

**Site Address: 4 The Rookery, Kidlington**

**12/01321/OUT**

**Ward: Kidlington South**

**District Councillor(s): Cllrs Billington, Emptage and Prestidge**

**Case Officer: Tracey Morrissey**

**Recommendation: Approve**

**Applicant: Thinking Buildings**

**Application Description:** Outline – site redevelopment of 11 no. residential dwellings with associated road infrastructure, parking and garaging (resubmission of 12/00460/OUT).

**Committee Referral:** Previous scheme on this site determined by Committee

### **1. Site Description and Proposal**

- 1.1 This application relates to a site occupied by a 1960's single storey dwelling with rooms in the roof, set within an extensive woodland garden of 0.5ha. The site is surrounded by a mixture of residential properties; to the east, late 1960's 2 storey development known as Nurseries Road; to the south and west 1970's 2 storey and single storey development of The Phelps and Grovelands. To the north are older 19th century, traditional, limestone properties, designated as The Rookery Conservation Area, because of their historic significance. There are however no listed buildings in close proximity and the site itself, is not within the Conservation Area. Access is via the tight winding roadway of The Rookery.
- 1.2 Despite the site having significant tree coverage, there are no TPO's. The majority of the southern, western and eastern boundaries comprise large mature Leylandii Cypress trees, which dominate The Phelps and Nurseries Road streetscene. A 1.8m high close boarded fence also runs along the eastern boundary of Nurseries Road.
- 1.3 This application follows the refusal of a scheme for 14 no. residential dwellings that was reported to Members at the June meeting. Since then a public consultation exercise was carried out by the applicants on 3<sup>rd</sup> August 2012 at Exeter Hall. Prior to this consultation exercise two options were submitted for further consideration by Officers; of these two options the scheme currently before Members was the preferred choice. Notwithstanding that, a third option was suggested by the case officer, which essentially saw the whole development served off Nurseries Road by continuing the road on past Plots 3 and 10, thus resulting in no traffic going past the neighbour at no. 67 The Phelps. The applicant did not take up this further suggested option based on feed back from the public consultation exercise.
- 1.4 Outline consent is now sought for the redevelopment of this site that includes the demolition of the existing dwelling and construction 11 dwellings, comprising 2 no. 2 bedroom units, 4 no. 3 bedroom units, 2 no. 3/4 bedroom units and 1 no. 4 bedroom unit and 2 no. 4/5 bedroom units. The means of access and site layout are submitted for determination at this stage with appearance, landscaping and scale reserved for the later stage. Indicative scales of proposed dwellings include 7.8m – 8.1m heights and floor areas ranging from 77m<sup>2</sup> (2 bed), 84 -132m<sup>2</sup> (3/4 bed) to 165m<sup>2</sup> (4/5 bed).

1.5 The proposed site and layout has been organised into 3 distinct development areas with 6 no. units being accessed off The Phelps (previously 10 no. units) and 5 no. units accessed off Nurseries Road.

- Development Area 1 comprises 3 detached dwellings (plots 3, 10 and 11), two of which are 2½ storey and are accessed from Nurseries Road via a new access road, arranged around a new turning head with associated parking. Occupying the north east corner of the site stretching from the existing access drive from the Rookery to the eastern boundary with Nurseries Road and incorporates a large mature Copper Beech tree (T11) as a feature within the proposed public open space.
- Development Area 2 involves infilling the Nurseries Road frontage with a pair of two storey semi-detached dwellings, which follow the existing street pattern with parking provision to the front.
- Development Area 3 is accessed off The Phelps and comprises two terraces of three properties (2no. x 2 bed and 4no. x 3 bed). The layout of this section is arranged around a central roadway that provides access to a small access court at the northern end with an area of public open space and trees to the east.

Each dwelling will have at least 2 parking spaces, with a total of 29 no. Parking spaces provided for the whole development (25 no. Allocated and 4 no. Unallocated).

1.6 The site is within 2km of Rushey Meadows SSSI and a site of Archaeological interest. It is not within a designated area of flood risk and therefore no FRA is required.

1.7 The application has been submitted with Topographical, Arboricultural and Phase 1 Habitat survey reports and a Transport Statement.

## **2. Application Publicity**

2.1 The application has been advertised by way of site notice and neighbour letters. The final date for comment on this application was 25<sup>th</sup> October 2012.

2.2 1 letters/emails of support has been received commenting that:

- the scheme is a good outcome for improving the area and including a new small area of open pleasant park land for the residents to enjoy.
- The road network has more than capacity; the proposal is a 0.5% increase in journeys on the road.
- This is a good plan for the site, all houses are the same or further away from any neighbouring plots than the previous plan.
- All the important trees, which are in good health, are retained and additional trees planted to replace the largely unhealthy trees being removed.
- The housing density has been further decreased making it now significantly lower than The Phelps or The Rookery are, and on a Par with that side of Nurseries Road.
- The relatively narrow access will not create the 'gridlock' claimed, this is a

massive over dramatisation of the traffic loads that such a small number of houses will create

- There are others broadly supportive that are too fearful to voice this opinion publicly. As well as the silent majority who presumably have no concern over the plans therefore must agree to it by default, by choosing not to voice an opinion.

2.3 18 individual letters/emails of objection have been received Full details are available electronically via the Council's website.

The material planning considerations raised as objections are as follows:

- Whilst number of houses reduced, those proposed are larger houses than those previously refused.
- Density of development is still far above an acceptable level
- Still 6 houses and 12 cars and visitors via The Phelps
- Access issues have not been addressed
- Loss of many lovely trees and green open area
- Loss of wildlife
- Nothing is offered which would enhance or improve the surrounding area
- The Phelps is a cul-de-sac, a quiet and safe location, used by many pedestrians from the Grovelands estate who will be put at increased risk with much more traffic and that it will become a car park.
- There will be an impact on utilities
- Is there cause for concern regarding contamination?
- 67 The Phelps is a single storey 2 bedroom property with a direct frontage access to the road, there is no footway separating the front wall of the house and the road (2m distance).
- No. 67 has no off street parking, which would cause inconvenience to occupier and hazardous to road users trying to enter and exist the site as parking usually occurs outside the front door – possibly lead to a TRO being place in turning head
- The internal layout shows a footpath to the west side terminating at the ownership of no. 67, this will lead to possible pedestrian movements on private land or closer to the house and looking into bedroom windows.
- Loss of privacy, quality of life and amenity from overlooking
- The Phelps cul-de-sac end is narrow, it was never designed to allow more traffic and has only a pavement on one side.
- Whilst the majority of The Phelps road is 5.5m wide as it approaches the turning head at the point of access into the site, the carriageway reduces to 4.3m wide. Large refuse or delivery vehicles have to reverse down the road
- Reducing number of dwellings from 14 to 11 applicant claims to have significantly reduced density of approx 20%, but the proposal increases the average size of each dwelling by approx 10%, therefore number of bedrooms proposed is in fact only decreased by approx 13%.
- Three storey properties are now proposed.
- Following the consultation exercise at Exeter Hall, the applicant appears not to have considered other suggestions made to the layout of the site. The third option suggested by CDC was dismissed, which is unfortunate as this may have been well met by the public.
- Kerbside parking will impact on surrounding roads, increasing the already chaotic parking issues along the narrow roads of The Phelps and Nurseries

Road and will result in hazardous safety problems for pedestrians and other road users. Disputes already exist – this will make it worse

- Construction vehicles would add to congestion of Crown Road which is already often blocked by cars, vans and HGVs/car transporters behind Audi garage – they should not use this route
- The new access would require improvements to the pedestrian / cycle pathway and would be difficult to engineer given the proximity of neighbouring properties nos. 67 and 69 The Phelps, and is only 4.3m wide not 4.5m mentioned in the report.
- NPPF is not designed for a free for all development charter – need to consider the character of the area and loss of amenity to neighbouring residents and highway safety issues, which are all material considerations.
- Development is contrary to Paragraph 53 of the NPPF and there is no evidence of binding decisions that supports the application.
- Housing land deficiency is not a viable case
- Contrary to Oxford Local Transport Plan 2011-2030 to reduce traffic, congestion, casualties and dangers and reduce carbon emissions.
- Impact on Human Rights – Protocol 1 Article 1 Protection of property; persons right to the peaceful enjoyment of their property

Non-material comments include:

- Noise during construction
- Ironical that the northern end of The Phelps was not developed by 2 storey houses because owners of No. 4 The Rookery objected at being overlooked!
- Extensive site clearance and major disruptions
- Loss of property value
- Loss of green space will be like taking Central Park out of New York!

### **3. Consultations**

3.1 Kidlington Parish Council – object on the following grounds:

- The proposal still requires the removal of a substantial number of trees which will be detrimental to the amenity of the surrounding environment
- In the absence of a legal agreement – not satisfied that there will be sufficient contribution to local open space of recreational facilities and sufficient funding for future maintenance of the open space and in particular to cover T11 located on that open space which has the potential to cause undermining damage to adjacent dwellings at a cost to the authority and Parish Council

### **Cherwell District Council Consultees**

3.2 Ecologist – The Phase 1 ecological survey found no evidence of protected species using the site, although it will most likely be used by nesting birds, foraging bats and hedgehogs (which are now a UK BAP priority species). Other than this, the site has relatively low ecological value. No further surveys are required.

The report made a number of recommendations with regards to biodiversity protection measures (eg careful treatment & retention of brash/wood piles and

minimal external lighting) and enhancement features (such as bat tubes/boxes and bird boxes). Given the value of the site to some species locally, the provision within the NERC Act 2006 for LPA's to take or promote steps to further the conservation of BAP species and Cherwell Policy on enhancing biodiversity, a biodiversity enhancement scheme should be submitted for approval at a later stage. This would detail the following:

- the measures to be taken to ensure the development proceeds in a sensitive manor with regards to bats, birds and hedgehogs (as stated in the Phase 1 Habitat Survey report).
- the biodiversity enhancement features to be incorporated within the new dwellings and/or around the site (eg bat boxes/tubes, bird boxes). The scheme is to specify the number proposed, type and exact locations.
- the existing areas of trees and planting to be retained and how these will be protected during the construction phase.
- the proposed planting scheme for public and private areas (recommendations as to suitable species are made in the Phase 1 report).

As the Phase 1 report is fairly specific, parts of this could be used to provide some of the detail for such a scheme.

- 3.3 Arboriculture officer – The main arboricultural concerns of this application was the need to retain the category 'B' trees (no category 'A' on site) trees where possible and secondly to provide sufficient space for replacement plantings required to mitigate any losses and to provide a level of screening between this development and the existing dwellings to the south in particular.

Following consultation with the applicant, more space has now been allocated for landscaping within the site adjacent to Plot 10 and Plots 4, 5, & 6 and an increase in clearance between the adjacent plots and the southern boundary allows for a more substantial and effective planting scheme

Details regarding the landscaping scheme are yet to be agreed.

All, bar one of the category 'B' trees are now identified for retention and should be adequately protected during the development through the conditioning of an agreed method statement.

- 3.4 Environmental Protection Officer - The closest potential contamination identified relates to a shallow surface water feature approximately 50 metres to the west of this development boundary which may have been unfilled. This is unlikely to affect this development.

I don't have information which indicates contamination is present on this site, but also do not have information which indicates it is not. As the proposal is residential, it's introducing people that would be vulnerable if contamination is present on the site. As such, I recommend the full contaminated land conditions are applied to assess the risk from contamination.

- 3.5 Landscape (urban and rural services) – play facilities – off site contribution in lieu of LAP provision on site. Informal open space – 200m<sup>2</sup> provided on site along with maintenance amount.

- 3.6 Waste Collection Manager – refer to waste guidance for refuse bins/storage etc and financial contribution

### **Oxfordshire County Council Consultees**

- 3.7 Highways – No objection in principle subject to conditions. Various elements of the plans will need to be revised, i.e. the width of the new access road from Nurseries Road (which is too narrow), and the reversing space internally within the site behind visitor parking space (which must be 6m). Contributions will be sought towards OCC services and infrastructure to mitigate the impacts of the proposed development. A transport developer funding contribution of £11,088 (index-linked) is requested in line with Cherwell District Council Planning Obligations SPD
- 3.8 Archaeologist - The proposal does not appear directly to affect any presently known archaeological sites. If archaeological finds do occur during development the applicant is asked to notify the County Archaeologist in order that he may make a site visit or otherwise advise as necessary.
- 3.9 Drainage - It is acknowledged that the application is for outline planning only, however surface water and roof water run-off will need to go to soak-away or other Suds feature for each property created, ie all surface water created as a result of each property will need to be dealt with within the each property boundary. Where shared Suds features are proposed, these features could be adopted by the Lead flood Authority which at the present time is Oxfordshire County Council. Should a full planning application be submitted, full details of the proposed drainage strategy will be required.
- 3.10 Developer funding - wishes to secure a legal agreement for appropriate financial contributions to mitigate the impact this development will cause if implemented in line with your Draft Supplementary Planning Obligations Document (July 2011).

Indicative plans support section 17 of the application; 2 two bedroom, 4 three bedroom and 5 four bedroom homes are proposed to replace 1 three bedroom dwelling presently on site.

Therefore net impact amounts to 2 two bedroom, 3 three bedroom & 5 four bedroom extra homes. We accordingly expect the population to increase by 32 people including 2 pensioners if these homes are built and occupied. We further anticipate at least 5 pupils will attend mainstream schools, in addition to any attending private education or separate schools for those with special educational needs.

There is sufficient capacity in catchment schools and therefore no contributions are necessary in respect to education. There will however be a requirement to contribute £5256.00 towards Libraries, Museum, Adult education, Day resources care centre for elderly, Strategic household waste management.

The contributions identified are necessary to protect the existing levels of infrastructure for local residents.

They are relevant to planning the incorporation of this development within the local community, if it is implemented.

They are directly related to this proposed development and to the scale and kind of the proposal.

They are reasonable and that they should ensure that this proposal is not subsidised by the community, except where sufficient capacity in infrastructure already exists which can absorb the expected impact of this proposed development.

#### **Other consultees**

- 3.11 Natural England - refers to previous response under 12/00460/OUT. The proposal does not affect Statutory Protected sites or landscapes or have a significant impact on the conservation of soils not is the proposal EIA development. Refer to Standing Advice in respect to protected species and species protected by domestic legislation. The scheme provides an opportunity to provide enhancement measures.
- 3.12 Thames Water – raises no objection to the proposal
- 3.13 Environment Agency – Low risk development and therefore no comments to make

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

##### 4.1 Development Plan Policy

###### Adopted Cherwell Local Plan (Saved Policies)

- C2: Protected Species
- C4: Creation of new habitats
- C23: Retention of buildings, walls and trees
- C28: Layout, design and external appearance of new development
- C30: Design control and context compatibility
- C33: Retention of undeveloped gap
- TR1: Transportation Funding

###### South East Plan 2009

- H1: Regional Housing Provision 2006-2026
- H2: Managing the delivery of Regional Housing Provision
- H4: Type and size of new housing
- H5: Housing design and density
- CC1: Sustainable development

- CC4: Sustainable Design and Construction
- CC6: Sustainable Communities & Character of the Environment
- CC7: Infrastructure and Implementation
- BE1: Management for an urban renaissance
- BE5: Village Management
- BE6: Management of the Historic Environment
- NRM5: Conservation and environment biodiversity
- T1: Manage and Invest
- T4: Parking
- CO1: Core Strategy
- CO5: Transport
- S6: Community infrastructure

#### 4.2 Other Material Policy and Guidance

##### National Planning Policy Framework

##### Cherwell Local Plan – Proposed Submission Draft (August 2012)

The draft Local Plan has recently completed the public consultation and although this plan does not have Development Plan status, it can be considered as a material planning consideration. The plan sets out the Council's strategy for the District to 2031. The policies listed below are considered to be material to this case and are not replicated by saved Development Plan policy:

BSC1: District wide housing distribution

BSC2: The effective and efficient use of land

BSC4: Housing mix

BSC10: Open space, outdoor space and recreation provision

BSC11: Local standards of provision – outdoor recreation

BSC12: Indoor sport, recreation and community facilities

ESD1: Mitigating and adapting to climate change

ESD3: Sustainable construction

ESD7: Sustainable Drainage Systems (SuDs)

ESD10: Protection and enhancement of biodiversity and the natural



environment

ESD13: Local landscape protection and enhancement

ESD16: Character of the Built Environment

Policy Villages 1 : Village Categorisation A

INF1: Infrastructure

#### Non-Statutory Cherwell Local Plan 2011

In December 2004 the Council resolved that all work to proceed towards the statutory adoption of a draft Cherwell Local Plan 2011 be discontinued. However, on 13 December 2004 the Council approved the Non-Statutory Cherwell Local Plan 2011 as interim planning policy for development control purposes. Therefore this plan does not have Development Plan status, but it can be considered as a material planning consideration. The policies listed below are considered to be material to this case and are not replicated by saved Development Plan policy:

TR1, TR4, TR5 and TR11: Transport and development policies

H1a, H3, H4, D1, D2, D3 and D6: Housing and design policies

R8, R9 and R10a: Recreation and community facilities

EN23, EN24, EN25, EN37, EN40 and EN47: Conserving and enhancing the environment

## 5. Appraisal

5.1 The key issues for consideration in this application are:

- Policy Context
- Five Year Supply of Housing
- Principle of development
- Access and highway safety
- Neighbour impact
- Trees
- Ecology
- Planning Obligations/infrastructure contributions

### **Policy Context and principle of development**

5.2 The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having 3 dimensions: economic, social and environmental. Also at the heart of the NPPF is a presumption in favour of sustainable development and in the context of this application would include building a strong and competitive community, promoting sustainable transport, requiring good design, the promotion of healthy communities, meeting the challenge of flooding and the conservation and enhancement of the historic environment.

- 5.3 Paragraph 14 of the NPPF states that where the development plan is absent, silent or relevant policies are out of date, in order to reflect the thrust of the guidance for a *presumption in favour of sustainable development*, planning permission should be granted unless harm can be identified. There is no specific policy in the adopted Cherwell Local Plan that relates to housing development within the built up limits of Kidlington, and generally, providing that all other material considerations are taken into account and no relative harm exists, the principle of development is generally considered to be acceptable.
- 5.4 Paragraph 35 of the NPPF states that developments should be located and designed where practical to create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians. This aspect will be further expanded later on in the report.
- 5.5 Paragraph 50 of the NPPF requires that local authorities *plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes)*.
- 5.6 Further Paragraph 53 advises that where harm is caused to the local area, the inappropriate development of residential gardens should be resisted.
- 5.7 The general thrust of national policy contained within the NPPF is continued in regional policy, with one of the sustainable development priorities being to ensure the physical and natural environment of the South East is conserved and enhanced. Policy CC6 of the South East Plan 2009 requires decisions associated with the development and use of land to respect, and where appropriate enhance, the character and distinctiveness of settlements throughout the region.
- 5.8 Policy BE1 of the South East Plan 2009 sets out the Plan's approach to promoting and supporting imaginative and efficient design solutions in new development, and aims to increase public acceptance of new housing by making sure that its is of a high quality design that respects local context and confers a sense of place
- 5.9 Policies C28 and C30 of the adopted Cherwell Local Plan relate to all new development and seeks to ensure that it is sympathetic to its context, and the nature, size and prominence of the development proposed, and are compatible with the appearance, character, layout and scale of existing dwellings in the locality and street scene in general.
- 5.10 Policy D1 of the Non-Statutory Cherwell Local Plan 2011 sets out the Council's urban design objectives which seek to ensure that development is compatible with the site's context in terms of its scale, density, massing, height and layout. Whilst Policy D3 seeks to ensure that development reflects or interprets the local distinctive character of the site and its context, by respecting traditional patterns of arrangement, plots and their buildings and spaces and retention and enhancement of existing open spaces and undeveloped gaps of local importance that contribute positively in visual terms to the public realm. The scale, proportion, massing and height of proposed development should be considered in relations to that of adjoining buildings.
- 5.11 Furthermore Policy D6 refers to the consideration of development in design terms

which should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity and also that it provides standards of amenity and privacy acceptable to the Council.

#### **Five Year Supply of Housing**

- 5.12 The District cannot currently demonstrate a five year supply of deliverable housing land, with the current supply being 3.2 years (2012-2017).
- 5.13 The short fall was originally reported in the 2011 Annual Monitoring Report (December 2011), which showed that the District had a supply of 2.9 years for the period 2012-2017. This position has been updated on two occasions; firstly an update was presented at a public inquiry in April 2012 to take into account two planning decisions: Cotefield Farm, Bodicote – 82 dwellings and; Yew Tree Farm, Launton – 40 dwellings, which increased supply to 3.1 years. Secondly, in August 2012, the supply was updated to include the resolution made at Planning Committee in the same month to grant permission for further development at Stanton Engineering, Hook Norton – 37 dwellings in total, which increased supply to 3.2 years (2012-2017).
- 5.14 Paragraph 47 of the NPPF requires Local Planning Authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements, with an additional buffer of 5% to ensure choice and competition in the market for land (or a 20% buffer where there has been persistent under delivery).
- 5.15 Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites.
- 5.16 The proposed development, if shown to be deliverable could contribute to the District moving back to a five year supply.
- 5.17 It is also worth noting here that the NPPF also states (at paragraph 150), that Local Plans are the key to delivering sustainable development that reflects the vision and aspirations of local communities that they must be prepared with the objective of contributing to the achievement of sustainable development and should be consistent with the principles and policies set out in the NPPF.

#### **Principle of development**

- 5.18 It is considered that taking into account the above policies and key issues detailed the site is capable in principle of redevelopment. The main issue, however when considering this current application over the previously refused scheme is whether the three reasons for refusal have been adequately overcome to now consider this scheme as acceptable.
- 5.19 The previous application 12/00460/OUT was refused for the following reasons:
1. The proposal by virtue of the amount of development and its layout represents a crowded, overdevelopment of the site, conflicting with the general character of the surrounding area which would threaten the long term future of the retained trees, which may be lopped or felled by future occupants, because of the level of shading and leaf drop that would affect the dwellings and private gardens.

Furthermore, the crowded layout leaves too little space allocated for suitable replacement tree planting and landscaping which would be required in order to a) mitigate the loss of wildlife habitat b) to provide appropriate screening particularly towards the southern boundary and c) to provide a formal open space area within the centre of the site which will provide for a visual feature as well as an allocated area for replanting. The proposal would therefore be contrary to the provisions of the National Planning Policy Framework requiring good design, delivering a wide choice of high quality homes and conserving and enhancing the natural environment and to Policies NRM5, H5, CC6 and C4 of the South East Plan 2009 and Policies C28 and C33 of the adopted Cherwell Local Plan

2. The proposal by virtue of the amount of development and its layout would be likely to have a seriously detrimental effect on the amenities of the occupiers of the adjacent properties as a result of the level of vehicular activity into the site from The Phelps and also the overdomination and likelihood of overlooking to surrounding properties with a consequential loss of privacy. The proposal is therefore contrary the National Planning Policy Framework requiring good design and delivering a wide choice of high quality homes and Policies CC6, H5, BE1 and BE5 of the South East Plan 2009 and Policies C28 and C30 of the adopted Cherwell Local Plan
3. In the absence of a satisfactory legal agreement, the Local Planning Authority is not convinced that the infrastructure directly required to service or serve the proposed development, including Adult learning facilities, elderly day care resources, community, library and museum facilities, strategic waste, health services and transport measures will be provided. This would be contrary to the National Planning Policy Framework, Policy CC7 of the South East Plan 2009, Policy R12 of the adopted Cherwell Local Plan and Policies OA1, TR4, R8 and R10A of the Non-Statutory Cherwell Local Plan 2011.

5.20 In respect to the first reason for refusal, the applicant has renegotiated the scheme in conjunction with the Council's Arboricultural Officer, where the key elements of concern have been identified and essentially addressed to ensure that the houses are sited away from boundaries. The revised schemes illustrates:

- The provision of a 5m deep planted buffer to the south and west that allows sufficient space for a more manageable hedge/boundary screening to be provided and maintained, ensuring sufficient amenity to neighbouring properties.
- The establishment of a 3m deep planted buffer to the north to further protect the amenity of neighbouring properties.
- Minimum 10m deep rear gardens in addition to the planted buffer zones
- The inclusion of public open space in two prime locations within the site ensures that some green space with trees will be put into the public domain.

5.21 Turning to the second reason for refusal, this relates to the access off The Phelps and potential for overlooking and loss of amenity to neighbouring properties. The revised scheme has reduced the number of units accessed off The Phelps from 10

to 6. Whilst it is accepted that the units are indicated to be larger than previously submitted, in terms of quantum of housing and bedroom numbers this has been reduced. There are now 2 no x 2 bed units and 4 no. x 3 bed units proposed (16 bedrooms total), previously the scheme proposed 3 no. x 2 beds, 5 no. x 3 beds and 2 no. x 4 beds (29 bedrooms total). The specific concern regarding the use of the access off The Phelps was in respect to the volume of traffic and level of vehicular activity into and out of the site from this point of access.

- 5.22 Whilst it is appreciated that there will still be a vehicular and pedestrian activity past the most affected neighbour at no. 67 The Phelps and associated loss of amenity to this occupier, it is considered that the proposed scheme has sufficiently addressed this matter and that there is a significant reduction in the potential volume of traffic based on the quantum of housing and number of bedrooms/occupiers and car ownership/use and therefore the same reasoning for refusal could not be sustained.
- 5.23 In respect to the further loss of amenity in terms of overlooking and over domination in comparison to the previous housing layout, taking into account the points raised in paragraph 5.15, it is considered that the revised layout and positioning of the units retains sufficient distance that will not give rise to those concerns previously raised. The rear gardens are minimum 10m deep and with additional 5m and 3m planted buffers ensure that the minimum 22m window to window distance is maintained in accordance with the Council's guidance and this standard also applies to the distance between all of the proposed units as well.
- 5.24 Whilst the number of objection letters has reduced on this current scheme (at time of writing from 43 objection letters and petition to 18 objection letters), it is acknowledged that there is still some strong opposition and concern to the proposal and that in some respects, will result in harm to the amenity of neighbouring properties. However, it is considered that this harm would not be significant enough to refuse this application on the same grounds previously raised. Consequently it is considered that the principle of development on this site is acceptable and that the revised scheme addresses the previous reasons for refusal and accords with the relevant development plan policies.

#### **Access and highway safety**

- 5.25 The means of access into the site has been submitted for determination at this outline stage. The proposal involves the use of two vehicular access points; one off Nurseries Road and one off The Phelps; two further dwellings will have individual driveways off Nurseries Road.
- 5.26 Concern has been raised by local residents in respect to the use The Phelps as an access point to serve 6 no. dwellings, on the basis that it is narrow, actually measuring 4.3m, instead of the 4.5m stated in the applicant's supporting statement. In a previous response to the concerns raised by residents, the applicant advised that The Phelps can be classified as a major access road and currently serves 138 houses, whilst narrow at the point of access into the site, it could serve up to 25 dwellings. This section of The Phelps, being a cul-de-sac serves 8 no. houses and taking the proposed development into account, it will only give access to a further 6 units. Also in respect to pedestrian/cyclist safety, essentially vehicle speeds will be very low and the road will be treated similar to a shared surface, reducing conflict with users.

5.27 Oxfordshire County Council, as Local Highway Authority has accepted that the proposal in respect to access, parking and highway safety is acceptable in principle, subject to conditions; requiring the width of the new access road from Nurseries Road (which is too narrow) to be altered along with the reversing space internally within the site behind visitor parking space (which must be 6m). On that basis, and despite the level of objection, it is considered that that the proposed means of access off The Phelps to serve 6 no. units and Nurseries Road to serve 5 no. units, is acceptable in highway safety terms. It is further considered that a reason to refuse the application on highway grounds could not reasonably be sustained at appeal without the support of the Local Highway Authority.

### **Neighbour impact**

5.28 The application has been submitted in outline form, with the layout submitted for determination at this stage, and whilst indicative details of scale have been provided to enable the contextualisation of the development, it was the layout that was of previous concern. Of specific concern was the impact the previous proposal would have on the neighbour at no. 67 The Phelps from a traffic disturbance perspective. The front wall of this neighbouring property is only 2m from the road, having no footpath on this particular aspect of The Phelps and bedrooms being on the front.

5.29 However as detailed above in paragraph 5.15 – 5.19 it is considered that the applicant has addressed the previous reasons for refusal and has produced a scheme that :

- 1) Reduces the number of units proposed, thus decreasing the level of vehicular activity into and out of the site;
- 2) Increases the distance between the proposed and existing residential properties to prevent overlooking and loss of privacy;
- 3) Provides sufficient space within the site to ensure that the development has sufficient garden sizes that will not be compromised by the existing trees that are to be retained;
- 4) Provides public open space that will enhance the development from the public realm (approx 550m<sup>2</sup>).

### **Trees**

5.30 Whilst the site is totally enclosed by mature conifers/trees, there are a number of individual trees of significant value, specifically a Blue Atlas Cedar which is within the centre of the site. However, the position of this tree was of considerable constraint and during the negotiation of the revised scheme, the Council's Arboricultural Officer conceded that whilst its loss would be regrettable, its replacement with several smaller trees would benefit the development as it then allows an area of public open space to be included within the site instead. Also the retention of a mature Copper Beech will further enhance the site and would benefit the neighbouring properties along Nurseries Road, but creating an area of public open space. Given that this site has been enclosed by 1.8m high close boarded fencing along its entire length of Nurseries Road, will significantly enhance the character of this immediate locality. Furthermore, the development provides the opportunity to create the necessary wildlife mitigation and enhancement measures suggested by the Council's Ecologist.

- 5.31 The concern about the close proximity of the proposed houses to the trees has also been addressed as detailed in paragraph 5.15, the retention of some trees along the western boundary that act as a 5m planted buffer together with a new hedge and tree planted along the northern, western, eastern and southern boundaries will provide some boundary screening but will not compromise the garden areas of the proposed dwellings.
- 5.32 Therefore it is considered that the revised layout addresses the previous concerns raised and overcomes the previous reason for refusing the application.

### **Ecology**

- 5.33 NPPF – Conserving and enhancing the natural environment requires that “the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures” (para 109)
- 5.34 Paragraphs 192 and 193 further add that “The right information is crucial to good decision-taking, particularly where formal assessments are required (such as Habitats Regulations Assessment) and that Local Planning Authorities should publish a list of their information requirements for applications, which should be proportionate to the nature and scale of development proposals. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question”. One of these requirements is the submission of appropriate protected species surveys which shall be undertaken prior to determination of a planning application. The presence of a protected species is a material consideration when a planning authority is considering a development proposal. It is essential that the presence or otherwise of a protected species, and the extent to 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. This is a requirement under Policy EN23 of the Non-Statutory Cherwell Local Plan 2011.
- 5.35 Paragraph 18 states that “When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:  
if significant harm 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”
- 5.36 Paragraph. 98 of Circular 06/05: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system states that, “local planning authorities should consult Natural England before granting planning permission” and paragraph 99 goes onto advise 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.”
- 5.37 Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that “every public authority must in exercising its functions, must have

regard ... to the purpose of conserving (including restoring / enhancing) biodiversity” and;

- 5.38 Local planning authorities must also have regards to the requirements of the EC Habitats Directive when determining a planning application where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”.
- 5.39 Articles 12 and 16 of the EC Habitats Directive are aimed at the establishment and implementation of a strict protection regime for animal species listed in Annex IV(a) of the Habitats Directive within the whole territory of Member States to prohibit the deterioration or destruction of their breeding sites or resting places.
- 5.40 Under Regulation 41 of Conservation Regulations 2010 it is a criminal offence to damage or destroy a breeding site or resting place, but under Regulation 53 of Conservation Regulations 2010, licenses from Natural England for certain purposes can be granted to allow otherwise unlawful activities to proceed when offences are likely to be committed, but only if 3 strict legal derogation tests are met.
- 5.41 In respect to the application site, a Phase 1 Habitat Survey Report was undertaken by Windrush Ecology.com dated 7<sup>th</sup> March 2012 and the report submitted with the application, which found that there were no bats roosting in the dwelling to be demolished and no roosting opportunities in the trees within the garden. A number of bird species were seen and the trees and shrubs were considered suitable nesting site. There were no other notable protected species found within the site. No further surveys were considered necessary. Mitigation and compensation measures were however recommended in the report, which the Council’s Ecologist has considered and would be recommended should the development be accepted.
- 5.42 Consequently it is considered that art.12(1) of the EC Habitats Directive has been duly considered in that the welfare of any protected species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development. The proposal therefore accords with the National Planning Policy Framework -Conserving and enhancing the natural environment and Policy C2 and C4 of the adopted Cherwell Local Plan.

#### **Infrastructure contributions**

- 5.43 The draft Supplementary Planning Document (SPD) relating to the requirement for financial contributions towards infrastructure or service requirements was considered by the Council’s Executive Committee on 23 May 2011 and was approved as interim guidance for development control purposes. Consultation is to take place shortly.
- 5.44 New development often creates a need for additional infrastructure or improved community services and facilities, without which there could be a detrimental effect on local amenity and the quality of the environment. National planning policy sets out the principle that applicants may reasonably be expected to provide, pay for, or contribute towards the cost, of all or part of the additional infrastructure/service provision that would not have been necessary but for their development. Planning Obligations are the mechanism used to secure these measures.



- 5.45 The applicant has questioned the validity of the Council's SPD and whilst they are willing to enter into an appropriate planning obligation, they seek further justification. This justification has been provided. There is an error in the SPD in respect to LAP provision and as there is a recreation ground close by the applicant is willing to make an offsite contribution instead.
- 5.46 It is considered that the proposed development will give rise to infrastructure or service requirements and therefore is liable for planning obligations.

In this case there is a net gain of 10 no. dwellings comprising: 2 no. x 2 bedroom units, 3 no x 3 bedroom units and 5 no. x 4/5 bedroom units.

Refuse bins and recycling banks - **£675.00**  
General Transport and Access impacts - **£11,088.00**  
Libraries - **£640.00**  
Day care for the elderly - **£2,101.00**  
Adult learning - **£333.00**  
Museum resource centre - **£160.00**  
Strategic Waste Management - **£2,022.00**  
Outdoor Sports - **£21,856.10**  
Indoor Sports - **£6,181.20**  
Off-site contribution to local LAP/Recreation facilities – **£28,468.00**  
Onsite public open space maintenance - **£546.62**

The total contribution sought from the proposal is **£74,070.92**

Justification for the contributions was requested and has been provided. The third reason for refusal on the previous scheme related to the lack of legal agreement, however, whilst some of the amounts are still being questioned and the agreement has not yet been drafted, the applicant has agreed to the above in principle which will form the Legal Agreement and in general has accepted the requirements of the Planning Obligations sought and has addressed this final reason for refusal.

**Effect on the heritage assets (area of archaeological value)**

- 5.47 Whilst the site is within an area of archaeological interest, Oxfordshire County Council's Archaeologist has recommended the applicant be informed by a planning note about the potential of Archaeological finds during construction.
- 5.48 Whilst not in the Conservation Area, development of the site has the potential to affect its setting, however, it is considered that addressed correctly in terms of materials and scale, there will be no harm to the significance of this heritage asset.

**Conclusion**

- 5.49 In conclusion therefore taking into account the above appraisal it is considered that the current application that has reduced the amount of housing and revised its layout, is now acceptable and complies with the Government guidance contained in the NPPF and the other relevant development plan policies listed above.

## 6. Recommendation

**Approval** subject to:

- a) The applicant entering into an appropriate legal agreement to the satisfaction of the District Council to secure financial contributions as outlined in paragraph 5.37 above
- b) The following conditions:

1. Approval of reserved matter details - scale, appearance and landscaping
2. Time limit for the submission of reserved matters
3. Time limit for commencement
4. That prior to commencement of any development on the site, notwithstanding the details submitted, an Arboricultural Method Statement (AMS), undertaken in accordance with BS5837 shall be submitted and approved in writing by the Local Planning Authority. All works then to be undertaken in accordance with the agreed document.

Reason - To ensure that no proposed operations impair the health of any retained trees in the interests of the visual amenity of the area, and to comply with Policy C4 of the South east Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

5. No works or development shall take place until a scheme of supervision for the arboricultural protection measures has been approved in writing by the Local Planning Authority. This scheme will be appropriate to the scale and duration of the works and, where relevant, must include details of:
  - a) the project arboriculturalist employed to undertake supervisory role of relevant arboricultural issues. Applicant / Agent to provide written confirmation and contact details of chosen individual or company.
  - b) the relevant persons / contractors to be briefed by project arboriculturalist on all on-site tree related matters.
  - c) the timing and methodology of scheduled site monitoring visits to be undertaken by the project arboriculturalist.
  - d) the procedures for notifying and communicating with the Local Planning Authority when dealing with unforeseen variations to agreed tree works and arboricultural incidents.

Reason - To ensure that no proposed operations impair the health of any retained trees in the interests of the visual amenity of the area, and to comply with Policy C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

6. Prior to the commencement of any works on site or the carrying out of any operation relating to the provision of services, full details of all service trenches, pipe runs or

drains and any other excavation, earth movement or mounding required in connection with the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Submitted in a drawing format, the details must include the identification and location of all existing and proposed trees, load bearing planting pits for hard-surface areas, as well as shrubs and hedgerows within influencing distance of such services. The development shall be carried out in accordance with the details so approved.

Reason - To ensure that the existing tree(s) and/or hedgerows is/are retained in a safe and healthy condition and is/are not adversely affected by construction works, in the interests of visual amenity and to comply with Policy C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

7. All agreed service trenches, pipe runs, drains or any other excavation to be constructed within the agreed Root Protection Area (RPA) of the tree/trees on the site shall be undertaken in accordance with National Joint Utility Group (NJUG) 'Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity To Trees – Volume 4 and all subsequent revisions and amendments of.

Reason – To ensure that the tree/trees is/are retained in a safe and healthy condition and is/are not adversely affected by construction works, in the interests of visual amenity and to comply with Policy C4 of the South East Plan 2009 Plan 2016 and Policy C28 of the adopted Cherwell Local Plan.

8. That prior to commencement of any development on the site, notwithstanding the details submitted, full details, specifications and construction methods for all tree pits located within soft landscaped areas, shall be submitted to and approved in writing by the Local Planning Authority. Details must also include specifications for the dimensions of the pit, suitable irrigation and support systems and an appropriate method of mulching. The development shall be carried out in accordance with the details so approved.

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 C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

9. Prior to the commencement of the development hereby permitted details of the provision, landscaping and treatment of open space within the site shall be submitted to and approved in writing by the Local Planning Authority. The open space, once approved shall be landscaped, laid out and completed in accordance with the details approved and within a time period to be first approved in writing by the Local Planning Authority and thereafter retained as open space/play space.

Reason - In the interests of amenity, to ensure the creation of a pleasant environment for the development with appropriate open space and to comply with Policy BE1 of the South East Plan 2009 and Policy R12 of the adopted Cherwell Local Plan.

10. Development shall not commence until a surface water and foul sewage drainage scheme and strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed. The approved surface water drainage scheme shall be carried out prior to commencement of any building works on the site and the approved foul sewage drainage scheme shall be implemented prior to the first occupation of any building to which the scheme relates. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".

Reason - The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community in accordance with the guidance contained within the National Planning Policy Framework and Policy NRM4 of the South East Plan 2009 and Policy ENV1 of the adopted Cherwell Local Plan.

11. The development hereby permitted shall be carried out in accordance with the recommendations set out in Phase 1 Habitat Survey Report by Windrush Ecology Ltd dated 7<sup>th</sup> March 2012 unless otherwise agreed in writing by the Local Planning Authority.

Reason - To protect habitats of importance to nature conservation from any loss or damage in accordance with the guidance contained within the National Planning Policy Framework and Policy NRM5 of the South East Plan 2009 and Policy C2 of the adopted Cherwell Local Plan.

12. Notwithstanding the recommendations and mitigation measures detailed in the Habitat Survey detailed in condition no. 10, development shall not commence until a biodiversity enhancement scheme has been submitted and approved by the Local Planning Authority. The biodiversity enhancement scheme shall detail:

- a) the measures to be taken to ensure the development proceeds in a sensitive manner with regards to bats, birds and hedgehogs (as stated in the Phase 1 Habitat Survey report).
- b) the biodiversity enhancement features to be incorporated within the new dwellings and/or around the site (eg bat boxes/tubes, bird boxes). The scheme is to specify the number proposed, type and exact locations.
- c) the existing areas of trees and planting to be retained and how these will be protected during the construction phase.
- d) the proposed planting scheme for public and private areas (recommendations as to suitable species are made in the Phase 1 report).

Reason - To protect habitats of importance to nature conservation from any loss or damage in accordance with the guidance contained within the National Planning Policy Framework and Policy NRM5 of the South East Plan 2009 and Policies C2

and C4 of the adopted Cherwell Local Plan.

13. A Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The CEMP 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 and shall include details of the consultation and communication to be carried out with local residents. Construction work shall thereafter be carried out in accordance with the approved CEMP.

Reason - To protect the amenities of the local residents, to avoid pollution and to comply with Policy ENV1 of the adopted Cherwell Local Plan.

14. That full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development, and such means of enclosure, in respect of those dwellings which it is intended shall be screened, shall be erected prior to the first occupation of those dwellings.

Reason - To ensure the satisfactory appearance of the completed development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policies C28 and C30 of the adopted Cherwell Local Plan.

15. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the documents submitted with the application and the following drawings: 05, 06 and 10.

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

16. That, notwithstanding the provisions of Classes A to E (inc.) of Part 1, of the Town and Country Planning (General Permitted Development) (Amendment) (No 2) (England) Order 2008 and its subsequent amendments, the approved dwelling(s) shall not be extended (nor shall any structures be erected within the curtilage of the said dwelling(s) without the prior express planning consent of the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the amenities of the occupants of the adjoining dwellings in accordance with Policies C28 and C30 of the adopted Cherwell Local Plan.

17. That, notwithstanding the provisions of Class A of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (No 2) (England) Order 2008 and its subsequent amendments, the garage(s) shown on the approved plans shall not be converted to provide additional living accommodation without the prior express planning consent of the Local Planning Authority.

Reason - To ensure that satisfactory provision is made for the parking of vehicles on site and clear of the highway in accordance with Policy T4 of the South East Plan 2009.

18. That, before any of the dwellings are first occupied, the proposed vehicular accesses, driveways and turning areas that serve those dwellings shall be constructed, laid out, surfaced and drained in accordance with specification details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

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

19. That no surface water from the development shall be discharged onto the adjoining highway and a scheme to prevent this occurrence shall be submitted to and approved in writing by the Local Planning Authority and constructed prior to the commencement of building operations.

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

20. That the footway on The Phelps (immediately south of proposed site access) must be improved to OCC specification prior to first occupation.

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

21. Prior to first occupation, a copy of the residents' Sustainable Travel Information Packs must be submitted for consideration and approval. The approved packs must be provided to each residence upon first occupation.

Reason - In the interests of encouraging sustainable modes of travel and to comply with government guidance contained within the National Planning Policy Framework

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

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

23. If a potential risk from contamination is identified as a result of the work carried out under condition 22, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'* and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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

24. If contamination is found by undertaking the work carried out under condition 23, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'* and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

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

25. If remedial works have been identified in condition 24, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition y. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

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

**Planning Notes**

1. Archaeology
2. Thames Water informatives
3. Ecology
4. Construction sites
5. Works within the Highway

**SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES**

The Council, as Local Planning Authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits being of a layout appropriate in its context and will not have a detrimental effect on the neighbouring residential amenities. It will not cause harm to the visual amenities of the locality, acknowledged archaeological interests or other heritage assets, highway safety or ecology. The proposal, therefore, complies with government guidance contained in the National Planning Policy Framework, Policies CC1, CC4, CC6, CC7, T1, T4, C4, BE1, BE5, BE6, H1, H2, H4, H5, S6, CO1, CO5 and NRM5 of the South East Plan 2009; Policies C2, C4, C23, C28, C30 and TR1 of the adopted Cherwell Local Plan. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and outline planning permission granted subject to appropriate conditions, as set out above.

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