

**Site Address: Former Lear Corporation,
Bessemer Close, Bicester**

15/02074/OUT

Ward: Bicester Town

District Councillor: Cllrs Mould and Pickford

Case Officer: Linda Griffiths

Recommendation: Refusal

Applicant: Vanderbilt Homes and International Wood Agency Ltd

Application Description: Demolition of existing industrial buildings and erection of 21 affordable dwellings and 49 open market dwellings, with associated new access, open space and landscaping.

Committee Date: 18th February 2016

Committee Referral: Major Application

1. Site Description and Proposed Development

- 1.1 The application site is located on the corner of Launton Road and Bessemer Close. The site measures approximately 1.19 hectares and is currently occupied by a disused industrial building which was formerly occupied by Lear Corporation. Aldi and Wickes are located on Launton Road opposite the site and Joblings Garage immediately opposite in Bessemer Close. The adjacent industrial buildings are all currently occupied. Bessemer Close is a small cul-de-sac off Launton Road which serves these industrial units, including the application site.
- 1.2 Whilst the existing unit on the site is currently served from Bessemer Close, this proposal seeks a new T-junction directly on to Launton Road. The application proposes the demolition of the existing buildings and the erection of 70 residential properties provided in a mix of dwelling houses and apartment blocks. The site is bounded by a main railway line on an embankment to the north, Launton Road to the east, Bessemer Close to the south and existing industrial units to the west. Whilst the application is submitted in outline, the only matter reserved for further consideration is landscaping.
- 1.3 Whilst the site is covered for the majority of area by the existing building and areas of hardstanding, there are a number of trees along the Launton Road frontage, within the public highway and to the Bessemer Close boundary. The railway embankment along the northern boundary is planted with trees. The site is approximately 600mm lower than the footway on the Launton Road boundary.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, site notice and notice in the local press.

2 letters have been received from occupiers of adjacent commercial premises, Joblings Garage and Space Module Self Storage. The following issues were raised

- This is a prime employment location within close proximity to the town centre and should be retained to provide a range of jobs and skills that compliment the current employment offer for local people so that Bicester continues to flourish as a place to live, work and enjoy leisure time.
- Contrary to Local plan Policy SLE1.
- Applicant has not demonstrated that employment should not be retained including showing the site has been marketed; why the use of the site for

employment is not viable and it would limit the amount of land available for employment

- Designated employment area
- Although the site has remained unoccupied for some years, planning history shows that there has been previous commercial interest in the location. However, very little has been done to proactively and effectively market the site for commercial industrial uses
- Will deny local people employment opportunities and add to the out commuting pressures that the Local Plan aims to reduce
- Vital that retain employment areas such as this to satisfy the growing demand and new residents for the 15,000 new dwellings
- Bessemer Close is narrow and serves several businesses
- Proposed 70 dwellings are likely to generate at least 1 car per household. Bessemer Close does not have sufficient capacity to accommodate these vehicles, particularly at peak traffic times
- Will exacerbate the existing traffic flow and parking problems in Bessemer Close
- Potential for vehicles to spill out onto Launton Road which would be dangerous and make it potentially difficult for emergency vehicles to gain access
- Quality of living environment in close proximity to industrial uses. This point has been highlighted and well documented over the years with residents of Fallowfields being in close proximity to Bessemer Close industrial units.
- Success of Space Module Self Storage which occupies one of the units and operates at 90/95% capacity is threatened by the proposal
- Increased traffic congestion

These objections can be read in full on the application file.

Chiltern Railways have no objection to this proposed development. However, we would caution that as the site is adjacent to an operational mainline railway, there will inevitably be noise and vibration from passing trains. Although Chiltern Railways services cease operation during the night, it is not inconceivable that freight trains and maintenance vehicles will continue to run. Therefore the developer may wish to consider suitable noise and vibration mitigations in the plans for the site.

3. Consultations

- 3.1 **Bicester Town Council:** strongly objects to this application. This is a commercial site and should remain so. Converting this area to housing goes against the Local Plan on employment Policy SLE1. We need to preserve employment opportunities and this site should be robustly marketed as an industrial site.

Cherwell District Council Consultees

- 3.2 **Planning Policy Officer:** A large industrial unit occupies the site which was previously used for the manufacture of car components. The application site is surrounded mainly by commercial premises. On the eastern side of Launton Road, opposite the site, are some retail uses including an Aldi Store and a Wickes DIY Store. To the north is a green buffer embankment and the railway line. Planning permission was previously granted in 2008 for the redevelopment of the site for retail units.

Main local Plan Policies

Adopted Cherwell Local Plan 2011-2031

- Policy PSD1: Presumption in favour of sustainable development
- Policy SLE1: Employment development
- Policy SLE4: Improved transport and connections
- Policy BSC1: District wide housing distribution
- Policy BSC2: The effective and efficient use of land
- Policy BSC3: Affordable housing
- Policy BSC4: Housing mix
- Policy ESD1: Mitigating and adapting to climate change
- Policy ESD2: Energy hierarchy and allowable solutions
- Policy ESD3: Sustainable construction
- Policy ESD6: Sustainable flood risk management
- Policy ESD7: Sustainable drainage systems
- Policy ESD15: The character of the built and historic environment

Saved Policies of the Adopted Cherwell Local plan 1996

- Policy C28: Layout, design and external appearance of new development
- Policy C31: Design control

Relevant Policies of the non-Statutory Cherwell local plan 2011

- Policy H1b identifies the site, amongst others, for housing delivery as part of a mixed scheme
- Policy S17b identifies the application site as part of a mixed use B1 and residential application
- Policies D4 and D5

Main Policy Observations

- Whilst some policies within the Non-Statutory Cherwell Local Plan 2011, may remain material, others have in effect been superseded by those of the Local Plan 2011-2031 Part 1. The application site is part of a larger site identified for mixed use B1 and residential development (for about 65 dwellings) in the Non-Statutory Plan (Policy S17b). The principle of residential development in this location is therefore supported by this policy. The Council allocated strategic sites for housing in Local Plan Part 1. Local Plan Part 2 provides the opportunity for considering the allocation of smaller sites which is likely to involve the review of existing allocations but currently Policy S17b is not considered superseded. The council's 2014 Strategic Housing Land Availability Assessment concludes that the allocated site is suitable for mixed use development. It is however noted that the application is not fully consistent with Policy S17b as it only proposes re-development of part of the site in the Non-Statutory Cherwell Local Plan 2011 and the remaining employment uses are not in B1 use.
- The application site is an existing employment site as identified on the Key Policies map for Bicester in the Local Plan (2011-2031). Policy SLE1 of the adopted Local Plan (2011-2031) seeks to retain existing employment land unless the criteria set out in the policy are met. This includes a requirement for marketing the site and consideration of whether it has been vacant in the long term. The NPPF takes a similar approach. The application proposals should fulfil the policy requirements with reference to the circumstances for this application/site. It is noted that the site has been vacant since 2006, is not operating and there will be no apparent loss of existing jobs on site through its redevelopment.
- The building proposed to be removed in the application is in a fairly poor state of repair. It is probably possible to re-use the buildings for employment in accordance with Policy SLE1 but the viability of achieving this should be explored.
- The proposals should be considered against Policy ESD15 and Policies C28 and C31 of the 1996 adopted Local Plan. Considering the location of the site,

with employment uses nearby, design and amenity will be important. Paragraph B.42 of the Local Plan (2011-2031) states that very careful consideration should be given to locating employment and housing in close proximity and unacceptable adverse effects on the amenity of residential properties will not be permitted.

- There is a need to provide new homes and the proposals are consistent with the Local Plan Strategy to locate development in sustainable locations at Bicester (Policy BSC1).
- The Council currently has over a five year supply of deliverable sites as shown in the Council's latest Annual Monitoring Report (2015). The presumption in favour of sustainable development, as advised by the NPPF, will therefore need to be applied in this context.
- The proposal should be considered against Policy SLE4 of the adopted Local Plan (2011-2031). The site is within walking and cycling distance of the town centre and Bicester Village Railway station.
- Development of the site is consistent with Policy BSC2, using previously developed land in a sustainable location.
- The proposals should be in accordance with Local Plan Policies BSC3 and BSC4 and those relating to climate change.

Policy Recommendation

The principle of residential development in this sustainable location is supported by the Non-Statutory Cherwell Local Plan allocation. However, the council has a five year land supply and to justify the loss of employment land for housing, the requirements of Policy SLE1 need to have been considered and met. Any views of the Council's Economic Development Officer should be taken into account. Design and amenity should be considered carefully when considering the surrounding uses.

- 3.3 **Economic Development Officer:** the comments made in respect of 07/02207/F remain relevant to this application. It explained the absence of marketing for business re-use up to 2007 and sadly this has continued for a further eight years to date despite support and enquiries being offered to the owner.

The proposal is contradictory to the Council's economic development strategy and planning policies to safeguard employment land upon which a diverse and resilient range of local employment opportunities can be created to provide a balance to the recent residential development completed and significant additional homes planned. This is especially so in Bicester where there has been a long-term need- and most importantly demand- for employment land to come forward.

Meanwhile the site has not been effectively marketed, despite a strong upturn in demand since 2009. Indeed, it has been left abandoned as not only an eyesore and wasted asset for the town, but also as a health hazard. It became a health hazard due to being left insecure, allowing access to be gained and a fire to be started in part of the offices which was then argued to render the whole building uninhabitable. Since this time, despite claiming the building is uninhabitable due to exposed asbestos and therefore not paying business rates, the building has consistently been left insecure via the highly visible (from Launton Road) side gate whereby members of the public have gained access inside the building.

The apparent total absence of a duty of care to manage the site has been compounded by the owner being extremely uncooperative when offered support and enquiries over the years. This is particularly disappointing as a productive income could have been gained from the site and the community could have gained local employment opportunities. Similar properties on Murdock Road and Telford Road have been refurbished and readily occupied by businesses.

The Local Plan identifies this as established B-class land and a particular issue to

consider with this application is the future impact upon neighbouring commercial properties. The 'illustrative views' show the proposed development as 'an island' with no reference to the adjacent (business) neighbours- a fundamental planning weakness or an introspective proposal. Homes with an industrial estate bounded by road, rail and industry would be likely to constrain the operations of established employers, creating risk for their viability at that location and the jobs provided. The offer of support to the applicant to find a business occupier through the Cherwell Investment Partnership service remains.

- 3.4 **Housing Officer:** The applicant has correctly suggested 21 affordable dwellings of a total of 70. However, the Design and Access Statement indicates an over provision of affordable rented units and under provides shared ownership units. For clarity, of a total of 21 affordable units, there is a requirement for 15 affordable rented units and 6 shared ownership units.

Of the 15 rented units, 50% (8 units) should be built to lifetime homes standards. If there is no lift provision then apartments on the first and second floor cannot meet lifetime homes standards. This means that all 8 lifetime homes units must be provided on the ground floor. Showing wheelchair turning circles in the sitting room and kitchen is not sufficient to meet lifetime homes standards.

For lifetime homes standards, please refer to the guidelines on the Oxfordshire City Council website (technical advice notes: Accessible homes). The Registered Provider that takes on the affordable units will need to be discussed and agreed with the Council.

- 3.5 **Environmental Protection Officer:** comments as follows
Noise – the Noise and Vibration Impact assessment from KP Acoustics, referenced 13329.NVA.01REV.A demonstrates that the required internal levels can be achieved with appropriate glazing and alternative means of ventilation being provided, however, I am not satisfied that the assessment has fully considered the impact of train noise from the adjoining main railway line. I would expect the assessment to take in to account the number and type of train movements and their impact. Also, external noise levels in garden areas have not been considered in the report.

Land Contamination – Further investigation, to include intrusive investigation, will be required on demolition of buildings in addition to the other remedial works in Section 7.1.3 of the Geotechnical Investigation Report from SP Associates referenced SO950-2.

- 3.6 **Landscape Officer:** Comments awaited

- 3.7 **Ecology Officer:** Comments awaited

- 3.8 **Arboricultural Officer:** Comments awaited

Oxfordshire County Council Consultees

- 3.9 **Transport:** No objection subject to conditions and S106.

The development is in a sustainable edge of town centre location being less than 1km to the centre of Bicester. As such it is reasonable to expect that many of the prospective residents could walk or cycle to the many of the key local services that are located there, particularly given the provision of a shared cycleway/footway on the northern/western side of Launton Road from the junction of Bessemer Close as far as Victoria Road. The main bus stops for frequent services to Oxford and other destinations further afield are located in the town centre just beyond 1km away. The site is also well located for the employment sites in this area alongside Launton Road

and Charbridge Lane. Most of the Launton Road sites are within a reasonable walking and cycling distance.

Traffic Generation – the level of traffic generated by this site is considered to be acceptable. The Transport Statement (TS) submitted with the planning application sets out how the site could be re-used/re-developed without the need for planning permission as long as the new use is within the same use class order as now. Using the industry standard TRICS database to estimate the level of trip generation of similar land uses elsewhere in the country, the TS demonstrates that the proposals for homes on this site could actually see fewer vehicle trips on the local transport network during the morning and evening peak hours compared to what could be generated by the site without the need to apply for planning permission.

In any case, the level of traffic generated by the proposed use would still only represent a small percentage of the existing traffic flow on Launton Road and as such the impact on the local network will be limited. Furthermore, the TS's estimate of trip generation is considered to represent a worst case scenario on the basis that only housing sites without an affordable element were extracted from the TRICS database. Generally speaking, affordable homes result in lower levels of traffic generation.

Site Access – a new site access onto Launton Road would appear to be acceptable in principle assuming that adequate visibility splays for a 30mph speed limit can be provided. The fact that the site appears to sit at a lower level than Launton Road will need to be factored into the site access design as it progresses through the S278 process to ensure visibility is adequate. Plans submitted appear to show this particular issue is in hand.

One of the benefits of the site location is the proximity of the food superstore on the opposite side of Launton Road. However, the only pedestrian crossing point of Launton Road is the main desire line, south of Bessemer close and some distance from the proposed main site access. To ensure safe and convenient crossing facilities of Launton Road for people living in this proposed development, a pedestrian refuge island will need to be provided immediately south of the site access junction. This would be delivered by the S278 process.

In situations like this where the site access is off a busy urban road, the county council would expect the first 12m of the site access road to be at least 5.5m wide to prevent vehicles turning in from blocking the main road. The site access should be designed in such a way as to protect people walking and cycling along the existing shared use footway/cycleway. This should involve a raised continuation of the footway/cycleway across the access. The footway/cycleway should bend back slightly so as to allow cyclists and pedestrians to cross away from the carriageway and where it becomes narrower.

Public Transport – Whilst the Manorsfield Way bus stops in the town centre are located just over 1km away from the site, some residents travelling longer distances, eg Oxford or Milton Keynes will be willing to walk that far to catch the bus (S5, X5). However, more than 1km is too far to expect people to walk regularly to catch a local bus.

Whilst there are bus services that run along Launton Road much closer to the site, OCC has recently decided to withdraw subsidy from a wide range of supported bus services. Route 24 along Launton Road, along with associated services 22.23 between Caversfield and Langford Village are on the list of services proposed for withdrawal in 2016.

There are significant development proposals in the wider Bicester area, and

significant developments are proposed at South East Bicester and at Graven Hill. These developments will require the provision of additional new bus services, some of which will be routed via Launton Road towards the Town Centre. Indeed, the local Transport Plan and associated bus strategy propose a future network of commercial bus services including a route along Launton Road and a contribution of £1000 per additional dwelling is required towards establishing this future sustainable bus route.

Other residential developments in the South Eastern sector of Bicester have already agreed to contribute this £1000 per additional house towards the procurement of these new bus services. These include residential developments in Ambrosden and on the outskirts of Bicester. Both Graven Hill and South East Bicester will be making substantial contributions to the cost of these new bus services. In order to help cement this development's sustainable credentials and minimise the amount of vehicular traffic it generates for local journeys, the county council believes that if granted permission it should contribute financially, via a S106 agreement, towards improved bus services along Launton Road in line with what other developments in the area are committing to.

There are currently no bus stops conveniently located near to Bessemer Close junction with Launton Road. Therefore, a £4,000 S106 contribution towards the installation of bus stop flags/poles and clearways in the near vicinity of the development would be required. This would make bus travel more obvious and attractive to residents of this development.

Off-site Walking and Cycling – the site is well connected to existing cycling and walking infrastructure with a shared use cycle/footway running much of the length of Launton Road on its north west side. This not only allows access to the north east of the site but also to other parts of Bicester by means of connections on quieter roads. Having said that, the cycling route to The Cooper School for children living on this development is far from ideal-specifically, Churchill road has been identified by OCC and CDC as being in need of improvement. Part of the scheme costs should be met by the strategic transport contribution that this site is required to pay in line with CDC's Planning Obligations: Draft Supplementary Planning document for general transport and access impacts. This sum is based on a figure of: £442 per 1 bed dwelling, £638 per 2 bed dwelling, £994 per 3 bed dwelling and £1,366 per 4+ bed dwelling. It amounts to £60,340.

Site Road Layout – bin stores and collection points will need to be identified as the site layout progresses to ensure that wheelie bins are not left in inappropriate places, blocking safe and convenient passage of vehicles and pedestrians/cyclists. On the plan showing areas of the site proposed for adoption, some of the area of the parking bays on Bessemer Close is already highway. Details can be clarified as the S278 process progresses if planning permission is granted.

Car Parking – parking provision has been based quite heavily on the approach of providing only allocated spaces for the 3 and 4 bedroom houses. This means that there is less parking needed overall compared to if each unit had allocated parking. This makes for a more efficient use of space on the development. It appears that sufficient parking is provided on the plans although the application form states 110 spaces as opposed to the 116 shown on the site layout plans. It would be helpful for this to be clarified.

There are 8 spaces proposed for the development on highway in Bessemer Close. The developer needs to understand that whilst the county council does not have any objection to the creation of these parking spaces, it is not possible to reserve them for the sole use of residents of this development. In reality, these spaces will ordinarily be available for the use of residents in the evenings and overnight when they will probably need them most. A TRO will be needed for the rest of Bessemer Close

(double yellow lines) to prevent overspill parking from the development which could otherwise block footways and the safe and smooth passage of larger vehicles along this road.

Cycle Parking – given the sustainable location of the development, encouraging as much cycling as possible is important, particularly if the traffic impact of the development is to be kept to a minimum. Secure and convenient cycle parking is an important aspect of ensuring higher levels of cycling. This application suggests that cycles would be parked securely in sheds in rear gardens of houses and in communal areas for the flats. According to Oxfordshire's standards, there ought to be in the region of 140 spaces for residents and more for visitors. The county council encourages the use of covered Sheffield type stands, with an absolute minimum spacing of 85cm.

Options for long-stay secure facilities for residents may include cycle compounds, shared garages or other indoor facilities and cycle lockers. Requirements for visitors' parking are different, but it also needs to be convenient and visible, overlooked and close to the building entrance. It must be sufficient to meet visitor demand and stands/racks must allow for the frame and both wheels to be secured. A condition is recommended to secure the details of cycle parking ahead of commencement of development; the cycle parking will need to be in place before the homes are occupied.

Travel Planning – In order to ensure as sustainable travel as possible associated with the site, a travel plan statement would be required which would provide the framework for travel information packs to be provided to all residents on first occupation. The travel plan statement would need to be put together using the template contained within OCC travel plan guidance document.

- 3.10 **Drainage Officer:** No objection but recommends the imposition of a condition relating to surface water drainage scheme for the site to be submitted and agreed prior to the commencement of any development on the site.
- 3.11 **Education:** Based on the information currently available, this proposed development has been estimated to generate 23.75 primary pupils (including 3.65 Nursery pupils), 13.88 secondary pupils (including 1.78 sixth formers) and 0.38 pupils requiring education at SEN school.

OCC is not seeking Education contributions to mitigate the impact of this development on secondary and SEN education infrastructure. This is solely due to Regulation 123 of the Community Infrastructure Regulations 2010 (as amended), and the need to reserve our ability to seek contributions for larger developments than this in the area in the future.

Nursery Education – since September 2013, under the Local authority (Duty to secure Early Years Provision Free of Charge) Regulations 2012, made under Section 7 of the childcare Act 2006 (as amended by Section 1 of the Education Act 2011), local authorities have been under a statutory duty to secure sufficient nursery education provision for eligible two-year olds, where such eligibility is targeted at 40% of the age group. This is in addition to the statutory duty since September 2012 to secure sufficient nursery education provision for all three year olds.

There is an existing shortage of Nursery places in Bicester. As of summer 2015 the number of nursery places available was only 95% of the estimated number of 2-year-olds qualifying for free nursery education, and 88% of the estimated 3-year-old population.

In the area of the development site, Nursery education for 3-year-olds is provided

through a Nursery class at Longfields Primary School, within the school buildings. This Nursery was over-subscribed for the last academic year.

Developer contributions are sought towards a capital project at Longfields Primary School. The contribution sought is based only on estimated 3-year-olds, as there is not currently a project to increase capacity for 2-year-olds. The proposed development is estimated to generate 18.26 0-4 year olds, i.e. an average of 3.65 children per year of age across this five-year age band. It is therefore estimated that this development will generate 3.65 3-year-olds requiring Nursery education.

Primary Education – demand for Bicester primary school places has risen rapidly in recent years. A strategic approach to expanding primary school capacity across the town is required to meet the demands of the local population and housing growth. Until 2014 Longfields Primary School, the catchment school for this proposed development, offered 40 places per year (280 places for Reception-Year 6; it also offers 39 nursery places for 3 year olds. The school is already operating above this capacity and current pupil forecasts show that this capacity will be insufficient, even without this proposed development.

Developer contributions are sought towards a capital project at Longfields Primary School, planned to complete 2016/17 with an estimated cost of £2,390,000. The school has already increased its Reception in-take to 45, and once the project is complete, the school will offer 60 Reception places per year (420 places for Reception-Year 6) and 52 nursery places, a total increase of 153 places (Nursery-Year 6). This capital project therefore equates to £15,621 per place created.

- 3.12 **Property:** It is calculated that this development would generate a net increase of 174.88 additional residents; including 13.44 residents aged 65+; 123.12 residents aged 20+; 14.3 residents aged 13-19 and 18.26 residents aged 0-4.

A legal Agreement is required to secure:

Local Library – the development is served by Bicester Library. The development proposal generates the need to increase the core book stock held by 2 volumes per additional resident. The price per volume is £10 at 1st quarter 2012 price base; this equates to £20 per resident. The contribution for the provision of library infrastructure and supplementary core book stock in respect of this application would therefore be based on the following **£20 x 174.88 (the forecast number of new residents) = £3,497.60**. The contributions are necessary to protect the existing levels of infrastructure for local residents. They are relevant to planning the incorporation of this major development within the local community, if it is implemented. They are directly related to this proposed development and to the scale and kind of the proposal.

OCC is **not** seeking contributions towards central library, waste management, museum resource centre or adult day care infrastructure from this application due to the pooling restrictions contained within Regulation 123 of the Community Infrastructure Regulations 2010 (as amended) which took effect from 6th April 2015.

Other Consultees

- 3.13 **Thames Water:** comment as follows:

Waste Comments – there are public sewers crossing or close to the development. In order to protect public sewers and to ensure that Thames Water can gain access to those sewers for future repair and maintenance, approval should be sought from Thames Water where the erection of a building or an extension to a building or

underpinning work would be over the line of or would come within 3m of a public sewer.

Surface Water Drainage – the applicant should ensure storm flows are attenuated or regulated into the receiving public network through on or off-site storage.

Water Comments – there is a Thames Water main crossing the development site which may/will need to be diverted at the developer's cost, or necessitate amendments to the proposed development design so that the aforementioned main can be retained. Unrestricted access must be available at all times for maintenance and repair.

- 3.14 **Environment Agency:** The proposal is for residential use and the environmental risks in this area relate to Groundwater protection and potential contamination on site. If infiltration drainage is proposed then it must be demonstrated that it will not pose a risk to groundwater quality. We consider any infiltration SUDS greater than 3m below ground level to be a deep system and generally not acceptable. All infiltration SUDS require a minimum of 1m clearance between the base and peak seasonal groundwater levels. All need to meet the criteria set out in our Groundwater Protection: Principles and Practice (GP3) document. In addition, they must not be constructed in ground affected by contamination.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

The Cherwell Local Plan 2011-2031 Part 1 was formally adopted by Cherwell district Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 Part 1 replaced a number of the 'saved policies' of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the Development Plan. Planning legislation requires planning decisions to be made in accordance with the Development Plan unless material planning considerations indicate otherwise. The relevant planning policies of Cherwell district's statutory Development Plan are set out below:

Cherwell Local Plan 2011-2031 Part 1

Policy PSD1: Presumption in favour of sustainable development

Policy SLE1: Employment development

Policy SLE4: Improved transport and connections

Policy BSC1: District wide housing distribution

Policy BSC2: Effective and efficient use of land

Policy BSC3: Affordable housing

Policy BSC4: Housing mix

Policy BSC 10: Open space, outdoor sport and recreation provision

Policy BSC11: Local standards of provision of outdoor recreation

Policy BSC12: Indoor sport, recreation and community facilities

Policy ESD1: Mitigating and adapting to climate change

Policy ESD2: Energy hierarchy and allowable solutions

Policy ESD3: Sustainable construction

Policy ESD6: Sustainable flood risk management

Policy ESD7: SUDS

Policy ESD10: Protection and enhancement of biodiversity and natural environment

Policy ESD15: Character of the built and historic environment

Policy INF1: Infrastructure

Adopted Cherwell Local Plan 1996 (Saved Policies)

TR1: Transportation funding

- C28: Layout, design and external appearance of new development
C30: Design of new residential development
- ENV12: Contaminated land

4.2 Other Material Policy and Guidance

National Planning Policy Framework 2012
National Planning Policy Guidance

Non-Statutory Cherwell Local Plan 2011

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

H1(b): Mixed use redevelopment
S17(b): mixed use redevelopment

CDC Planning Obligation Draft SPD

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant Planning History
- Principle of Development
- Design and Layout
- Transport and Access
- Residential Amenity
- Noise and Vibration
- Loss of employment
- Ecology
- Trees and landscaping
- Flood risk assessment and drainage
- Contamination
- Planning Obligations

Relevant Planning History

5.2 The current industrial building was last occupied in 2005 by Lear Corporation.

06/02068/F – demolition of existing industrial unit and erection of 3 retail units, health fitness unit and A3 unit with associated parking, servicing and access. The application was withdrawn

07/02207/F – demolition of existing unit and erection of retail park (consisting of 4 retail units and 1 A3 unit with associated parking, servicing and access. The application was withdrawn

08/00709/F – demolition of existing industrial unit and erection of retail park

consisting of 4 retail units, associated parking, servicing and access

15/01043.F – demolition of existing industrial building and erection of 58 dwellings with associated new access, open space and landscaping. The application was withdrawn.

Principle of Development The Development Plan

- 5.3 The Development Plan for Cherwell District comprises the saved policies in the adopted Cherwell Local Plan 1996 and the adopted Cherwell Local Plan 2011-2031. Section 70(2) of the Town and Country Planning Act 1990 provides that in dealing with applications for planning permission the local planning authority shall have regards to the provisions of the development plan in so far as is material to the application and to any material considerations. Section 38 of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination shall be made in accordance with the development plan unless material considerations indicate otherwise. This is also reflected in the National Planning Policy Framework (NPPF) at paragraph 11 which makes it clear that the starting point for decision making is the development plan.
- 5.4 The application site is located within the built up limits of Bicester and currently forms part of an industrial estate. The proposal is a major application for 70 new residential properties. The site was part of an allocation for mixed used re-development within the Non-Statutory Cherwell Local Plan 2011, Policies H1b and S17b for B1 and residential uses. The principle of residential development in this location is therefore supported by this policy. It should be noted however that the application is not fully consistent with Policy S17b as it only proposes re-development of part of the site in the Non-Statutory Local Plan 2011 and the remaining employment buildings are not in B1 use.

Adopted Cherwell Local Plan 2011-2031

- 5.5 The Cherwell local Plan has been through Examination, has been considered by Full Council and is now adopted. The Local Plan is consistent with the NPPF. Policy SLE1 is relevant to this proposal. It is an existing employment site as identified on the Key Policies map for Bicester in the Local Plan (2011-2031). Policy SLE1 seeks to retain existing employment land unless the criteria set out in the policy are met:
- The applicant can demonstrate that an employment use should not be retained, including showing the site has been marketed and has been vacant long term
 - The applicant can demonstrate that there are valid reasons why the use of the site for the existing or another employment use is not economically viable
 - The applicant can demonstrate that the proposal would not have the effect of limiting the amount of land available for employment
- It further advises that regard will be had to whether the location and nature of the present employment activity has an unacceptable adverse impact upon adjacent residential uses.
- 5.6 The proposal must also be assessed against Policy BSC1 which seeks to deliver a wide choice of high quality homes in sustainable locations within the District. Policy BSC2 seeks to make efficient use of land by the redevelopment of brownfield sites or previously used land for new development.
- 5.7 The purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF sets out the economic, social and environmental roles of planning in seeking to achieve sustainable development: contributing to building a

strong, responsive and competitive economy; supporting strong, vibrant and healthy communities; and contributing to protecting and enhancing our natural, built and historic environment (paragraph 70). It also provides (paragraph 17) a set of core planning principles which, amongst other things require planning to:

- Be genuinely plan led, empowering local people to shape their surroundings and to provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency
- Always seek to ensure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Proactively drive and support sustainable economic development
- Support the transition to a low carbon future in a changing climate
- Encourage the effective use of land by reusing land that has been previously developed
- Promote mixed use developments
- Conserve heritage assets in a manner appropriate to their significance
- Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and to focus significant developments in locations which are, or can be made sustainable
- Deliver sufficient community and cultural facilities and services to meet local needs

5.8 The NPPF at paragraph 14 states ‘at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both planning and decision taking.....for decision taking this means’:

- Approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
- Any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
- Specific policies in this framework indicate development should be restricted

Five Year Housing Land Supply

5.10 The 2014 Annual Monitoring Report which was published on 31 March 2015 concluded that the District now had a 5.1 year supply of deliverable sites for the five year period 2015-2020 (commencing on 1 April 2015). This was based on the housing requirement of the Submission Local Plan, now adopted Cherwell Local Plan 2011-2031 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). This 5 year supply included a 5% buffer.

5.11 The new adopted Cherwell Local Plan has been found sound by the Examination Inspector following considerable consultation and examination, furthermore, the Inspector endorsed the housing trajectory as ‘effective and up to date’ which includes a housing land supply for the next five years (paragraph 60 of his report). In approving the trajectory, the Examination Inspector found the ‘modified new housing total and revised housing trajectory represent a reasonable and realistic, deliverable and justified basis for meeting local needs over the plan period’ (paragraph 58).

5.12 The Inspector also found that the 2014 SHMA and the modifications arising from it now properly address the NPPF’s requirements for a significant boost to new housing supply and to meet the full OAN, including affordable housing, as well as take

account of market signals (paragraph 54).

- 5.13 The revised housing trajectory which included the 5% buffer was the main modification submitted to the Secretary of State on 21st October 2014 and considered by the Inspector in his Examination of the Plan when it reconvened in December 2014. The 5% approach was subsequently incorporated into the council's AMR which has been found sound by the Inspector's endorsement of the modified housing trajectory.
- 5.14 A revised AMR dated December 2015 was considered and approved by the council's Executive on 4th January 2016 which confirms that the District now has a 5.6 years Housing Land Supply.
- 5.15 Having regards to the above, it is clear that the Local Plan Inspector considered that the adopted Cherwell Local Plan 2011-2031 provides for a significant boost to new housing land supply which exceeds demographic needs, provides choice and which is supported by a realistic trajectory, and will provide a rolling five year supply of sites in accordance with paragraph 47 of the NPPF. The District therefore currently has a five year supply of deliverable sites.

Design and Layout

- 5.16 Section 7 of the NPPF – 'Requiring Good Design' attaches great importance to the design of the built environment and advises at paragraph 56 that 'good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people'.
- 5.17 The NPPF advises at paragraph 58 that planning policies and decisions should aim to ensure that developments achieve a number of results including the establishment of a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit and that developments should respond to the local character and history and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation. Paragraph 60 advises that whilst particular tastes or styles should not be discouraged, it is proper to seek to promote or reinforce local distinctiveness.
- 5.18 Paragraph 61 states 'although visual appearance and the architecture of individual buildings are important factors, securing high quality design goes beyond aesthetic considerations, addressing the connections between people and places and the integration of the new development into the natural, built and historic environment'.
- 5.19 Paragraph 63 states: 'Local Planning Authorities should not refuse planning permission for innovative designs which help raise the standard of design more generally within the area'.
- 5.20 Paragraph 65 states: 'Local Planning Authorities should not refuse planning permission for buildings or infrastructure which promote high level of sustainability because of concerns about compatibility with an existing townscape, if those concerns have been mitigated by good design'.
- 5.21 Policy ESD 15 of the newly adopted Cherwell local Plan 2011-2031 advises that design standards for new development, whether housing or commercial development are equally important, and seeks to provide a framework for considering the quality of the built environment and to ensure we achieve locally distinctive design which reflects and respects the urban or rural landscape and built context within which it sits. The adopted Cherwell Local Plan 1996 contains saved Policies C28 and C30. Policy C28 states that 'control will be exercised over all new development to ensure that the standard of layout, design and external appearance, including choice of

materials are sympathetic to the character of the urban or rural context of the development'. Policy C30 requires new housing development to be compatible with the appearance, character, layout, scale and density of existing dwellings in the locality and to ensure appropriate standards of amenity. Policy ESD15 also advises that the design of all new developments will need to be informed by an analysis of the context, together with an explanation and justification of the design principles that have informed the design rationale. This should be demonstrated in the Design and Access Statement.

5.22 The appearance of new development and its relationship with its surroundings and built and natural environment is an important factor for consideration. Whilst this is an outline submission, access, layout, appearance and scale are all for consideration as part of this submission.

5.23 The application is accompanied by a Design and Access Statement. Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 advises that the design of all new development will need to be informed by an analysis of the context, together with an explanation and justification of the principles that have informed the design rationale, which should be demonstrated in the Design and Access Statement. The council expects all the issues within this policy to be positively addressed through the explanation and justification in the Design and Access Statement.

5.24 The Design and Access Statement submitted with the application states that the vision for the development on the site is to achieve a sustainable and integrated new development which contributes positively to the local urban context and is locally distinctive.

5.25 The Design and Access Statement also states that the site offers an opportunity of strengthening the sites' frontage to Launton Road with an attractive residential scheme offering enhanced passive surveillance to the area. It is considered however that the proposed scheme is a missed opportunity in terms of Launton Road. Launton Road is a principle road and any new development on the site must seek to front it and provide a strong built frontage. The present scheme does not effectively address the Launton Road frontage. The main access into the site is dominated by car parking and the dwelling on plot 26 has a side elevation and rear garden to this frontage. By proposing dwellings which front Launton Road will also enable the private rear gardens to be less affected by road noise and potential overlooking from the adjacent Launton Road and footpath. The area of public open space and LAP is also proposed adjacent to the access road into the site, but it is considered that this area would be more usable if more contained creating a focal point within the centre of the development. As proposed this area of open space lacks form, function and focus and does not relate properly to the dwellings to which it will serve. The noise and vibration report submitted with the application advise that in order to ensure that outside private amenity space is not affected by noise that acoustic fencing should be provided to rear gardens. No details of this fencing, either in terms of its positioning or appearance has been submitted as part of the application, but long expanses of fencing visible from the public domain and Launton Road would not be considered visually acceptable.

5.26 The residential properties proposed are a mix of two and two and a half storey dwellings arranged in short terraces, pairs or detached units. The units fronting Bessemer Close are proposed as blocks of apartments which are effectively 3 stories in height. Whilst 3 storey buildings may not be inappropriate for this site, it is considered that the scale of the buildings and roofs as proposed which include hipped roofs are not appropriate. The house types have been designed adopting a traditional style with steeply pitched roofs, a hierarchy to the fenestration and clipped eaves, and are generally in principle, subject to greater detail in respect of windows, doors cills etc, considered on balance acceptable in this location. However, notwithstanding

these comments, the 4 bed house types are not considered acceptable, having a mix of hipped roofs, odd cat-slide roof and window style. Due to their positions within the development, these units will be particularly prominent from the public domain, including the Launton Road and are not acceptable. A mix of materials are proposed, these being brick, stone and render.

5.27

In terms of the layout, it is considered that the proposed layout which is dominated by on-street car parking does not result in a strong sense of place or an interesting series of streets and small cul-de-sacs to promote a high quality sense of place and public realm. All vistas into and within the site should terminate with a well-designed building or area of open space. The view into the site from Launton Road does not currently achieve this objective, being too wide and open and dominated by on-street car parking. Furthermore the dwellings at the end of the access road are not symmetrical in their form and appearance and therefore do not sit comfortably within this vista. The majority of the parking spaces provided are not specifically allocated to residences and are not conveniently located to serve the properties. All parking provision is on-street, there is no on-plot parking.

5.28

Whilst during pre-application discussions the proposal has sought to address the Bessemer Road frontage with a stronger built frontage which turns the corner, it is too close to the road frontage with Bessemer close and Launton Road. It is considered that should residential development be considered appropriate on this site that the building must be set further back to provide a degree of privacy for residents and to allow this frontage to be planted with a meaningful landscaped boundary to help mitigate the impacts of the adjacent industrial units and their uses opposite and adjacent and noise and disturbance created by the commercial traffic generated by them and to create a more pleasing outlook for the occupiers thereof. It is also considered that the dwellings proposed at the rear of the site are unfortunate in terms of their outlook and living environment due to their proximity to the adjacent commercial building and the resultant outlook from the rear of these properties.

5.29

Having regard to the above it is considered that the proposed development results in an unacceptable over-development of the site, creating a poor living environment for its residents, and if residential development was to be considered appropriate on this site that the number of units should be reduced.

5.30

It should also be noted that in their consultation response Thames Water have indicated that there are public sewers crossing or close to the development, and that a Thames Water main also crosses the site which may/will need to be diverted at the developers cost, or amendments made to the scheme. This has not been addressed by the applicants in their submission.

5.31

Having regard to the above therefore, it is considered that the scheme proposed fails to comply with the requirements of the NPPF in seeking to ensure that the new development contributes positively to making places better for people, and would be contrary to Policies C28 and C30 of the adopted Cherwell Local Plan 1996 and Policy ESD15 of the adopted Cherwell Local Plan 2011-2031.

Transport, Access and Parking

5.32

A Transport Statement prepared by MJA Consulting Civil and Structural Engineers has been submitted with this application. The proposed car parking provision within the site includes for a total of 116 spaces, where 40 will be allocated to individual dwellings, whilst the remaining 76 will be provided on an unallocated basis around the site for residents and their visitors, however, 8 of these spaces are indicated within the public highway along Bessemer Close. The parking spaces in Bessemer Close cannot be guaranteed for use by residents and visitors and are likely to be used by occupiers and visitors to the units in Bessemer Close. A likely scenario, as the close

is currently congested with parked vehicles during the day. The Transport Statement advises that 106 cycle parking spaces will be provided. These will be in sheds for private dwellings and for the apartments in communal areas. It is not evident from the submission however where these communal cycle stores will be located.

- 5.33 The proposed access to the site is via a simple newly constructed T-junction onto Launton Road with footpaths either side connecting to those existing along Launton Road. This has been accepted in principle by the Highway Authority provided that adequate visibility splays can be provided and that the first 12m of the access road into the site is at least 5.5m wide to prevent vehicles turning in from blocking the main road. The access at this point is also approximately 0.6m below the level of the Launton Road and adjacent public footpath. The applicants have submitted additional plans and details in respect of these. These plans have been assessed by OCC as highway authority and are considered acceptable by them.
- 5.34 The only pedestrian crossing point of Launton Road is off the main desire line, south of Bessemer Close and some distance from the proposed main site access. To ensure safe and convenient crossing facilities of Launton Road of people living in this development, a pedestrian refuge island is required immediately south of the site access junction. This would be delivered by the S278 process.
- 5.35 In terms of the traffic generated by this proposal, the Transport Statement which sets out how the site could be re-used/re-developed without the need for planning permission, concludes that the level of traffic generated by the proposed could be less at peak periods than could be generated by the site. This has been assessed by the Highway Authority who considers that the level of traffic generated by the proposal is acceptable.
- 5.36 In order to ensure as sustainable travel as possible associated with the site, a travel plan statement would be required which would provide the framework for travel information packs to be provided for all residents on first occupation. The travel plan statement would need to be agreed with the highway authority.

Residential Amenity

- 5.37 The immediate context to the site is formed by a garage and petrol filling station to the south, and the Wickes and Aldi stores on the eastern side of Launton Road. Bessemer Close is a short cul-de-sac which serves a number of commercial and industrial units, including the application site currently. To the south west of the site towards the town centre lies a residential area served off Longfields and Victoria Road, from the western side of Launton Road. Whilst the former gas works to the south east of the site was re-developed with residential quite recently, there is clearly a transition from the residential area to the south west along Launton Road to the application site, within the commercial area. If developed for residential purposes it is considered that this would feel quite divorced and separated from the remainder of the residential areas, and could not be easily integrated as the Design and Access Statement envisages.
- 5.38 Whilst the noise and vibration reports accompanying the application indicate that the dwellings would not be subjected to excess noise and vibration disturbance, consideration must also be given to the living environment created for these residential properties. It is considered that a residential development, bounded on all sides by commercial and industrial units, a main railway line and a busy road is not an acceptable living environment and that if residential development on this site was to be considered acceptable it would only be acceptable as part of a comprehensive re-development of Bessemer Close and its commercial and industrial units as identified in the Non-Statutory Cherwell Local Plan 2011 and not on a piecemeal basis as in this case. It is not considered to be in accordance with Policies H1b and S17b of the

Non-Statutory Local Plan as the units are currently not B1 use. Policy SLE1 of the adopted Cherwell Local Plan 2011-2031 states that regard will be had to whether the location and nature of the present employment activity has an unacceptable adverse impact upon adjacent residential uses. One of the core planning principles within the NPPF is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

5.39 The unsuitability of this site on a piecemeal basis for residential purposes is highlighted by the planning history relating to Bessemer Close. Over the years several complaints have been received and investigated from residents living in the existing residential properties in Fallowfields in respect of noise emanating from the various units. These complaints have culminated in the need to serve enforcement notices.

5.40 Having regard to the above, it is considered that the redevelopment of this site for residential purposes as proposed would result in an unacceptably poor living environment for its residents contrary to Policy SLE1 of the adopted Cherwell Local Plan 2011-2031, Policy C30 of the adopted Cherwell Local Plan 1996 and the core planning principles of the National Planning Policy Framework.

5.41

Noise and Vibration

KP Acoustics were commissioned by the applicants to assess the suitability of the application site for residential development in accordance with the provisions of the NPPF and the Noise Policy Statement for England (NPSE). The locations chosen for the survey were to ensure that the data collected was representative of the worst-case levels expected on site due to all nearby noise and vibration sources. Continuous automated monitoring was undertaken for the duration of the survey between 17.00 on 12th October 2015 and 14.00 on 19th October 2015. Weather conditions were generally dry with light winds.

5.42 Internal noise requirements are based on BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings' and WHO Guidelines for Community Noise both provide quantitative guidance for internal and external noise levels in and around buildings. The key noise level criteria recommended for residential spaces are:

Resting – Living rooms – 7.00 to 23.00 – 35dB(A)

Dining – Dining room – 7.00 to 23.00 – 40dB(A)

Sleeping – Bedrooms – 7.00 to 23.00 35dB(A) and 23.00 to 07.00 30dB(A)

5.43 In respect of external amenity areas BS 8233:2014 recommends it is desirable that the external noise level does not exceed 50dBLAeqT with an upper guideline value of 55dBLAeqT which would be acceptable in noisier environments. The main sources of community noise are identified as road, rail and air traffic, industries, construction and public work and neighbours.

5.44 The submitted noise assessment report advises that in order to achieve the necessary internal noise levels, the external building fabric would need to be carefully designed. The report assumes that the non-glazed external building fabric elements of the proposed development would be comprised of blockwork which combined with a good quality double-glazed window would contribute towards a significant reduction of ambient internal noise levels.

5.45 The above report in respect of the noise assessment has been assessed by the Council's Environmental Protection Team Leader who advised that whilst it demonstrated that the required internal levels can be achieved with appropriate glazing and alternative means of ventilation being provided, the assessment had not fully considered the impact of train noise from the adjoining main railway line and had

not assessed the noise levels in garden areas.

- 5.46 A further submission was made by KP Acoustics Ltd in respect of the above comments. In respect of the outdoor areas, the report states that the current ambient noise profile in the North of the development area presents an average level of 45 dB(A) during daytime when compared to the stipulated design range 50-55dB(A). No further mitigation measures are therefore considered necessary by KP Acoustics to achieve good external noise levels in gardens located in the North of the development. The report however, acknowledges that the East, West and South elevations of the site currently present average noise levels which are above the stipulated design range of 50 dB(A), demonstrating that noise control measures would be required. It suggests that in order to attenuate noise emissions from Launton Road (south elevation), an acoustic screen would be recommended for all the proposed external amenity areas facing Launton Road and recommends the construction of a barrier from close-boarded timber slats at a minimum height of 2 metres. In the West and South elevations a similar timber screen (1.8m high) would be recommended in order to attenuate noise emissions from the surrounding roads in all the proposed external amenity spaces.
- 5.47 Further comments in respect of the additional assessment are awaited from the Council's Environmental Team Leader.

Loss of Employment

- 5.48 The application site is within an established industrial area and the remaining units in this close are still in full economic use. Bicester currently suffers from out-commuting and the philosophy behind the Cherwell Local Plan 2011-2031 seeks to address this issue. Bicester is identified as a key location for employment growth on the Oxfordshire Knowledge Spine through City Deal and the Strategic Economic Plan (SEP), which looks to support significant increases in employment at Bicester through infrastructure improvements and land availability. If retained for employment purposes the site would make a valuable contribution to the provision of employment opportunities within Bicester.
- 5.49 The Council's Economic Development Officer raises concerns that the site has not been effectively marketed since it was vacated in 2005 and has been allowed to fall into disrepair by the owner of the site, despite enquiries received in respect of the site being offered to the owner. He also states that the proposal is also contrary to the Council's economic development strategy and planning policies which seek to safeguard existing employment land upon which a diverse and resilient range of local employment opportunities can be created to provide a balance to the recent residential development completed and significant additional homes planned. This is especially so in Bicester where there has been long-term need and most importantly demand for employment land to come forward.
- 5.50 Policy SLE1 of the adopted Cherwell local Plan 2011-2031 seeks as a general principle to continue to protect existing employment land and buildings for employment (B class) uses. It also advises that where existing employment sites have good transport links for commercial vehicles and the proposed use of these sites accords with the Local Plan, new development will be encouraged to ensure efficient use of land, avoiding the need to use valuable countryside. This policy specifically states that where planning permission is required existing employment sites should be retained for employment use unless the following criteria are met:

Policy SLE1

- **The applicant can demonstrate that an employment use should not be retained, including showing the site has been marketed and has been**

vacant in the long term

- **The applicant can demonstrate that there are valid reasons why the use of the site for the existing or another employment use is not economically viable**
- **The applicant can demonstrate that the proposal would not have the effect of limiting the amount of land available for employment**

Employment development will be focused on existing employment sites. On existing operational or vacant employment sites at Banbury, Bicester and Kidlington and in rural areas employment development, including intensification, will be permitted subject to compliance with other policies in the Plan and other material considerations. New dwellings will not be permitted within employment sites except where this is in accordance with specific site proposals set out in this Local plan.

- 5.51 In response to the above the applicants have submitted some information about the marketing of the site, however, this marketing appears to focus on potential retail development on the site rather than industrial/commercial uses. The information submitted also lists a number of potential retail occupiers, but does not give dates. No detailed information has been submitted indicating how and where the site was advertised and marketed for B use class. It is therefore considered that insufficient evidence has been submitted to show that the site has been marketed effectively for business purposes but without success. Whilst the site has been vacant for some time, it does not accord with the requirements of SLE1 in that it is not clear from the submission that the site has been marketed accordingly. Neither has any information been submitted with the application which seeks to justify that the use of the site/building would not be economically viable.
- 5.52 Consideration must also be given to the current employment conditions and the strong message from Central Government that we should be doing all we can to promote jobs in the area and boost the local economy. Whilst the development of this site for residential purposes will provide construction jobs in the short term, no analysis has been made within the submission about the potential loss of jobs should consent be forthcoming for the proposed use. There are already a considerable number of construction jobs in Bicester with the new housing developments currently under construction.
- 5.53 However, notwithstanding the above, the critical shortage of employment land in Bicester is not currently or wholly borne out by the evidence of the Employment Land Study and the adopted Cherwell Local Plan 2011-2031 seeks to allocate strategic sites for employment use in Bicester, these being Bicester Business Park, Bicester Gateway, North East Bicester Business Park and South East Bicester. Having regard to the amount of land allocated for employment uses, along with land which already has consent, the level of harm in respect of the loss of this site for employment purposes requires careful assessment. It is considered that having regard to the above, the fact that the site has been vacant for a number of years, and the size of the site, it could be argued that the proposal is in accordance with bullet point 3 of Policy SLE1 above, and therefore, a refusal based on the loss of employment land cannot be justified in respect of this site on loss of employment land.
- 5.54 Furthermore the NPPF at paragraph 22 advises that 'planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.

- 5.55 It should be noted however, that this does not necessarily mean that the redevelopment of the site for residential purposes is acceptable in this instance. This is considered elsewhere in the report.

Ecology

- 5.56 The application is accompanied by a Preliminary Ecological Appraisal which was carried out by First Environment Ltd on 1st April 2015. This was undertaken to determine the presence of any important habitats or species which might be impacted upon by the proposed development. The appraisal concluded that the site is of low wildlife value and advised that only 2 taxonomic groups of 'important species' need to be considered further, these being nesting birds and foraging/roosting bats and recommends that the proposed new development might include the provision of bird and bat boxes. It recommends that any trees/hedgerows or planting are removed outside the bird nesting season. The report also recommends that a bat survey will be necessary to ascertain whether or not bats use the site for roosting, foraging or as a commuting corridor, and appropriate mitigation measures taken as necessary.
- 5.57 Following the above, a Nocturnal bat survey was undertaken by First Environment Ltd. The emergence surveys began shortly before dusk and continued for about one and a half hours after sunset. The 1st emergence on 4th September 2015 revealed a single Common Pipistrelle commuting along the hedgerow to the north/east of the site. The 2nd emergence on 8th September 2015 revealed two Common Pipistrelles commuting along the hedgerow to the north/east of the site. No bats were observed or recorded emerging from the disused factory building.
- 5.58 Having regard to the above, the ecological reports submitted conclude that the proposed development of the land is unlikely to impact significantly on wildlife if the appropriate mitigation measures are taken and will not lead to a significant loss of habitat in the area.
- 5.59 The NPPF conserving and enhancing the natural environment at paragraph 109 states that 'the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity wherever possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including establishing coherent ecological works that are more resilient to current and future pressures.
- 5.60 Section 40 of the Natural Environment and Communities Act 2006 (NERC 2006) states that 'every public authority must in exercising its functions, have regard to the purpose of conserving (including restoring/enhancing) biodiversity' and;
- 5.61 Local Planning Authorities must also have regards to the requirements of the EC Habitats Directive when determining an application where European Protected Species are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that a 'competent authority in exercising their functions must have regard to the requirements of the Habitats Directive as far as may be affected by the exercise of those functions'.
- 5.62 Articles 12 and 16 of the EC Habitats Directive are aimed at the establishment and implementation of a strict protection regime for animal species listed in Annexe IV(a) of the Habitats Directive within the whole territory of the Member States to prohibit the deterioration or destruction of their breeding sites or resting places.
- 5.63 Under Section 41 of the Conservation Regulations 2010 it is a criminal offence to damage or destroy a breeding site or nesting place, but under Regulation 53 of the Conservation Regulations 2010, licenses from Natural England for certain purposes can be granted to allow unlawful activities to proceed when offences are likely to be

committed, but only if 3 strict derogation tests are met:-

1. Is the development needed for public health or public safety or other imperative reasons of overriding public interest including those of social or economic nature (development)
2. Is there a satisfactory alternative
3. Is there adequate mitigation being provided to maintain the favourable conservation status of the population species

5.64 Therefore where planning permission is required and protected species are likely to be found present at the site or surrounding area, Regulation 53 of the Conservation Habitats and Species Regulations 2010 provides that Local Planning Authorities must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions and also the derogation requirements might be met.

5.65 Whilst the Council's Ecologist has not yet responded in respect of this application, the ecology reports submitted with the application demonstrate that there is limited potential for the development to result in unacceptable or significant adverse impacts on protected species. A number of conditions and informatives would need to be included within any permission to ensure that adequate mitigation and enhancements are included as part of the development.

5.66 Consequently it is considered that Article 12(1) of the EC Habitats Directive has been duly considered in that the welfare of any protected species found to be present on the site will continue, and will be safeguarded notwithstanding the proposed development. The proposal therefore accords with the NPPF and Policy ESD10 of the adopted Cherwell Local plan 2011-2031 in this respect.

Trees and Landscaping

5.67 A tree survey report has been submitted as part of this application which also includes an Arboricultural impact assessment which details the constraints placed on the proposed development from the rooting area of the trees below ground by virtue of their size and position. A table is included within the report which identifies the existing trees on the site, their size, condition and likely lifespan. It is noted that this report identifies that a number of existing trees are in a fair or good condition with a remaining contribution in years of 40 or more, but it would appear that with the exception of a small group of existing trees at the north eastern end of the site, these are all to be removed. Neither does the report assess the existing trees and planting on the existing railway embankment to the north of the site. No consideration appears to have been given to the possibility of the retention of any of the other trees within the development.

5.68 Whilst the layout indicates areas of landscaping, including tree planting, this matter is reserved for future consideration.

Flood Risk Assessment and Drainage

5.69 A detailed Flood Risk Assessment and Drainage Strategy has been submitted as part of the application. The Environment Agency's Flood map illustrates the site is located within Flood Zone 1. The Environment Agency's Risk of Flooding from Surface Water Map also indicates that the development site has a 'very low' risk of flooding from surface water runoff. The submission has been assessed by OCC as drainage authority who raises no objection to the proposal but recommends the imposition of a condition requiring the submission and approval of a surface water drainage scheme for the development.

Contamination

- 5.70 A Geotechnical Investigation Report prepared by SPA Associates was submitted as part of this application. The first investigations were carried out in July and August 2005 followed by a second investigation in June 2006 and a third investigation phase carried out recently under the instruction of Rodd Properties, particularly in order to bring the chemical database for the site up to current day standards. This report and the findings have been assessed by the council's Environmental Protection Team leader who advises that further investigation, to include intrusive investigation, will be required on demolition of the buildings in addition to the further remedial works identified in the report.

Planning Obligations

- 5.71 Due to the scale and residential nature of the proposed development, it is considered that the proposal is likely to place additional demand on existing facilities and services and local infrastructure, including schools, community facilities, public transport, play provision and public open space. Requests for contributions in respect of these have been made as part of the consideration of this application and would need to be secured via a section 106 agreement, to mitigate the impacts of the development in this respect.
- 5.72 Policy INF1 of the adopted Cherwell Local Plan 2011-2031 states that: *development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.* Contributions can be secured via a section 106 agreement provided they meet the tests of Regulation 122 of the Community Infrastructure Regulations 2010.

- 5.73 The following contributions are required as part of this development

CDC

- Play space and open space on site
- £14,711.46 @ April 2015 towards enhanced facilities at Bicester East Community Centre and expansion of the external area to accommodate increased usage
- £22,988.79 @ April 2015 towards community events and projects such as information events, newsletters and welcome packs to support the new residents and integrate them into the community
- Affordable housing 30%
- £106 per property for waste and recycling bins

OCC

- £3,500 to cover the cost of promoting and delivering Traffic Regulation Orders to restrict parking on Bessemer Close
- £70,000 towards the procurement of a commercially viable bus service along Launton Road
- £4,000 towards the cost of establishing a pair of bus stops in the vicinity of Bessemer Close to comprise two pole/flag/information case units and two on-street bus stop clearway markings.
- £60,340 towards cycle improvements identified by the council along Churchill Road.
- £370,999 for the necessary expansion of permanent primary and nursery school capacity serving the area at Longfields Primary School
- £3,497.60 Library book stock

- 5.74 Although the applicant has indicated a willingness to enter into a Section 106 Agreement, a signed completed agreement is not in place that would be acceptable to meet the anticipated infrastructure requirements of the development. A reason for refusal is therefore recommended in this regard.

Engagement

- 5.75 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

Conclusion

- 5.76 In conclusion, having regard to the fact that the District currently has a five year housing land supply and the poor living environment which would be created for residents, it is considered that any benefits of the proposal are significantly and demonstrably outweighed by the adverse impacts such that planning permission should be refused for the reasons set out below.

6. Recommendation

Refuse

1. The development of this site for residential purposes, having regards to its proximity and relationship with adjacent industrial/commercial units, Launton Road and main railway line, and lack of integration with existing residential areas to the south and west, would result in an unacceptably poor living environment for the occupiers thereof, contrary to saved Policy C30 of the adopted Cherwell Local Plan 1996, Policy SLE1 of the adopted Cherwell Local Plan 2011-2031 and Government advice within the National Planning Policy Framework
2. The development proposed, by reason of its scale, form, layout and design, taking into account Cherwell District's ability to demonstrate an up to date five year housing land supply is considered to be an overdevelopment of the site which would be detrimental to the visual amenities of the street scene and provide an unacceptable living environment for the occupiers thereof, contrary to saved Policies C28 and C30 of the adopted Cherwell local Plan 1996 and policies SLE1 and ESD15 of the adopted Cherwell Local Plan 2011-2031 and the advice within the National Planning Policy Framework.
3. In the absence of a satisfactory planning obligation, the local Planning Authority is not convinced that the necessary infrastructure directly required as a result of this scheme will be delivered. This would be contrary to Policy INF1 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

Planning Notes

1. There are public sewers crossing or close to the site. Consent would be required for Thames water in respect of any building or structure which comes within 3m of them. A Thames Water main crosses the site.

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 by the timely determination of this application.