

**Case Officer:** James Kirkham

**Applicant:** Darlow Hemphill Ltd

**Proposal:** Redevelopment of site for mixed use development comprising 19 apartments, commercial space and associated cycle and bin storage facilities

**Ward:** Banbury Cross And Neithrop

**Councillors:** Cllr Hannah Banfield  
Cllr Surinder Dhesi  
Cllr Cassi Perry

---

## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

### **RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS AND A S106 LEGAL AGREEMENT**

#### **Proposal**

The current application seeks to redevelopment the existing car sales site for a mixed use development comprising of commercial uses on the ground floor (use class A2 and B1) and 19 apartments above. Accommodation would be provided on 4 floors.

#### **Consultations**

The following consultees have raised **objections** to the application:

- OCC Highways, Banbury Civic Society

The following consultees have raised **no objections** to the application:

- Town Council, CDC Landscape, CDC Leisure and Recreation, CDC Housing Standards, CDC Environmental Protection, Highways England, OCC Archaeology, OCC Education, OCC Drainage, Thames Water

One letter of objection has been received.

#### **Planning Policy and Constraints**

The site is situated within the strategic regeneration area under Banbury 1: Canalside. The site also lies within the commercial area of Banbury Town Centre under Policy Banbury 7. A small part of the site lies within Flood Zone 2. The site falls within the setting of Banbury Conservation Area and Oxford Canal Conservation Area and also within an area of archaeological interest.

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

#### **Conclusion**

The key issues arising from the application details are:

- Principle of development
- Design, and impact on the character of the area including heritage
- Residential amenity

- Highways
- Affordable housing
- Flood risk and drainage
- Infrastructure
- Other matters

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable subject to conditions.

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.**

## **MAIN REPORT**

### **1. APPLICATION SITE AND LOCALITY**

1.1. The application site is located within Banbury Town Centre. It is located on Cherwell Street to the south west of the traffic light controlled cross road with Bridge Street. The site is currently used for predominantly open car sales area and has a single storey building located on site used in association with this use. Vehicular access exists in the south east corner of the site from Cherwell Street. A petrol filling station exists to the south of the site beyond which lies the bowling alley and retail store. The building formerly known as Crown House exists immediately to the west of site and is currently undergoing conversion and extension to accommodate a range of flats. The site itself is relatively level however Crown House is situated on land over 1 metre higher than the application site.

### **2. CONSTRAINTS**

2.1 The application site is within the strategic regeneration area allocated as Banbury 1: Canalside with the Cherwell Local Plan Part 1 (2015). A small element of the western boundary of the site falls within Flood Zone 2. The Banbury Conservation Area exists approximately 30 metres to the north-west of the site on Bridge Street and the Oxford Canal Conservation Area exists approximately 40m to the west of the site. The site is located within an area of high radon gas and is also located in an area of archaeological interest.

2.2 Amended plans have been received during the course of the application. The officer assessment set out in this report is made on the basis of the latest set of amended plans.

### **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

3.1. The current application seeks permission to redevelop the site to provide commercial floor space (use class A2 or B1 uses) on the ground floor with 19 apartments above. The proposal would provide accommodation over 4 floors with the building having the appearance of 3 storey building with accommodation in the roof space with the provision of dormer windows. It would be constructed of a variety of bricks with stone bands and coping.

3.2. Bin and cycle stores would be provided within the building to serve development on the ground floor. The proposed development would be car-free having no car parking on site.

- 3.3. *Timescales for Delivery:* The applicant/agent has advised that, in the event that planning permission is granted, they anticipate development commencing by the end of 2019 with a 12 to 18 month construction period.

#### **4. RELEVANT PLANNING HISTORY**

- 4.1. The following planning history is considered relevant to the current proposal:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
95/00794/F	Retention of car sales showroom - workshop as from 2nd July 1995	Application Permitted
18/00069/SO	Redevelopment of site for mixed use development comprising 25 apartments, commercial space and associated cycle and bin storage facilities	Screening Opinion not requesting EIA

- 4.2. There are a series of planning applications on the site immediately to the west of the site for the property formally known as Crown House. This allows to the buildings to be converted and extended to provide residential flats. Those conversion and extension works are now well progressed.
- 4.3. Also of wider relevance to the application is planning application 18/00293/OUT at Caravan Park, Station Approach. This forms part of the wider Banbury 1 allocation and has a resolution to grant planning permission for up to 63 apartments on the site.

#### **5. PRE-APPLICATION DISCUSSIONS**

- 5.1. The following pre-application discussions have taken place with regard to this proposal:

<u>Application Ref.</u>	<u>Proposal</u>
17/00326/PREAPP	Pre-Application Enquiry - Proposed mixed use (predominantly residential) development - 32 units
18/00073/PREAPP	Pre-Application Enquiry - Proposed mixed use development- Follow up pre-app to 17/00326/PREAPP

- 5.2. In the pre-application enquiry response officers sought to encourage the applicant to look at a more comprehensive development of the wider area but acknowledged this would be difficult. Residential development on the ground floor was not considered to be appropriate and it was stated a mixed use scheme would be more appropriate. Concerns were raised regarding the scale of the proposal, relationship with surrounding properties and the detailed design. Concerns were also raised regarding the servicing of the building particularly in relation to highway matters. Those plans have been amended as part of the current application submission in an attempt to address these concerns.

#### **6. RESPONSE TO PUBLICITY**

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties

immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 30.03.2019, although comments received after this date and before finalising this report have also been taken into account.

6.2. One objection has been received, from Crown House Limited. The comments can be summarised as follows:

- Loss of light, privacy and views from new apartment at Crown House including gardens.
- Overlooking to neighbouring flats.
- Loss of outlook.
- Noise and disturbance including dust during construction.
- Lack of parking.
- Support the concerns raised by Banbury Civic Society.
- Concerns regarding the loss of income to owners of Crown House, devaluation of properties and competition in renting flats and commercial properties (not a material planning consideration)

6.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

## 7. RESPONSE TO CONSULTATION

7.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

### TOWN COUNCIL

7.2. BANBURY TOWN COUNCIL: **No objections** pending the developer producing a construction management plan showing how disruptions to traffic on Cherwell Street will be mitigated.

### CONSULTEES

7.3. CDC ENVIRONMENTAL PROTECTION: **No objections** subject to condition. The mitigation measures in the Noise Assessment should be secured through condition to provide acceptable levels of internal noise. A Construction Environmental Management Plan to ensure the construction does not significantly affect the amenity of surrounding properties also needs to be conditioned along with a ground investigation relating to contamination.

7.4. CDC STRATEGIC HOUSING: **Comments.** Request 30% affordable dwelling (6 units) which should be access from one stairwell. Suggest 4 x1b flats (affordable rent) and 2 x 2b flats (shared ownership).

7.5. CDC LANDSCAPE: **Comments.** Hard and soft landscaping details will be required. Request a financial contribution towards play areas.

7.6. CDC LEISURE AND RECREATION: **No objection** subject to financial contributions in accordance with the Developer Contributions SPD for off-site outdoor sports facilities (3g pitches at North Oxfordshire Academy), off-site indoor sports facilities (extended fitness provision at Spiceball) and community halls (improvements to Grimsbury Community Hall).

- 7.7. CDC BUILDING CONTROL: **Comments.** A full plans building regulations will be required along with a fire safety strategy plan.
- 7.8. CDC HOUSING STANDARDS: **No objections.**
- 7.9. OCC HIGHWAYS: **Objects** as on-road parking and loading during construction phase will cause significant congestion leading to an unacceptable impact on highway safety. The principle of car-free development is acceptable given the location of the site and if residents have a car the surrounding area has on-street parking controls so the impact on local streets will be insignificant. The proposed level of cycle parking is acceptable.
- 7.10. The site is located at a very busy part of the highway network which experiences significant congestion and associated delay all through the week especially at peak time. The County have recently been looking at extending the northbound left turn lane further back, across the frontage of the site, to improve bus connectivity.
- 7.11. Cherwell Street (including the frontage of the site) is covered by a 'No Stopping Clearway 7am – 7pm restriction. This bans vehicles from any stopping, waiting, loading or unloading unless covered by an exemption such as for a local bus or refuse collection vehicle (RCV). During pre-app concerns regarding servicing of the site including refuse collection. RCV will need to stop to access the bin stores which will cause a temporary obstruction and will exacerbate congestion however this is for a relatively short period of time, once a week and is not considered to be sufficient for objection. Concerns are raised regarding deliveries and taxis' etc. to the site which may in practice stop outside of the site contrary to the Clearway order which would adversely impact on congestion.
- 7.12. The objection relates to the construction impacts of the development. Given the tight nature of the site there is minimal space for site welfare facilities, material storage etc. so it is unlikely any vehicle would be able to enter the site for deliveries etc. Even if they did they would need to reverse back onto the highway. The CTMP advises a banksman would be used but the operation would be disruptive to pedestrians and traffic approaching the junction. The majority of deliveries would have to take place from the kerbside contrary to the Clearway order and causing prolonged inconvenience for pedestrians. Furthermore the presence of deliveries for prolonged periods of time parked so close to the junction will lead to increased congestion and may cause significant delays to the bus service. It is not considered feasible that all construction related activities would be outside of the restricted hours 7am to 7pm. Traffic being held up by parked vehicles loading or unloading may undertake dangerous manoeuvres, weaving into adjacent lanes, resulting in highway safety issues.
- 7.13. It is not considered that the Construction Phasing drawings submitted which seeks to demonstrate how the building would be constructed to limit disruption has overcome this matter. It is considered that the proposal would lead to a severe impact on traffic congestion and highway safety and given the scale of the development this will be felt over a significant period of time. OCC would require detailed evidence of how on-street parking can be avoided during all phases before considering withdrawing its objections. Therefore they object to the proposal as construction activities will inevitably contravene the Traffic Regulation Order and lead to unacceptable impacts on highway safety.
- 7.14. A residential travel plan has been submitted and should be secured by condition.
- 7.15. In relation to drainage the proposal will incorporate a SuDS underground attenuation tank and hydrobrake to manage surface water run-off. The outflow rate to the

Thames Water system will be reduced providing betterment. The calculation demonstrates this is workable allowing for climate change. The proposals show the floor levels 30mm above the 1 in 100 year flood event. However, to manage residual risk, flood resilient materials and Flood Evacuation Plan are proposed. This should be secured by condition.

7.16. OCC ARCHEOLOGY: **No objections.**

7.17. OCC EDUCATION: **No objections.** Given the low level of pupil generated by this development it is not expected to have a significant impact on the need for school places.

7.18. BANBURY CIVIC SOCIETY: **Objects.** Proposal would be premature pending the SPD for the site. The development would be within the immediate setting of the Conservation Areas. The detailed elevations of the building fail to understand Banbury's highly distinctive vernacular design. The development could set the benchmark for the remainder of Banbury 1. The scale, massing, servicing arrangements, materials and design fall short of local planning policy expectations. The proposal will cause traffic issues with servicing and no attempts have been made to obtain access for via Christchurch Close to the rear. There should be links westward across the site. A modest number of car and motorcycle spaces should be provided on site to reduce risk of on-street parking demand.

7.19. THAMES VALLEY POLICE: **No objection** but requests a condition requires Secured by Design Accreditation for the development.

7.20. HIGHWAY AGENCY: **No objection.**

7.21. ENVIRONMENT AGENCY: **No objections.**

7.22. THAMES WATER: **No objections.** Request informative regarding assets.

## **8. RELEVANT PLANNING POLICY AND GUIDANCE**

8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2. 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. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

### CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- PSD1: Presumption in Favour of Sustainable Development
- ESD1: Mitigating and adapting to climate change
- SLE 2: Securing Dynamic Town Centres
- SLE4: Transport and Traffic
- BSC2: The Effective and Efficient Use of Land – Brownfield land and Housing Density
  - BSC3: Affordable Housing
  - BSC10: Open Space, Outdoor Sport and Recreation Provision
  - BSC11: Local Standards of Provision – Outdoor Recreation

- BSC12: Indoor Sport, Recreation and Community Facilities
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD3: Sustainable Construction
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems
- ESD8: Water Resources
- ESD10: Biodiversity
- ESD15: The Character of the Built and Historic Environment
- Banbury 1: Banbury Canalside
- Banbury 7: Strengthening Banbury Town Centre
- INF1: Infrastructure

#### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- ENV 1: Environmental Pollution.

#### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Developer Contributions SPD (2018)
- Banbury Vision and Masterplan SPD (2016)
- Residential Design Guide SPD (2018)
- Draft Canalside SPD (2009)
- Revised National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

#### 8.4. Council Corporate Priorities

Cherwell District Council and South Northamptonshire District Council's Joint Corporate Strategy for 2018-19 sets out the councils three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2018–19. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the districts.

The three corporate priorities are to ensure the Districts are “Protected, Green & Clean”, are places which support “Thriving Communities & Wellbeing”, and are Districts of “Opportunity & Growth”. All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plans for CDC & SNC; (2) increase tourism; (3) protect the built heritage; (4) reduce our carbon footprint & protect the natural environment; (5) mitigate the impact of High Speed 2; and (6) deliver affordable housing.

The remaining key actions are also of significance to the determination of planning applications and appeals in particular delivering the Bicester, Banbury, Kidlington, Brackley, Towcester and Silverstone Masterplans.

The above corporate priorities are considered to be fully compliant with the policy and guidance contained within the National Planning Policy Framework and National Planning Practice Guidance.

## 9. APPRAISAL

9.1. The key issues for consideration in this case are:

- Principle of development
- Design, and impact on the character of the area including heritage
- Residential amenity
- Highways
- Affordable housing
- Flood risk and drainage
- Infrastructure
- Other matters

### Principle of Development

#### *Policy context*

- 9.1. Planning law requires that planning decisions are made in accordance with the Development Plan unless material considerations indicate otherwise. Paragraph 2 of the National Planning Policy Framework (NPPF) makes clear that it does not change the statutory status of the development plan as the starting point for decision making. However the NPPF is a significant material consideration.
- 9.2. Paragraph 11 of the NPPF explains the Government's presumption in favour of sustainable development. For decision-taking this means approving proposals that accord with an up to date development plan and in cases where there are either no relevant development plan policies or those policies important for determining the application are out of date; granting permission unless the NPPF policies provide a clear reason for refusal or any adverse impacts significantly and demonstrably outweigh the benefits.
- 9.3. The Development Plan comprises the saved policies of the 1996 adopted Cherwell Local Plan and the 2015 adopted Cherwell Local Plan (2011-2031) Part 1. The policies important for determining this application are referenced above in Section 8.
- 9.4. The application site is located in Banbury Town Centre commercial area under Banbury 7 of the Cherwell Local Plan Part 1. Banbury 7 states that shopping, leisure and other main town uses will be supported in the town centre and that residential development will be supported except where it will lead to a loss of retail or other main town centre uses. It also encourages mixed use schemes and states that A1 uses will not be permitted within the existing town centre commercial area.
- 9.5. The site also forms a small part of the strategic regeneration allocation identified under Banbury 1: Banbury Canalside which covers 26 hectares of land to the east of the site. This proposes a mixed use regeneration of approximately 700 homes and 15,000m<sup>2</sup> of employment land and commercial uses. The site is located in the north west of the site. The policy indicates that flats and smaller homes will generally be located to the north and west of the site. The policy requires a distinctive residential development which: integrates well and helps make connections to the town centre and railway; uses high quality architecture and materials; focus commercial uses to the north of the site adjacent to the town centre; and implements improved junction arrangements on Bridge Street and Cherwell Street to improve traffic capacity.
- 9.6. Policy Banbury 1 also states that development proposals will be expected to be in accordance with a SPD for the site and ideally come forward for the whole site and cover large area of land in order to achieve continuity in design and vision. However, applications on part of the site may be permitted provided that they clearly

demonstrate their proposals will contribute towards the creation of a single integrated community and take account of the known or anticipated implication of the proposal on adjoining areas. A draft of the Canalside SPD was consulted upon in 2009 but this was not adopted and pre-dates the adoption of the Local Plan. Therefore this is only considered to carry very limited weight in decision making at the current time and gives little detail in regard to the application site itself. Work is progressing on the new SPD but to date has not been published for consultation.

### *Assessment*

- 9.7. The current application is located in the commercial area of the town centre and therefore the principle of a mixed use development on the site with A2 (professional services) and B1 (offices) with residential development above is acceptable in accordance with Policy Banbury 7. The redevelopment of the site also gains support from the NPPF in the re-use of previously developed land, the geographically sustainable location near to transport links and services and providing new uses which would support the vitality and viability of the town centre.
- 9.8. Policy Banbury 1 also provides support for the broad redevelopment of the site for the mix of uses proposed. However, there are concerns regarding the rather piecemeal nature in which the development is coming forward. As outlined above Policy Banbury 1 seeks development proposals come forward for larger parcels of the site; however, it does acknowledge that parts of the site may be permitted provided that they clearly demonstrate their proposals will contribute towards the creation of a single integrated community. At pre-application stage officers did advise the applicant to discuss the potential to redevelop the site with adjacent landowners but these discussions were not fruitful and therefore it is important to consider whether the development will comply with the broad principle of Banbury 1 and not prejudice the delivery of the site.
- 9.9. Policy Banbury 1 also envisages development coming forward following the adoption of the SPD for the site. However, to date this has not been done. The Council has previously refused an application on a different part of the Banbury 1 at Caravan Park on Station Approach (17/01233/OUT). The grounds for this refusal were that in the absence of a Supplementary Planning Document or detailed strategic site wide masterplan it was not possible to form a view on how the proposal would fit in with the overall aspirations of the strategic site and how it will contribute towards the creation of a single integrated community. It was argued that in these circumstances the proposal may prejudice the development of adjacent sites and may frustrate the provision of necessary infrastructure across the wider site. The site at Station Approach was more central to the allocation than the current site, which is more peripheral. However, an appeal against that refusal was allowed, the Inspector concluding that the absence of an SPD or wider masterplan is not a reason why permission should be delayed or withheld on an otherwise acceptable development. Therefore, whilst not ideal, subject to the proposals on the site not prejudicing the delivery of the wider site and delivering the outcome of Policy Banbury 1 the absence of the SPD is not considered to justify refusal.
- 9.10. In examining the context at the current application site in this respect it sits separately from a large proportion of the Canalside allocation being separated by Cherwell Street. In that sense it is therefore somewhat peripheral and visually sits more in the context of the existing development to the west of Cherwell Street. The ongoing redevelopment of the building (Crown House) immediately to the west of the site, which also forms part of the Banbury 1 allocation, also means that this area land is not likely to come forward as part of a wider comprehensive redevelopment of the area in the short to medium term so the possibility of integration with this site is limited. The proposed development has been designed at the back edge of the

pavement and incorporates no openings in the northern and southern elevation of the building so if development proposals were to come forward on the adjacent sites in the future this would not act as a significant constraint to them.

### *Conclusion*

- 9.11. Overall subject to other material considerations it is considered that the principle of a mixed use development on the site would comply with Banbury 7 and be in general accordance with Policy Banbury 1. The benefits of redeveloping a brownfield site and the social and economic benefits of the provision of new housing and commercial floor space also weigh in favour of the development. It is not considered that the proposed development would be likely to prejudice the delivery of the wider Banbury 1 site as it sits separately from the wider allocation and the nature of the surrounding development means that the redevelopment opportunities of the site are likely to be constrained by retained buildings.

### Design, and impact on the character of the area including heritage

#### *Policy Context*

- 9.12. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPF goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 9.13. Paragraph 127 of the NPPF states that planning decisions should ensure that developments function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change; and establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.
- 9.12. Paragraph 130 of the NPPF states that: *“Permission should be refused for development that fails to take the opportunities available for improving the character and appearance of an area and the way it functions.”*
- 9.13. Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 states that: *“New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards.”* The Cherwell Residential Design Guide SPD also encourages development which is locally distinctive and the use of appropriate materials and detailing, but states that new development should avoid the creation of ‘anywhere places’ which do not respond to local context.
- 9.14. Policy Banbury 1 of the Cherwell Local Plan (2011-2031) Part 1 sets out some key site specific plan shaping principles and it requires a distinctive high design quality including the use of robust and locally distinctive materials which reflect Banbury.
- 9.15. Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context as well as compatible with existing buildings.

- 9.16. The site also lies within the setting of Banbury Conservation Area and Oxford Canal Conservation Area. The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be given to the desirability of preserving Conservation Area and their setting.
- 9.17. Paragraph 193 of the NPPF states that: *“When considering the impacts of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”* Paragraph 194 of the NPPF goes on to state that: *“Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification”.*
- 9.18. Policy ESD15 of the Cherwell Local Plan states that new development proposals should: *“Conserve, sustain and enhance designated ‘heritage assets’ (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG.”*

#### *Assessment*

- 9.14. The application has been amended throughout the pre-application discussion and during the course of the application following feedback from officers. This has resulted in a reduction in the height of the proposal from a 5 storey building to the development now proposed which is situated over 4 floors but with the top level of accommodation in the roof space of the building. The site is located on one of the main routes through Banbury and the revised scale of the proposed building is considered to be appropriate given the context of the site and other buildings within the vicinity of the site such as the health centre to the north, bowling alley to the south and Crown House to the west. Whilst the building would be prominent it would allow the creation of a more active and attractive development to Cherwell Street than the existing car dealership.
- 9.15. The proposed development is positioned to the front of the site with a strong frontage created to Cherwell Street. The frontage of the building lies close to the back edge of the pavement which is in keeping with the traditional layout of development in the area, particularly in the town centre where buildings are situated close to the street. The use of commercial properties on the ground floor with residential above allows for a strong active frontage to be formed to Cherwell Street which would add to the vitality and viability of the area. The frontage of the building does have some small staggers to break up the different elements of the building and given their limited nature they are considered to be acceptable.
- 9.16. The proposal attempts to create a sense of rhythm to the building with a series of different elements to the development to relate to the existing pattern of traditional development in the town centre. This is achieved through variations in the eaves and ridge height, use of different brick types and different window arrangements. This helps to break up the overall bulk and form of the building to some extent and seeks to ensure the proposal does not appear too monolithic. The proposed use of brick with stone detailing is also considered to be appropriate for the site and takes account of the traditional materials used in the locality. Full details of these would be secured through condition.
- 9.17. The detailed elevations of the building are based on creating a slight contemporary version of the traditional buildings which characterise Banbury Town Centre. The fenestration of the building is arranged in bays with a strong sense of rhythm,

uniformity and deeply recessed openings. The windows have a strong vertical emphasis and detailing would be provided on the building with stone and with traditional brick bonds. Full details of this could be secured through conditions. Whilst officers consider the building would be improved by having more variety in fenestration between the different elements of the building to provide more distinction between the blocks, on balance given the context of the site and location outside of the Conservation Area this is considered to be acceptable and the small staggers in the building frontage do help with the distinction to some extent.

- 9.18. The top floor of accommodation is provided in the roof space with the provision of dormer windows. Whilst dormer windows are not widely used throughout the area, the provision of dormers does allow for the overall scale and bulk of the building to be reduced which was an earlier concern of officers. The number of dormers has been reduced which helps to ensure the dormer windows would not clutter or dominate the roof slope and on balance these are considered to be acceptable. Another concern officers have raised is regarding the side elevation of the buildings and their overall scale and bulk. The applicant is making attempts to reduce the visual impact of these and it is anticipated that amended plans will be received in this regard.
- 9.19. In terms of the relationship of the design with the wider Banbury 1 allocation. As noted above the proposal is visually separated from the larger element of the allocated site by Cherwell Street and would be experienced in the context of the existing buildings to the west of Cherwell Street such as the health centre, Castle Quay Shopping Centre and the more traditional properties on Bridge Street. Furthermore given that the property immediately to the west of the site is currently being converted to flats, that building is likely to remain in the medium term at least. Whilst it is not possible to state what design approach the Banbury 1 allocation will take ahead of the adoption of the SPD for the site the proposed development is considered to sit appropriately alongside these existing buildings which will form its context and is considered to be acceptable particularly given its relationship to the wider allocated site.
- 9.20. The proposed development is within proximity to the Banbury Conservation Area and the Oxford Canal Conservation Area. Visibility of the site from within the Banbury Conservation Area would be limited due to the screening of existing buildings on Bridge Street and to the west of the site. The general scale and form of the building is considered to be in keeping with the area and not adversely impact on the setting or significance of the Conservation Area particularly in light of the existing use of the site for car sales. The site would also be visible from areas of the Oxford Canal Conservation Area. However, the building would be seen in the context of the wider development of the town centre and existing development around Bridge Street/Cherwell Street crossroads. Given its scale and context it is not considered to harm the significance of the heritage asset through impinging on its setting to any significant extent.

### *Conclusion*

- 9.21. Overall subject to the receipt of amended plans, detailing the side elevations of the building, and conditions relating to materials and architectural detailing, the proposed development is considered to be acceptable in term of scale, form and design and also in regard to its setting on heritage assets.

### Residential Amenities

#### *Policy Context*

- 9.19. Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. Paragraph B.42 in the Cherwell Local Plan Part 1 states that: *“In all cases very careful consideration should be given to locating employment and housing in close proximity and unacceptable adverse effects on the amenity of residential property will not be permitted.”*
- 9.20. The Cherwell Residential Design Guide SPD seeks a separation distance of 22 metres to be achieved between directly facing habitable room windows, such as a rear elevation to rear elevation relationship to avoid unacceptable overlooking, and a distance of 14 metres between a windowless elevation and elevations with a ground floor habitable room window to avoid overbearing impacts.
- 9.21. Saved Policy ENV1 of the Cherwell Local Plan 1996 states that: *“Development which is likely to cause detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution will not normally be permitted.”*

#### *Assessment*

- 9.22. The site is located in an urban town centre location where increased densities are encouraged to make best use of land and provide new development in geographically sustainable locations. Given the urban nature of the environment and the historic constraints of site, separation distances between buildings are often below the Councils normal requirements (as outlined in the Residential Design Guide SPD) that would be applied for more suburban locations were a higher degree of privacy and outlook might be expected.
- 9.23. The application site is located immediately to the west of the new development at Crown House which is undergoing conversion and extension to residential flats. The proposed development would undoubtedly change the outlook from a number of these flats. However, it has to be determined whether the extent of the impacts would justify refusal. The area immediately to the west of the application site around Crown House is used for parking and manoeuvring space so is a semi-private space. It is also noted the application site is on slightly lower ground than Crown House. The proposed development has been designed with the majority of habitable rooms in the new development facing onto Cherwell Street away from Crown House and many of the windows facing over Crown House serving corridors, hallways or secondary windows to living space and could therefore be conditioned to be obscurely glazed to prevent direct overlooking and loss of privacy. However, there are a number of proposed apartments that have bedrooms facing towards Crown House. Where the most direct relationship occurs, the relationship between bedrooms the distance is approximately 18.4 metres. Whilst this is not ideal, given the town centre location of the site alongside the matters outlined above and the limited instances where such instances occur it is not considered to justify refusal of the application.
- 9.24. In terms of outlook the proposal would result in some loss of outlook to flats at Crown House. However, close relationships between buildings in town centres locations are not uncommon and given the distances proposed this in this case alongside the scale of the building this is considered to be acceptable.
- 9.25. In regard to the amenity of the proposed occupants of the flats the relationship with the site to the west is discussed above. During the course of the application amendments have been received to taken on board a number of concerns regarding the amenity of future residents. This has included the removal of habitable windows to flats which directly faced over the adjacent petrol filling station. There do remain

some concerns regarding the outlook to the bedroom window serving the first floor flat at the northern elevation of the building as this faces onto the existing building to the north west of the site at close proximity. However this only affects one flat in the whole scheme and has to be weighed against the wider benefits of the scheme which are considered to outweigh this poor relationship.

- 9.26. The application has been accompanied by a noise assessment which highlights the principal source of noise would be from the traffic on Cherwell Street. This has been reviewed by the Council's Environmental Protection Officer who has no objection to the application subject to the mitigation measures outlined in the report, which include improved acoustic specification glazing and acoustically treated ventilation, being provided. Given the town centre location of the development this is considered to be acceptable and can be controlled through planning condition.

#### *Conclusion*

- 9.27. Given the town centre location of the proposed development the impact on the amenity of the neighbouring properties and amenity of future occupiers is considered to be acceptable.

#### Highway safety

#### *Policy context*

- 9.28. Policy Banbury 1 states parking will be provided that complies with the County Council Standard but also allows for some car free areas. It also refers to improvements to Cherwell Street and improved junction arrangements on Bridge Street and Cherwell Street to improve traffic capacity. It also encourages a layout that maximises walkable neighbourhoods and enables connectivity between new and existing communities. Policy SLE4 states that development which is not suitable for the roads that serve the development and which would have a severe traffic impact will not be supported. It also requires that new development should facilitate the use of sustainable modes of transport such as public transport, walking and cycling. The NPPF has similar themes requiring opportunities to promote walking, cycling and public transport to be identified and pursued. It also requires that safe and suitable access to the site can be achieved for all users and that development should only be refused on highway grounds if there would be unacceptable impacts on highway safety, or the residual cumulative impacts on the road network would be severe.

#### *Assessment*

- 9.29. The site is located adjacent to the Cherwell/Bridge Street crossroad which suffers from congestion throughout the week particularly at peak times. Cherwell Street at this point is a Clearway where no stopping or loading of vehicles is permitted between 7am and 7pm except for buses and refuse vehicles.
- 9.30. The Local Highway Authority (LHA) has raised concerns regarding the servicing of the site for bins and deliveries in the future but notes that bin lorries are able to stop on the highway under the existing restrictions and that whilst the period they were emptying bins would cause further congestion on the highway it would only be for a limited period for once a week. It therefore does not object on that basis.
- 9.31. However the LHA has objected to the application on the basis that the proposed construction phase of the development would cause further congestion and highway safety issues during this period. It has concerns that, given the very constrained nature of the site and the fact much of it will be developed, many deliveries in the

construction phase would need to load from the kerbside of Cherwell Street and this would cause further congestion leading to highway safety issues in an already congested area for sustained periods of time. This would also cause inconvenience to pedestrians using the footpath which is very likely to need closing for these periods.

- 9.32. The applicant has provided a construction phasing plan to show how the building could be phased to limit this disruption by phasing the construction of the building and retaining the ground floor open for a construction compound whilst the upper floors are complemented. However, the LHA does not consider these overcome their concerns and considers that such kerbside deliveries are bound to occur through the construction phase. Furthermore concerns are raised that it has not been demonstrated that vehicles could turn on site and that vehicles reversing out onto the highway, even with the aid of trained banksmen, is likely to lead to further congestion.
- 9.33. Discussions are ongoing with the applicant and the LHA regarding this matter and it is hoped that matter by be progressed prior to the committee. Whilst officers have significant sympathy with the LHA's view, the temporary nature of the construction activities normally result in only limited weight being attached to such disturbance in the planning balance. Furthermore it is noted that closure of the roads and pavements would require separate consent from the Highway Authority and that stopping on Cherwell Street during the construction period is controlled by enforcement regimes outside of the planning system. Officers also have concerns that if the application were to be refused on this basis it is difficult to see how this part of the allocated Canalside site could be regenerated in the short to medium term as access from Cherwell Street is likely to be required even if a larger development site, including the land to the north and south, was assembled as part of a development site.
- 9.34. It is considered that different options could be explored with the applicant through a revised Construction Traffic Management Plan for example through having smaller delivery vehicles to the site which could enter and turn on the site and to explore the option of only having large deliveries which require vehicles to stop at the kerbside only happening outside of the restricted clearway times (7am – 7pm). Officers are in discussions with the applicant to try and address the concerns of the highway authority.
- 9.35. Overall officers are therefore of the opinion that the impacts from the construction traffic could be mitigated to some extent through further work on the construction traffic management plan. Furthermore that the temporary nature of the disruption needs to be considered and that the wider benefits of the development in bringing forward part of a allocated site need to be weighed in the balance in considering this matter.
- 9.36. The LHA has made reference to potential improvements to the Bridge Street / Cherwell Street junction but given there are no draft or firm proposals for this and it is not clear what the implications would be on the application site it has not objected on this basis and it is not considered that consent could be withheld on this basis as there is no indication that the development of the site would prejudice any such improvements.
- 9.37. The proposed development includes no car parking provision. Cycle parking is provided on site within the building for the apartments. The LHA has no objection to a car free development given the highly sustainable location of the site close to services and facilities and the fact the surrounding roads are controlled by parking restriction and therefore if an occupier did have a vehicle they would be unable to

park in the highway and would be likely to park in the surrounding public car parks near the site.

- 9.38. The Civic Society has raised concerns that the proposal does not include any links through the site to the Christchurch Court to the west of the site. However, the current site could not provide access to site road as this it is separated by land outside of the control of the applicant. If redevelopment of the petrol filling station or retail unit to the south of the site were to come forward such links could be explored.

### *Conclusion*

- 9.39. Overall it is considered that whilst the proposal is not ideal from a highway perspective, the objection from the LHA is based on the construction disruption of the proposal. It is hoped further progress can be made on this matter prior to the committee through discussion between the applicant and Highway Authority and the provision of a revised Construction Traffic Management Plan.

### Affordable Housing

#### *Policy*

- 9.22. Policy Banbury 1 of the Cherwell Local Plan (2011-2031) states that development on the site should make provision for 30% affordable housing and this is in line with the requirements of Policy BSC3 of the Cherwell Local Plan (2011-2031) Part 1 which requires 70% of the affordable housing to be affordable rent and 30% as intermediate homes such as shared ownership.
- 9.23. Policy BSC3 states where an applicant considers that this would make a scheme unviable and open book financial viability assessment will be required to be undertaken. Viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it.
- 9.24. Paragraph 57 of the NPPF states is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case. It states that all viability assessments, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.
- 9.25. The PPG also provides guidance on defining the key inputs into viability assessments. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return.

#### *Assessment*

- 9.26. In accordance with Banbury 1 and Policy BSC3 the proposed scheme would be required to provide 6 affordable housing units with 4 affordable rent units and 2 shared ownership units.
- 9.27. In this case the applicant has argued that the site would not be financially viable with the provision of affordable housing on the site. They have submitted a viability assessment to support their case which has been subject to consideration by an independent external consultant appointed by the Council to determine whether the key inputs and conclusions are reasonable and robust having regard to the particular nature of the development and the site. A full copy of the applicant's

viability assessment and the external consultants' review of viability on behalf of the Council (by Bidwells) is available to view on the Councils website.

- 9.28. It is important to note that for a development to be viable the value generated by a development must be more than the cost of developing it. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return. Without a developer return and landowners premium development is unlikely to come forward.
- 9.29. The applicants' viability assessment concludes that the site would not be viable to provide any affordable housing and even with the absence of any affordable housing the scheme would only provide a developer profit of 3%. Given the risk associated with the development industry there is an expectation for a developer profit to be made to provide an incentive for land to come forward and development to happen. The PPG notes that a developer return of between 15%-20% of gross development value (GDV) may be considered suitable for development for plan making purposes. This approach has also been adopted for decision making.
- 9.30. The external consultant for the council has reviewed the assumptions made by the applicant in their viability assessment in relation to revenues and costs, and agrees with most of the key inputs into the viability assessment which are in line with the PPG. The consultant has challenged a number of the inputs within the viability appraisal such as the value attributed to the commercial properties, the sales rates of the flats and the profit levels for the commercial units. On this basis they have undertaken their own viability appraisal. However, even adopting the consultants own independent inputs for the site the overall conclusion of the viability is that the scheme is not viable to provide affordable housing. Whilst the external consultants inputs have improved the finances of the scheme this only provides a developer return of circa 5.35% on GDV which is still below the generally accepted level of developer returns outlined in the PPG (15-20% on GDV) and industry expectations.
- 9.31. Overall it is therefore concluded on the basis of the information provided that the scheme cannot support an affordable housing contribution. In accordance with the NPPF the weight to be given to a viability assessment is a matter for the decision maker. In this case the proposed development forms part of an important and challenging Local Plan allocation and is constrained by existing buildings. The delivery of development on this site may help to act as a catalyst to other brings forward other parts of the challenging allocated site. On balance, given the conclusions of the viability assessment, these factors are considered to outweigh the fact the proposal would not provide affordable housing.

### Flood Risk

#### *Policy*

- 9.32. Policy ESD6 of the Cherwell Local Plan (2011-2031) Part 1 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments) towards areas at lower risk of flooding. Banbury 1 states development should take account of the Councils Strategic Flood Risk Assessment.
- 9.33. Policy ESD7 of the Cherwell Local Plan (2011-2031) Part 1 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.

#### *Assessment*

- 9.34. The site lies mainly in Flood Zone 1 (the low probability of flooding 1 in 1000) however small elements of the eastern boundary of the site lie within Flood Zone 2 (medium - 1 in 100 to 1,000 annual probability of flooding) associated with the River Cherwell. The application has been accompanied by a Flood Risk Assessment.
- 9.35. The application site is part of an allocated site and therefore does not need to be subject the sequential test. The proposed residential development is classified as 'More vulnerable' and applying the guidance in the Planning Practice Guidance the exception test is not therefore required as the development is deemed appropriate in this area.
- 9.36. The site is currently laid entirely to hard standing and appears to drain into the main sewer on onto Cherwell Street. The ground floor of the building is proposed to be in commercial use which is less vulnerable to flooding and applicant proposes to use a flood warning system and flood resilient design with the floor level being raised above the 0.1% annual exceedance probability (1 in 1000 probability) . Given the nature of the site now and the slightly lowering of the ground levels the proposals is not considered to increase flood risk elsewhere.
- 9.12. In terms of the drainage strategy it is proposed to drain the site to the surface water sewer. This would be limited to a maximum rate of 2.0 l/s include the provision of a below ground attenuation tanks beneath the building providing a substantial betterment over the existing situation and mitigate increased volumes generated by the proposal. The Lead Local Flood Authority has raised no objection to the application subject to conditions and Thames Water has also raised no objection. On this basis the development is considered to be acceptable in this regard.

#### Infrastructure

- 9.40. Policy INF1 of the Local Plan 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.* Policies BSC11 and 12 require development to provide indoor and outdoor recreation and community facilities. The Developer Contributions SPD 2018 provides further guidance on this and is the starting point for such contributions however the local authority is also required to ensure that any contributions sought meet the following tests, set out at Regulation 122 of the Community Infrastructure Regulations 2011 (as amended):
- Necessary to make the development acceptable in planning terms;
  - Directly relate to the development; and
  - Fairly and reasonable related in scale and kind to the development.
- 9.41. Having regard to the above, the following would be sought if this application were to be approved:
- Off site outdoor sports – £38,328 towards the provision of 3G sports pitch at North Oxfordshire Academy
  - Off site indoor sports – £9,657.22 towards extending the fitness provision at Spiceball Leisure Centre i
  - Community Halls - £12,326.60 towards the improvement/enhancement of Grimsbury Community Hall

- 9.42. The Council's landscape officer has also requested a contribution towards the refurbishment of a local play area. However, given the proposed development accommodates flats (many of which are 1 bedroom) the number of children likely to occupy the development is limited and this contribution is not considered to be justified.

#### Other matters

- 9.43. Policy ESD1 of the Cherwell Local Plan Part 1 states that measures should be taken to mitigate the impact of development within the District on climate change, and Policy ESD2 of the Cherwell Local Plan Part 1 seeks to achieve carbon emission reductions. Policy ESD3 of the Cherwell Local Plan Part 1 encourages sustainable construction methods. The reference to allowable solution in Policy ESD2 and 'zero carbon' are no longer being pursued by the government so are no longer relevant however the water usage requirements of ESD3 are still required to be met. An energy statement to demonstrate the feasibility and compliance with this could be controlled through a condition.
- 9.44. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing sites of biodiversity; and d) minimising impacts on and providing net gains for biodiversity. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value. Given the site is largely laid to well-maintained hardstanding it is therefore of limited ecological value is therefore considered acceptable in this regard.
- 9.13. In regard to air quality, the application has been accompanied by an air quality assessment which concludes the proposed development would be acceptable in this regard. The Councils Environmental Protection Officer has been consulted on this and has no objections to the scheme on this basis.

## **10. PLANNING BALANCE AND CONCLUSION**

- 10.1. The proposed development would provide new housing and commercial units in a sustainable location on a previously developed site and this would comply with Policy Banbury 7 of the Local Plan. The site, however, forms part of the wider Banbury 1 allocation where it was envisaged that an SPD would be adopted for the site to guide development in planned way to deliver the desired outcomes. The current application has been submitted ahead of the adoption of the SPD and in a piecemeal way which is far from ideal. However, the Council has been unsuccessful at appeal on another part of the Banbury 1 allocation in defending such a prematurity argument. Given the site's location at the periphery of the allocation, the design of the proposal and the surrounding land it is considered the site can be developed without prejudicing the wider delivery of the site and the uses proposed are broadly in compliance with advice in Policy Banbury 1. The site would deliver part of an allocated site on a constrained town centre site, which is a benefit arising from the scheme and may act as a catalyst to the wider site.
- 10.2. On balance, and based on the amended plans, the design and scale of the proposal is considered to be acceptable and the impacts on the neighbouring properties are also considered acceptable given the town centre location. There are concerns regarding the impact of the construction traffic on the operation of the highway outside the site and discussions are ongoing with the highway authority and applicant regarding ways this could be mitigated. Evidence has been submitted to

demonstrate that the site is unviable to provide affordable housing and this is a short coming of the development.

- 10.3. Overall it is considered that the environmental and economic benefits of the scheme outweigh the shortcomings of the scheme in regard to the absence of affordable housing provision and the piecemeal nature of the development. It is therefore recommended that planning permission be granted.

## **11. RECOMMENDATION**

**RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY TO GRANT PERMISSION, SUBJECT TO THE RECEIPT OF SATISFACTORY CONSTRUCTION TRAFFIC MANAGEEMNT PLAN, AND SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):**

- a) Payment of a financial contribution towards off site sports and recreation provision and community facilities in the locality as outlined at paragraph 9.41.

### CONDITIONS

#### **Time Limit**

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

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

#### **Compliance with Plans**

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application forms, Noise Assessment (version 2 – 12/3/19), Flood Risk, SUDS and Foul Drainage Assessment (P18-049, dated: 22.03.19) and drawing number 477.LN.001 (Location Plan), 477.LN.002 Rev A (Proposed Block Plan), 477.PL.000 Rev U (Proposed Ground Floor Plan), 477.PL001 Rev V (Proposed First Floor Plan), 477.PL.002 Rev V (Proposed Second Floor Plan), 477.PL.03 Rev U (Proposed Third Floor Plan), 477.PL.005 Rev E (Proposed Roof Plan), 477.PL.200 Rev W (Proposed Front Elevation), 477.PL.201 Rev P (Proposed Rear Elevation) and 477.PL.202 Rev C (Propose Side Elevations)

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

#### **Levels**

3. No development shall take place until details of all finished floor levels in relation to existing and proposed site levels and to the adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be constructed in accordance with the

approved levels.

Reason: In order to safeguard the visual amenities of the area in accordance with advice within Section 12 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

#### **Construction Traffic Management Plan**

4. Prior to the commencement of development, a construction traffic management plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, construction shall be carried out in accordance with the approved details.

Reason: In the interests of highway safety in accordance with the National Planning Policy Framework.

#### **Construction Environmental Management Plan**

Prior to the commencement of the development, a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with approved CEMP.

Reason: To ensure the amenity of the neighbouring properties is not unduly compromised during the construction period in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance in the National Planning Policy Framework.

#### **Land Contamination Desk Study / Site Walkover**

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

Reason: To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

#### **Land Contamination Intrusive Investigation**

6. If a potential risk from contamination is identified as a result of the work carried out under condition 5, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to

inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

#### **Land Contamination Remediation Scheme**

7. If contamination is found by undertaking the work carried out under condition 6, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

#### **Land Contamination Remediation Works**

8. If remedial works have been identified in condition 7, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 7. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

#### **Sustainable Construction**

9. Prior to the commencement of any works associated with the construction of a dwelling, details of the means by which all dwellings will be designed and constructed to achieve an energy performance standard equivalent to a 19% improvement in carbon reductions on 2013 Part L of the Building Regulations (unless a different standard is agreed with the local planning authority) shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved

details and no dwelling occupied until it has been constructed in accordance with the approved energy performance measures.

Reason - In the interests of environmental sustainability in construction in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance in the National Planning Policy Framework.

### **Biodiversity**

10. A method statement for enhancing the biodiversity of the site shall be submitted to and approved in writing by the Local Planning Authority prior to the development reaching slab level. Thereafter, the biodiversity enhancement measures approved shall be carried out prior to occupation and retained in accordance with the approved details.

Reason : To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and government guidance in the National Planning Policy Framework.

### **Noise report**

11. Prior to any development above slab level a noise report should be provided and approved in writing by the local planning authority that demonstrate how all habitable rooms within the dwellings hereby permitted will achieve the noise levels specified in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings) for indoor noise levels. Thereafter, and prior to the first occupation of the dwellings, the dwellings shall be insulated and maintained in accordance with the approved details.

Reason : To protect the amenity of the future occupiers of the development in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and government guidance in the National Planning Policy Framework..

### **Drainage**

12. The development hereby permitted by shall be carried out in accordance with the approved Flood Risk Assessment (FRA) < 24.8.18 / Mixed Use Development, Cherwell Street,(P18-049) / Simpson Consulting Engineers and the following mitigation measures detailed within the FRA:

- Limiting the surface water run-off generated by the 100-year critical storm (with a 40 % allowance for Climate Change) to 2.0 l/s (and not greater than 9.3 l/s) so that it will provide betterment to the existing run-off from the developed site and not increase the risk of flooding off-site. (As shown on Drawing Ref P18-049 :SK01 A of the FRA)
- Use of underground attenuation tank SuDS to provide attenuation storage (Para 9.10 Table 6 of the FRA)
- A SuDS Management and Maintenance Plan (based on the principles outlined in Para 9.20 of the FRA). This will be based on the principles identified in Para 9.20 of the FRA and associated schedule in Appendix N. In addition to those principles, the applicant shall submit a management plan to the local planning authority to be approved in writing identify the party responsible for maintenance of each element of the SuDS prior to any works above slab level. The Management Plan will include a Site Plan identifying the location of each element of the drainage scheme, including access points, maintenance access

easements and outfalls. Maintenance operational areas are to be identified and shown on the plans, to ensure there is room to gain access to the asset, and maintain it with appropriate plant.

The mitigation measures shall be fully implemented prior to the first occupation of the development and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority

Reason: To ensure the site is appropriately drained and does not contribute to flood risk in the locality in accordance with the National Planning Policy Framework.

### **Landscaping**

13. Unless an alternative time frame is agreed in writing by the developer and the Local Planning Authority, no development shall commence above slab level unless a scheme for landscaping the site has been submitted to and approved in writing by the Local Planning Authority which shall include:-

(a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch etc.),

(b) details of the hard landscaping including hard surface areas, pavements, pedestrian areas and steps.

The hard landscape elements shall be implemented prior to the first occupation of the development and shall be retained as such thereafter. The soft landscape elements shall be implemented by the end of the first planting season following the first occupation of the development.

Reason: To ensure that a satisfactory landscape scheme is provided in the interest of well planned development and visual amenity in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Architectural detailing**

14. Notwithstanding the details shown on the approved plans, further details of the architectural detailing of the exterior of the development (including stone banding, brick bonds, etc.) together with the eaves and verge treatment shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the building above slab level. The development shall thereafter be carried out in accordance with the approved details and shall be retained as such thereafter.

Reason: In order to safeguard the visual amenities of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and government guidance in the National Planning Policy Framework.

### **Shop fronts**

15. Prior to the installation of any shop front full details plans of the shop fronts shall

be submitted and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details prior to the first occupation of the building and shall be retained as such thereafter.

Reason: In order to safeguard the visual amenities of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and government guidance in the National Planning Policy Framework.

#### **Schedule of materials**

16. A schedule of materials and finishes to be used in the external walls and roof(s) of the building shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The development shall thereafter be completed in accordance with the approved details and shall be retained as such thereafter.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Brick Sample Panel**

17. The external walls of the building shall be constructed in brickwork, of a type, colour, texture, face bond and pointing which is in accordance with sample panels (minimum 1 metre squared in size) which shall be constructed on site to be inspected and approved in writing by the Local Planning Authority before the commencement of the brickwork. The sample panels shall be constructed in a position that is protected and readily accessible for viewing in good natural daylight from a distance of 3 metres. The panel shall be retained on site for the duration of the construction contract.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Sample of roof materials**

18. Samples of the slates to be used in the covering of the roof of the buildings shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the building above eaves level. The development shall be carried out in accordance with the samples so approved and shall be retained as such thereafter.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Window and door details**

19. Notwithstanding the details on the submitted plans, details of the construction, including cross sections, cill, headers, reveal and colour / finish of the proposed windows and doors to a scale of not less than 1:10 shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of that work. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter.

Reason: In order to safeguard the visual amenities of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Obscure glazing**

20. Prior to the installation of any window a plan indicating which windows shall be fitted with obscured glass shall be submitted and approved in writing with the local planning authority. The development shall thereafter be carried out in accordance with the approved details prior to the first occupation of the development and shall be permanently retained as such thereafter.

Reason: To ensure that the amenities of the adjoining occupier(s) are not adversely affected by loss of privacy in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

#### **Boundary treatments**

21. Full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of those works. The approved means of enclosure shall be erected prior to the first occupation of any of the buildings and shall be permanently retained as such thereafter.

Reason: To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Cycle Parking Provision**

22. Prior to the first use or occupation of the development hereby permitted, details of the covered cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be provided prior to the first occupation of the building and permanently retained and maintained for the parking of cycles in connection with the development.

Reason: In the interests of maximising the opportunities for sustainable travel in accordance with the National Planning Policy Framework

#### **Travel Information Packs**

23. Prior to first occupation a Travel Information Pack shall be submitted to and approved by the Local Planning Authority. The first residents of each dwelling shall be provided with a copy of the approved Travel Information Pack

Reason: In the interests of maximising the opportunities for sustainable travel in

accordance with the National Planning Policy Framework

### **Bin stores**

24. Prior to first occupation of the building the bins stores as shown on the approved plans shall be provided in accordance with those approved details and permanently retained as ancillary to development.

Reason: In the interest of well planned development and visual amenity of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Rainwater goods**

25. All rainwater gutters and downpipes, etc. shall be cast iron or aluminium manufacture and painted black unless alternative details are otherwise first approved in writing by the Local Planning Authority.

Reason : In order to safeguard the visual amenities of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

### **Water Efficiency**

26. No dwelling shall be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres person/day and shall continue to accord with such a limit thereafter.

Reason - In the interests of sustainability in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1.

### **Exclusion of fencing/ walls to frontage**

27. Notwithstanding the provisions of Class A of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order) no gate, fence, wall or other means of enclosure shall be erected, constructed or placed in front of the front wall of any buildings and the highway at any time, without the grant of further specific planning permission from the Local Planning Authority.

Reason: In order to retain the open character of the development and area in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.