

**Site Address: Former Winner's Bargain Centres,  
Victoria Road, Bicester, OX26 6QD**

**15/00412/F**

**Ward:** Bicester Town

**District Councillor:** Cllr D Edwards &  
Cllr D M Pickford

**Case Officer:** Nathanael Stock

**Recommendation:** Approval

**Applicant:** Churchill Retirement Living

**Application Description:** Redevelopment to form 42 sheltered apartments for the elderly, communal facilities, access, carparking and landscaping

**Committee Referral:** Major development

**Committee Date:** 11.06.2015

**Report Type:**

## **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, which is previously developed land, has an area of 0.33 hectares. The existing building is set behind 11-13 Victoria Road (L Harness Funeral Directors) and the Stapletons 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 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 is situated adjacent to and on the boundary with the designated Bicester Conservation Area. The Non-Statutory Cherwell Local Plan and Submission Cherwell Local Plan (January 2014) 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 current proposal includes the demolition of the existing buildings and the erection of a building to form a sheltered housing development of 42 apartments, and associated communal facilities, landscaping, vehicular access and car parking. The applicant states that the proposed use falls within Class C3 of the Uses Classes Order, which stands in contrast to the previous consent (14-00154-F), for a development of assisted living units falling with Class C2 of the Use Classes Order.
- 1.4 This is a full application and includes drawings which show the provision of 26 parking spaces split between two areas, one accessed from Linden Road where the main entrance is shown and one from Victoria Road. Unlike the previous application, one large landscaped amenity space is proposed, between the building and its Victoria Road car parking area. The proposed footprint of the building remains comparable to the existing buildings on the site with the focus being toward Linden Road. Provision for the flats is shown to be over three floors, the building measuring approximately 9.75m high (down from 10.19m under the

extant consent). The proposed materials are a combination of brick and render under a slate roof.

## **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 23 April 2014 and at the time of writing no comments had been received.

## **3. Consultations**

- 3.1 **Bicester Town Council** – RESOLVED that Bicester Town Council welcomes this application but would ask CDC to ensure that there is a pelican or zebra crossing for elderly residents to safely cross what is increasingly becoming a very busy Victoria Road. They also seek assurance that there will be adequate parking on the site.

- 3.2 **Environment Agency** – Low environmental risk; no comments

- 3.3 **Thames Water** – No comments

### **Cherwell District Council Consultees**

- 3.4 **Environmental Services** (Waste & recycling) – No comments

- 3.5 **Environmental Protection** – No comments

- 3.6 **Housing Strategy** – No comments

### **Oxfordshire County Council Consultees**

- 3.7 Oxfordshire County Council has provided a single response relating to all aspects under its 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.

- 3.8 **Transport** – No objections subject to conditions

The proposal is similar to previous applications albeit the nature of the facility would cater for those less dependent upon care services. I have no reason to vary previous recommendations for proposals at this site. To reiterate;

- the proposal would reduce the level of trip generation when compared to the permitted use of the site
- Vehicular access points are appropriate as submitted plans
- Redundant dropped kerbs to be reinstated to improve pedestrian network
- Cycle parking to be increased in the interests of accessibility
- Parking and manoeuvring areas are appropriate as submitted plans
- Travel Plan to be implemented in the interests of accessibility/sustainability

Recommends conditions to require access specification, closure of existing accesses, cycle parking, parking and turning areas, Green Travel Plan and a Construction Management Plan; subsequently has advised that the proposed cycle parking provision is adequate

- 3.9 **Drainage** – Objects: No surface water drainage information has been submitted with this application. As this is a Full Application, we require more information to make a proper assessment.

[CDC **Officer comment:** A drainage impact assessment had been submitted with the current application (ABMH, March 2015), but the Drainage Engineer commented:

“Having looked through the documentation submitted, I can see no information whatsoever regarding surface water drainage. At the Full Planning stage we would expect to see a fairly comprehensive Flood Risk Assessment and some kind of strategy to deal with the surface water. I will need to see documentation along those lines to make a proper assessment of the proposed surface water drainage for the development.”

The applicant’s agent responds:

“Given the size of the site and its location within Flood Zone 1 (low risk) there is no requirement for a flood risk assessment (FRA) to be submitted.”

This comment has been forwarded to the Drainage Engineer and a further response is awaited.]

- 3.10 **Property** – No objections subject to condition (fire hydrants)

Also makes financial contribution request:

**42 x residential care units**

**All care units rated at 1.25 per unit**

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

**42 x 1.25 = 52.5**

52.5 additional residents including:

52.5 resident/s aged 65+

**Legal Agreement required to secure:**

- Adult Day Care £57,750

**Total\* £57,750**

**\*Total to be Index-linked from 1st Quarter 2012 Using PUBSEC Tender Price Index**

- **Administration & Monitoring £1,500**

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

This development is served by Bicester Health & Wellbeing resource centre and this development will place additional pressures on this adult day care facility. To meet the additional pressures on day care provision the County Council is looking to expand and improve the adult day care facility in Bicester.

Contributions are based upon a new Day Care centre offering 40 places per day (optimum) and open 5 days per week; leading to an equivalent costing of £11,000 per place at 1st Quarter 2012 price base (this in non-revenue). Based on current and predicted usage figures we estimate that 10% of the over 65 population use day care facilities. Therefore the cost per person aged 65 years or older is £1,100.

- The contribution for the provision of adult day care infrastructure in respect of this application would therefore be based on the following formula:

£1,100 x 52.5 (the forecast number of new residents aged 65+) = **£57,750**

## 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

H5: Affordable Housing

TR1: Transportation funding

C2: Protected species

C23: Retention of features contributing to character or appearance of a conservation area

C28: Layout, design and external appearance of new development

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

C31: Compatible uses

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

ENV12: Contaminated Land

### 4.2 Other Material Policy and Guidance

National Planning Policy Framework ("the Framework"), in particular paragraphs 9-17 (presumption), 18-20 + 22 (economy), 23-27 (town centres), 29-36 (transport), 47-55 (housing), 56-67 (design), 69-78 (healthy communities), 93-104 (climate change and flooding), 109-125 (natural environment), 126-139 (historic environment) and 186-206 (decision taking)

#### National Planning Practice Guidance

The guidance of most relevance from a policy perspective is:

Paragraph 019 ID: 10-019-20140306 on *How should the viability of planning obligations be considered in decision-taking?*

Paragraph: 020 ID: 10-020-20140306 on *What are the key factors to be taken into account when assessment of viability is required for decision-taking on planning applications and appeals?*

Paragraph: 022 ID: 23b-022-20150326 *What is the process for determining the vacant building credit?*

Paragraph: 023 ID: 23b-023-20150326 *Does the vacant building credit apply to any vacant building being brought back into use?*

#### Submission Cherwell Local Plan (January 2014)

The Submission Local Plan has been through public consultation and was submitted to PINs in January 2014 for Examination. Following suspension of the Hearings in June 2014, Proposed Modifications were submitted on 21 October 2014. The Hearings continued from 9 December 2014 to 23 December 2014. A schedule of further minor modifications and other documents arising from the Hearings were submitted to the Inspector on 6th February 2015. The Inspector's report is expected in the Spring of 2015. The Submission Local Plan does not have Development Plan status but is a material planning consideration. The Plan sets out the Council's strategy for the District to 2031.

The site is not allocated for development but it is partially located within the proposed town centre boundary in Policy Bicester 5 and associated 5.2 key policies map for Bicester. The eastern most part of the site lies within the proposed town centre extension "area of search", which will be reviewed in Local Plan Part 2.

The policies listed below are considered to be material to this case:

SLE2: Securing dynamic town centres  
SLE4: Improved transport connections  
BSC1: District wide housing distribution  
BSC2: Effective and efficient use of land  
BSC3: Affordable housing  
BSC4: Housing mix  
ESD1: Mitigating and adapting to climate change  
ESD3: Sustainable construction  
ESD7: SuDS  
ESD16: The Character of the Built and Historic Environment  
Bicester 5 – Strengthening Bicester Town Centre  
INF1- Infrastructure  
5.2 Key Policies Map: Bicester

The Non-Statutory Local Plan should be considered. Whilst some policies within the Plan may remain to be material considerations, other strategic policies have in effect been superseded by those of the Submission Local Plan as Proposed to be Modified (February 2015).

#### Five year housing land supply

The five year land supply was comprehensively reviewed for the 2014 Annual Monitoring Report which was published on 31 March 2015. The AMR concluded that the district has a 5.1 year supply of deliverable sites for the five year period 2015-2020 (commencing on 1 April 2015). This is based on the housing requirement of the Submission Local Plan (as Proposed to be Modified, February 2015) which is 22,840 homes for the period 2011-2031 and is in accordance with the objectively assessed need for the same period contained in the 2014 SHMA (1,140 homes per annum of a total of 22,800). The five year land supply also includes a 5% buffer for the reasons explained at paragraph 6.28 of the AMR. The presumption in favour of sustainable development, as advised by the Framework, will therefore need to be applied in this context.

As the Council now has a defensible five year housing land supply position the application site is not needed to assist in housing delivery in the near term. It does however need to be considered in the context of the Development Plan and all other material considerations including the need for specialist housing for older people in saved policy H4 and emerging policy BSC4.

#### Strategic Housing Land Availability Assessment Update 2014 (SHLAA)

The latest SHLAA Update (2014) considered part of land at Winners Bargain Centres for residential development as site B1213, Land south of Linden Road. However, at the time of the SHLAA preparation, the site had gained resolution to approve for C2 uses and it was rejected as a potential residential (C3 site). The site later obtained planning permission for C2 use in August 2014. The SHLAA is to inform plan making and does not in itself determine whether a site should be allocated for housing development.

#### Urban Housing Potential Study, 2005

This study identified a larger site noted then to be occupied by 'Winners, L. Hartness Funeral Directors, Simple Tyres and a former recording studio' as having potential for residential development.

## **5. Appraisal**

5.1 The key issues for consideration in this application are:

- Relevant planning history

- Nature of the application
- Principle of development
- Impact on the character and appearance of the area
- Impact on the historic environment
- Residential amenity
- Highway Safety and access
- Biodiversity, ecology and trees
- Affordable Housing and Viability
- Other issues

### **Relevant planning history**

- 5.2 **12/01465/F** – Planning permission was refused on 1<sup>st</sup> 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.*

- 5.3 **13/00484/OUT** – Planning permission was refused on 31<sup>st</sup> July 2013 for the demolition of existing structures and construction of a 36 unit assisted living home (Class C2) together with ancillary accommodation on the following grounds:

*In the absence of a satisfactory planning obligation, the Local Planning Authority is not convinced that the infrastructure directly required to service or serve the proposed development will be provided. This would be contrary to Policies OA1 and TR4, of the Non-Statutory Cherwell Local Plan 2011, Policy INF 1 of the Proposed Cherwell Local Plan Proposed Submission Draft March 2013 and government guidance contained within the National Planning Policy Framework.*

The subsequent appeal (ref. 13/2206623) was dismissed on 28<sup>th</sup> January 2014.

- 5.4 **14/00154/F** – Planning permission was granted 6<sup>th</sup> August 2014, following resolution to grant by Planning Committee on 24<sup>th</sup> April 2014, for the demolition of existing structures and construction of a 40 assisted living units (Class C2) together with ancillary accommodation.

### **Nature of the application**

- 5.5 Whereas the previous three planning applications were for development within Class C2 (residential institutions), the current proposal falls within Class C3 (residential dwellings). Whereas the previous proposal included café, cinema, activity room, staff room and three assisted bathrooms, the current proposal features only an owner's lounge, at ground floor level, and is effectively a proposal for a block of 42 flats.

### **Principle of development**

- 5.6 The application site is not within the boundary of Bicester Town Centre as defined in the adopted Cherwell Local Plan 1996, nor is it allocated as a site for development within the adopted Plan.
- 5.7 Policy H4 encourages the provision of housing schemes for the elderly within convenient reach of shops, community facilities and public transport. The application site meets these criteria, is previously developed land, and is in a highly accessible location. Emerging Policy BSC4 seeks a mix of homes in the interests of meeting housing need, with paragraphs B.118 and B.124 of the emerging Local Plan highlighting the needs of an ageing population at national and local level therefore providing support in principle for proposals which would help meet this type of need.
- 5.8 The site lies partly within the emerging town centre boundary in the Submission Local Plan. While due weight may be attached to its draft policies, until the Inspector's report is received it is considered that the Plan does not attract substantial weight.
- 5.9 Policy Bicester 5 of the emerging Local Plan sets out that the policy aims with regards to the town centre are to encourage the viability and vitality of Bicester town centre by supporting shopping, leisure and other main town centre uses. Although residential uses are not town centre uses as defined by the NPPF. Policy Bicester 5 supports residential uses except where it will lead to a loss of sites for retail or other 'Main Town Centre Uses'. This policy permits the change of use of sites in the town centre for residential development if proposals contribute significantly to the regeneration of the town centre.
- 5.10 The redevelopment of the Winners site would lead to the loss of a retail use but it is noted that Winners has not been open for some time and it is understood that during consideration of previous applications on the site, information was provided on activities undertaken to market the site to new prospective occupiers and the enquiries received in response related to residential/care home proposals.
- 5.11 The Council now has a defensible five year housing land supply position and the application site is not needed to assist in housing delivery in the near term. It does however need to be considered in the context of the Development Plan and all other material considerations including the need for specialist housing for older people in saved policy H4 and emerging policy BSC4. The proposal would contribute to the Council's housing land supply
- 5.12 In light of the above, and the extant consent for 40 assisted living units (14/00154/F), which is a material consideration as a 'fall back', it is considered that the principle of development is acceptable.

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

- 5.13 The building subject of the current application has very similar attributes to the approved development – it has a similar footprint, similar eaves height (7.1m compared to 6.7m), similar overall height (9.75m compared to 10.19m), a similarly varied roofline, similar set back from the road, and similar appearance, i.e. brick with two-storey gable projections in render, stone lintels over windows and flat roof dormers at second storey / roof level.
- 5.14 A majority of the buildings in the immediate area are domestic in scale and, despite some of the commercial buildings having large footprints, the heights of buildings do not tend to exceed that of domestic properties. The proposed building

is proposed at 9.75m, whereas properties close by are between 6 and 8 metres. However, it is of a similar scale to (indeed slightly shorter than) the approved development, which was adjudged not to necessarily harm the residential scale of the surroundings if other design elements were acceptable.

- 5.15 The current proposal may feature more flat roof than did the approved scheme, and thus may appear slightly bulkier than its predecessor, but not to a significant degree. It would feature a greater number of windows in its flank ends, especially at the southern end facing towards Bath Terrace, but if anything these help to break up the mass and add more visual interest than under the approved scheme.
- 5.16 Given the scale of the building relative to its surroundings, and its resultant visual impact, it would be important to secure high quality materials, as well as a good landscaping scheme, including replacement tree planting and appropriate boundary wall treatment along Linden Road and Victoria Road. These details can be secured by appropriately worded conditions.
- 5.17 Overall, it is considered that the current proposal satisfactorily respects its context, is of an acceptable layout and is relatively similar to the approved scheme in many elements of its design. It is therefore considered that the proposal accords with Policies C28 and C30 of the Cherwell Local Plan and Policy ESD16 of the Submission Local Plan.

#### **Impact on the historic environment**

- 5.18 The LPA has a statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area (CA). Paragraph 131 of the Framework sets out that in determining planning applications, LPAs should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. Para 132 of the Framework confirms that the significance of a designated heritage asset (including CAs) can be harmed or lost through development within its setting.
- 5.19 The designated 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 (locally listed) 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.
- 5.20 Bath Terrace is very traditional and retains much of the character that is likely to have justified its inclusion within the CA boundary, and this is despite it being the rear elevations that face the application site. However the view of the CA 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. There are 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. Generally, however, it is largely service areas and unsympathetic extensions that are visible.
- 5.21 The current proposal, having a similar height, scale and siting to the approved scheme, accordingly has a similar impact on the setting of the CA.
- 5.22 At the time of the previous application, the Conservation and Design Officers expressed concern at the presence of windows in the flank elevation close to 11-



13 Victoria Road, and the potential consequence for future development of that neighbouring site. A similar situation persists under the current proposals, though with the exception of three kitchen windows the openings all have a secondary purpose. However, the impact of the fenestration (number, arrangement, detailing, etc.) is considered a positive factor for the development's impact on the setting of the Conservation Area, and the presence of kitchen windows in this flank elevation is substantially similar to the approved scheme.

- 5.23 It is therefore considered that the proposed development would preserve the character and setting of the designated Conservation Area and the locally listed Bath Terrace, and would thus accord with Policies C28 and C30 of the Cherwell Local Plan and Policy ESD16 of the Submission Local Plan in this regard.

### **Residential amenity**

- 5.24 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.
- 5.25 While the proposal may be considered to dominate neighbouring dwellings to some extent, some of the residential properties on the northern side of Linden Road do not currently enjoy a particularly pleasing outlook and this would change significantly. Having an active frontage which does not directly face dwelling frontages would balance out the effect from the increase in height. The nearest Linden Road properties are adequately set back from the road with the closest distance being to No. 37 at approximately 20 metres. Other dwellings are further away and at oblique angles to the proposal. It is considered that the development is unlikely to result in a demonstrable level of over-dominance or overshadowing. In addition, the current proposal is substantially similar to the approved scheme in its impact on these neighbours.
- 5.26 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 a perception of overlooking towards the properties on the north side of Linden Road but in reality the proposed building would not cause undue overlooking and loss of privacy as there remains a minimum of 20 metres between the buildings and the relationship is across the public realm, i.e. there is some degree of overlooking from the road.
- 5.27 No. 19a Linden Road is slightly smaller in height than the other dwellings 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 the living conditions of the neighbour, through loss of light or privacy or overbearing development. Again, the relationship is substantially similar to that under the approved scheme.
- 5.28 This neighbouring dwelling is closest to the location of the proposed access and car parking area but, on the basis that there is an existing access point in a similar location, and having regard to the noise generation from the previous use and potential uses (i.e. Class A1 retail), it is considered that the level of noise and disturbance would be acceptable.
- 5.29 The neighbouring dwellings on Bath Terrace are some 45 metres away from the site's south-eastern boundary. However, the proposed building would be situated only 1.5m from that boundary, at the closest point, the other side of which are

located the long, private amenity areas of Bath Terrace dwellings. It would appear that originally only the closest approx. one third of the area was garden and the remainder used as a small holding, but in most cases the gardens now extend up to the boundary.

- 5.30 Under the approved scheme, the openings on the facing flank elevation were to serve hallways and stairs only, but no condition was imposed to require those windows to be obscurely glazed to prevent overlooking. Under the current proposal, ten windows are proposed at first floor level or above in the facing wall, four serving kitchens, four secondary windows to living rooms, and two serving stairwells. On the basis of the number of windows and the amount of building close to the common boundary, it is considered reasonable to require obscure glazing of the living room and stairwell windows, and this would help to reduce the perception of overlooking. This would leave a situation similar to the extant approval. Subject to that condition, the proposal is considered not to have a significantly more harmful effect on residential amenity than the approved scheme.
- 5.31 No other residential neighbours would be materially affected by the proposal – the other neighbours to the site are L Hartness, the funeral directors, the commercial / light industrial building at the SE corner of the site, and the exhaust and tyre garage on Victoria Road.
- 5.32 Overall, therefore, it is considered that the proposal would safeguard the living conditions of the neighbouring occupiers, and the proposal therefore accords with Policy C30 of the adopted Cherwell Local Plan and guidance in the Framework.

### **Highway Safety and Access**

- 5.33 The proposed access points are considered acceptable and the local highway authority has no objections to the proposal, subject to conditions. A greater level of parking is proposed under the current application relative to the approved scheme, 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. The proposal thus accords with Policy TR1 of the Cherwell Local Plan and Policy SLE4 of the Submission Local Plan.

### **Biodiversity, ecology and trees**

- 5.34 At the time of the previous application, it was adjudged that the building was unlikely to be an appropriate habitats for bats, that nesting birds may utilise the building but that provided the applicant was made aware of its responsibility not to disturb nesting birds there was no reason to object to the application on the grounds of impact to ecology or protected species. It is reasonable to take the same view under this current application. It would be appropriate to seek enhancements to biodiversity, through appropriately worded conditions.
- 5.35 Under the previous application the two large trees to the Linden Road site frontage were proposed to be retained, but would have been very close to the building and it was noted that there was some likelihood they would be damaged during the construction process. The current proposal includes their removal. This would have a demonstrable impact on local visual amenity, but the trees are not considered worthy of preservation in their own right and it is considered that their loss would not warrant refusal of the application, particularly because of the threat to their form and health from the approved development.

### **Affordable Housing and Viability**

- 5.36 Saved Policy H5 of the adopted Local Plan is materially out-of-date and will be replaced by Policy BSC3 of the emerging Local Plan once adopted. Emerging Policy BSC3 is supported by the latest information on housing need in the Oxfordshire Strategic Housing Market Assessment, 2014 and plan-making viability evidence.
- 5.37 With regard to Bicester, emerging Policy BSC3 requires that all proposed development that includes 10 or more dwellings (gross), or which will be provided on sites suitable for 10 or more dwellings (gross), will be expected to provide at least 30% of new housing as affordable. The policy allows for the consideration of 'open book' financial analysis when developers consider the proposal to be unviable under the policy requirements.
- 5.38 If following the assessment of open book financial information provided by the applicant the development is proved to be unviable, Development Management officers should undertake negotiations as advised in emerging Policy BSC3 in consultation with CDC's Strategic Housing Advice officer.
- 5.39 The applicant has submitted a supporting statement that seeks to justify not providing Affordable Housing on site on the grounds of non-viability, and evaluates the development's ability to provide for an Affordable Housing commuted sum contribution.
- 5.40 The proposal is for self-contained sheltered units and the applicant's Planning Statement applies local policies on affordable housing (saved Local Plan Policy H5, NSCLP Policy H7 and emerging LP Policy BSC3) to set out the planning merits of the proposal and their viability case. In view of this, policy officers are treating the proposal as falling within Use Class C3 and provide policy comments accordingly. The application form indicates the loss for 952 sq.m. of A1 net floor space.
- 5.41 The Planning Obligations Draft SPD, July 2011 was approved by Executive in May 2011 as informal guidance for development management purposes. Section 4 of this SPD provides advice on CDC's approach to negotiating, funding and delivering affordable housing including arrangements for financial viability and commuted sums payments. Section 3 provides further advice on planning obligation procedures in CDC including viability and Planning requirement Priorities.
- 5.42 The applicant contends that Vacant Building Credit (VBC) applies in this instance. That is, that the gross floor area of the existing buildings within the site should be subtracted from the gross floor area of the proposed building before the Affordable Housing requirement is calculated. The nPPG appears to suggest that VBC may not apply when there is an extant consent in place for development at the site. Officers are seeking legal advice as to whether VBC applies in this instance. A written update will be given at Committee.
- 5.43 The applicant's viability statement has been forwarded to the Council's viability consultant (Bruton Knowles) for assessment. Their advice should be available before Committee.
- 5.44 In addition to Winners, the application site includes a single storey, hall-like building with ancillary land and separate entrance. This building has not been referred to by the applicant in its submission.

- 5.45 According to CDC's Arc Map records the hall-like building and its ancillary land occupy some 0.05 ha of the proposal's site area on its north eastern corner. Planning application records show the hall as Prism Music Studios, The Meeting Room, Linden Road, Bicester (Relevant planning references: CHS.179/94 and 08/00249/F). On 23.04.2008, it was granted permission to extend their hours of operation. The applicant has been asked to comment on this matter.

### **Other issues**

- 5.46 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 which the applicant has confirmed will be delivered. 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**

- 5.47 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 Framework).
- 5.48 The 2013 application was determined at appeal with the nub of the case relating to a disagreement over the level of contributions being sought by the County Council particularly with regard to adult day care requirements for a C2 use. The principle of the contribution was upheld. The only Section 106 contribution request at this time is from the County Council in respect of day care. This would appear to be even more relevant than under previous proposals, giving the demographic of the intended occupants and the lack of facilities within the proposed development.

### **Engagement**

- 5.49 With regard to the duty set out in paragraphs 186 and 187 of the Framework, it is considered that the duty to be positive and proactive has been discharged, in accordance with the Framework's objectives.

### **Conclusion**

- 5.50 There is no 'in principle' objection to the siting of a block of sheltered apartments in this specific location within Bicester town centre as residential uses are considered to be acceptable town centre uses, and the site is a highly accessible location. In addition, the proposal would satisfactorily respect its context, would not cause demonstrable harm to the visual amenity of the locality, would - subject to conditions - safeguard the living conditions of neighbouring residents, and would preserve the setting of the Conservation Area and the significance of the locally

listed Bath Terrace. The proposal would not have a detrimental impact in terms of local highway safety, flood risk or ecological or archaeological interests. The proposal would thus accord with Policies H4, TR1, C2, C28, C30, ENV1 and ENV2 of the Cherwell Local Plan and Policies SLE2, SLE4, BSC1, BSC2, ESD7, ESD16 and Bicester 5 of the Submission Local Plan and Government guidance in the National Planning Policy Framework.

## **6. Recommendation**

### **Approval, subject to:**

- a) the completion of a Section 106 agreement to secure Affordable Housing provision and a contribution towards day care facilities to the satisfaction of the HPPDM, and
- b) the following conditions:

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

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

2. Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents: Application forms, Planning Statement, Design & Access Statement, drawing nos. "P01 A", "P02 A", "P03 B", "P04 B", "P05 A", "P06 A", "P07 A", "P08 B", and the Site Location Plan.

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

3. Prior to the commencement of the development hereby approved, samples of the brick and the render to be used in the construction of the walls of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

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.

4. Prior to the commencement of the development hereby approved, samples of the slate to be used in the construction of the roof of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples 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.

5. Prior to the commencement of the development full details of the enclosures along all boundaries of the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved means of enclosure shall be erected, in accordance with the approved details, prior to the first occupation of

the dwelling.

Reason - To ensure the satisfactory appearance of the completed development in the interests of the visual amenities of the area and to comply with Policy C28 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 refuse bin storage for the site, including location and compound enclosure details, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the dwellings, the refuse bin storage area shall be provided in accordance with the approved details and retained unobstructed except for the storage of refuse bins.

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.

7. Prior to the commencement of the development hereby approved, full details of the fire hydrants to be provided or enhanced on the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the development, the fire hydrants shall be provided or enhanced in accordance with the approved details and retained as such thereafter.

Reason - To ensure sufficient access to water in the event of fire in accordance with Government guidance contained within the National Planning Policy Framework.

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

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

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

season with others of similar size and species.

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

10. 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

11. Prior to the first use of the accesses hereby approved, the existing access onto Linden Road shall be permanently stopped up in accordance with details that shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the means of access shall not be used by any vehicular traffic whatsoever.

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

12. Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

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

13. Prior to the first occupation of the development hereby approved, a Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans" and its subsequent amendments, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Travel Plan shall be implemented and operated in accordance with the approved details.

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

14. Provision shall be made within the layout for pedestrian access to serve the land adjoining to Victoria Road West.

Reason - In order to secure the proper planning of the area and the comprehensive development of adjoining land and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

15. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details

which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

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

16. Prior to the first occupation of the development hereby approved, the parking and manoeuvring areas shall be provided in accordance with the plan approved and shall be constructed from porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site. Thereafter, the parking and manoeuvring area shall be retained in accordance with this condition and shall be unobstructed except for the parking and manoeuvring of vehicles at all times.

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

17. Prior to the commencement of development, a construction traffic management plan must be submitted to, and approved in writing by, the District Planning Authority. The construction works must be carried out in accordance with the details approved in the construction traffic management plan.

Reason - To mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and local residents, particularly at morning and afternoon peak traffic times and to comply with Government guidance contained within the National Planning Policy Framework.

18. Prior to the commencement of the development hereby approved, a detailed scheme for the surface water and foul sewage drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, and prior to the commencement of any building works on the site the approved surface water drainage scheme shall be carried out and prior to the first occupation of any building to which the scheme relates the approved foul sewage drainage scheme shall be implemented. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".

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

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

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled



waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

20. If a potential risk from contamination is identified as a result of the work carried out under condition 19, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'* and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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

21. If contamination is found by undertaking the work carried out under condition 20, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'* and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

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

22. If remedial works have been identified in condition 21, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 21. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

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

23. 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 1<sup>st</sup> March and 31<sup>st</sup> August inclusive, unless the Local Planning Authority has confirmed in writing that such works can proceed, based on 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.

24. 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.

25. 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.

26. The building hereby approved shall be constructed to at least a BREEAM 'Very Good' standard, 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.

27. 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.

#### **PLANNING NOTES**

1. Legal Agreement
2. Construction sites
3. Archaeology
4. The developer needs to be aware of the requirements of the Flood and Water

Management Act 2010.

5. Any works on the public highway, including amended access proposals will require separate OCC approval under S278 of the Highways Act.

**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 through meetings with the architect in order to progress matters relating to the influence of the design.