

**Case Officer:** Nathanael Stock      **Ward(s):** Banbury Hardwick

**Applicant:** Cherwell District Council

**Ward Member(s):** Cllr Tony Ilott  
Cllr John Donaldson  
Cllr Nicholas Turner

**Proposal:** Discharge of Conditions 8 (specification of parking and manoeuvring), 12 (details of ground and finished floor levels) and 18 (cycle store /parking facilities) and Partial Discharge of Condition 9 (landscaping scheme) of 16/01484/DISC (16/00511/DISC)

**Reason for Referral:** Cherwell District Council is applicant

**Committee Date:** 26.10.2017      **Recommendation:** Approve subject to the approval of planning application 17/01879/CDC

## 1. Application Site and Locality

- 1.1 The application relates to a small area within the western part of a larger site (approx. 26ha) allocated for development, to which Policy Banbury 5 of the Cherwell Local Plan 2011-2031 applies.
- 1.2 The larger site gently undulates across the two agricultural fields from the Warwick Road to lower points in the south west and north east corners and to higher points to the north between the two fields and to the south east. A significant tree boundary runs along the whole of the north of the application area and to the south of the eastern most field. Trees and hedges also run along the remainder of the field boundaries.
- 1.3 There are two public footpaths that run across the site, one across the western side of the western field from the Warwick Road towards Hanwell and one which runs along the northern boundary of the eastern field for a short distance before turning towards Hanwell. There are records of bats and badgers on the site and there are also notable habitats including lowland mixed deciduous woodland and a broadleaved woodland plantation. Other site constraints include naturally occurring contaminants, a minor aquifer and known records of minerals.
- 1.4 The site's surroundings consist of the Hanwell Fields development to the south, amenity space, which is not public, to the east (and which falls within the site allocation), agricultural fields to the north which separate the site from Hanwell and agricultural fields to the west, west of Warwick Road.

## 2. Description of Proposed Development

The applicant seeks the Council's approval of details required by condition, specifically Conditions 8, 9 (partially), 12 and 18 of 16/01484/CDC.

## 3. Relevant Planning History

12/00021/SO - Screening Opinion - Proposed development including up to 380 residential dwellings along with associated access, landscaping and infrastructure – EIAYES

12/01789/OUT - Outline application for up to 350 dwellings, together with new vehicular access from Warwick Road and associated open space – granted with conditions

15/00462/REM - Reserved Matters to outline application 12/01789/OUT - 118 dwellings together with new vehicular access from Warwick Road and associated open space (Phase 1) – granted with conditions

15/01589/REM - Reserved Matters application for 232 dwellings dealing with appearance, landscaping, layout and scale (this development forming the 2nd phase of development which received Outline permission under 12/01789/OUT) – pending consideration

16/00504/CDC – Erection of single storey buildings to provide 6 one bed flats for adults with learning difficulties and autistic spectrum condition, associated parking area, shared landscaped gardens, secured courtyard area, and staff and communal accommodation in an additional unit (seven units in total) – granted with conditions

16/00515/CDC – Erection of single storey building to provide 5 one bed flats for adults with acquired brain injury, associated parking area, secured courtyard area, and staff and communal accommodation in an additional unit (six units in total) – granted with conditions

16/01484/CDC – Erection of single storey building to provide 5 one bed flats for adults with acquired brain injury, associated parking area, secured courtyard area, and staff and communal accommodation in an additional unit (six units in total) (revised scheme of 16/00515/CDC) – granted with conditions

16/01485/CDC – Erection of single storey buildings to provide 6 one bed flats for adults with learning difficulties and autistic spectrum condition, associated parking area, shared landscaped gardens, secured courtyard area, and staff and communal accommodation in an additional unit (seven units in total) (revised scheme of 16/00504/CDC) – granted, conditions

#### **4. Response to Publicity**

N/A

#### **5. Response to Consultation**

Parish/Town Council:

No comments

Internal consultees

**CDC Landscaping Officer:**

Communal Garden

Delete the rather boring Pyrus calleryana (ugly inedible fruit) deleted in favour of a mix of garden ornamental trees for the benefit of residents in the communal garden's central corridor.

Plant *Acer griseum*, *Nyssa sylvatica*, *Cercis siliquastrum* and *Cornus controversa* – all supplied sizes are to be clarified.

The southern boundary with the gabions, the hit and miss fence above them, and the elevation of unit A3, resulting in a visual impact experienced by residents to the south. Visual mitigation is necessary. Therefore, the ornamental *Eleagnus* hedge should be changed to a mixed native hedgerow for the benefit of residents and wildlife (an extension of the wildlife corridor to site boundary's hedgerow and trees). Identify percentages, Latin names of plant species, supplied sizes and planting distance are required. Rabbit guards and bark mulching is required. Include 3 no *Acer campestre* (Field Maple) within the proposed hedgerow – supplied at 14 -16 cm girth. Retain a clear, grassed/mown access to maintain the hedgerow and trees, and the gabion wall.

Replace the 2 non-native *Tilia* 'Rancho' with a single native *Betula pendula* – size to be confirmed – as a feature tree.

Note that the *Ceanothus thyrsiflorus* 'Repens' in the Sensory mix will, once established will be very vigorous and out-compete the neighbouring plants for space, etc. I suggest that it deleted or moved to a larger space on its own.

To ensure the industry standards are achieved for this scheme:

1. Within the planting specification the tree planting should comply with the current British Standard, BS8545: 2014 Trees: from nursery to independence in the landscape – Recommendations. Note that containerised trees establish better than those supplied as root balled in urban areas.

2. The supply and handling of the plants are to comply with Horticultural Trade Association's National Plant Specification and from a HTA certified nursery and delivery and backfilling of all plant material to be in accordance with BS4428/JCLI/CPSE Code of Practice for 'Handling and Establishing Landscape Plants, Parts I, II and III.

Oxfordshire County Council:

None

Other External Consultees:

None

## **6. Relevant National and Local Planning Policy and Guidance**

### **6.1 Development Plan Policies:**

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

PSD1 - Presumption in Favour of Sustainable Development

SLE4 - Improved Transport and Connections  
BSC3 - Affordable Housing  
ESD1 - Mitigating and Adapting to Climate Change  
ESD2 - Energy Hierarchy  
ESD3 - Sustainable Construction  
ESD4 - Decentralised Energy Systems  
ESD5 - Renewable Energy  
ESD7 - Sustainable Drainage Systems (SuDS)  
ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment  
ESD13 - Local Landscape Protection and Enhancement  
ESD15 - The Character of the Built Environment  
ESD17 - Green Infrastructure  
INF1 - Infrastructure  
BAN5 - Land North of Hanwell Fields

#### Cherwell Local Plan 1996 (Saved Policies)

C28 - Layout, design and external appearance of new development  
C30 - Design of new residential development

## **6.2 Other Material Planning Considerations:**

National Planning Policy Framework (The Framework) - National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied.

Planning Practice Guidance (NPPG) – This sets out regularly updated guidance from central Government to provide assistance in interpreting national planning policy and relevant legislation.

## **7. Appraisal**

- 7.1 This application was previously brought before Planning Committee at its meeting 24.11.2016, at which Planning Committee delegated authority to officers to determine the application along with three others (16/00498/CDISC, 16/00499/CDISC and 16/00512/CDISC) “once acceptable amended details have been received”.
- 7.2 Subsequent to that Planning Committee, it became clear that the southern end of the ABI building (the southern of the two being developed by the applicant) was being constructed at raised levels, the southern part of this site falling away steadily from north to south. The originally submitted levels plan did not show existing / original levels.
- 7.3 Subsequent to the aforesaid Planning Committee meeting, a plan was obtained showing those pre-development ground levels. The plan confirmed that the finished floor level at the southern end of the ABI building and the surrounding concrete apron (hard landscaped area) were being constructed approx. 1.2 – 1.4 metres above ground level. This building up of the land has precipitated objections from residents of the newly developed Persimmon dwellings to the south and west of the site.
- 7.4 Planning officers have therefore actively engaged with both residents and the applicant and its contractors to find a solution, including various meetings and conversations with all of those parties.

- 7.5 Residents' principal concerns relate to loss of amenity, specifically outlook and overlooking. Officers consider that given the distances involved, the height of the new development and the relative levels, the outlook of neighbouring residents would not be adversely affected. However, it is considered that overlooking would potentially be caused, particularly because clear views would be possible when standing on the raised concrete apron looking into the neighbours' rear gardens.
- 7.6 Seeking to address these concerns, planning officers have sought an amended levels plan that reduces levels south and west of the building. Ultimately this has not been successful, but as a compromise position officers have eventually been able to secure amended plans which add tree planting within and close to the southern and western edges of the site, shown on the drawings submitted with application 17/01879/CDC.
- 7.7 Notwithstanding the planting now proposed, planning officers consider that this alone would not satisfactorily address the concerns regarding perceived overlooking. By way of compromise, officers consider that the proposed levels can be accepted if a condition of permission is added to the effect that the area of the site to the south of the building and outside of the concrete apron (i.e. the area of the site beyond (west and south of) the 1.8m high fence indicated by a solid brown line on drawing "LS-09 E") is not accessed by anyone "other than from time to time for grounds maintenance purposes in accordance with a management agreement or plan".
- 7.8 It is considered that taken together the tree planting and this new condition to restrict access would satisfactorily address the planning officers' concerns regarding overlooking or perceived overlooking of the private amenity areas to neighbouring occupiers to the south and west of the site.
- 7.9 NB. Some of the particular elements of the planting scheme are not considered appropriate, e.g. non-native species and so amended plans have been sought to address these concerns. It is anticipated that these will be received by the day of Planning Committee.

## **8. Conclusion**

- 8.1 The submitted details are acceptable in the case of Conditions 8 and 18.
- 8.2 Subject therefore to the granting of planning permission for 17/01879/CDC with the addition of the aforesaid condition, officers consider that the proposed landscaping (Condition 9) and the proposed levels (Condition 12) are now acceptable and that this discharge of condition application should therefore be granted.

<p><b>9. Recommendation: Approve subject to the approval of planning application 17/01879/CDC</b></p>
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**CONTACT OFFICER:** Nathanael Stock

**TELEPHONE NO:** 01295 221886