

Former Winners Bargain Centres, Victoria Road, Bicester

13/00484/OUT

Ward: Bicester Town

District Councillor: Cllr D Edwards &
Cllr D M Pickford

Case Officer: Rebecca Horley

Recommendation: Approval

Applicant: Montpelier Estates Ltd, Middle Barn, Chilton Business Centre, Chilton, Aylesbury HP18 9LS

Application Description: Demolition of existing structures and construction of a 36 unit assisted living home (Class C2) together with ancillary accommodation

Committee Referral: Major development

1. Site Description and Proposed Development

- 1.1 The application site is the former Winners bargain centre building and associated land and building which has its existing main access to Victoria Road and a shared boundary with Linden Road (and secondary currently disused access). The site area is 0.28 hectares. The existing building is set behind 11-13 Victoria Road (L Harness Funeral Directors) and the Tyre and Exhaust business. The existing main building is a warehouse type building built from red brick with a part pitched and part flat roof. At its highest point the existing main building is 6 metres to the ridge. There is another smaller building located adjacent to number 19a Linden Road which is a small hall and measures just 4.2 metres in height.
- 1.2 The site is located just outside of the Bicester Town Centre as defined in the adopted Cherwell Local Plan and on the boundary with the Conservation Area. The Non-Statutory Cherwell Local Plan and Proposed Submission Local Plan (August 2012) show the site to be within the town centre boundary. To the south east of the site, approximately 40m away are the rear elevations of residential properties on Bath Terrace, their gardens extend to the boundary. To the north and east of the site are the residential properties on Linden Road and to the west of the site are commercial properties and the rear elevations of the buildings which front onto Sheep Street.
- 1.3 The proposal includes the demolition of the existing buildings and the construction of a 36 unit assisted living home. The applicants have produced evidence to show that their application falls within Class C2 of the Use Classes Order which relates to residential institutions and they have offered a unilateral undertaking to keep to within this classification. The sort of development which falls into this class are hospitals, nursing homes or residential school, college or training centre where they provided residential accommodation and care to people in need of care. 'Assisted living' is a more flexible offer in the vast array of types of care provision for the elderly which is why the individual units appear to be more akin to 'normal' residential (Class C3).

- 1.4 The submitted and illustrative layout plan indicates the provision of 18 parking spaces plus 2 disabled parking spaces split between two areas, one accessed from Linden Road where the main entrance is shown and one from Victoria Road. There are also 2 garden areas shown near these car parks.
- 1.5 Other illustrative drawings show that the footprint of the building is larger than the existing buildings on the site and are in closer proximity to some of the boundaries than the existing building. Provision for the flats is shown to be over 3 floors and the building is a mixture of two and three storeys and has a flat roof design. At its highest point it measures approximately 8.8 metres. The proposed materials are a combination of brick and render. The design and layout of the proposal will be discussed in greater detail later in the report.
- 1.6 The application is in outline with all matters reserved except access. The original submission was in full but, as with the previous application (12/01465/F refers) officers remained concerned about the design of the scheme and its relationship to Linden Road. As there has been no previously expressed concern regarding the use of the site as a care home, in order to progress matters within the prescribed timeframe and for the applicant to be assured that in principle the use is acceptable, it was considered by both officers and the applicant that the best way of processing this planning application is as an outline. All details previously submitted as part of this application are withdrawn from consideration but can still be useful as illustrative material.

2. Application Publicity

- 2.1 The application has been advertised by way of site notice, press notice and neighbour notification letters. The final date for comment was 13 June 2013 and at the time of writing no comments had been received.

3. Consultations

- 3.1 **Bicester Town Council:** No objection but it is considered that this is not the right location for a care home and concerned with the proposed road layout. The Town Council would welcome this site to be used for retail.

Cherwell District Council Consultees

- 3.2 **Urban Designer:** Object
The comments expressed below relate to the detailed design drawings originally submitted and now for illustrative purposes only.

The only change that has been made to the external layout is a slight adjustment to the southern edge of the development. Therefore the concerns that I had in November last year about this scheme still stand.

Site Character and Context

- The site is located to the northeast of Bicester's Town Centre. This is an area that is mixed between low key residential development and 'back land' transition type development.

- The site is bound by Victoria Road to the southwest and Linden Road to the north.
- Linden Road is predominantly residential in character, lined with two storey mid 20th century development.
- Victoria Road by contrast contains a mix of commercial and light industrial uses, alongside mid 20th century and Victorian housing.

The Development Brief and Conceptual Approach

- The brief for the site is for a 36 unit bed care home and associated landscaping.
- This is a challenging brief for a 0.8 acre / 0.3 HA development site, giving an overall density of 120 uha. The design approach is focused on the internal organisation of the facilities and amenities required for the brief. The design reflects an approach where the brief has been of greater consideration than the site context.
- One of the challenges of this site is providing a design and layout which does not limit the opportunities for redevelopment of number 11 – 13 Victoria Road. There is concern that if these buildings were to become redundant the size of plot and the proximity of the care home to the site boundary would limit development opportunities coming forward in the future.

Layout Plan

- The site has an irregular form which presents a number of challenges when accommodating a large care home within its bounds.
- The building neither provides positive frontage onto Linden Road and Victoria Road, nor sits back from the street in well landscaped spaces.
- The building is very tight on a number of the boundaries. While the internal layout is logical, the external envelope that this drives does not sit comfortably on the edges of the site.

Scale and Massing

- The scale of the proposed buildings does not fit well with the residential scale of the adjacent housing and the scale is greatly increased from the original retail unit.
- The building steps up from two storeys to the northwest of the site to three storeys to the northeast and centre of the site. Because the floor to ceiling heights are correctly larger than with a residential building this has led to a design which dwarfs the adjacent buildings.

Building Design

- The internal layout of the building has created some awkward areas, which do not positively contribute to the overall design when considered in three dimensions. In particular the area where the plan steps forward and back at the northwest of the plan adjacent to Linden Road is problematic.
- Balconies provide a positive feature to the day rooms.
- The northeast façade, fronting onto the car park, offers limited surveillance of this area.
- The main entrance is tucked away and is not well articulated in the building façade. Orientation to the building entrance is an important design feature which should be further considered.

Internal layout plan

- The internal layout forms a double banked approach to providing accommodation. This does not work as well in an apartment form and there is no natural light into the majority of kitchens and bathrooms.
- The building layout is based on long corridors and therefore gives the building an institutional rather than residential feel. Thought should be given as to how movement areas can be positive spaces.

Landscape and Public Realm

- There is limited information available on the landscape and public realm details. The Design and Access Statement makes reference to a 'Landscape Strategy', but this document has not been provided as part of the planning application.
- The setting of the main entrance could be improved. A slightly larger pathway could be considered. The cycle shelter will not support orientation to the entrance or a high quality public realm in this area.
- Has a tree survey been commissioned for the two mature trees located at the north east of the site? Does development reflect appropriate standoff distances to these
- How do staff / visitors parking on the Victoria Road side of the site access the building?

Sustainability

- The building is to be constructed to BREEAM very good energy efficiency standards, which is seen as a positive approach.
- The building materials have been set out on page 26 of the Design and Access Statement as concrete blocks and aggregate (recycled concrete). The building details set out on page 25 of the Design and Access Statement appears to be predominantly brick. It would be helpful if this could be clarified.
- Concrete is not a particularly sustainable material to use and while the use of recycled materials is encouraged, the specifications for recycled concrete aggregate should be checked as in my experience this material is typically used as hardcore in highways rather than architectural structures.
- Reference is made to natural ventilation of the building, but this is not supported by information in the drawings. There is not evidence of ventilation roof stacks on the roof drawing.
- The 3D illustration indicates that there is a green roof / terrace, but this is not supported in the plans.

3.3 Conservation Officer: Object.

The comments expressed below relate to the detailed design drawings originally submitted and now for illustrative purposes only.

The revised proposed scheme has not taken into account the impact of a designated heritage asset (Conservation Area).

The proposed scheme is located just outside the Bicester Conservation Area. A majority of Bicester is formed of two storey buildings, unless situated on the Market Place. The proposed area of the works is located on the boundary of a 2 storey estate of traditional housing (mainly semi detached), 2 storey Victorian terraces, the rear of the commercial Sheep Street and the light industrial units

along Victoria Road. All of these areas have simple, low level architectural forms, with a very simple, plain palette of materials. The industrial buildings are typical of those which provided local employment for the estate. However, open space and careful location of the houses allow the 'dirty' industrial buildings and commercial buildings to be segregated from the domestic dwellings. This relationship is an important feature throughout Bicester (and many other small towns).

The proposed scheme looks to introduce a large, solid mass structure with many finishing materials, which extends to a majority of the boundary. A majority of the building is proposed to be 3 storey. It is deemed that this structure will over power the smaller, multi level rear elevations of Sheep Street and the smaller terraced houses in the area. I would say that the proposed scheme causes harm and negative impact to the character of the conservation area.

- 3.4 **Anti-Social Behaviour Manager:** No objection subject to a condition relating to external lighting.

The applicants have submitted a specialist acoustic report with the application that indicates the current noise climate will not be detrimental to the proposed use subject to the installation of double glazing to the residential elements. The level of double glazing required would be that required to achieve the thermal insulation requirements of the Building Regulations in any event.

Due to the relatively close proximity of other dwellings a prior approval condition will be required in respect of the external lighting proposed.

- 3.5 **Landscape Officer:** No objection to the previous application subject to conditions relating to detailed matters.

This site looks as though it is relatively flat, with just 2 existing trees which do need retaining. It is noted that this is the applicant's intention.

There are a variety of different boundaries which will need improved treatments. The current building is of no merit visually and the proposal should result in an approved appearance to the site, particularly for the residents of Linden Road. Although the building will be slightly taller than the existing semi-detached properties on Linden Road.

The Tyre fitters and funeral directors which are to remain will need to be screened from the site if a pleasant outdoor environment is to be created. At present the proposals for landscaping the site are very general and seem to constitute hedges and trees. More detail will be required.

It is noted that there are parking spaces immediately against boundaries which will make them very difficult to access and difficult for people to access cars parked against walls.

- 3.6 **Ecology Officer:** No objection to the previous application subject to conditions and/or informatives to ensure the enhancement of biodiversity and regarding

the need to avoid nesting season (March to August inclusive) when demolition to due.

Having liaised with colleagues who confirmed they had seen the buildings to be demolished and found them unsuitable for roosting bats there are no concerns with regards to loss of biodiversity on site.

A detailed landscape plan should be submitted for approval prior to any works commencing. Under the NPPF and our local plans we should be seeking biodiversity enhancement where possible within developments. Despite its urban setting and moderate area the landscaping should include some features of nature conservation value. For example areas of wild flowers aimed at invertebrates, bird boxes on trees or buildings, shrub species which include berries for birds etc. There is also scope to include features within the buildings themselves such as swift bricks (very easily incorporated and which we are promoting as part of the Cherwell swift project) or green walls.

3.7 Biodiversity and Countryside Officer: No objection

Bicester Footpath No 19 runs between Withington Road and Linden Road to the north of this planning application site but is not affected by the proposed development.

3.8 Waste and Recycling Manager: No objection

The developer should take into account the Waste and Recycling guidance which can be found on the Cherwell District Council website. Section 106 contribution of £67.50 per property will also be required.

3.9 Strategic Housing Officer: This is for a care home (C2) use which is not housing and no affordable housing contribution is required. I cannot comment on the demand for care homes but the strategic direction of both this District Council and the County Council is for the provision of extra care housing.

3.10 Arts and Visitor Services Manager: No objection subject to a condition requesting public art.

3.11 Head of Communities: No objection and this type of development would not attract a contribution to the section 106.

Oxfordshire County Council Consultees

3.12 Oxfordshire County Council has provided a comprehensive response relating to all aspects under their jurisdiction. It has been generally noted that there is no overall objection to the scheme and the summarised comments in relation to each County matter are provided below.

3.13 Transport & Planning Strategy: No objection subject to a legal agreement contribution of £18,000 towards public transport infrastructure enhancements such as future enhancements and/or adjustments to the new bus station facility in Manorsfield Road.

The trip generation conclusions presented in the Transport Statement are agreed i.e. that the site will generate fewer car trips compared to its existing use. Therefore the site is unlikely to affect the operation of the surrounding road network. Being 150m away, the site is within access of the town centre. The footway and cycle provision in the area is generally good with good connections to the wider town pedestrian and cycle network. The site is also within reasonable access to public transport services with the main bus station on Manorsfield Road within 500m walking distance. Both the town's train stations are approximately 800m from the site.

- 3.14 **Transport Development Control:** No objection subject to standard conditions, legal agreement and informative relating to adjacent highway works which will require a separate permission from the Local Highway Authority under Section 184 or 278 of the Highways Act.

The previous application (12/01465/F) considered the proposed use at this site and there is no reason to differ with the previous comments. It is particularly noted that:

- the vehicular access points are appropriate as submitted plans,
- redundant dropped kerbs are to be re-instated to improve pedestrian network,
- cycle parking is to be increased in the interests of accessibility;
- parking and manoeuvring areas are appropriate as submitted plans
- Travel Plan is to be implements in the interests of accessibility/sustainability.

- 3.15 **Rights of Way:** No objection

The development will not directly affect any public rights of way. However, there is a public footpath that runs from Linden Road through to Bardwell Terrace/Withington Road. This footpath is a direct link from the Bardwell Terrace/Withington Road direction through to the proposed assisted living home. The path would benefit from being tarmacked but this has not been a priority in the past as funding has not been available. As people from the Assisted Living Home and also those visiting are likely to use this path it would be appropriate to seek contributions to improve it in the region of £10,000.

- 3.16 **Drainage:** Holding objection pending the receipt of further information.

No SUDs has been designed into this scheme and all surface water seems to be going straight to surface water sewer. There is an opportunity to reduce the amount of run-off going to surface water sewer by introducing SUDs into the scheme.

The previous application showed that this matter could be handled by condition.

- 3.17 **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.

3.18 **Property:** No objection subject to a condition relating to the provision of fire hydrants, an informative which seeks sprinkle systems and a legal agreement as follows:

The County Council considers that the effect of the application forming this development will place additional strain on its existing community infrastructure. Based on the details in the application the 35 No. assisted living units would generate a net increase of 45 residents who would be aged 65+.

The legal agreement would be required to secure:

Library	£ 3,825
Waste Management	£ 2,880
Museum Resource Centre	£ 225
Social & Health Care – Day Care facilities	<u>£ 49,500</u>
Total (indexed linked)	£ 56,430

Administration & Monitoring £ 1,500

The County Councils legal fees in drawing up and/or completing a legal agreement will also need to be secured

Other Consultees

3.19 **Environment Agency:** No objection subject to a condition to secure the requirement for a Method Statement relating to contamination. This will ensure that any unexpected contamination encountered during the developments is suitable assessed and dealt with, such that it does not pose a unacceptable risk to ground or surface water.

3.20 **Thames Water:** No objection relating to waste or water subject to informatives

3.21 **Crime Prevention Design Advisor:** No objection subject to a condition relating to principles of Secured By Design (SBD) and the provision of contributions to the section 106.

It would assist the authority in complying with its obligations under Section 17 of the Crime and Disorder Act 1998 in doing all it reasonably can in each of its functions to prevent crime and disorder in its area.

To assist the authority and the applicants in providing as safe a development as possible, and to aid the latter in achieving SBD accreditation, I make the following observations:

- I commend the applicants for addressing security within their DAS and for specifically mentioning SBD. Unfortunately, there is no actual commitment to achieving SBD accreditation. I suggest that they make this commitment to the authority prior to approval being granted. Attachment of the requested condition would, of course ensure that this is the case regardless.
- Although the parking areas appear close to the building I feel their locations and lack of oversight from active rooms/non-residents make them remote by default. I would prefer to see these areas made secure with boundary treatments and gates that allow for authorised access only (particularly the

south west area as I believe vehicles and users here would be quite vulnerable).

- It would appear that the frontage of the building is afforded defensible space from the public footway on Linden Rd only by provision of shrubs. I suggest that a boundary treatment of at least 1m in height with a gated entrance be provided to properly define the private space of the premises from the public realm. This would reflect the fact that the frontage will also be considered by some residents to be their private outside space and afford them then necessary ownership of it. Perhaps railings with the proposed shrubs inside would be appropriate?
- On a similar point, the DAS states that walls and railings are to be provided as the other perimeter boundary treatments at a minimum height of 1.5m. I would prefer to see this minimum height increased to 1.8m and confirmation that the design of said treatments would deter climbing from the outside.
- Internally, drawing 1125/F02/001/C shows the reception in a less than ideal location within the entrance lobby. I would prefer to see it located so that those working from it have a good view of the entrance doors and those that are approaching them. Access control of these doors also needs to be provided to ensure only residents, staff and other persons authorised by them are able to enter the premises.

The comments above are made on behalf of Thames Valley Police and relate to CPTED only. You may receive additional comments from TVP with regard to the impact of the development upon policing and a request for the provision of infrastructure to mitigate against this impact.

I hope that you find my comments of assistance in determining the application and if you or the applicants have any queries relating to CPTED in the meantime, please do not hesitate to contact me.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

H4: Housing schemes for the elderly

C2: Protected species

C28: Layout, design and external appearance of new development

C30: standards of amenity and privacy (new housing development)

ENV1: Detrimental levels of noise...or other types of environmental pollution

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Cherwell Local Plan - Proposed Submission (August 2012) Incorporating Changes (March 2013)

The draft Local Plan went out for public consultation. 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:

SLE1: Employment development – change of use of employment site

SLE2: Securing Dynamic Town Centres

ESD1: Mitigating and adapting to climate change

ESD3: Sustainable construction

ESD7: Sustainable drainage systems

ESD10: Protection and enhancement of biodiversity and the natural environment

ESD16: The character of the built and historic environment

Policy Bicester 5: Strengthening Bicester Town Centre

Non-Statutory Cherwell Local Plan 2011

TR4: Mitigation Measures

OA1: General Policy

Bicester Masterplan Draft SPD

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant planning history
- Principle of a care home in this location
- Impacts on the character and appearance of the area
- Impacts on the historic environment
- Residential amenity
- Highway Safety and access
- Biodiversity, ecology and trees
- Other issues

Relevant Planning History

5.2 12/01465/F – Planning permission was refused on 1st February 2013 for the demolition of the existing structures and construction of 60 bed care home (Class C2) together with ancillary accommodation, car parking facilities and landscaping on the following grounds:

By virtue of the scale and massing of the proposed building and its relationship with surrounding properties, the proposal has an adverse impact on the character and appearance of the area. As a result it fails to preserve or enhance the setting of the Conservation Area and fails to make a positive contribution to local character and distinctiveness. Furthermore it has a negative impact on the residential living amenities of neighbouring properties. It is the opinion of the Local Planning Authority that the proposed development does not accord with these provisions and is therefore contrary to central Government guidance contained within the National Planning Policy Framework, Policies BE1 and BE6 of the South East Plan, Policies C28 and C30 of the adopted Cherwell Local Plan and Policies EN39, EN40 and D3 of the Non-Statutory Cherwell Local Plan 2011.

Principle of a care home in this location

- 5.3 It is considered appropriate to refer to this site as being within the town centre of Bicester as the Proposed Submission Local Plan (PSLP) allocates it as such. Whilst this document is not formally adopted it does set out the Council's strategic approach to future development within the district. The adopted Cherwell Local Plan encourages housing schemes for the elderly within convenient reach of shops, community facilities and public transport (Policy H4). This policy however does not refer specifically to care home facilities.
- 5.4 Given the location of the development the relevant housing policies are complied with.
- 5.5 The site is an existing employment/retail site although it has not been open for over a year. The adopted Local Plan does not contain any policies which prevent or seek to resist the loss of retail/employment uses. However Policy SLE1 of the PSLP sets out that where an applicant wishes to change the use of an employment site proposals will be considered with regard to the following criteria;
- Whether the location and/or nature of the present employment activity has an unacceptable adverse impact upon adjacent residential uses
 - Whether the applicant can demonstrate that an employment use should not be retained
 - Whether the applicant can demonstrate that there are valid reasons why the use of a site for the existing or another employment use is not economically viable
 - Whether there are other planning objectives that would outweigh the value of retaining the site in an employment use and where the applicant can demonstrate that the proposal would not have the effect of limiting the level of provision and quality of land available for employment in accordance with policies in the Local Plan.
- 5.6 The PSLP currently carries only limited weight, therefore it would seem unreasonable to insist that the applicant has to meet each of the criteria above. However the application has been submitted with a marketing document setting out that since marketing the site for the first time in March 2011 very little interest was received from retailers and 17 serious expressions of interest were received but these were all from residential or care home developers. It could therefore be concluded that there was insufficient demand for the site with its current retail use.
- 5.7 It could also be argued that the introduction of a care home onto the site does not result in a complete loss of employment use as it is estimated that the proposed care home will employ 30 full time equivalent members of staff, possibly a higher number than the previous Winners premises.
- 5.8 Policy Bicester 5 of the PSLP states that shopping, leisure and other town centre uses will be supported in the town centre area and that residential uses will be supported above ground floor level. This therefore establishes that a residential use is appropriate within a town centre location although the emerging plan seeks to restrict residential uses at ground floor level. The

NPPF at chapter 2 also refers to residential uses being an appropriate town centre use.

- 5.9 Given the above assessment and the location of the site in relation to the town's main retail streets it is considered that the principle of a residential care home within Bicester town centre between commercial properties and other residential areas is acceptable.
- 5.10 It is worth noting that as this scheme is for a C2 residential use with no self-contained units of accommodation, unlike a domestic dwelling or extra care accommodation, the 36 units will not contribute to the housing land supply

Impact on the character and appearance of the area

- 5.11 The comments of the Council's Design and Conservation Team Leader are set out in full above at paragraphs 3.2 and 3.3 but the following section will highlight some of these comments and feed into the assessment of the impact the proposed development will have on the character and appearance of the area.
- 5.12 Although there are a range of uses in the immediate area around the site the majority of the buildings are domestic in scale and despite some of the commercial buildings having large footprints the height of buildings do not tend to exceed that of domestic properties. Residential and commercial properties do not tend to exceed two storeys. The original details of the proposed building (now illustrative) show part two storey and part three storey with a flat roof with a maximum height of 8.8 metres, 2.8 metres higher than the existing building. The properties close by on Linden Road vary from 6.2 metres to 7.5 metres to their ridge. The difference in height between the existing properties and the illustration would result in a building that appears much larger and out of keeping with the residential scale of its surroundings. The building as originally proposed (and now illustrative) would, therefore, have been likely to be dominant in the street scene.
- 5.13 It is likely that the scale and massing of the proposed building has resulted from the need to provide sufficient rooms for the proposal to be viable and the space and layout standards required when providing a facility of this nature. The difficulties of trying to accommodate a care home of this size on the site are recognised but the requirement to meet standards seems to have dictated what is proposed on this relatively constrained site, (unusual shape and relationship with neighbouring properties), rather than the building being influenced by its surroundings.
- 5.14 Whilst officers do not have a particular objection to the use of flat roof structures or elements of three storey these features should only be accepted where it does not cause harm to the character and appearance of the area.
- 5.15 There are other elements of the originally submitted scheme referred to by the Design and Access Statement, as referenced by the Conservation Officer, which contribute to the concerns about the overall scale and appearance of the building on this site. Such elements include;

- The lack of positive frontage onto both Linden Road and Victoria Road
- With particular regard to Linden Road, there is a stepped (staggered) approach creating awkward areas
- The building remains tight on a number of boundaries
- Limited surveillance over the parking areas
- Unarticulated main entrance
- Limited information about landscape and public realm considerations
- Lack of co-ordination about the materials to be used.

5.16 Where a proposed development is not considered sympathetic to the character of the area it would be contrary to Policy C28 of the adopted Cherwell Local Plan. Development should respect the scale, proportion, massing and height of adjoining buildings and the street scene. The NPPF emphasises that good design is a key aspect of sustainable development and stresses the importance of integrating new development into the built environment.

5.17 During the course of the application, it was considered that the submitted proposal failed to respect the scale, proportion, massing and height of its surroundings and as such would not have integrated into the street scene and would have been out of character with the area. It would, therefore, have been contrary to the policies and guidance set out above. When taking all matters into consideration it was considered that the application, as a detailed submission, would have failed on design grounds for a second time, hence the agreed position to accept the application as an outline.

Impacts on the historic environment

5.18 The boundary of Bicester Conservation Area runs parallel with the western boundary of the site along the eastern side of Victoria Road and extends to the east to incorporate the properties in Bath Terrace and half the length of their gardens. Given the proximity of the site to the Conservation Area there is the potential for the development to impact upon its setting.

5.19 The properties on Bath Terrace are very traditional and retain a lot of the character that is likely to have justified their inclusion within the Conservation Area boundary and this is despite it being the rear elevations that face the application site. However the view of the Conservation Area from the site to the west is very different as it is the rear elevations of the retail and commercial premises that front onto Sheep Street that are visible. With the exception of one or two frontages onto Victoria Road it is largely service areas and unsympathetic extensions that are visible. Although there are some examples along the rear of Sheep Street where backland buildings (buildings to the rear of burgage plots) and yards have been brought into productive small scale retail and service use, features which is specifically referred to in the Bicester Conservation Area appraisal.

5.20 Whilst the originally submitted details of the proposal are considered out of keeping with the residential scale and the character of the area it would be difficult to argue that it would have failed to preserve or enhance the setting of the Conservation Area as far as it relates to the rear of the properties on Sheep Street. However the relationship of the originally proposed building to the properties on Bath Terrace may have been more significant. Although the

existing building is not particularly sympathetic in terms of its design it is set 11 metres from the site boundary and approximately 40 metres from the boundary of the Conservation Area and has a height of 6 metres. The illustrative drawings show how the proposed building would have been set off the boundary by approximately 1 metre bringing it to within 31 metres of the Conservation Area Boundary and at its closest point to the Conservation Area the proposal would have been 6.6 metres. It was considered that this aspect of the scheme, bringing a scale of development larger than anything that exists closer to the Conservation Area where there are currently no intervening structures, would have neither preserved or enhanced the setting of the Conservation Area.

- 5.21 Given the above considerations it was concluded that the originally proposed development would also have had an adverse impact on the setting of the Conservation Area, as such not preserving or enhancing the historic environment. Therefore the proposal would also have been contrary to guidance within the NPPF which recognises that the significance of a heritage asset can be harmed by development within its setting. Now that the application is in outline, there is an opportunity to improve this relationship at the reserve matters stage.

Residential amenity

- 5.22 There are several aspects of residential amenity that need to be considered. Such issues include overlooking, dominance, overshadowing, nuisance caused by noise or other environmental factors and other issues that may affect the living environment of residents.
- 5.23 Some of the residential properties on the northern side of Linden Road would have been within about 24 metres from the nearest element of the proposed building. Whilst development here would considerably alter the outlook from these properties, given the distances between them it is unlikely to result in a demonstrable level of over-dominance or overshadowing. Given that the existing building has no first floor windows, had a retail warehouse use and is partially screened by a boundary fence the new building may result in the feeling of some overlooking towards the properties on the north side of Linden Road but in reality actual overlooking would not be considered a particular issue as there remains a minimum of 23 metres between the buildings and the front elevations are overlooked by the public due to their relationship with the road.
- 5.24 No. 19a Linden Road is slightly smaller in height than the other properties in the vicinity. It has one first floor side facing window overlooking the site. There is a gap of 23 metres between the site elevation of 19a and the closest element of the proposed building. This is considered to be a sufficient gap in order not to result in an adverse impact on residential amenities through overbearing or overshadowing even if the proposed building were to be three storey at this point. At a distance of 23 metres it is also considered that overlooking into the side facing window and private amenity would not be demonstrable issue. Even if the side of the property were to be close to the access and the car park, the level of noise and disturbance would be acceptable as there is already an access point and a similar nuisance could result from the existing premises.

- 5.25 The properties on Bath Terrace are in the region of 45 metres away from the site boundary. However their gardens extend up to the boundary. The proposal indicated that a blank wall with a width of 15.8 metres and a height of 6.6 metres will be within 1 metre of the boundary with these gardens. This was an improved situation to the previous proposal in terms of the effect it might have on the neighbours along Bath Terrace and this is probably reflected in the lack of consultation responses received from these residents. It was considered, therefore, that such a relationship would no longer be overbearing and detrimental to the resident's enjoyment of their private amenity space and this exercise has demonstrated that a scheme can be designed that would have no direct impact on these properties.
- 5.26 It is assumed there is no residential occupancy at L Hartness, the funeral directors or the exhaust and tyre garage on Victoria Road or Victoria House which is a commercial/light industrial building at the south eastern corner of the site, therefore residential amenity is not a material consideration in relation to these properties.
- 5.27 Based on the above considerations the view was held that the originally submitted drawings would have had no harmful impact on the residential amenities of the neighbouring occupiers. The development is no longer considered contrary to Policy C30 of the adopted Cherwell Local Plan and guidance in the NPPF.

Highway Safety and access

- 5.28 The comments of the Local Highway Authority do not amount to an objection and it would be reasonable to impose conditions in the event of the application being approved. There is no objection to the level of parking provision and it would seem unreasonable to require additional on site parking when the site is located close to a number of public car parks and within the town centre which has good public transport links.

Biodiversity, Ecology and Trees

- 5.29 The Council's Ecologist is satisfied that the building is unlikely to be an appropriate habitat for bats although nesting birds may utilise the building. Therefore providing the applicant is made aware of the responsibility not to disturb nesting birds there is no reason to object to the application on the grounds of harm to ecology or protected species.
- 5.30 Development proposals should however be seeking enhancements to biodiversity but this is something that can be required through a planning condition in the event of an approval.
- 5.31 There are a couple of existing trees within the site. These do contribute to the visual amenities of the area and are proposed to be retained. These would need to be protected during the construction process and if in the event that they were damaged or died they would need to be replaced by trees of a suitable species and size.

Other issues

- 5.32 The site is not within an area known to flood but the development of the site could result in variations of the amount of surface water. However the existing site is almost entirely made up of buildings and hard standing and the proposal includes areas of green space and provides the opportunity to incorporate sustainable urban drainage features. Despite the initial concerns of the County Council's Drainage Officer it has previously been agreed that an appropriately worded condition can address this point without further information being submitted at this time.

Section 106 contributions

- 5.33 The Government's policy on the use of planning obligations (Section 106 requirements) is set out in the National Planning Policy Framework. Local Planning Authorities must take this guidance into account in their decisions on planning applications and must have good reasons for departing from it. Planning obligations are used for 3 purposes: to prescribe the nature of the development (e.g. requiring a given portion of housing is affordable); compensate for loss or damage created by a development (e.g. loss of open space) and mitigate a development's impact (e.g. through increased public transport provision). The planning obligation must be directly relevant to the proposed development, the 3 key tests being that the requirement should be necessary 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 (para 204 of the NPPF).
- 5.34 It has been agreed with the Council's housing officer that as this proposal is for a care home (C2) then affordable housing contributions will not be sought. This is based on the applicant entering a legal agreement to ensure that the use will remain as such and that there will be an element of care at this 'assisted living' facility. This has been agreed.
- 5.35 Turning to other elements of contributions being sought by the County Council the applicant has stated that the request for a contribution to upgrade the footpath (£10,000) does not, in their opinion, meet the requirements of para 204 of the NPPF in that it is not required to make the development acceptable. The proposed development will result in a significant reduction in vehicle movements. There is also likely to be a significant reduction in person trip movements from what was a busy retail use. This is accepted by the County in their response and the applicant therefore believes that there is no justification for the provision of funding for off-site improvements to the footway network or adjacent highway. At the time of writing this report, this matter was still being re-considered by the County but officers consider that if it cannot be properly justified it should not feature in the heads of terms.
- 5.36 The applicant has also stated that they have a problem with the overall demand on public transport (£18,000) because the site is well located in terms of access to facilities. Demand for public transport is likely to be lower than the previous use of the site and there is no justification for this request in the context of the NPPF. As stated above, this matter needs to be properly justified and officers are of the opinion that as the County Council has already accepted the sustainable nature of the scheme this request may seem somewhat at odds

with the nature of the development and do not comply with the 3 key tests outlined in para 5.33 above.

- 5.37 Finally, £49,500 is being sought by the County Council for day care facilities but the applicant considers that this is totally unnecessary because the nature of the development is such that provision for such facilities is already shown within the building and offered as part of the assisted care package. Depending on the operator access to such facilities are often not exclusive to residents either. As there is personal care provided within the building the applicant would not wish to make any contribution to this. Again officers have some sympathy with this view but await further justification from the County Council.
- 5.38 Negotiations are on going with the applicant as to the type and level of contributions being sought and unfortunately time has not allowed for a conclusion on the matter to be presented at the time of writing this report but we remain confident that the infrastructure directly required to service or serve the proposed development will be provided and that a section 106 agreement can be delivered within the time frame.

Engagement

- 5.39 A 2012 amendment to the Town and Country Planning (Development Management Procedure) Order and the NPPF requires that Local Planning Authority's demonstrate that they have worked with the applicant/agent in a positive and proactive way. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.
- 5.40 A meeting was held on 4 June with the architect in order to progress matters relating to the influence of the design along Linden Road which would appear to be the only outstanding matter (apart from progress on the section 106). Work on the design matters is ongoing and a further meeting was held on 26 June (just prior to this report being finalised) with the applicant and her planning agents. The applicant is concerned about the cost of the delay in proceedings.
- 5.41 Officers have considered how best to process this application so that it can be determined within the statutory time period (31 July 2013) which cannot be moved. As it has been effectively demonstrated that all matters, apart from design, can be properly addressed without causing harm to acknowledged interests, consideration was given to reserving all the detailed matters for later determination, hence this application is now in outline. Legal & Democratic have advised that this process is acceptable provided the applicant withdraws detailed matters in the application. Circular 11/95 as para 44 makes it clear that the applicant, on an outline application, should withdraw such details unless they are clearly for illustrative purposes only.

Conclusion

- 5.42 There is no 'in principle' objection to the siting of a care home use in this specific location within Bicester town centre as residential uses are considered to be acceptable town centre uses. Furthermore the site is adjacent to existing residential areas and will not cause harm to the amenities of neighbours and

this has been effectively demonstrated by the now illustrative drawings. However, a vital aspect of the development is its effects on the street scene and setting of the Conservation Area which is heavily influenced by its design which, thus far, has not been an acceptable aspect of the scheme. Approval of an outline application will allow time for the design matters to be dealt with as sufficient assurances have been given that an acceptable scheme can be produced.

6. Recommendation

Approval, subject to:

- a) the completion of a Section 106 prior to 31 July to the satisfaction of the HPPDM, and
- b) the following conditions:

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

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 4 of the Town and Country Planning (General Development Procedure) Order 2010 (as amended).

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

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 4 of the Town and Country Planning (General Development Procedure) Order 2010 (as amended).

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

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 4 of the Town and Country Planning (General Development Procedure) Order 2010 (as amended).

4. Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents: Application forms and drawing number L01.

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

5. The premises shall be used only for purposes falling within Class C2 specified in the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 and for no other purpose(s) whatsoever.

Reason - In order to maintain the character of the area and safeguard the amenities of the occupants of the adjoining premises in accordance with Policies C28 and C31 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

6. 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 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 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 highway safety and to comply with Government guidance contained within the National Planning Policy Framework.

9. If during development, contamination is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the LPA for, a Method Statement detailing to how to deal with this contamination.

Reason - To ensure that any unexpected contamination encountered during the developments is suitable assessed and dealt with, such that it does not pose a unacceptable risk to ground or surface water in accordance with Government guidance contained in the National Planning Policy Framework.

10. No removal of hedgerows, trees or shrubs not works to or demolition of buildings or structures that may be used by breeding birds, shall take place between the 1st March and 31st August inclusive, unless the Local Planning Authority has confirmed in writing that such works can proceed, based on the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on

the site.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy C2 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 approved, including any demolition, and any works of site clearance, a plan for enhancing biodiversity on site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out 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 C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

12. No external lights shall be erected on the land without the prior express 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 and Government guidance contained within the National Planning Policy Framework.

13. Prior to the first occupation of any dwelling on the site, a final Code Certificate, certifying that the dwelling in question achieves Level 4 of the Code for Sustainable Homes shall be issued, proof of which shall be submitted to and approved in writing by the Local Planning Authority.

Reason – To ensure sustainable construction and reduce carbon emissions in accordance with Government guidance contained within the National Planning Policy Framework.

14. That details (including the siting) of the public art scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall be carried out in accordance with the details so approved.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

PLANNING NOTES

1. Legal Agreement
2. Construction sites
3. Archaeology
4. Your attention is drawn to the content of an email sent dated 17 May 2013 from Thames Water in respect of the application, a copy of which can be

found via the Council's website www.cherwell-dc.gov.uk

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.