples of the bricks to be used in the construction of the walls of the extensions have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved samples.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. The first floor windows in the east and west (side) elevations of the extension shall be obscure glazed, using manufactured obscure glass that is impenetrable to sight, (not an applied adhesive film) before the extension is first occupied and shall be permanently retained as such thereafter. The window shall also be non-opening, unless those parts which can be opened are more than 1.7m above the floor level of the room in which it is installed and shall be permanently retained as such thereafter.

Reason: To ensure that the amenities of the occupants of the neighbouring properties are not adversely affected by loss of privacy in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

7. Prior to first use of the air source heat pump, a copy of the installation certificate (which demonstrates that the installed model satisfies standards specified in Microgeneration Certificate Scheme MCS 020(b) in terms of the noise limit stipulated in the Explanatory Memorandum to Permitted Development Order 2011 No. 2056) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the creation of a satisfactory environment free from intrusive levels of noise in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Biodiversity Net Gain Condition**

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Cherwell District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply.

Based on the information available this permission is considered to be one which **will not** require the approval of a biodiversity gain plan before development is begun because the following statutory exemptions or transitional arrangements apply.

#### Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

The permission which has been granted is for development which is exempt being:

Development below the *de minimis* threshold, meaning development which:

- i) does not impact an on-site priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
- ii) impacts less than 25 square metres of on-site habitat that has biodiversity value greater than zero and less than 5 metres in length of on-site linear habitat (as defined in the statutory metric).

### **Notes**

#### Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

*The effect of section 73D of the Town and Country Planning Act 1990*

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission (“the earlier Biodiversity Gain Plan”) there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the on-site habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that on-site habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

**PLANNING NOTES**

1. Please note If works are required to be carried out within the public highway, the applicant shall not commence such work before formal approval has been granted by Oxfordshire County Council by way of legal agreement between the applicant and Oxfordshire County Council. This is separate from any planning permission that may be granted.
2. The applicant is advised that before the proposal progresses (should it be approved) they will be required to submit the development form to Network Rail’s Asset Protection team and agree the BAPA before any works commence on site. Network Rail is a Government funded Organisation and we are expected to recover our involvement costs from this type of interface, to proceed in more detail with discussions a signed Basic Asset Protection Agreement (BAPA) would be required to be in place. Permanent impacts of development are usually material considerations (such as the position of permanent structures, or drainage design etc) and where these are likely to occur, requests for planning conditions or scheme amendments are requested to protect the existing railway infrastructure from the impacts of the works on site and as a permanent arrangement. Controls on the temporary impact of construction to outside party land should also be picked up via building control, or in some cases a party wall surveyor.

CASE OFFICER: Rebekah Morgan

23/03368/F

Agenda Item 16

73 High Street  
Kidlington  
OX5 2DN



1:300

**23/03368/F**

**73 High Street  
Kidlington  
OX5 2DN**



73

77



**1:100**

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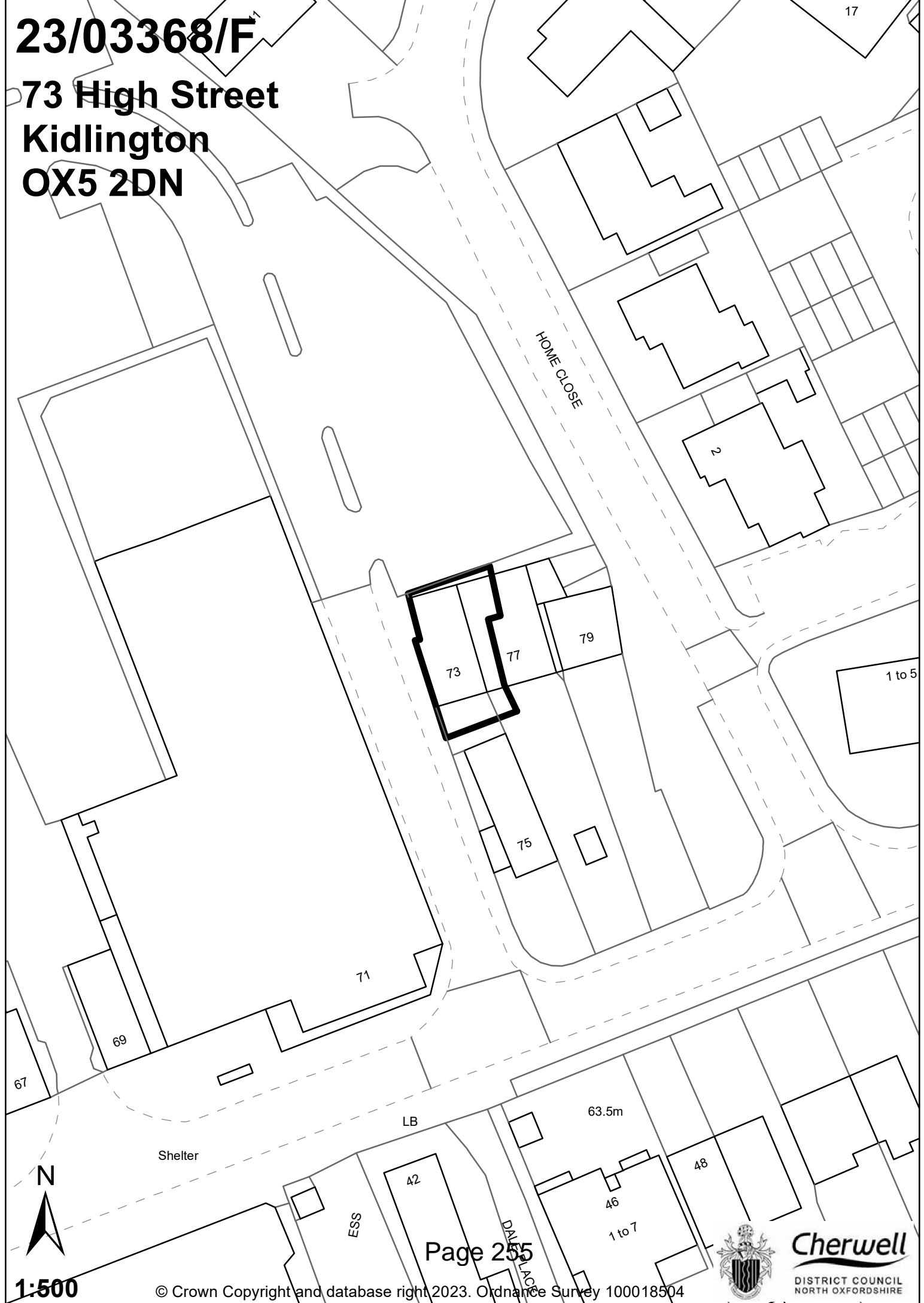
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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

23/03368/F

73 High Street  
Kidlington  
OX5 2DN



1:500



**Case Officer:** Tomaz Akhter

**Applicant:** Mr and Mrs R Parshad

**Proposal:** First floor extension with associated internal and external work (follow-up to 23/01073/F)

**Ward:** Kidlington West

**Councillors:** Cllr. Jean Conway, Cllr. Lesley McLean and Cllr. Dorothy Walker

**Reason for Referral:** Called in by Cllr. Dorothy Walker for the following reasons:

- Government Policy and Guidance
- Drainage
- Parking Provision
- Design, Appearance and Materials
- Public Amenity

**Expiry Date:** 11 July 2024

**Committee Date:** 11 July 2024

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

**1. APPLICATION SITE AND LOCALITY**

2.1. The application relates to an end of terrace stone dwelling. It abuts the entrance to the main parking area serving the village centre. The property sits behind 75 High Street and its rear elevation forms the boundary with the car park. There is a small garden area to the front of the property.

**2. CONSTRAINTS**

2.2. The application site is within an archaeological alert area and is in a contaminated land buffer zone.

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

3.1. The application seeks planning permission for a first floor extension above a single storey garage and the conversion of the garage into additional living space. The application also includes the five windows in the north-west elevation and the widening of a doorway in the southeast elevation.

3.2. The proposal is a follow up to planning permission 23/01073/F where planning permission was granted for a roof extension.

**4. RELEVANT PLANNING HISTORY**

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

<b>Application:</b> 23/01073/F	Permitted	19 June 2023
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Proposed roof extension with associated internal and external works.



## 5. PRE-APPLICATION DISCUSSIONS

5.1. No pre-application discussions have taken place regarding this proposal.

## 6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of 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 **6 June 2024**, although comments received after this date and before finalising this report have also been considered.

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

- Height of the eaves do not match the plans.
- Lack of car parking space and contradiction to reasoning of previous planning consent.
- The materials used for roof do not match the existing.
- The extension will semi enclose the adjacent property.
- Raising the wall by 2 metres the applicant has attached his wall to the neighbouring wall.
- The application form states that the works has not already been started when work has started.
- The application documents states that owners of the property are Mr and Mrs Parshad, the owners are Parshad Ltd.
- The same company own another company which is advertised as an Air BnB business, should this property have, the same intention will this property require a change of use.
- Rainwater drains historically from (No. 77) onto the roof of No. 73 and the owner of No. 73 has a prescriptive right for this and any drainage solutions should be at the cost of No. 73. No plans have been submitted to show the solution of the drainage issues.

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.

7.2. KIDLINGTON PARISH COUNCIL: The Council **objects** to this proposal on the basis of overdevelopment and impact on the residential amenity of the area. The Council objects to the lack of off-street parking for this property.

7.3. OCC HIGHWAYS: **Do not object subject to condition** The proposals include a location for cycle parking. However, no details have been disclosed regarding the elevations or access to the cycle parking.

## **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 2015)

- ESD15 - The Character of the Built and Historic Environment
- PSD1 – Presumption in Favour of Sustainable Development

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

- 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)
- Cherwell Design Guide (2018)
- Cherwell Home Extensions and Alterations Design Guide (2007)

## **9. APPRAISAL**

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

- Design, and impact on the character of the area.
- Residential amenity
- Highways
- Neighbour comments

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

#### *Policy Context*

- 9.2. 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. Paragraph 139 of the NPPF states that planning 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.
- 9.3. These aims are also echoed within Policy ESD15 of the CLP 2015 which looks to promote and support development of a high standard which contribute positively to an area’s character and identity by creating or reinforcing local distinctiveness.
- 9.4. Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development. Further, saved Policy C30 of CLP 1996 states control will be exercised to ensure that all new housing

development is compatible with the appearance, character, layout, scale, and density of existing dwellings in the vicinity.

- 9.5. The Council's Residential Design Guide (2018) seeks to ensure that new development responds to the traditional settlement pattern, character, and context of a village. This includes the use of traditional building materials and detailing responding to the local vernacular.

#### *Assessment*

- 9.6. Although a relatively wide gable, the proposed extension is considered to be of an acceptable design, particularly as it shows subserviency to the existing dwelling by having a lower ridge height than the principal part of the dwelling. The extension also has the same depth as the two-storey brick extension to the adjoining property, 77 High Street, further limiting any potential visual harm.
- 9.7. The extension's stonework is largely complete and is considered to have been laid in a traditional way and in keeping with the host dwelling. The roof would be covered in materials to match the roof of the existing dwelling which has recently been re-roofed. The proposed openings are considered to be a sympathetic design mimic the design of the windows on the existing property.
- 9.8. The proposed development is therefore considered to comply with Policy ESD15 of the CLP 2015, Policy C28 of the CLP 1996 and Government guidance contained within the NPPF.

#### Residential amenity

##### *Policy Context*

- 9.9. 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 ESD15 of the CLP 2015 requires all development to consider the amenity of both existing and future development. Saved Policy C30 of the CLP 1996 seeks standards of amenity and privacy acceptable to the Local Planning Authority.

##### *Assessment*

- 9.10. The proposed extension would not protrude beyond the existing rear elevation of the adjoining neighbouring dwelling, 77 High Street and therefore would not conflict with the 45-degree rule to any habitable window in this neighbouring property. Given the relationship to the other closest residential properties, the proposed development, including the proposed windows which either face onto to the car park or the access road, would have no impact on residential amenity of these neighbours in terms of overlooking, loss of privacy, loss of light, loss of outlook or by being overbearing.
- 9.11. The proposed development is therefore considered to comply with Policy ESD15 of the CLP 2015, Policy C28 of the CLP 1996 and Government guidance contained within the NPPF.

#### Highway safety

##### *Policy context*

- 9.12. Paragraph 114 of the NPPF advises that in assessing specific applications for development, it should be ensured that:

- *appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- *safe and suitable access to the site can be achieved for all users; and*
- *any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

9.13. Both Policies ESD15 of the CLP 2015 reflect the provisions and aims of the NPPF. Policy ESD15 of the CLP 2015 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”.

#### *Assessment*

9.14. The proposal would increase the number of bedrooms at the property from two to three. Whilst the plans also show the conversion of the existing garage, this work could be undertaken without the need for planning permission. As a result, given the limitations of the site, there would therefore be no opportunity to provide any off-street parking.

9.15. However, the site is located in the centre of Kidlington within walking distance of shops, restaurants, and other community facilities. There are good public transport links both to Oxford and heading north. The proposal would also include the provision of cycle parking facilities to encourage active travel.

9.16. Given this accessibility to facilities, the Highways Officer concluded that it was appropriate that the dwelling could become car free. They have however required additional details in respect of the cycle parking provision for which a condition is recommended.

9.17. As the proposal promotes active travel and would not be detrimental to the safety and convenience of highway users it is considered to accord with Policy ESD15 of the CLP 2015, Policy C28 of the CLP 1996 and Government guidance contained within the NPPF.

#### Third party comments

9.18. Aside from the issues raised which have previously been addressed in this report, the neighbour, whose property adjoins the application dwelling, raised concerns that the works would have an undue impact on their extension. During the application process the applicant was required to serve notice on the adjoining neighbour as the extension required works which had a direct impact on this neighbour’s property (e.g. the stonework linked into the neighbour’s wall). This is a legal matter between the two property owners and does not have a bearing on the acceptability of the proposal in planning terms, other than the acceptability of the appearance of what it constructed which is considered to be acceptable. An informative is recommended which reminds the applicants of their legal responsibilities in respect of land ownership.

9.19. It is regrettable that the works undertaken prior to approval being granted and have not been constructed in accordance with the originally submitted plans. The discrepancies with the plans have subsequently been addressed and the revised plans are considered to be an accurate reflection of what is being built. Assuming planning permission is granted, the Planning Enforcement Team would monitor the site closely to ensure compliance with the approved plans.

- 9.20. Concern has been expressed as to the future use of the building. It is argued that the applicant currently owns another property in Kidlington which is being used as an Airbnb. Officers, however, cannot consider hypothetical future uses of a property; if the applicant wishes to use the property for a different purpose in the future, and that use requires planning permission, an assessment of the acceptability of such a proposal would be made at that time.
- 9.21. The issue relating to the drainage of rainwater has been addressed. The Council's Building Control Team has agreed a solution with the applicants as part of a building regulations application.

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

- 10.1. The proposal is considered acceptable in principle and though it represents a significant extension to the original building this has not been found to cause harm to the character, appearance of the area, subject to recommended planning conditions. There are no residential amenity concerns, highway safety issues or ecological constraints.
- 10.2. The proposal complies with the relevant Development Plan policies and guidance listed at section 8 of this report, and so is considered to be sustainable development. In accordance with Paragraph 11 of the NPPF, permission should therefore be granted.

## **11. RECOMMENDATION**

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

### **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 information contained within the application form and the following approved plans::
  - Location/block/site plans; P 23 042 001-E
  - Proposed elevations/floor plans: P 23 042 003-E

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.

2. Prior to the first use or occupation of the development hereby permitted, access to 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 ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework.

3. The window on the first floor of the north-west elevation serving the bathroom

shall be obscure glazed, using manufactured obscure glass that is impenetrable to sight, (not an applied adhesive film) before the extension is first occupied and shall be permanently retained as such thereafter. The window shall also be non-opening, unless those parts which can be opened are more than 1.7m above the floor of the room in which it is installed and shall be permanently retained as such thereafter.

Reason: To ensure that the amenities of the occupants of the neighbouring properties are not adversely affected by loss of privacy in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. The materials to be used for the external walls and roof of the development hereby permitted shall match in terms of colour, type and texture those used on the existing building.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. The natural stone to be used on the walls of the roof 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 materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### Planning Informative

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

CASE OFFICER: Tomaz Akhter

**23/02096/OUT**

Agenda Item 17

**Land East of Banbury Road Ditch And North Of  
Earls Lane  
Deddington  
OX15 0TY**

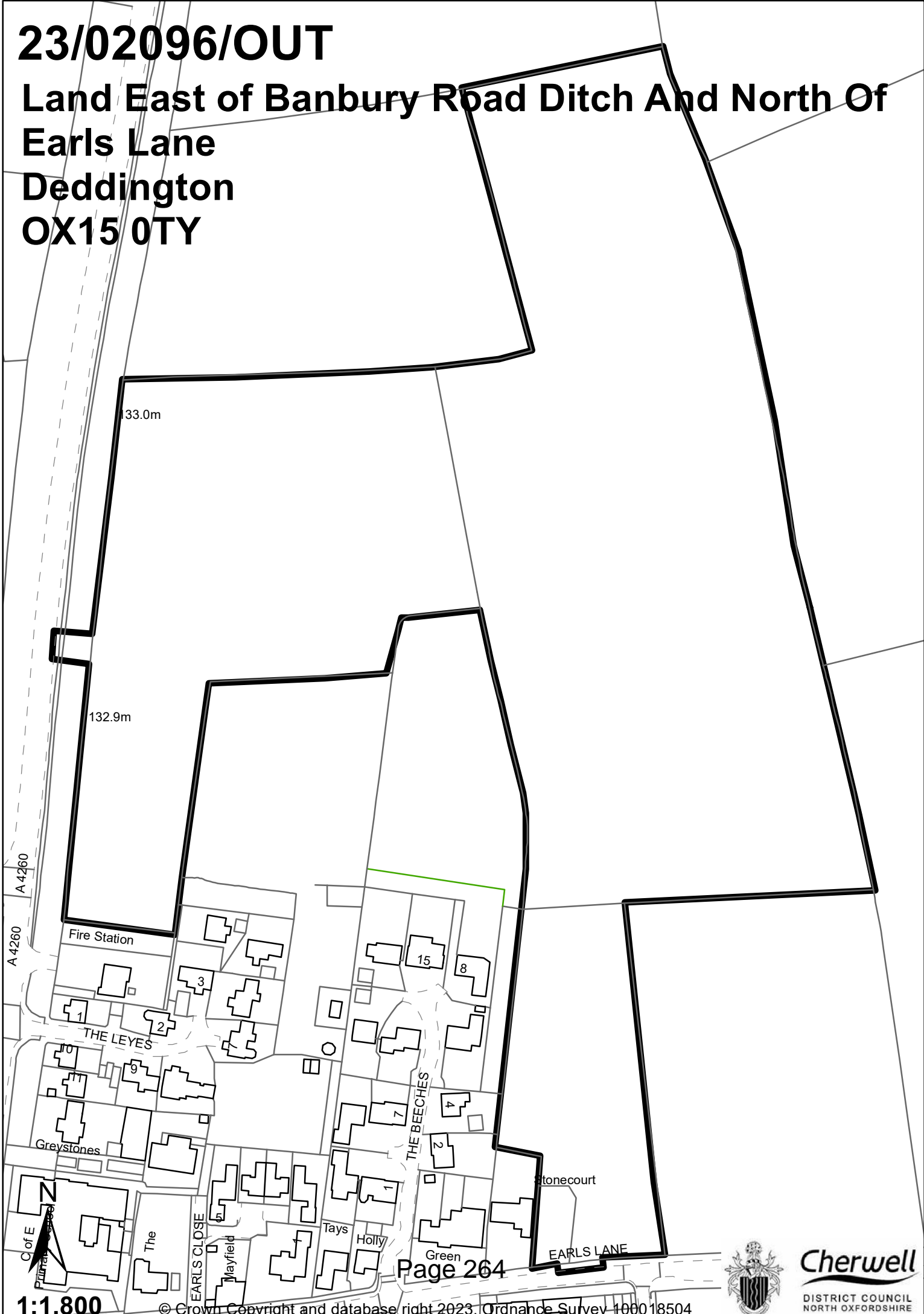


**1:2,300**



# 23/02096/OUT

## Land East of Banbury Road Ditch And North Of Earls Lane Deddington OX15 0TY



A 4260  
A 4260

33.0m

132.9m

Fire Station

THE LEYES

THE BEECHES

Greystones

stonecourt

EARLS LANE

Page 264

1:1,800

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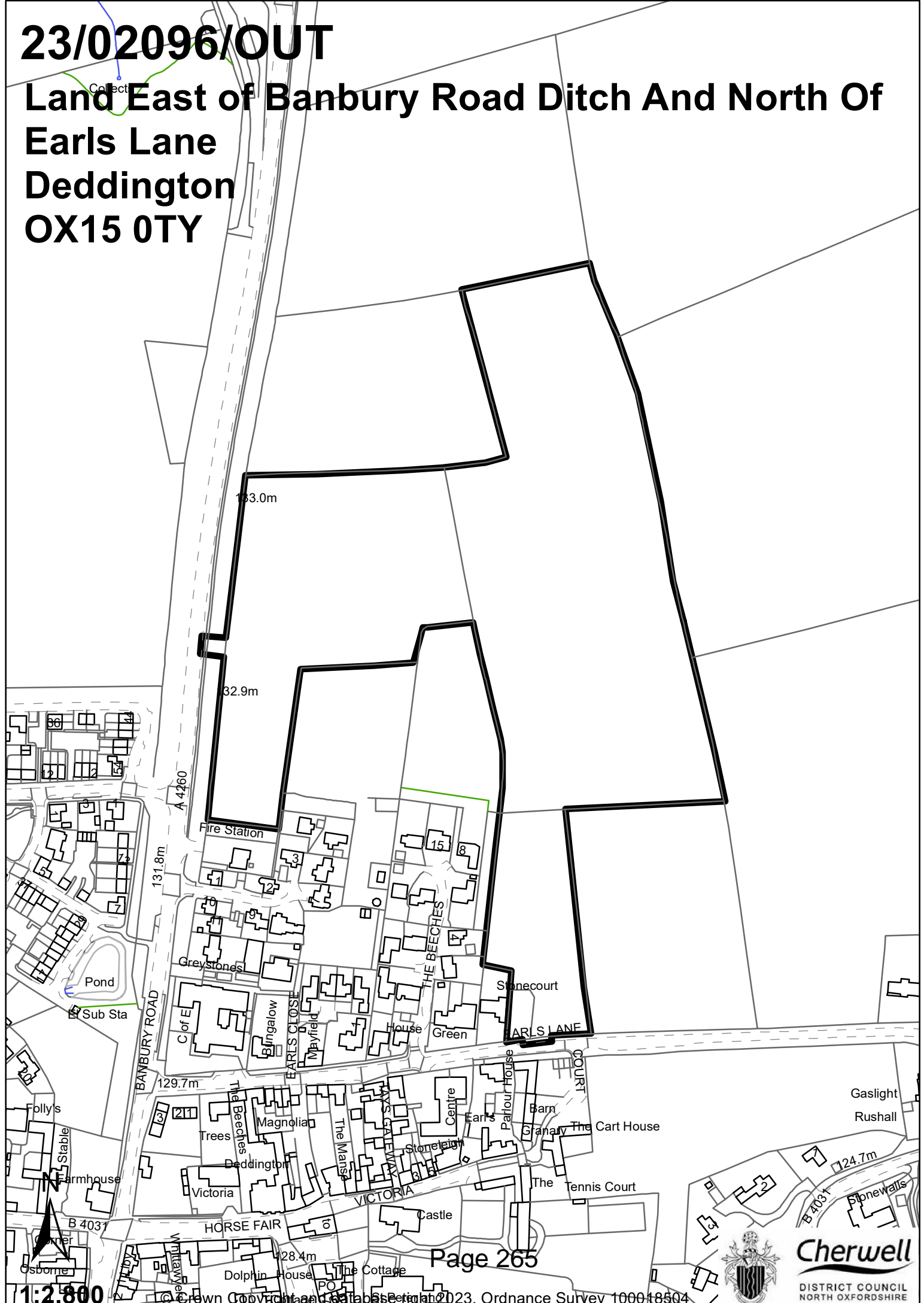


**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE



# 23/02096/OUT

## Land East of Banbury Road Ditch And North Of Earls Lane Deddington OX15 0TY



**Case Officer:** Katherine Daniels

**Applicant:** Welbeck Strategic Land V Limited

**Proposal:** Development of up to 90 dwellings (including affordable dwellings), a new children's nursery, Earls Lane car park, SuDS attenuation, open space and associated landscaping and highway works.

**Ward:** Deddington

**Councillors:** Cllrs Andrew McHugh, David Rogers, Edward Reeves

**Reason for Referral:** Major development of 10+ dwellings

**Expiry Date:** 10 July 2024

**Committee Date:** 11 July 2024

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

**MAIN REPORT**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is situated to the north-east of Deddington. The site adjoins Earls Lane and Banbury Road. The site is predominately arable fields. The boundary along Banbury Road consists of a hedgerow with hedgerow trees. There is a field gate with access onto Banbury Road. The frontage along Earls Lane consists of a dry-stone wall. There is another access to the site from Earls Lane. There are three different parcels of land. These are separated by hedgerows and trees.
- 1.2. The ground level of the site is relatively flat, however Deddington is located on a top of a hill, with land falling away to the north and east.

**2. CONSTRAINTS**

- 2.1. The application site is within an archaeological alert area for Deddington's Historic Core. The site contains ridge and furrow.

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. This is an outline application for up to 90 dwellings, a new children's nursery, car park off Earls Lane, landscaping and highway works. All matters are reserved bar for the access onto the site.
- 3.2. The vehicle access is proposed off the Banbury Road, with a pedestrian access linking Earls Lane with the site.

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

4.1. There is no planning history directly relevant to the proposal

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

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

5.2. 23/00961/PREAPP – The principle of development is not acceptable as it is not allocated within any local plan or neighbourhood plan policy, and would have a detrimental impact on the wider locality. It was suggested that the development uses land along Earls Lane.

#### **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 **11 October 2023**, although comments received after this date and before finalising this report have also been taken into account.

6.2. Letters of support received from 5 households. The comments raised by third parties are summarised as follows:

- The village needs a new nursery building

6.3. Letters of objection received from 5 households and one letter of comment. The comments raised by third parties are summarised as follows:

- Deddington has a neighbourhood plan in progress
- Impact on the Highway Network
- More housing than needed
- No space at primary school
- Ecology Impacts
- Capacity issues at doctors.
- Affect privacy
- Impact on the important views
- Parking issues at the health centre

6.4. Deddington Neighbourhood Watch – Premature in view of the advanced stage of the Neighbourhood Plan; Ecology needs to be reassessed; Number of dwellings exceeds the AECOMM needs survey.

6.5. 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. DEDDINGTON PARISH COUNCIL: **Supports**, as long as it is in accordance with the Neighbourhood Plan and S106 requests.

#### OTHER CONSULTEES

- 7.3. OCC HIGHWAYS: **No objections** subject S106 contributions to public transport services, public transport infrastructure, travel plan monitoring, S278 agreement and Planning conditions
- 7.4. CDC ECOLOGY: **No objections** subject to conditions regarding GCN licence, lighting scheme, LEMP, CEMP.
- 7.5. ENVIRONMENT AGENCY: **No comments**. Refers to Standing Advice
- 7.6. THAMES WATER: **No objections**, subject to conditions relating to waste water, and upgrades to water infrastructure
- 7.7. CDC ENVIRONMENTAL HEALTH: **No objections** subject to conditions on contaminated land, noise and air quality
- 7.8. THAMES VALLEY POLICE CRIME PREVENTION DESIGN ADVISOR: **No objections** subject to conditions.
- 7.9. CDC LANDSCAPE SERVICES: **Comments** on the application regarding LAP/LEAPS, non equipped landscape, landscape condition and maintenance provision through an S106.
- 7.10. CDC RECREATION AND LEISURE: Requests monies for Community Hall Facilities, Outdoor Sport Provision, Indoor sports provision, Public Realm/Art
- 7.11. NATURAL ENGLAND: **No objections**
- 7.12. OCC LEAD LOCAL FLOOD AUTHORITY: **No objections** subject to conditions on SUDs and Surface Water Drainage
- 7.13. BOB ICB: Requests S106 monies to mitigate against the impact of the development on doctors surgeries.
- 7.14. CDC HOUSING STRATEGY: Supports the application, provided the affordable housing mix is secured.
- 7.15. OCC EDUCATION: **No objections** subject to S106 relations to early years, primary and secondary education
- 7.16. OCC PROPERTY: **No objections** subject to S106 re Library conditions.
- 7.17. OCC ARCHAEOLOGY: **No objections** subject to planning conditions relating to a written scheme of investigation
- 7.18. OCC WASTE MANAGEMENT: **No objections** subject to S106 contribution.

#### **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 2015)

- 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
- C5: Protection of ecological value and rural character of specified features of value in the district
- C8: Sporadic development in the open countryside
- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- C33: Protection of important gaps of undeveloped land
- ENV1: Environmental pollution
- ENV12: Potentially contaminated land
- TR1: Transportation funding

- 8.3. Under Section 38 of the Planning and Compulsory Purchase Act 2004, a Neighbourhood Plan that has been approved at referendum also forms part of the statutory development plan for the area. In this case, the application site falls within the Deddington Neighbourhood Plan and the following Policies of the Neighbourhood Plan are considered relevant:

- DEDD 2 – Deddington Village Site Allocation
- DEDD 3 – Housing Mix
- DEDD 4 – Design quality in Deddington
- DEDD 8 – Travel Planning
- DEDD 9 – Green Infrastructure

- DEDD 15 - Broadband and Mobile Communications
- DEDD 16 – Zero-carbon Buildings

#### 8.4. 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)

### 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
- Ecology impact
- Drainage
- Residential amenity
- Sustainable Construction
- S106

#### Principle of Development

- 9.2. Paragraph 12 of the NPPF confirms the statutory status of the development plan as the starting point for decision making. The Development Plan for this area comprises the adopted Cherwell Local Plan 2011-2031 Part 1 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996.
- 9.3. Policy PSD1 of the CLP 2015 embeds a proactive approach to considering development proposals to reflect the presumption in favour of sustainable development. It states, '*The Council will always work proactively with applicants to jointly find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area*'.
- 9.4. The CLP 2015 seeks to allocate sufficient land to meet district-wide housing needs. The Plan states, '*The most sustainable locations for growth in the District are considered to be Banbury, Bicester and the larger villages as identified in Policies Villages 1 and Villages 2 as these settlements have a range of services and facilities, reducing the need to travel by car*'.
- 9.5. Policy BSC1 states that Cherwell District will deliver a wide choice of high quality homes by providing for 22,840 additional dwellings between 1 April 2011 and 31 March 2031. 1,106 completions were recorded between 2011 and 2014 leaving 21,734 homes to be provided between 2014 and 2031.
- 9.6. Paragraph E.10 of the Plan states, '*Housing delivery will be monitored to ensure that the projected housing delivery is achieved. The District is required by the NPPF and*

*the NPPG (to maintain a continuous five year supply of deliverable (available, suitable and achievable) sites as well as meeting its overall housing requirement'.*

- 9.7. Paragraph E.19 of the Local Plan states, *"If the supply of deliverable housing land drops to five years or below and where the Council is unable to rectify this within the next monitoring year there may be a need for the early release of sites identified within this strategy or the release of additional land. This will be informed by annual reviews of the Strategic Housing Land Availability"*.
- 9.8. The Housing and Economic Needs Assessment (HENA) was published in December 2022 and is used to assist the Council in the preparation of their Local Plans as part of the Local Plan review. The HENA is intended to provide an integrated evidence base to help identify the appropriate level of and distributions of housing and employment over the period to 2034.
- 9.9. The Council's latest assessment of housing land availability is its 'HELAA' published in 2018. This is a technical rather than a policy document but provides assessments of potentially deliverable or developable sites; principally to inform plan-making. The application site was not identified for consideration within the 2018 HELAA.
- 9.10. Policy Villages 1 of the CLP 2015 provides a framework for housing development in the rural areas of the district and groups villages into three separate categories (A, B and C). The categorisation of villages was informed by a defined range of sustainability criteria (CLP 2015 para C.255). Cropredy is a Category A village.
- 9.11. Policy Villages 2 of the CLP 2015 states, *'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, *'Sites will be identified through the preparation of the Local Plan Part 2, through the preparation of the Neighbourhood Plan where applicable, and through the determination of applications for planning permission'*.
- 9.12. Policy Villages 2 states that in identifying and considering sites, particular regard will be given to the following criteria:
  - i. *'Whether the land has been previously developed land or is of less environmental value'*;
  - ii. *'Whether significant adverse impact on heritage and wildlife assets could be avoided'*;
  - iii. *'Whether development would contribute in enhancing the built environment'*;
  - iv. *'Whether best and most versatile agricultural land could be avoided'*;
  - v. *'Whether significant adverse landscape and visual impacts could be avoided'*;
  - vi. *'Whether satisfactory vehicular and pedestrian access/egress could be provided'*;
  - vii. *'Whether the site is well located to services and facilities'*;
  - viii. *'Whether necessary infrastructure could be provided'*;
  - ix. *'Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period'*;
  - x. *'Whether land the subject of an application for planning permission could be delivered within the next five years'*;
  - xi. *'Whether development would have an adverse impact on flood risk'*.

- 9.13. Policy DEDD 2 of the Neighbourhood Plan allocates land off Banbury Road for a comprehensive residential, nursery and public parking development. The development will be supported if it accords with the following:

The residential (Class C3) scheme comprises approximately 85-90 dwellings of a mix of types that reflects the principles set out in Policy DEDD3; and

- The nursery (Class E(f)) scheme comprises a suitable building located on the Banbury Road frontage with adequate parking for staff and a vehicular drop off space; and
- The public parking scheme comprises approx. 20–25 spaces on the Earls Lane frontage and laid out with permeable surfacing, trees and shrubs and EV charging points; and
- A S106 agreement is made that requires the delivery and transfer of the nursery and public parking schemes to the Parish Council at no charge prior to the occupation of the first dwelling; and
- The layout comprises a single vehicular, pedestrian and cycle access from Banbury Road to the residential scheme and a separate vehicular, pedestrian and cycle access from Banbury Road to the nursery scheme, both of which must not compromise the existing Fire Station access and which should minimise the loss of the existing mature hedgerow on the Banbury Road frontage; and
- The layout also comprises a tree-lined public footpath from Earls Lane through the residential scheme to Banbury Road and connecting a children’s play area and new woodland and informal amenity areas; and
- The landscape scheme comprises the bolstering of the existing hedgerow and tree planting along each of the site boundaries, a new community orchard in the vicinity of the Earls Lane frontage, an informal amenity area and ecological corridors permeating the whole scheme; and
- The outline layout and location of buildings allow for one or more glimpse views from the south-west corner of the site on Banbury Road through the scheme to the countryside to the north-east of the site; and
- The design of the scheme reflects the design principles set out in Policy DEDD4 and responds positively to the prominence of the north-west corner of the site in views from the north towards the village.

- 9.14. It is considered that the proposed development would accord with the criteria contained within Policy DEDD 2 of the Neighbourhood Plan in outline terms with further details to be provided at reserved matters stage. As such the development is considered to be acceptable in principle based upon this policy.

#### *National Planning Policy Framework*

- 9.15. A key material consideration is the National Planning Policy Framework (NPPF) which sets out the Government’s planning policy for England. The NPPF is supported by Planning Practice Guidance (PPG).
- 9.16. The 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.
- 9.17. So that sustainable development is pursued in a positive way, the NPPF includes a ‘presumption in favour of sustainable development’ (para. 10). Paragraph 11 states that applying the presumption to decision-making means:



- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites), granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;
  - ii. or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

9.18. Paragraph 12 advises, *‘The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.’*

9.19. Section 5 of the NPPF covers the issue of delivering a sufficient supply of homes and states, *‘To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay’.*

9.20. Paragraph 74 highlights the need for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old (unless these strategic policies have been reviewed and found not to require updating as in Cherwell’s case).

### **Housing Land Supply Position Statement (Update) January 2024 Context**

9.21. The former NPPF (September 2023) contained a requirement to include a buffer in the assessment of the supply of specific deliverable housing sites of at least 5%. A revised NPPF was published on 20 December 2023 and no longer contains this requirement.

9.22. This changes the calculation of the five year land supply as shown in the Council’s 2023 Annual Monitoring Report (AMR) at paragraph 41. The calculation is now as follows:

*Table 1*

<b>Step</b>	<b>Description</b>	<b>Five Year Period 2023-2028</b>
a	Requirement (2023 – 2031) (standard	5,680 (710x8)

	method)	
b	Annual Requirement (latest standard method)	710
c	5 year requirement (b x years)	3,550
d	Deliverable supply over next 5 years	4,121 (from 2023 AMR)
e	Total years supply over next 5 years (d/b)	5.8
f	Surplus (d-c)	571

9.23. Additionally, it is advised at paragraph 226 of the revised NPPF:

*“From the date of publication of this revision of the Framework, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years’ worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old, instead of a minimum of five years as set out in paragraph 77 of this Framework. This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need. This provision does not apply to authorities who are not required to demonstrate a housing land supply, as set out in paragraph 76. These arrangements will apply for a period of two years from the publication date of this revision of the Framework.”*

9.24. The Council has an emerging local plan that has reached Regulation 18 stage and therefore the Council only need to demonstrate a four year housing land supply. Table 1 above demonstrates that the updated AMR 2023 position is that the district has in excess of a ‘four years’ worth of housing’ measured against a five year housing requirement.

9.25. Alternatively, Table 2 below shows the calculation of deliverable housing land supply measured against a four year requirement.

Table 2

Step	Description	Four Year Period 2023-2027
a	Requirement (2023 – 2031) (standard method)	5,680 (710x8)
b	Annual Requirement (latest standard method)	710
c	4 year requirement (b x years)	2,840
d	Deliverable supply over next 4 years	3,207 (from 2023 AMR)
e	Total years supply over next 4 years (d/b)	4.5
f	Surplus (d-c)	367

9.26. In February 2023 Cherwell District Council approved a review of their adopted planning policies carried out under regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012. This review concluded that, due to the publication of more recent evidence on Housing Needs to support the preparation of the Cherwell Local Plan Review 2040, policies, including Policy BSC1 need updating. Paragraph 77 and footnote 42 of the NPPF require that in such circumstances the housing land supply figure should be calculated using the government’s standard methodology.

- 9.27. As set out in the Council's Housing Land Supply Statement (February 2023), the use of the standard method has the effect of reducing the annualised requirement from 1,142 dpa to 742 dpa for the purposes of calculating the land supply. This results in the Council having a housing land supply position of 5.74 years for the period 2023-2028, which means that the relevant development plan policies are up-to-date and that development proposals must be assessed in accordance with the Development Plan.
- 9.28. The proof of evidence for 22/02866/OUT Land East of Ploughley Road, Ambrosden, the Public Inquiry for which was heard in March and for which the decision is awaited, confirms that the Council's Five Year Housing Land Supply (5YHLS) of 5.74 years is based on 4,038 units' deliverable supply assessed against an annualised local housing need of 703 dwellings per annum. If measured against four years' worth of provision in accordance with paras 77 and 226 of the NPPF, this represents a surplus of 1,226 units. If measured against five years' worth of provision, it would represent a surplus of 523 units.
- 9.29. The five year supply is not a cap on development. The provision of housing in rural areas represents a significant positive material consideration to weigh in the planning balance and contributes to meeting the overall district housing figures which need to be delivered.
- 9.30. In the context of the spatial strategy and the need to meet the overall district requirements by 2031, regard is given to the Planning Inspector's comments for the appeal decision on Land at Merton Road, Ambrosden (PINS ref 3228169 / LPA ref 18/02056/OUT) specifically in relation to spatial and temporal dimensions:
- 9.31. *Policy Villages 2 does not contain any temporal dimension in that it does not specify when during the plan period housing should be delivered, nor does it contain any phasing element. Similarly, other than relating to Category A villages, the policy has no spatial dimension (ie it does not specify how much development should occur at each settlement). (para 24)*
- 9.32. More recently, the Planning Inspector for the appeal decision on Land South of Green Lane, Chesterton for up to 147 homes (PINS ref 3331122/ LPA ref 23/00173/OUT), dated 15<sup>th</sup> May 2024, highlighted that the 750 homes to be located at Category A villages under Policy Villages 2 was not a ceiling and that housing within Cherwell is being delivered at a declining rate (paragraph 61). The Inspector went on to state: *In this context the rural sites brought forward around the Category A villages have an important role in maintaining a deliverable supply of new houses. The CLP covers a period from 2011 to 2031 and is now in the second half of its period. I also heard evidence that a number of the strategic sites are unlikely to deliver during the plan period. Therefore, in view of the stage the CP has reached it is unlikely that this proposal would prejudice its locational strategy. Moreover, sites such as this will help the Council maintain supply ahead of the adoption of a new local plan. Consequently, it is unlikely that this proposal would be disproportionate in relation to the strategic allocations and would not prejudice their delivery.*

#### **Recent appeal decision at Heyford**

- 9.33. At a recent appeal an Inspector concluded that the Council did not have a sufficient supply of housing land when combining the district housing land supply figure with

the housing land supply for Oxford's unmet housing need in the separate Partial Review Local Plan. That appeal was reference APP/C3105/W/23/3326761 at OS Parcel 1570 Adjoining And West Of Chilgrove Drive And Adjoining And North Of Camp Road, Heyford Park.

- 9.34. The decision issued by the Inspectorate in the above Heyford Park case is a potential material consideration to applications for housing in the district.
- 9.35. However, the LPA has submitted a legal challenge to the conclusions reached by the Inspector in that case (and the basis for the decision making). This is because officers have significant concerns that the Heyford Park decision does not sufficiently consider all material considerations and therefore could be unsound.
- 9.36. On that basis, officers consider that placing reliance on that decision and upon the housing land supply considerations and conclusions could place subsequent and dependent decisions also at risk. As such, officers consider that greater weight should be placed on the published AMR figures.

#### *Assessment*

- 9.37. The Council's housing supply position of 5.7-5.8 years means that the relevant development plan policies are up to date and that development proposals must be assessed in accordance with the Development Plan. Whilst the NPPF states the requirement to have a 5-year supply is not a cap on development, the housing policies of the Development Plan are the starting point for decision taking and are afforded full weight. However, the delivery of homes across the district remains an important material consideration in the planning balance.
- 9.38. Policy Villages 1 of the CLP 2015 designates Deddington as a Category A village where minor development, infilling and conversions are permissible. Supporting text to the policy states that infilling refers to the development of a small gap in an otherwise continuous built-up frontage. Under such a definition the proposal would not constitute infilling. Further supporting text states that in assessing whether proposals constitute acceptable 'minor development', regard will be given to the size of the village and the level of service provision, the site's context within the existing built environment, whether it is in keeping with the character and form of the village, its local landscape setting and careful consideration of the appropriate scale of development.
- 9.39. The site is an undeveloped green field site that, given its physical and visual relationship to the existing built-up form, is outside of the existing built form of Deddington village and relates rather poorly to the village; however, it is allocated within the Neighbourhood Plan for development. The proposal, therefore, does find support from Policy Villages 1.
- 9.40. Deddington is identified in the Local Plan as one of 23 Category A villages intended to provide 750 homes from 2014 to 2031 (Policy Villages 2).
- 9.41. The 2023 Annual Monitoring Report (AMR) sets out that between 1 April 2014 and 31 March 2023 there have been a total of 792 completions in Category A villages, with a further 100 dwellings under construction but not completed on 31 March 2023, totalling 892 dwellings. There are an additional 303 dwellings on sites with

planning permission but where construction has not yet started. Therefore, the total number of dwellings delivered under PV2 has exceeded 750.

- 9.42. It should be noted that whilst the site is located adjacent to Deddington, it sits outside of its built-up limits and is rather poorly related to the settlement. However, it has been identified within the Neighbourhood Plan and is now within the Settlement Boundary. It is therefore considered to be in a sustainable location, which would not result in harm to the locational strategy of new housing. The proposed development therefore accords with PV2.

#### *Conclusion*

- 9.43. The latest housing supply figure for the district is calculated at 5.8 years. Whilst the NPPF states the requirement to have a 4-year supply is not a cap on development, the housing policies of the Development Plan are the starting point for decision taking and are afforded full weight. The housing strategy in the Cherwell Local Plan seeks to distribute new housing to the most sustainable locations, with Deddington being classed in the CLP 2015 as one of the larger, more sustainable villages within the district. Whilst it is considered that the development does accords with Policy Villages 1, Policy Villages, Policy DEDD1 and Policy DEDD 2 of the Deddington Neighbourhood Development Plan in which the parcels of land are allocated for development of housing, nursery community orchard and car park. It is considered that the proposals accord with the criteria of Policy DEDD 2 and as such the principle of development is deemed to be acceptable in this location subject to compliance with other parts of Policy DEDD 2 which will be discussed below and other material considerations.

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

- 9.44. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 9.45. These aims are also echoed within Policy ESD15 of the CLP 2015 which looks to promote and support development of a high standard which contributes positively to an area's character and identity by creating or reinforcing local distinctiveness, stating that, new development proposals should respect the traditional pattern of 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 designed active public frontages.
- 9.46. Policy ESD13 of the CLP 2015 states that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not normally be permitted if they would cause undue visual intrusion into the open countryside, cause undue harm to important natural landscape features and topography, be inconsistent with local character, or impact on areas judged to have a high level of tranquillity.

- 9.47. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development. Furthermore, saved Policy C30 of CLP 1996 states control will be exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 9.48. The site comprises a U-shaped parcel of land, which fronts the A4260 to the west and links to Earls Lane to the south. The site is bounded by the highway to the west, residential development to the south and open fields to the north and the east.
- 9.49. The western parcel of land fronting onto the A4260 and, whilst being outside the built up limits and settlement boundary of Deddington, would have a moderate relationship to the village and would be in keeping with the existing form of development to its south. The linear form of residential properties fronting onto the A4260 as shown on the masterplan submitted is a positive element of the proposals that would respect the prevailing pattern of development in the locality.
- 9.50. The eastern parcel of the site would not relate as well to the rest of the village as it would be set significantly back from Earls Lane and would be rather disconnected from the existing built form of the village. It would have been much better for this part of the development to be spatially better connected to Earls Lane, which would have aided the integration of the development with the rest of the village, and in their pre-app enquiry response officers encouraged this change be made. That said, it is acknowledged that being set away from Earls Lane would lessen the visual impact of the development on Earls Lane and would result in a continuation of the soft landscaping edge of this side of the village and its enhancement through the addition of the orchard. Development of the remaining field parcel would have relatively little visual impact but for the period of time that full weight is afforded to the Neighbourhood Plan any such development would be contrary to the Development Plan.
- 9.51. The access to the eastern parcel would be achieved from Earls Lane and would consist of a relatively thin section of field to the east of the existing housing in which is proposed a community orchard as well as additional car parking for the adjacent health centre. The access to the housing to the north of the site would be pedestrian only from Earls Lane with a footpath leading south to north to the larger housing parcel. There would be little or no surveillance of this path, which is poor design and weighs against the proposal.
- 9.52. The eastern housing parcel to the north of the orchard would have a more significant impact on the wider landscape and would be particularly visible when viewed from the north, particularly when traversing the A4260 north to south; this housing would be viewed as being within the open countryside and would have a large degree of separation from the built up limits of Deddington. These wider views would be minimised through suitable and substantial soft landscaping to the northern and eastern boundaries of the plot, details of which would be secured through a suitably worded condition. This would need to be enhanced to a substantial level in order to minimise the urbanising effect of the development and its intervisibility with and views from the open countryside.
- 9.53. Indeed, in visual and spatial planning terms, the eastern part of the development would be somewhat disconnected from the built form of Deddington and would not

be a continuation of any of the existing residential development within the locality. This disconnect is further exacerbated by the lack of access options leading from Earls Lane other than the proposed narrow footpath. It would not be obvious that this development is part of an extended Deddington village when viewed from Earls Lane.

### *Conclusion*

- 9.54. The eastern part of the development would be disconnected from and relate poorly to the existing built form of the village. This disconnect is further exacerbated by the lack of access options leading from Earls Lane other than the proposed narrow footpath. There would be little or no surveillance of this path, which is poor design and weighs against the proposal. That said, the site has been allocated within the Deddington Neighbourhood Development Plan and as such the landscape harm has been considered to be within an acceptable level and the site would relate sufficiently with the existing village. It is considered that the impact of the proposed development on the character of the area can be mitigated by appropriate landscaping details being provided at reserved matters stage.

### Heritage Impact

#### *Legislative and policy context*

- 9.55. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.56. 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.
- 9.57. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 205 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 2015 echoes this guidance.

- 9.58. The proposal would not result in a harmful impact to the nearby designated heritage assets.

### Ecology Impact

#### *Legislative context*

- 9.59. 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.

- 9.60. 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.
- 9.61. 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.
- 9.62. 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.
- 9.63. 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, pipelines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

#### *Policy Context*

- 9.64. Paragraph 180 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.
- 9.65. Paragraph 186 states that when determining planning applications, local planning authorities (LPAs) 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.

- 9.66. Paragraph 191 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.
- 9.67. Policy ESD10 of the CLP 2015 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.
- 9.68. 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.
- 9.69. 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.
- 9.70. 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 LPAs 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*

- 9.71. The application is supported by a Bat Transect Report, Biodiversity Net Gain Assessment, Great Crested Newt (GCN) DNA survey. The applicants have also submitted a Licence from Naturespace for work within an area of GCNs. These reports also provide details on compensation and mitigation measures.
- 9.72. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.
- 9.73. Paragraph 114 of the NPPF states that in assessing specific applications for development, it should be ensured that:
- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

- b) safe and suitable access to the site can be achieved for all users;
- c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and
- d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

9.74. In addition, paragraph 115 highlights that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

9.75. The Local Highway Authority has raised no objections to the proposal, provided suitable conditions and Section 106 contributions. Therefore, it is concluded that the proposed scheme would not create a danger to those using the highway network. Therefore, the proposal is acceptable in highway terms.

### Drainage

9.76. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 173 of the NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient;
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

9.77. Paragraph 175 of the NPPF continues by stating that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:

- a) take account of advice from the lead local flood authority;
- b) have appropriate proposed minimum operational standards;
- c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and
- d) where possible, provide multifunctional benefits.

9.78. Turning to the Development Plan, Policy ESD6 of the CLP 2015, consistent with the NPPF, resists development where it would increase the risk of flooding and seeks to

guide vulnerable developments (such as residential) towards areas at lower risk of flooding.

- 9.79. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.
- 9.80. The current situation is that the site is located within a flood zone 1 which is land that has less than 1 in 1,000 annual probability of river flooding. The applicant submitted a Flood Risk Assessment as part of the application. The Lead Local Flood Authority has commented on this and does not have an objection to the scheme provided suitably worded conditions are imposed, and the Environment Agency also consider the proposal will not increase the risk of flooding.
- 9.81. The proposal is therefore considered to be acceptable in flooding terms.

#### Residential amenity

- 9.82. Saved Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2015 which states amongst other things 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.
- 9.83. The application is in outline form at this stage; therefore, the consideration of residential amenity is more relevant at the reserved matters stage. The submitted indicative masterplan indicates that the site can accommodate the number of dwellings without having a detrimental impact to the amenities of the existing properties and proposed dwellings.
- 9.84. It is therefore considered that the limited impact on residential amenity is not a reason that warrants refusal of the application.

#### Sustainable construction

- 9.85. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 159 states that new development should be planned for in ways that: a) avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards. Paragraph 160 continues by stating, amongst other things, that in order to help increase the use and supply of renewable and low carbon energy and heat, plans should: c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.

#### *Development Plan*

- 9.86. Policy ESD1 of the CLP 2015 covers the issue of Mitigating and Adapting to Climate Change and includes criteria under which application for new development will be considered. Included in the criteria is the requirement that development will incorporate suitable adaptation measures to ensure that development is more

resilient to climate change impacts. These requirements will include the consideration of, 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 (through the provision of green infrastructure including open space and water, planting, and green roofs).

9.87. With regards to Policy ESD 2, this covers the area of Energy Hierarchy and Allowable Solutions. This policy seeks to achieve carbon emissions reductions, where 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. Any new development will be expected to take these points into account and address the energy needs of the development.

9.88. Policy ESD 3 covers the issue of Sustainable Construction and states amongst other things 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 in line with Government policy. The Policy continues by stating that Cherwell District is in an area of water stress and as such the Council will seek a higher level of water efficiency than required in the Building Regulations, with developments achieving a limit of 110 litres/person/day. The Policy continues by stating that 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.

#### *Assessment*

9.89. The application is at outline stage; therefore, it is not clear how the dwellings would be constructed, and how many sustainable features would be used as part of the development of the scheme. The applicant has stated that the design would incorporate sustainable features to achieve a carbon positive development. The applicant has also provided an Energy and Sustainable Statement. It is considered that the development is likely to adhere to these policies; however, this would be further detailed at the reserved matters stage.

#### S106

9.90. Paragraph 54 of the NPPF states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Paragraph 56 continues by stating that planning obligations must only be sought where they meet all of the following tests:

- a) necessary to make the development acceptable in planning terms;
  - b) directly related to the development; and
  - c) fairly and reasonably related in scale and kind to the development.
- 9.91. Policy INF1 of the CLP 2015 covers the issue of Infrastructure. This Policy states, amongst other things, that the Council's approach to infrastructure planning in the District will identify the infrastructure required to meet the District's growth, to support the strategic site allocations and to ensure delivery by:
- 9.92. Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.
- 9.93. Policy BSC 3 of the CLP 2015 states, amongst other things that at Kidlington and elsewhere, all proposed developments that include 11 or more dwellings (gross), or which would be provided on sites suitable for 11 or more dwellings (gross), will be expected to provide at least 35% of new housing as affordable homes on site. The Policy continues by stating that, all qualifying developments will be expected to provide 70% of the affordable housing as affordable/social rented dwellings and 30% as other forms of intermediate affordable homes. Social rented housing will be particularly supported in the form of extra care or other supported housing. It is expected that these requirements will be met without the use of social housing grant or other grant.
- 9.94. The Council also has a Developer Contributions SPD in place which was adopted in February 2018. It should, however, be noted that this is a general guide and development proposals will continue to be assessed on a case-by-case basis with the individual circumstances of each site being taken into consideration when identifying infrastructure requirements.
- 9.95. This application is for up to 90 residential units on the site, which is a major application in terms of definition. For this reason, the development must provide an element of affordable housing as part of the proposal.
- 9.96. The policy requirement is for 35% affordable housing as set out in Policy BSC3 in the CLP 2015 which would equate to 31 units. In line with new Government requirements, 25% of affordable housing is required to be delivered as First Homes.
- 9.97. In addition, it is also considered that the development should contribute towards community hall facilities, indoor and outdoor sports provision, towards Public Art, highway infrastructure improvements, education necessary for the development as outlined by the comments of the consultees. The County Council has also requested a contribution towards public transport services, as well as entering into a S278 agreement.
- 9.98. Due to the scale of the development the scheme would need to provide a play area in the form of a LAP as required under Policy BSC11 of the CLP 2015. The proposed masterplan includes the provision of a LAP and LEAP, which requires a minimum area of 500 sqm. Although, it is not shown how large this area is, this can be controlled by way of planning conditions/and or a S106 obligation.
- 9.99. It is expected that these matters will be negotiated to a conclusion following a resolution to grant. It is to be noted that the applicant has agreed with the S106 requests and has not asked for any reduction.

- 9.100. The proposal includes the provision of land and building for a car park area for the village to use.
- 9.101. Although the draft heads of terms does not cover all the areas where a contribution would be required, it does show a commitment of the applicant to opening negotiations on an agreement. As such it is considered that in the event that the Planning Committee resolved to approve this application this would be subject to the completion of a S106 agreement. As such it is considered that the proposed development will comply with Policies BSC3 and INF1 of the CLP 2015 as well as guidance outlined in paragraph 54 of the NPPF. Details of the S106 contributions/obligations can be seen in Appendix 1 of this report.

**10. PLANNING BALANCE AND CONCLUSION**

- 10.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined against the provisions of the development plan unless material considerations indicate otherwise. The NPPF supports this position and adds that proposals that accord with an up-to-date development plan should be approved and those which do not should normally be refused unless outweighed by other material considerations.
- 10.2. The site is allocated within the Deddington Neighbourhood Plan and therefore the principle of residential development on the site is considered acceptable. The additional housing would also add to the overall housing land supply within the district.
- 10.3. This is an outline application and further information on the overall layout and design will be considered at the Reserved Matters Application.
- 10.4. The proposal would not result in a danger to those using the highway, and any impacts can be mitigated by the way of planning condition or S106 contributions.
- 10.5. The application is therefore recommended for approval, subject to conditions and a Section 106 agreement.

**11. RECOMMENDATION**

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

- THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS 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 (See Appendix 1) (AND ANY AMENDMENTS AS DEEMED NECESSARY):

CONDITIONS

**Time Limit**

- 1. 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 three 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 (Development Management Procedure (England)) Order 2015 (as amended).

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

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

### **Compliance with Plans**

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

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

4. No development shall commence unless and until 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 has been 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, Land contamination risk management (LCRM) 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.
5. If contamination is found by undertaking the work carried out under condition 4, 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.
6. If remedial works have been identified in condition 5, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 4. 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.

7. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes be carried out before the relevant phase of development is resumed or continued.
8. No development shall commence unless and until a specialist acoustic consultant's report has been provided and approved in writing by the local planning authority that demonstrates that all habitable rooms within the dwelling will achieve the noise levels specified in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings). For outdoor areas (domestic gardens and recreation areas used in common) the World Health Organisations guideline noise value of 50 dB LAeq (16 hr) or less shall be achieved during the time period 07:00 to 23:00 hrs. Where acoustic barriers, planting or other features are required to achieve this standard full details of these elements shall be submitted with the report for approval. Thereafter, and prior to the first occupation of the dwellings affected by this condition, the dwellings shall be insulated and maintained in accordance with the approved details.
9. No development shall commence unless and until 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 or other sensitive properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with the occupiers of those properties has been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in full accordance with the approved CEMP.
10. No development shall commence (including demolition, ground works, vegetation clearance) unless and until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:
  - a. Risk assessment of potentially damaging construction activities;
  - b. Identification of 'Biodiversity Protection Zones';
  - c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
  - d. The location and timing of sensitive works to avoid harm to biodiversity features;
  - e. The times during construction when specialist ecologists need to be present on site to oversee works;
  - f. Responsible persons and lines of communication;
  - g. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
  - h. Use of protective fences, exclusion barriers and warning signs

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

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.

11. No development shall commence unless and until a detailed air quality impact assessment to identify the impact of the development on local air quality has been submitted to and approved in writing by the Local Planning Authority. The assessment shall include damage cost calculations where applicable along with a proposal for abatement measures that will be undertaken in addition to those already required from the developer. This shall have regard to the Cherwell District Council Air Quality Action Plan and no development shall take place until the Local Planning Authority has given its written approval that it is satisfied that the impact of the development on air quality has been adequately quantified.

12. No development shall commence unless and until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved CTMP.

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

13. 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.

14. Prior to the first occupation of the development, a Travel Plan as set out in the Oxfordshire County Council Travel Plans guidance shall be submitted to and approved by the Local Planning Authority. The development shall not be occupied other than in full accordance with the approved Travel Plan.

Reason: To encourage the use of sustainable modes as a means of transport.

15. No dwelling shall be occupied until confirmation has been provided that either:-  
1. Foul water Capacity exists off site to serve the development, or 2. A development and infrastructure phasing plan has been agreed with the Local Authority in consultation with Thames Water. Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan, or  
3. All Foul water network upgrades required to accommodate the additional flows from the development have been completed.

Reason - Network reinforcement works may be required to accommodate the proposed development. Any reinforcement works identified will be necessary in order to avoid sewage flooding and/or potential pollution incidents

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

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

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

17. GCN Condition according to licence

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

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

CASE OFFICER: Katherine Daniels

TEL: 01295 753 736

APPENDIX 1- Heads of Terms for Section 106 Agreement/undertaking

Planning Obligation			Regulation 122 Assessment
Detail	Amount	Trigger point	
Health Care	£77,760 Final figure to be agreed	Health Care Contribution 50% prior to the first Occupation of any Dwelling; remainder prior to the first Occupation of 50% of the Dwellings	<p><b>Necessary</b> - contribution towards improvements of the Deddington Health Centre</p> <p><b>Directly related</b> – For use of future occupiers by the development</p> <p><b>Fairly and reasonably related in scale and kind.</b> The contributions are in scale with the development and would be directly benefiting residents of the future development.</p>
Public Transport	£101,970 (RPI-x Dec 21)	No more than SEVENTY PER CENT (70%) of the Dwellings shall be Occupied until the Practical Completion Certificate has been issued	<p><b>Necessary</b> – to ensure sustainable mode of transport and encourage and integrated into the development and made attractive to future users to reduce car dependency.</p> <p><b>Directly related</b> as these will benefit the future occupants of the site and encourage use of sustainable transport options in the locality.</p> <p><b>Fairly and reasonably related in scale and kind.</b> The contributions are in scale with the development and would be directly benefiting residents of the future development.</p>
Public Transport infrastructure – Real Time Information screens at the nearest bus stops	£20,620 (RPI-x Oct 21)	No more than SEVENTY PER CENT (70%) of the Dwellings shall be Occupied until the Practical Completion Certificate has been issued	<p><b>Necessary</b> – to ensure sustainable mode of transport and encourage and integrated into the development and made attractive to future users to reduce car dependency.</p> <p><b>Directly related</b> as these will benefit the future occupants of the site and encourage use of sustainable transport options</p>

			<p>in the locality.</p> <p><b>Fairly and reasonably related in scale and kind.</b> The contributions are in scale with the development and would be directly benefiting residents of the future development.</p>
Highway Works	<p>a) New bellmouth site access junction on the A4260, complete with kerb realignment and white lining</p> <p>b) Removal and repainting of the speed limit roundel and the “dragon’s teeth” markings</p> <p>c) Conversion of existing footway to 3.5m wide shared use cycle track from the site access southwards to the Toucan crossing</p> <p>d) New bellmouth car park access junction on Earls Lane</p> <p>e) New 2m wide footway on the north side of Earls Lane and existing footway widened to 2m</p>	<p>No more than SEVENTY PER CENT (70%) of the Dwellings shall be Occupied until the Practical Completion Certificate has been issued</p>	<p><b>Necessary</b> – towards a new bellmouth site access junction, new bellmouth car park access junction on Earls Lane, new controlled crossing build-out feature plus signage, a new off road shared cycling and walking path from the development site to the School Lane junction</p> <p><b>Directly related</b> as these will benefit the future occupants of the site and to mitigate against the impact of the development</p> <p><b>Fairly and reasonably related in scale and kind.</b> The contributions are in scale with the development and would be directly benefiting residents of the future development.</p>

	<p>on the south side</p> <p>f) New uncontrolled crossing build-out feature plus signage</p> <p>g) Consultation on changes to Traffic Regulation Orders, and implementation, as necessary</p>		
Travel Plan Monitoring	£1,890 (RPI-x Dec 21)		<p><b>Necessary</b> – to mitigate against the increase in residential numbers on the highway network</p> <p><b>Directly related</b> as these will benefit the future occupants of the site and to mitigate against the impact of the development</p> <p><b>Fairly and reasonably related in scale and kind.</b> The contributions are in scale with the development and would be directly benefiting residents of the future development.</p>
Traffic Regulations Order	TBC		<p><b>Necessary</b> – to mitigate against the increase in residential numbers on the highway network</p> <p><b>Directly related</b> as these will benefit the future occupants of the site and to mitigate against the impact of the development</p> <p><b>Fairly and reasonably related in scale and kind.</b> The contributions are in scale with the development and would be directly benefiting residents of the future development.</p>

Community Hall facilities	£102,903.72 Final figure to be agreed.	Prior to the First Occupation of any Dwelling on the Site	<p><b>Necessary</b> - contribution towards improvements of the Windmill Community Centre</p> <p><b>Directly related</b> – For use of future occupiers by the development</p> <p><b>Fairly and reasonably related in scale and kind</b> – In accordance with Policy BSC 12 – The council will encourage the provision of community facilities to enhance the sustainability of communities</p>
Outdoor Sport Provision	£181,532.70 Final figure to be agreed	Off-site Outdoor Sports Facilities Contribution in the following instalments: 50% prior to the first Occupation of any Dwelling; remainder prior to the first Occupation of 50% of the Dwellings	<p><b>Necessary</b> - contribution towards enhancement of the outdoor sports facilities at the Windmill Community Centre, or other outdoor sports facilities in Deddington parish</p> <p><b>Directly related</b> – For use by future occupiers of the development</p> <p><b>Fairly and reasonably related in scale and kind</b> – In accordance with Policy BSC 10 Ensuring proposals for new development contribute to sport and recreation provision commensurate to the need generated by the proposals. Policy BSC 11 – Local standards of provision – outdoor recreation</p>
Indoor Sports Provision	£75,145.21 Final figure to be agreed	Off-site Indoor Sports Facilities Contribution 50% prior to the first Occupation of any Dwelling; remainder prior to the first Occupation of 50% of the Dwellings	<p><b>Necessary</b> - off-site indoor sport contribution towards indoor sports facilities at the Windmill Community Centre, or other indoor sports facilities in the locality</p> <p><b>Directly related</b> – For use by future occupiers of the development</p> <p><b>Fairly and reasonably related in scale and kind</b> – Policy BSC 10 Addressing existing deficiencies in provision through</p>

			enhancements of provision, improving access to existing facilities. Ensuring proposals for new development contribute to sport and recreation provision commensurate to the need generated by the proposals. Policy BSC 12 – Indoor Sport, Recreation and community Facilities. The council will encourage the provision of community facilities to enhance the sustainability of communities – enhancing quality of existing facilities and improving access
Public Realm / Public Art	£20,160 Final figure to be agreed	No more than SEVENTY PER CENT (70%) of the Dwellings shall be Occupied until the Practical Completion Certificate has been issued	<p><b>Necessary</b> - Public realm and public art can plan an important role in enhancing the character of an area, enriching the environment, improving the overall quality of space and therefore peoples’ lives. Public art and the quality of the public realm are important considerations in the design and layout of a development.</p> <p><b>Directly related</b> – We are seeking public art in the locality of the development. The final location would need to be related to the proposed development site.</p> <p><b>Fairly and reasonably related in scale and kind</b> – SPD 4.130 Public Realm, Public Art and Cultural Well-being. Public realm and public art can plan an important role in enhancing the character of an area, enriching the environment, improving the overall quality of space and therefore peoples’ lives. SPD 4.132 The Governments Planning Practise Guidance (GPPG) states public art and sculpture can plan an important role in making interesting and exciting places that people enjoy using.</p>
Early Years (Option 1)	Freehold of the proposed	TBC	<b>Necessary</b> for expanding early years capacity serving the site

	nursery site		<p><b>Directly related.</b> Will provided additional school places for children living at the proposed development</p> <p><b>Fairly and reasonably related in scale and kind.</b> In accordance with the County Council's standards for provision of new school places based on cost per additional pupil.</p>
Early Years (Option 2)	£113,268	TBC	<p><b>Necessary</b> contribution towards expanding early years capacity through replacement and expansion of modular unit at Deddington Partnership Foundation Stage Unit</p> <p><b>Directly related.</b> Will provided additional school places for children living at the proposed development</p> <p><b>Fairly and reasonably related in scale and kind.</b> In accordance with the County Council's standards for provision of new school places based on cost per additional pupil.</p>
Primary Education	£163,000 Final Figure to be agreed	TBC	<p><b>Necessary</b> to provide adequate education provision in Christopher Rawlins primary school as existing infrastructure is at capacity with planned growth.</p> <p><b>Directly related.</b> Will provided additional school places for children living at the proposed development</p> <p><b>Fairly and reasonably related in scale and kind.</b> In accordance with the County Council's standards for provision of new school places based on cost per additional pupil.</p>
Secondary Education	£545,832 Final figure to be agreed	TBC	<p><b>Necessary</b> contribution towards replacement of temporary provision at Warriner School.</p> <p><b>Directly related.</b> Will provide additional school places for children living at the proposed development</p>



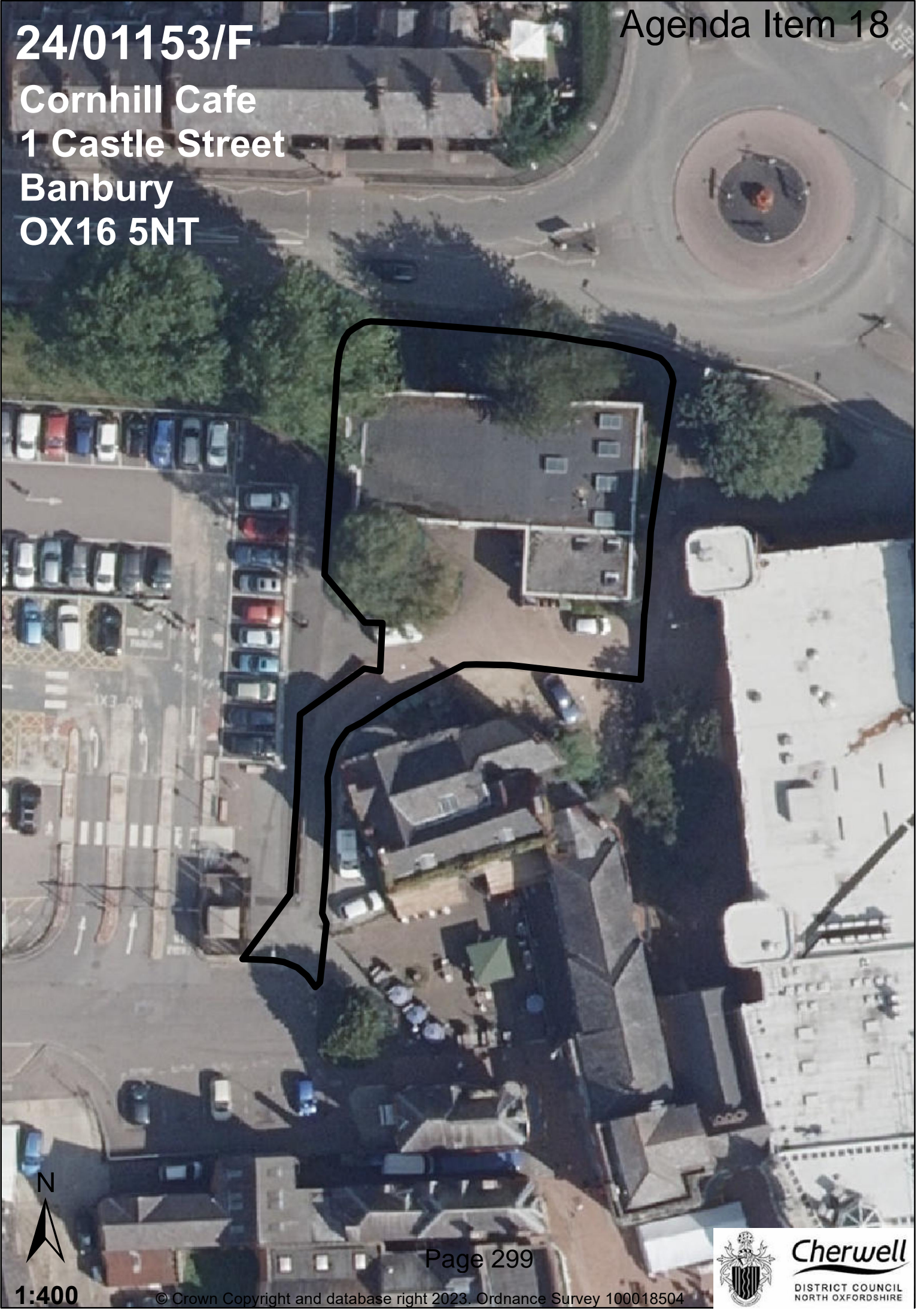
			<b>Fairly and reasonably related in scale and kind.</b> In accordance with the County Council's standards for provision of new school places based on cost per additional pupil.
Library	£23,800		<p><b>Necessary</b> contribution towards the expansion of capacity at Deddington library including the provision of additional book stock.</p> <p><b>Directly related.</b> Will provide additional library facilities for residents of the proposed development</p> <p><b>Fairly and reasonably related in scale and kind.</b> In accordance with the County Council's standards for provision of necessary library facilities.</p>
Waste Management	£8,456 (BCIS All-in TPI 327) final figure to be agreed	TBC	<p><b>Necessary</b> The County Council provides a large number of appropriate containers and storage areas at HWRCs to maximise the amount of waste reused or recycled that is delivered by local residents. However, to manage the waste appropriately this requires more space and infrastructure meaning the pressures of new developments are increasingly felt.</p> <p><b>Directly related.</b> Will provided expansion and efficiency of Household Waste Recycling Centre (HWRC) capacity.</p> <p><b>Fairly and reasonably related in scale and kind.</b> In accordance with the County Councils standards for provision of new school places based on cost per additional pupil.</p>
LAP/LEAP to be provided and	TBC	No more than SEVENTY PER CENT (70%) of the Dwellings shall be	<b>Necessary</b> – Site based LAP required in accordance with

maintenance towards upkeep		Occupied until the Practical Completion Certificate has been issued	<p>Policy BSC10.</p> <p><b>Directly related</b> – contribution towards the maintenance of the site-based LAP.</p> <p><b>Fairly and reasonably related in scale and kind</b> – In accordance with Policy BSC 10 Ensuring proposals for new development contribute to play and recreation provision commensurate to the need generated by the proposals. Policy BSC 11 – Local standards of provision – outdoor recreation</p>
Affordable Housing	35% (with 25% of that 35% to be First Homes and 10% of the 90 to be Low-Cost Home Ownership/intermediate) i.e. for a dev of 90 dwh this would mean 23 rented, 8 First Homes, 1 shared ownership, but TBC	Not Occupy or cause to permit the Occupation of more than fifty per cent (50%) of the Market Dwellings until each area comprising the Affordable Housing Site has been offered to a Registered Provider	<p><b>Necessary</b> – as would provide housing for those who are not able to rent or buy on the open market pursuant to Policy BSC3 of the Cherwell Local Plan</p> <p><b>Directly related</b> – The affordable housing would be provided on-site in conjunction with open market housing</p> <p><b>Fairly and reasonably related in scale and kind</b> – Based on the Cherwell Local Plan requirement for percentage of affordable housing.</p>
Biodiversity Net Gain	TBC	TBC	<p><b>Necessary</b> – required in accordance with Policy ESD10 and legislation.</p> <p><b>TBC</b></p>

**24/01153/F**

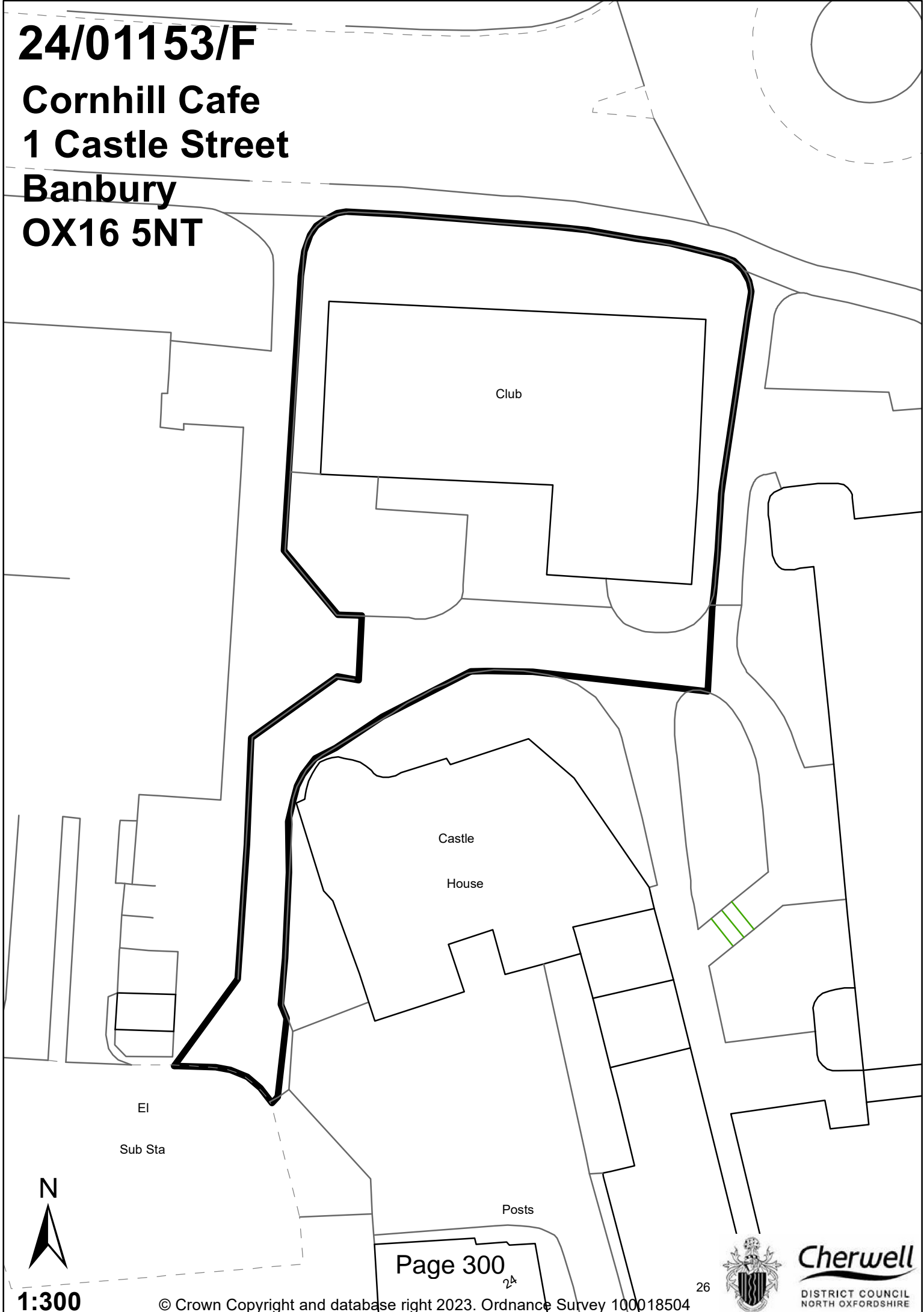
Agenda Item 18

**Cornhill Cafe  
1 Castle Street  
Banbury  
OX16 5NT**



**24/01153/F**

**Cornhill Cafe  
1 Castle Street  
Banbury  
OX16 5NT**



EI  
Sub Sta

Castle  
House

Posts

Page 300

2A

26

**1:300**

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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

24/01153/F

**Cornhill Cafe**  
**1 Castle Street**  
**Banbury**  
**OX16 5NT**

Builders Yard

67

75

83

Shelter

Club

Castle House

EI Sub Sta

Posts

Old Castle Walls

1

55

56

54

23a

23

24

26

1

4

5

28a

28b

28c

Cornhill

60

61

62

21

Page 301

1:600

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**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Case Officer:** Katherine Daniels

**Applicant:** Royal Voluntary Service

**Proposal:** Conversion of unused garage into a new office for two members of staff, this work includes a new front window and access from the existing building

**Ward:** Banbury Cross And Neithrop

**Councillors:** Cllr Becky Clarke, Cllr Matt Hodgson, Cllr Dr Chukwudi Okeke

**Reason for Referral:** Application affects Council's own land

**Expiry Date:** 3 July 2024

**Committee Date:** 11 July 2024

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

**1. APPLICATION SITE AND LOCALITY**

1.1. The application site is located on the edge of the town centre of Banbury. Castle Street is located to the north, with JD Davies Public house located to the south. Bolton Road car park is located to the west of the site. It is an existing building which is currently being used for the Royal Voluntary Service.

**2. CONSTRAINTS**

2.1. The application site is within Banbury's Conservation and there are footpaths which run around the building.

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

3.1. The proposal is for the conversion of the unused garage into a new office in conjunction with the existing community centre use. The works would not increase the floor area of the building. There would be some external alterations to the building, including a new front window and access to the building.

**4. RELEVANT PLANNING HISTORY**

4.1. There is no planning history directly relevant to the proposal

**5. PRE-APPLICATION DISCUSSIONS**

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

**6. RESPONSE TO PUBLICITY**

6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in 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 **29 May 2024**, 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. BANBURY TOWN COUNCIL: **No objections**

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

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

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

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

- ESD15 - The Character of the Built and Historic Environment
- Banbury 8 – Bolton Road Development Area

### 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)
- The Planning (Listed Buildings and Conservation Areas) Act 1990

## **9. APPRAISAL**

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

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

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

9.2. 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.*

- 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. The proposal includes the replacement of the garage door with windows. The windows would be in keeping with the existing modern building. The changes, which are relatively minor, would therefore not have a detrimental impact on the appearance of the existing building or the visual amenity of the locality, and would preserve the character and appearance of the Conservation Area.
- 9.5. The proposal is therefore considered to be acceptable and in accordance with the aforementioned policies.

Residential Amenity

- 9.6. The new windows are located away from the nearest residential property to the north. As a result, it would not impact on the amenities of the nearby residents and are therefore in accordance with Policy ESD15 of the CLP 2015.

**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**

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

CONDITIONS/REASONS

**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 (Titled: 5825 MAP), Block Plan (Titled: 5828 01), Proposed Floor Plans and Elevations (Titled: 5828 21)

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.



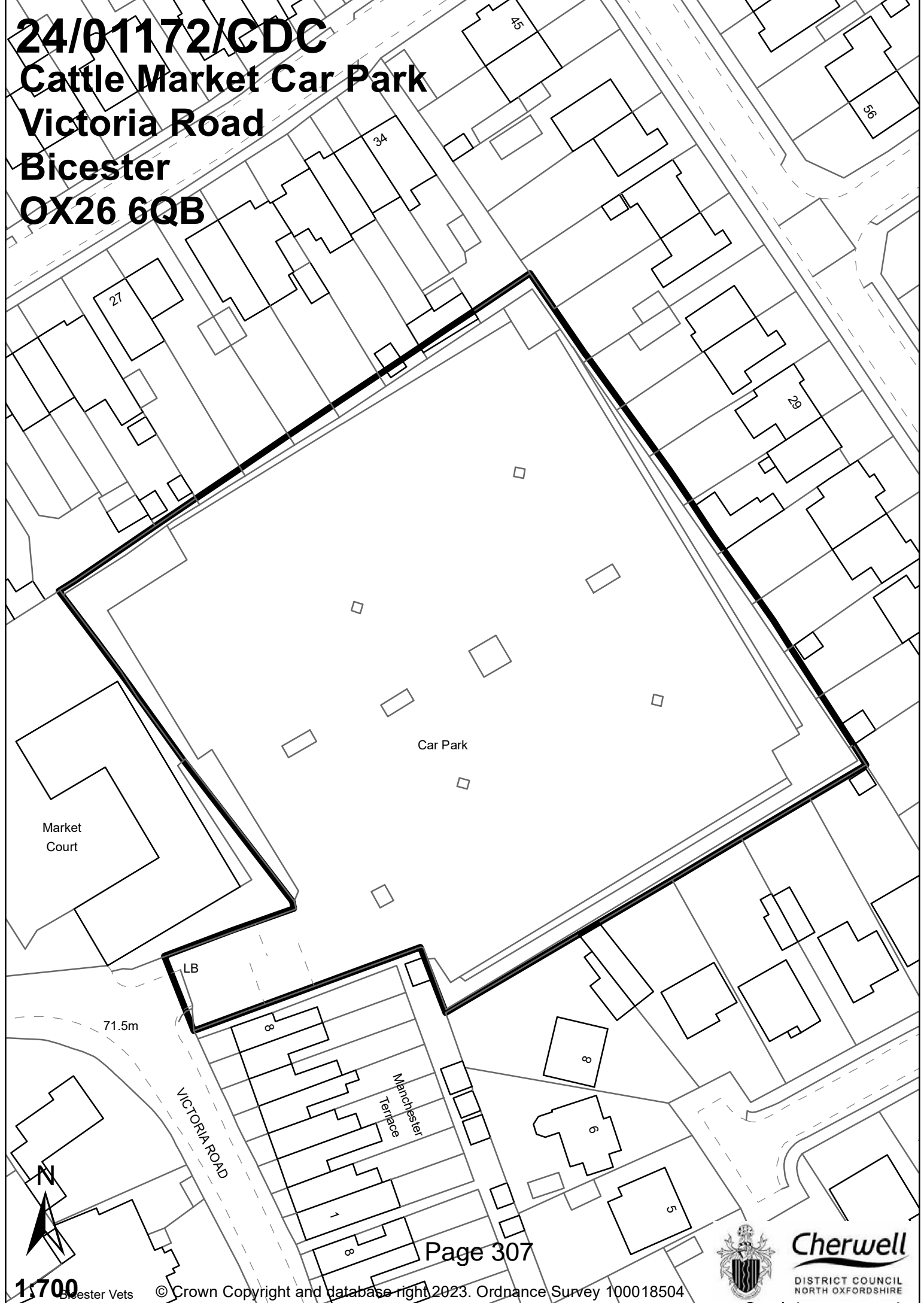
CASE OFFICER: Katherine Daniels

Agenda Item 19  
**24/01172/CDC**  
**Cattle Market Car Park**  
**Victoria Road**  
**Bicester**  
**OX26 6QB**



**1:1,000**

**24/01172/CDC**  
**Cattle Market Car Park**  
**Victoria Road**  
**Bicester**  
**OX26 6QB**



Car Park

Market Court

LB

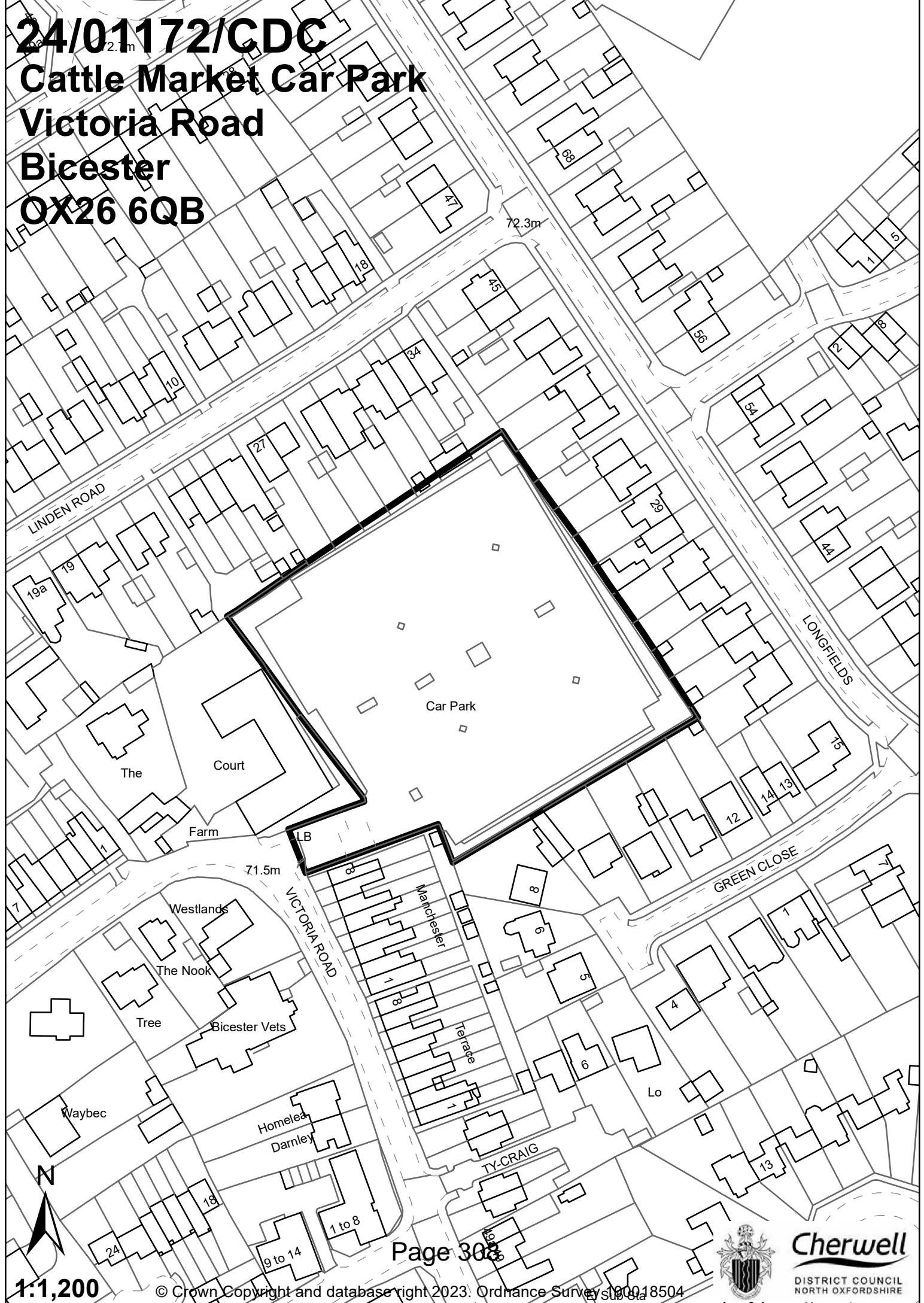
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VICTORIA ROAD

Manchester Terrace



**24/01172/CDC**  
**Cattle Market Car Park**  
**Victoria Road**  
**Bicester**  
**OX26 6QB**



**Case Officer:** Rebekah Morgan

**Applicant:** Cherwell District Council

**Proposal:** Retain use of land as a car park

**Ward:** Bicester East

**Councillors:** Cllr. Tom Beckett, Cllr. Donna Ford and Cllr. Rob Parkinson.

**Reason for Referral:** Application affects Council's own land, and the Council is the applicant.

**Expiry Date:** 18 July 2024

**Committee Date:** 11 July 2024

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

**1. APPLICATION SITE AND LOCALITY**

1.1. The application site is located to the east of Bicester town centre with access from Victoria Road. The site is an existing car park with a site area of 0.79 hectares. The site is a public car park with barrier-controlled entry/exit.

**2. CONSTRAINTS**

2.1. The following constraints are considered to be relevant:

- Within close proximity of the Bicester Conservation Area
- The constraints data identifies the site as being on potentially contaminated land
- The constraints data identifies the potential presence of notable and protected species within the local area.

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

3.1. The application seeks to retain the use of the site as a public car park. The application does not propose any physical changes to the site.

**4. RELEVANT PLANNING HISTORY**

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

21/00969/F: RETROSPECTIVE: Electricity kiosk and 6 no. charging stations for Electric Vehicle Charging. APPROVED

14/00461/CDC: Variation of Condition 1 of 09/00828/CDC – to extend planning permission for the existing car park for a further five years. APPROVED.

09/00828/CDC: Change of Use of waste land to car park with 6no. lighting columns. APPROVED.

04/00779/CDC: Change of Use to public car park. Erection of 19 No. 6 metre high lamp columns (as amended by plans received 26.05.04 and as clarified by applicant's email dated 14 May 2004). APPROVED. (N.B. This application was subject to a Section 106 agreement relating to highways works on Victoria Road that were required before the car park could operate).

## 5. PRE-APPLICATION DISCUSSIONS

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

## 6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **19 June 2024**, 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:

- Fully support the retention of land as a car park
- Valuable asset
- There is a shortage of car parking in Bicester, so this is needed.
- Concerns regarding light pollution with the existing car park – lighting columns and EV chargers.

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.

7.2. BICESTER TOWN COUNCIL: No comments received.

7.3. OCC HIGHWAYS: **No objection**, to the retention of car park as it proposes no impact to the safety or convenience of the highway.

7.4. CDC ENVIRONMENTAL PROTECTION: **No objections**.

## 8. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

### CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2015)

- SLE4: Improved Transport and Connections

- ESD15: The Character of the Built and Historic Environment
- Bicester 5: Strengthening Bicester Town Centre

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

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

#### 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 impact on the setting of the Conservation Area
- Residential amenity
- Highway safety

#### Principle of development

- 9.2. The car park is well located in relation to Bicester town centre in an area where there is pressure on on-street parking (with residents only parking restrictions). The car park offers a convenient location for town centre users to park which supports the economy of the town centre by making it easily accessible. The car park meets the needs of a range of customers by including spaces for impaired mobility people (Blue Badge Holders) and EV charging stations to promote more sustainable vehicles.
- 9.3. The planning history shows that the land has been used as a car park for approximately 20 years, although with continual extension to a temporary permission.
- 9.4. Conditions were previously used to restrict the use as a car park on a temporary basis (periods of 5 years) in order to safeguard the land and prevent the use prejudicing the future development of the site under Policy S19 of the Cherwell Local Plan 1996 which allocated the site for potential development. This policy has not been saved and therefore no longer applies. The site has not been specifically allocated for development in the subsequent local plan, therefore there is no policy justification for applying a similar restrictive time condition to this proposal.
- 9.5. The principle of development is considered to be acceptable subject to the other material planning considerations set out below.

#### Design, impact on the character of the area and impact on the setting of the conservation area

- 9.6. Policy ESD15 sets out the expectation that development should complement and enhance the character of its context and meet high design standards.
- 9.7. The application seeks the permanent change of use of the land and retention as a public car park. The proposal does not include any physical changes to the car park which has been operating in this location for approximately 20 years.

- 9.8. The car park is set back behind the residential dwellings on Victoria Road and is not a prominent feature within the street scene. The existing structures on site such as lighting columns, payment kiosks and EV charging stations are predominantly low-level structures and do not appear at odds with the character of the area.
- 9.9. Given the position of the car park, set back behind the dwellings, the car park is not considered to have a detrimental impact on the setting of the Bicester Conservation Area.
- 9.10. On this basis, Officers consider that the proposal would be acceptable in design terms and would therefore comply with Policy ESD15 of the CLP 2015 and Government guidance contained in the NPPF.

#### Residential amenity

- 9.11. The car park is surrounded by residential properties. However, the existing structures on site do not impact on the residential properties in terms of loss of outlook or loss of light.
- 9.12. Third party comments have been raised regarding light spill from the existing lighting columns and EV charging stations. The position and wattage of the lighting columns are shown on the plans approved under application 09/00828/CDC and the EV charging stations were approved by application 21/00969/F. As part of these applications, impacts on residential amenity were considered and deemed to be acceptable.
- 9.13. The Council's Environmental Protection Officer has considered the comments made by third parties but raises no objections to the application. The properties surrounding the car park have good size gardens with the dwellings being in excess of 10m from the boundary of the car park, so are set a sufficient distance from the lighting columns. The number of columns, height, location and wattage are still considered to be appropriate and do not cause harm to neighbouring amenity.
- 9.14. The proposed use of the site does not conflict with the neighbouring residential properties and is not considered to cause harm to residential amenity. The application is considered to be acceptable in this regard and complies with Policy ESD15 of the CLP 2015, Policies C31 and ENV1 of the CLP 1996 and Government guidance contained within the NPPF.

#### Highway safety

- 9.15. The application seeks no alterations to the existing access arrangements which have remained unaltered since the car park became operational.
- 9.16. The Local Highway Authority raises no objection to the proposal and considers it proposes no impact to the safety or convenience of highway users.
- 9.17. The proposal is considered to be acceptable in terms of highway safety and accords with Policy ESD15 of the CLP 2015 and Government guidance contained in the NPPF.

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

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



## 11. RECOMMENDATION

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

### CONDITIONS

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:

- Application form
- Site Location Plan
- Block Plan
- Drawing number OPAC-SSE-CB-XX-DR-E-001 Rev 06 – [EV Hub Oxford Park and Charge]

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.

2. That the site shall be used only for the purpose of a public car park and for no other purpose whatsoever.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policies C28 and C31 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Rebekah Morgan

24/01/17/F

143 The Fairway

Banbury

OX16 0QZ



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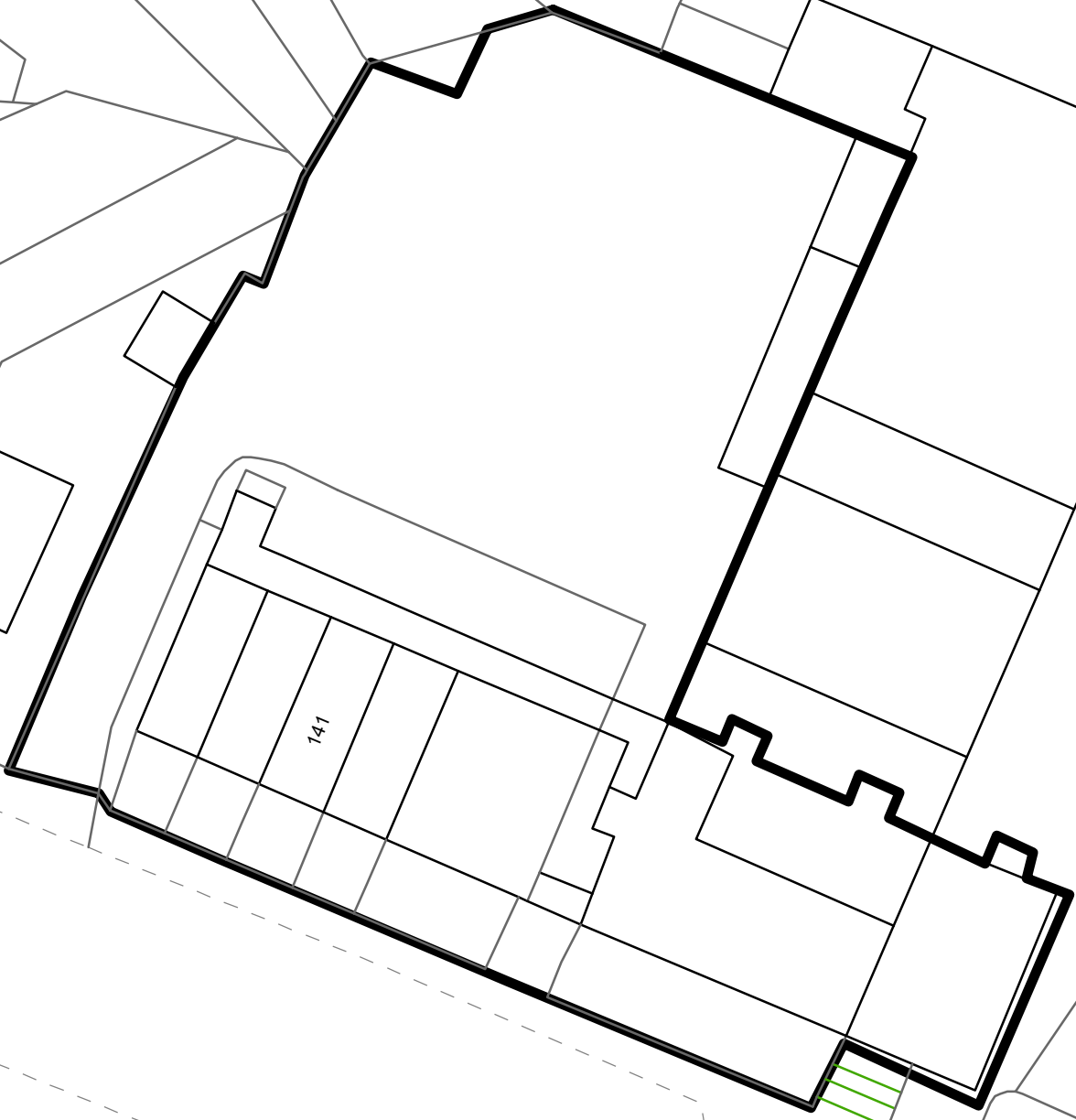


23  
**24/01117/F**

**143 The Fairway**

**Banbury**

**OX16 0QZ**



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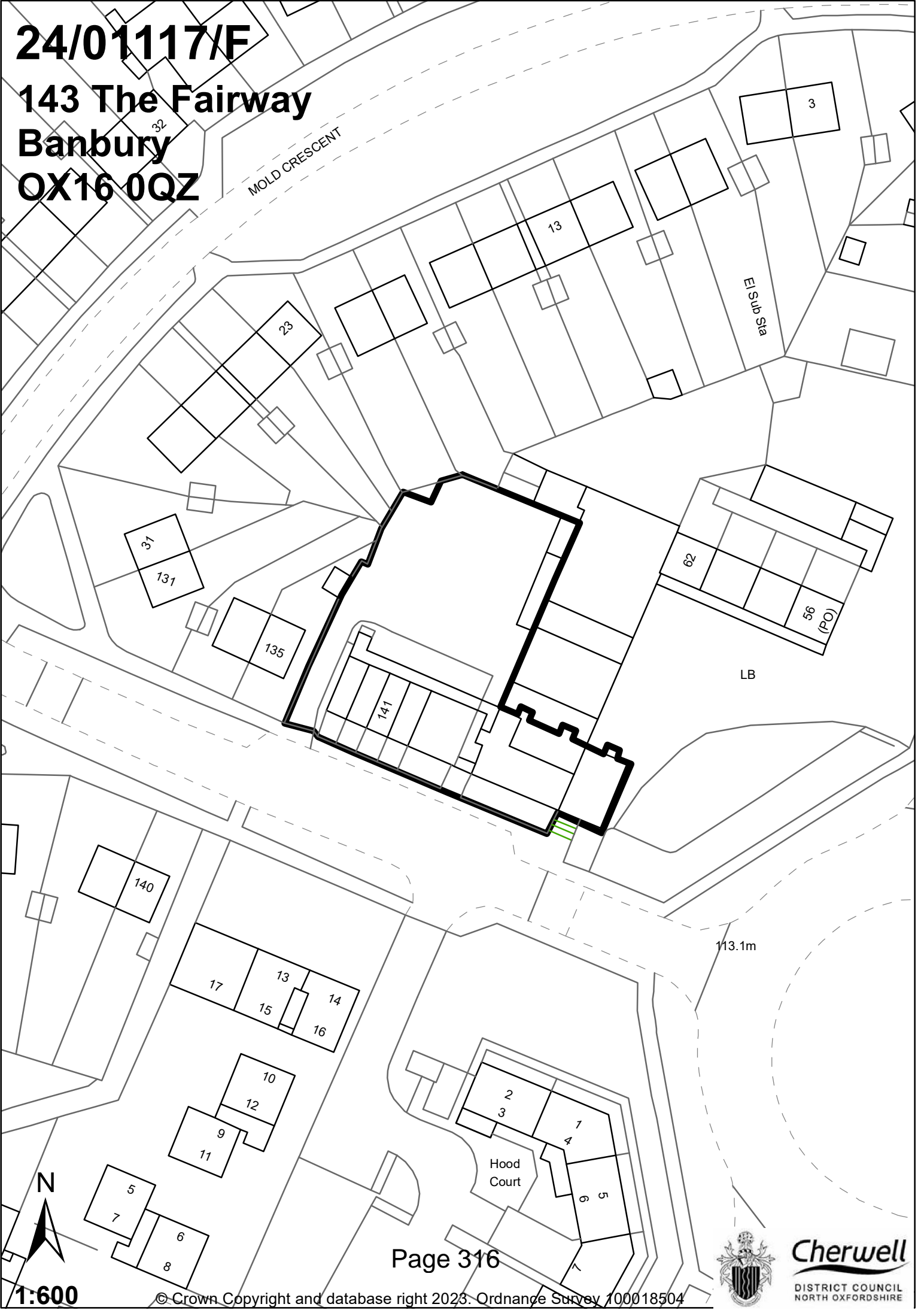


24/01117/F

143 The Fairway

Banbury

OX16 0QZ



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113.1m

Hood Court



**Case Officer:** Daisy Kay-Taylor

**Applicant:** Cherwell District Council

**Proposal:** Removal of imitation chimneys and the installation of solar PV across the roof

**Ward:** Banbury Ruscote

**Councillors:** Councillors Watkins, Creed & Cherry

**Reason for Referral:** Application affects Council's own land and the Council is the applicant

**Expiry Date:** 15 July 2024

**Committee Date:** 11 July 2024

---

## **SUMMARY RECOMMENDATION: GRANT PERMISSION**

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

- 1.1. The application site comprises a linear two-storey building of nine residential flats and an area of hardstanding, forming part of a parade of shops including a takeaway food outlet, a convenience store, a bookmaker and a hair salon. The block of flats fronts south-west onto the Fairway and is externally constructed of facing brick with some decorative wood cladding under a shallow plain-tiled pitched roof with false chimneys.
- 1.2. The site occupies a prominent location immediately north-west of the Orchard Way/The Fairway roundabout linking the Bretch Hill and Woodgreen residential areas which lie to the west of Banbury town centre.

### **2. CONSTRAINTS**

- 2.1. The application site is within an area of naturally elevated arsenic levels (low) and swifts have been recorded in the area.

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

- 3.1. Planning permission is sought for the removal of six false chimneys and the installation of solar PV panels to the front roof slope of the building.

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

- 4.1. The following planning history is considered relevant to the current proposal:
  - **09/01776/F** Proposed mixed use development including 4 shops and 33 social housing units. Permitted 04 August 2010
  - **17/00924/CDC** Improvements to the area in front of the shops. Permitted 19 June 2017
  - **21/03912/F** External and internal refurbishment to the flats. Permitted 10 May 2022

## 5. PRE-APPLICATION DISCUSSIONS

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

## 6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **15 June 2024**, 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.

- BANBURY TOWN COUNCIL: **support**
- CDC ENVIRONMENTAL HEALTH: **no comments**
- CDC BUILDING CONTROL: **no objection**, a building regulations application will be required

## 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 2015)

- 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
- C30 – Design of New Residential Development

8.3. Other Material Planning Considerations

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

## 9. APPRAISAL

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

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

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

- 9.2. The proposed solar PV panels would be located on the front facing (south-west) roof slope and would necessitate the removal of the six false chimneys. The panels would be readily visible from the public domain and the loss of the chimney stacks would have an impact on the character and appearance of the locality.
- 9.3. While visually prominent, the application site is not sensitive and the application building is not of any particular architectural merit. Further, the proposed panels are low-profile and of an aesthetically clean design that would not result in any significant increase in bulk.
- 9.4. Overall, although as a general principle the removal of chimneys can lead to diminution of character, it is considered in this instance that that the proposed development would not appear dominant within the street scene or that the loss of the false chimneys would be significantly detrimental to the character and appearance of the area.
- 9.5. As such, the proposed development accords with Policy ESD15 of the CLP 2015 and retained Policy C28 of the CLP 1996 and government guidance contained within the NPPF.

### Residential amenity

- 9.6. The proposed panels would be set within the existing roof slope and would not overhang the eaves. The proposals would not result in any change to the residential accommodation at the site.
- 9.7. As such, it is not considered that the proposed development would be to any detriment of the residential amenities in the locality in terms of loss of light, loss of outlook, loss of privacy or overbearing.
- 9.8. The proposed development therefore accords with Policy ESD15 of the CLP 2015 and retained Policy C30 of the CLP 1996 and government guidance contained within the NPPF.

### Ecology

- 9.9. Policy ESD10 of the Cherwell Local Plan 2015 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. Having considered Natural England's Standing Advice and taking account of the site constraints it is considered that the site has limited potential to contain protected species and any species present are unlikely to be adversely affected by the proposed development. As such no formal survey is required and in the absence of which this does not result in a reason to withhold permission. An informative

reminding the applicant of their duty to protected species would be included on the decision notice and is considered sufficient to address the risk of any residual harm.

## 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

**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 form and following approved plans: Drawing 003A (Site and Location Plan) and TE0466-DTL-XX-RF-DT-E-9001 Rev P01.

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.

#### **Informative Note**

Ecology - Bats are a highly mobile species which move between a number of roosts throughout the year and utilise spaces within buildings such as tiles, soffits and loft areas. 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 and Natural England has been contacted for advice on how to proceed. Under the Wildlife & Countryside Act 1981 (as amended) and the Habitat and Species Regulations 2017 (as amended) it is illegal to intentionally or recklessly disturb, harm or kill bats or destroy their resting places.

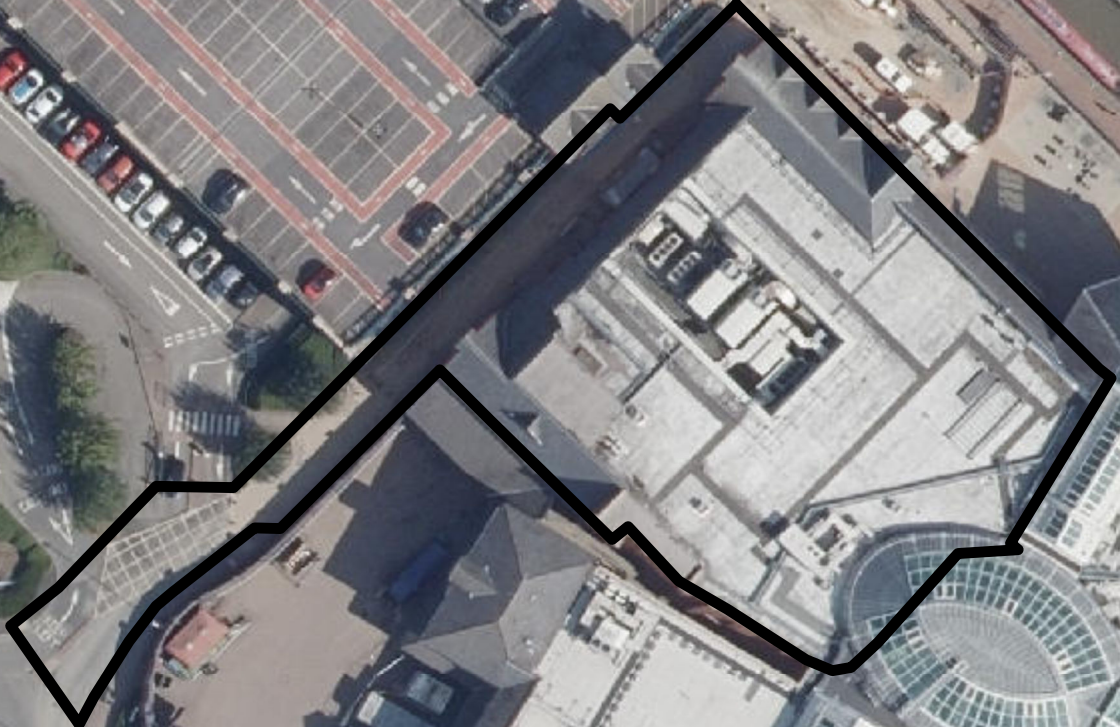
Birds and their nests are fully protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds can be avoided by carrying out vegetation removal or building work outside the breeding season, which is March to August inclusive.



CASE OFFICER: Daisy Kay-Taylor

Agenda Item 21  
24/01/24/CDC

**Cherwell District Council**  
**Lock 29**  
**Castle Quay**  
**Banbury**  
**OX16 5UN**



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**24/01224/CDC**

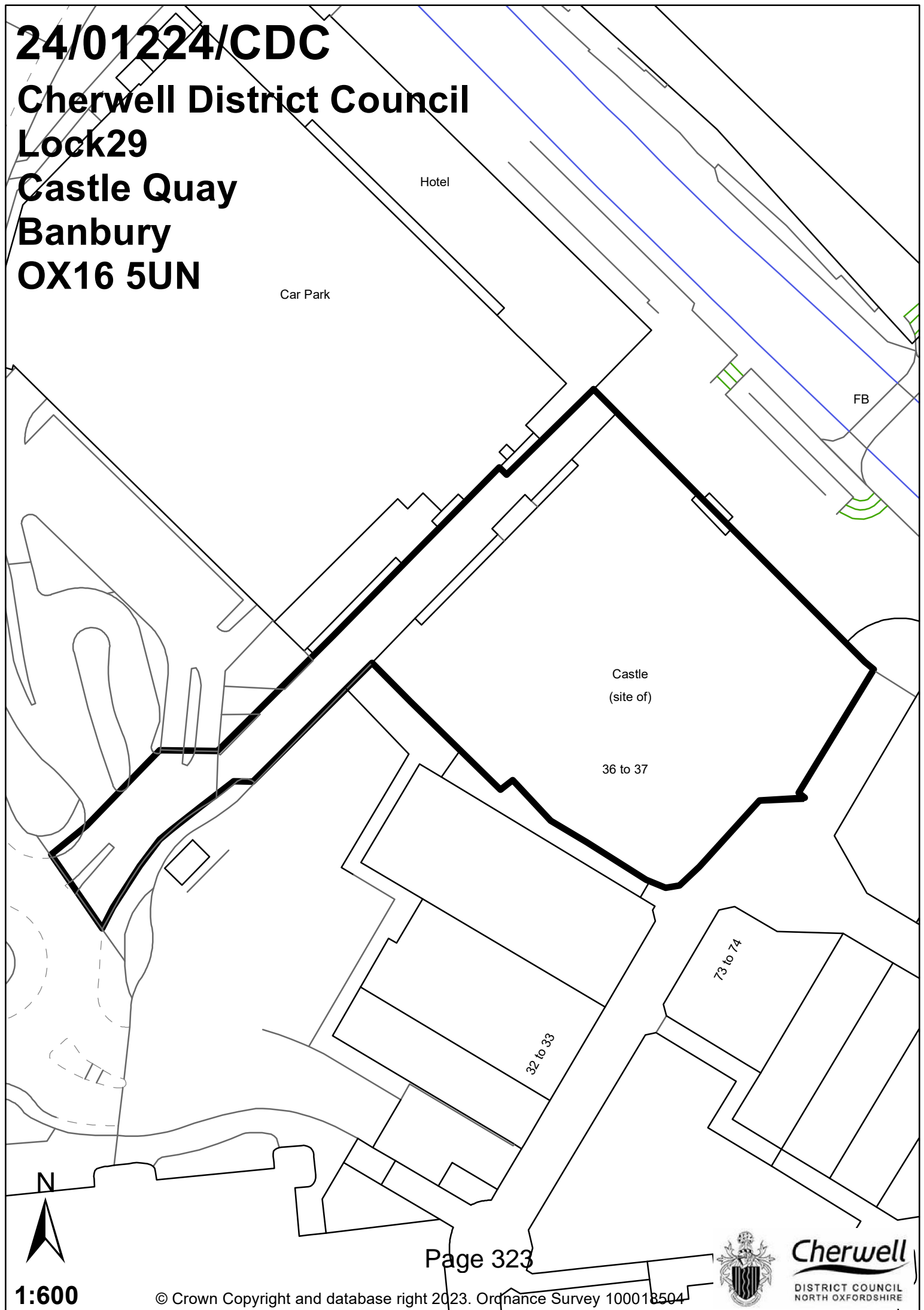
**Cherwell District Council**

**Lock29**

**Castle Quay**

**Banbury**

**OX16 5UN**



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**24/01224/CDC**

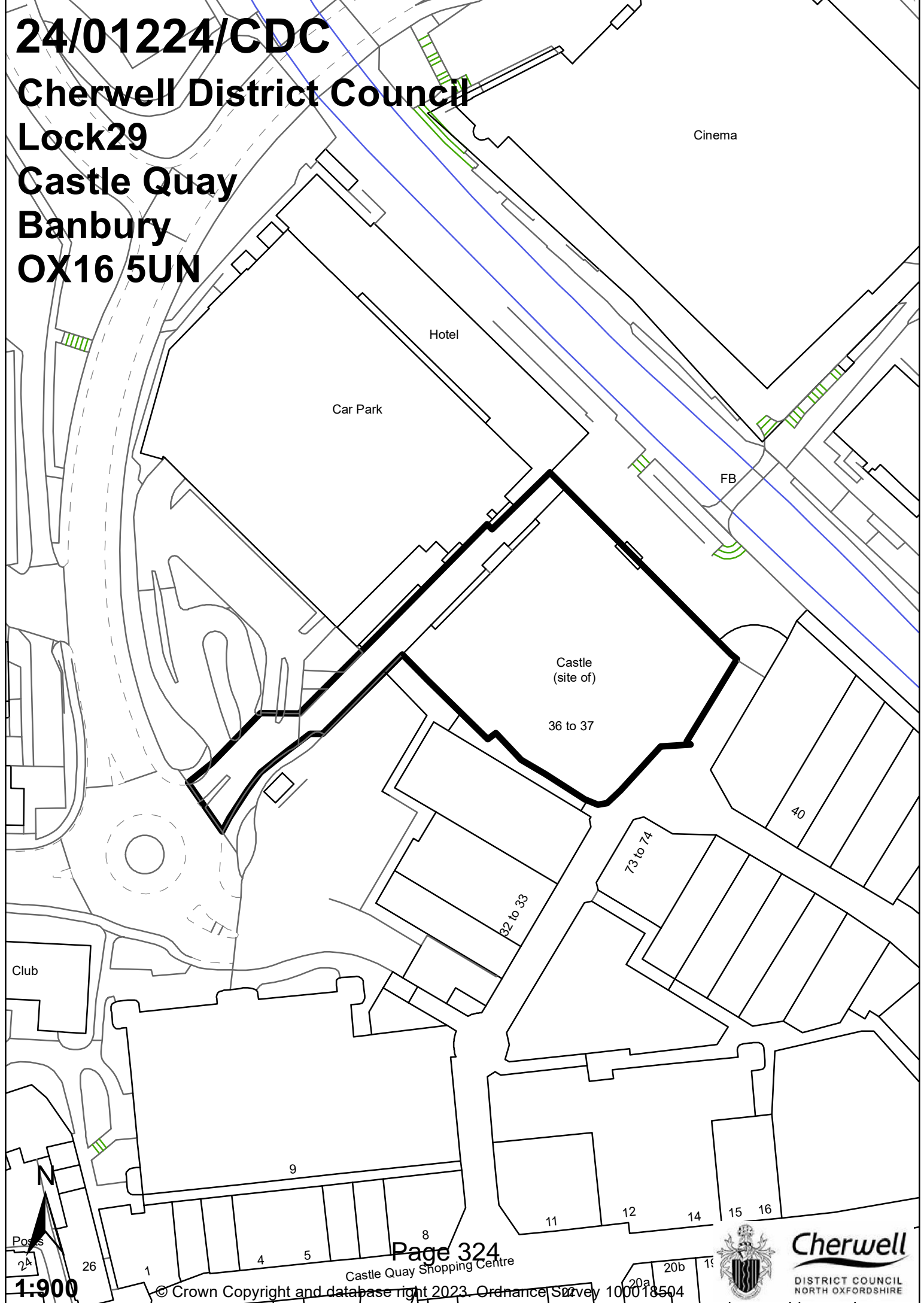
**Cherwell District Council**

**Lock 29**

**Castle Quay**

**Banbury**

**OX16 5UN**



Cinema

Hotel

Car Park

FB

Castle  
(site of)

36 to 37

40

73 to 74

32 to 33

Club

9

8

11

12

14

15

16

Poses

2a

26

1

4

5

Page 324

Castle Quay Shopping Centre

20a

20b

19

**1:900**

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**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Case Officer:** Michael Sackey

**Applicant:** Cherwell District Council

**Proposal:** New Courtyard roof and roof mounted air handling units

**Ward:** Banbury Cross And Neithrop

**Councillors:** Cllr Becky Clarke, Cllr Matt Hodgson, Cllr Dr Chukwudi Okeke

**Reason for Referral:** Application affects Council's own land and the Council is the applicant

**Expiry Date:** 18 July 2024

**Committee Date:** 11 July 2024

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

**1. APPLICATION SITE AND LOCALITY**

1.1. The application site is part of the Castle Quay shopping centre, specifically the first floor Unit formally occupied by British Home Stores, above Lock 29. The Castle Quay Shopping Centre is located within Banbury Town Centre.

**2. CONSTRAINTS**

2.1. The application site is outside of but close to the Oxford Canal Conservation Area and Public Right of Way Ref: 120/103/40 runs adjacent to the site.

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

3.1. The applicant seeks planning permission for a new courtyard roof and roof mounted air handling units.

3.2. The application relates to an email and additional documents received on (19.06.2024) at 13:34hrs from the applicant's agent (Nick Jones) submitting additional information in terms of noise data for the proposed air handling units in relation to noise sensitive receptors. The assessment and determination of this application is based on the additional plans, document and information.

**4. RELEVANT PLANNING HISTORY**

4.1. There is no relevant planning history to the current proposal:

**5. PRE-APPLICATION DISCUSSIONS**

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

**6. RESPONSE TO PUBLICITY**

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in 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 **20 June 2024**, 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.

### BANBURY TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. No objections to this proposal

### OTHER CONSULTEES

- 7.3. Building Control - Consulted on (30.05.2024); no comments received.
- 7.4. Environmental Health (13.06.2024) - As discussed, it would be useful to have some noise data for the proposed air handling units to confirm there will be no impact on any noise sensitive receptors.

## **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 2015)

- 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
- ENV1 – Environmental pollution

- 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Design Guide (2018)
- The Planning (Listed Buildings and Conservation Areas) Act 1990

- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)

## **9. APPRAISAL**

9.1. Given its nature, the proposal has no implications for highway safety or ecology or archaeology. The key issues for consideration in this case are:

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

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

9.2. The proposed works and air handling units would be situated on the roof of the existing building and given their scale and positioning would not be readily visible from the public domain or within the setting of the Oxford Canal Conservation Area.

9.3. The proposed courtyard roof and the air conditioning units, given their lack of visibility would not have significant visual impact on its surroundings. Having regard to their nature, design and the air conditioning units the proposal partly replaces, it is considered that the proposal would not have a significant impact on the character and appearance of its locality.

9.4. Overall, therefore, it is considered that the proposed development would not result in significant harm to the character and appearance of the area or the setting of the Oxford Canal Conservation Area. As such, it would accord with Policies ESD15 and of the CLP 2015 and C28 of the CLP 1996 in this respect, as well as the NPPF.

### Residential Amenity

9.5. The site is not located in close proximity to any residential building and as such the proposed development would not have any significant impact on any adjacent residential neighbours.

9.6. The Council's Environmental Health Officer initially responded to the application advising that it would be useful to have some noise data for the proposed air handling units to confirm there would be no impact on any noise sensitive receptors.

9.7. Following the submission of additional information of noise data for the proposed air handling units, and the positioning of the air handling units, it is considered that the proposal would also be acceptable in terms of noise. There are no concerns in terms of contaminated land, air quality, odour and light with regards to the proposed development.

9.8. Overall, therefore, the proposal complies with Policy ESD15 of the CLP 2015, saved Policy ENV1 of the CLP 1996 and Government guidance in the NPPF.

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

10.1. The proposal complies with the relevant Development Plan policies and NPPF 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**

**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 application form and the following plans and documents: Drawing No. 7165-GBS-XX-XX-DR-A-104-P01, 7165-GBS-XX-XX-DR-A-105-P01 and 7165-GBS-XX-XX-DR-A-107-P01.

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.

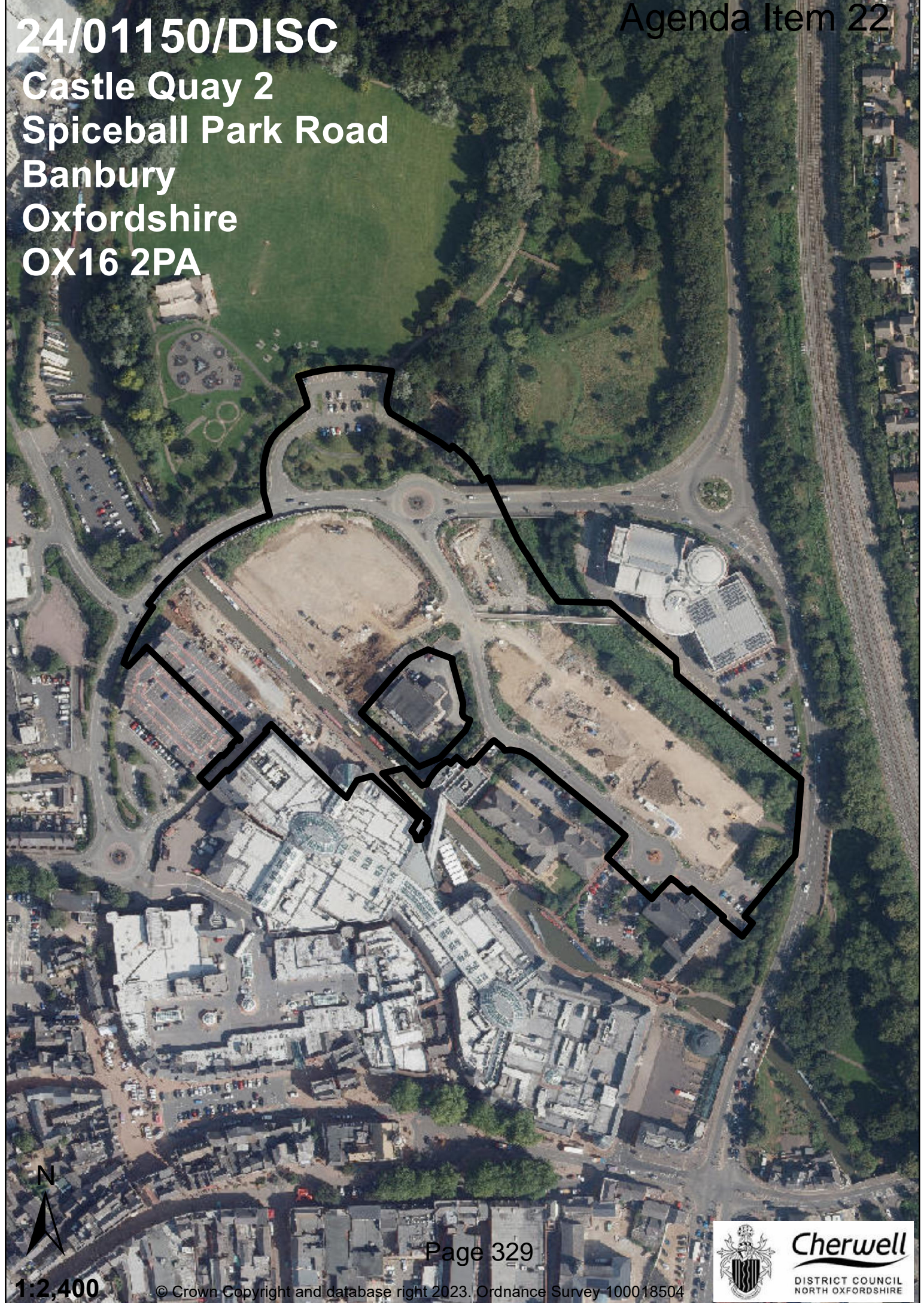
CASE OFFICER: Michael Sackey



**24/01150/DISC**

Agenda Item 22

**Castle Quay 2  
Spiceball Park Road  
Banbury  
Oxfordshire  
OX16 2PA**

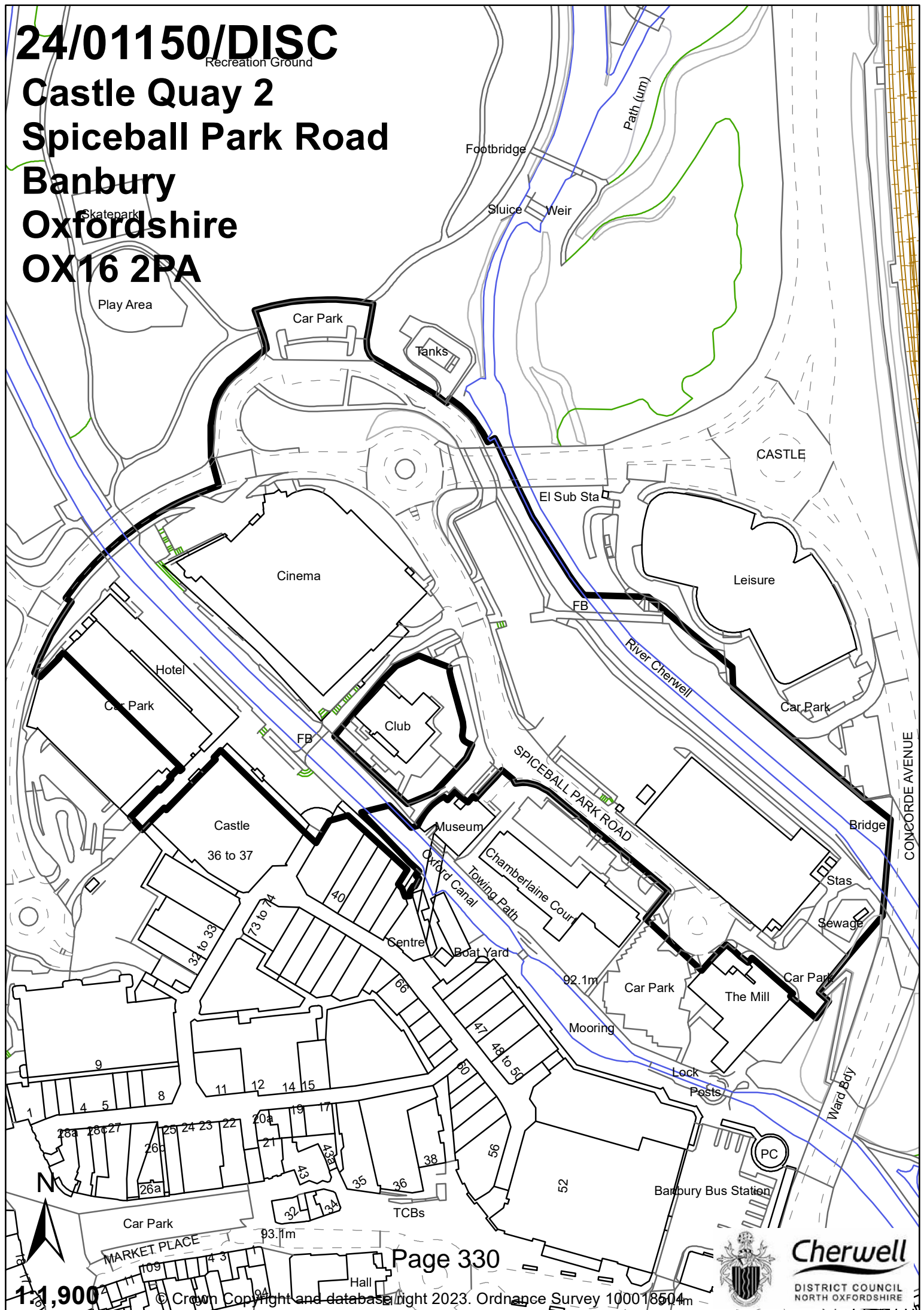


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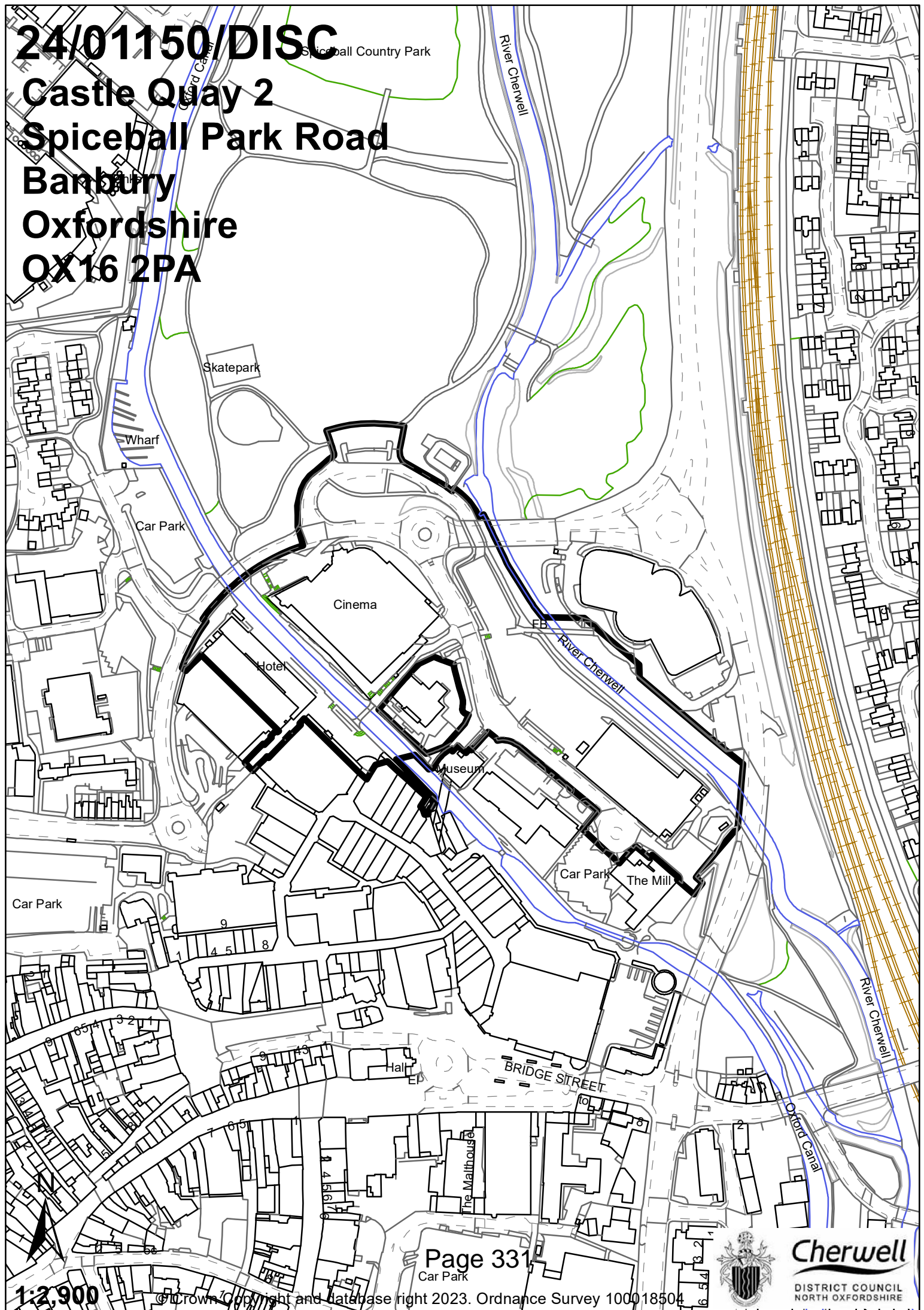
# 24/01150/DISC

Recreation Ground

## Castle Quay 2 Spiceball Park Road Banbury Oxfordshire OX16 2PA



**24/01150/DISC**  
**Castle Quay 2**  
**Spiceball Park Road**  
**Banbury**  
**Oxfordshire**  
**OX16 2PA**



1:2,900



**Case Officer:** Lewis Knox

**Applicant:** Loungers PLC

**Proposal:** Discharge of Condition 22 (details of operational plant and mitigation) of 16/02366/OUT

**Ward:** Banbury Cross And Neithrop

**Councillors:** Councillor Becky Clarke MBE, Councillor Matt Hodgson, Councillor Dr Chukwudi Okeke

**Reason for Referral:** Application affects Council's own land

**Expiry Date:** 21 June 2024

**Committee Date:** 11 July 2024

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**SUMMARY RECOMMENDATION: GRANT DISCHARGE OF CONDITION 22 (OPERATIONAL PLANT AND MITIGATION) OF APPLICATION 16/02366/OUT**

**MAIN REPORT**

**1. APPLICATION SITE AND LOCALITY**

1.1. The application site is located within Block B of the Castle Quay 2 development. Block B includes the cinema and other leisure facilities, including restaurants. The site is situated on the ground floor of Block B, adjacent to the canal.

**2. CONSTRAINTS**

2.1. The application site is within Banbury Town Centre and the Oxford Canal Conservation Area.

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

3.1. The application seeks to fully discharge condition 22 (operational plant and mitigation) in relation to Unit 6, a restaurant unit within Block B - the cinema block, of application 16/02366/OUT for the wider Castle Quay 2 development.

3.2. Condition 22 (Operational Plant and Mitigation) states:

*'Prior to the first occupation of the units within any phase, full details of operational plant and mitigation shall be provided to the Local Planning Authority for approval, and the scheme to be installed and maintained thereafter in accordance with the approved details.'*

3.3. The applicant has provided plans which show extraction layouts, plant deck layout and air conditioning layout along with a Risk Assessment for Odour.

**4. RELEVANT PLANNING HISTORY**

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

13/01601/OUT - Outline planning permission granted for redevelopment of land adjacent to the Oxford Canal comprising; the demolition of the Castle Quay Shopping Centre northern car park and the General Foods Sports and Social Club; change of use of part of the ground floor of the Castle Quay Shopping Centre southern car park and associated works; the erection of a retail foodstore (Use Class A1), hotel (Use Class C3), cinema (Use Class D2), restaurants and cafes (Use Class A3 and A4) and altered vehicular and pedestrian accesses, landscaping, construction of infrastructure, car parking and associated works, including glazed canopy over the Oxford Canal and the construction of pedestrian/cycle bridges over the Oxford Canal and River Cherwell. Details of new vehicular access off Cherwell Drive and alterations to Spiceball Park Road;

16/02366/OUT - Removal/ Variation of conditions 4 (list of approved drawings) and 9 (enhancement of River Cherwell) to 13/01601/OUT - Condition 4 varied to reflect alterations in the access and servicing strategy for Block C, with variations to maximum deviations in block and Condition 9 removed as no longer justified;

22/01217/CDC - Partial Discharge of Condition 22 (operational plant and mitigation) in relation to Unit 6 of the Castle Quay 2 development of 16/02366/OUT.

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

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

## **6. RESPONSE TO PUBLICITY**

- 6.1. Public consultation was not carried out in respect to this application because there is no requirement to consult on this application type. No comments have been raised from 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.

- 7.2. CDC Environmental Health – Raised **no objections**.

## **8. APPRAISAL**

- 8.1. Condition 22 of application 16/02366/OUT requires the submission of acceptable details regarding any operational plant and mitigation to be provided prior to the occupation of any unit.
- 8.2. The application includes the submission of plans showing the layout and positioning of the plan, key access points and the location of relevant equipment. This includes extraction ducts serving the kitchen, WC, and general area, fresh air supply and ventilation layouts, plantroom, plant deck, roof level and air-conditioning. In addition, a risk assessment for odour has also been provided in support of the application.
- 8.3. The Council's Environmental Health Officer has confirmed they have no objections in relation to the plant and any mitigation proposed. As such, officers are satisfied that an acceptable scheme

## **9. CONCLUSION**

9.1 It is recommended that the submitted details be approved as full discharge under Condition 22 of 16/02366/OUT

## **10. RECOMMENDATION**

### **GRANT DISCHARGE OF CONDITION 22 (OPERATIONAL PLANT AND MITIGATION) OF APPLICATION 16/02366/OUT**

The details to be approved are set out below:

- DEFRA RISK ASSESSMENT FOR ODOUR;
- DRAWING - 01
- DRAWING – 02
- DRAWING – 03
- ACOUSTICA LOUNGE SILENCERS (ELECTRIC COOKLINE)
- JE-EN-2023 PANEL VS4
- LONGAR TYPE 3 LOW PRESSURE BAFFLE FILTER PRODUCT DATA
- OC INNOVATIONS O2 OZONE
- SITE SAFE DISCARB UNIT EN 2014-1
- SYSTEMAIR KVK SILENT 160
- SYSTEMAIR KVK SILENT 200
- SYSTEMAIR MUB 062 560 D4 MULTIBOX
- SYSTEMAIR MUB 062 630 D4

CASE OFFICER: Lewis Knox