

**Meadow Barn
Merton Road
Ambrosden
Bicester
OX25 2LZ**

19/00055/F

Officer: Michael Sackey

Applicant: Mr Rhys Oliver

Proposal: 2 new semi-detached dwellings and 1 detached dwelling with associated parking and gardens

Ward: Bicester South And Ambrosden

Councillors: Cllr David Anderson
Cllr Dan Sames
Cllr Lucinda Wing

Reason for Referral: Called in by Councillor Sames for the following reasons: (Over development, over use of a private road, less than substantial harm to the setting of listed building, unsustainable development and not in accordance with the local plan) Application submitted by an officer in Development Management

Expiry Date: 14 March 2019

Committee Date: 30 May 2019

BACKGROUND

Subsequent to the March Planning Committee it became clear that, contrary to the Council's advertised procedure, no interested parties had been notified of applications going to that Planning Committee. This includes applicants, agents and those commenting on applications, and affected all 10 applications at that Committee.

Having taken advice from the Council's legal team as to how to respond to this issue, DM team leaders sent out letters to all interested parties advising them of the error, offering our apologies, and inviting them to contact the Council if they would have attended and/or registered to speak at Committee if they had been given the opportunity.

The outcome of this mail out was that in the case of several applications we did not receive any response; in the case of others we did receive responses; and in the case of this planning application the applicant and agent responded to say that they would have attended and registered to speak at Committee.

As a result, the advice from the Council's legal team was to bring this application back to Planning Committee.

It had been planned for the application to be placed on the agenda for the April Planning Committee but the item did not make the published agenda.

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

Planning permission is sought for the erection of 1 detached dwelling and 2 semi-detached dwellings with associated parking and amenity space.

Consultations

The following consultee has raised **objections** to the application:

- Ambrosden Parish Council

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

- OCC Highways, CDC Ecology, CDC Building Control, CDC Environmental Protection Officer, CDC Environmental Health, CDC Waste and Recycling, Archaeology and Thames Water.

3 letters of objection have been received from the same neighbour

Planning Policy and Constraints

The site is within close proximity to the Grade II listed building of Holly Tree Cottage to the south east of the site. The site is an area of medium archaeological potential and is on potentially contaminated land and. The site has some ecological potential as it is located within 2km of the Arncott Bridge Meadows SSSI and the protected species of the House Sparrow and Common Toad have been recorded in the vicinity

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

Conclusion

The key issues arising from the application details are:

- Principle of development
- Design, and impact on the character of the area
- Impact upon the historic environment
- Residential amenity
- Highway safety
- Ecological impact
- Other matters

The report looks into the key planning issues in detail, and officers conclude on balance that the proposal is acceptable subject to conditions. The scheme meets the requirements of relevant CDC policies.

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 extends to 0.16 hectares and is presently laid as rough grassland. The site lies immediately to the north of a residential development known as Home Farm Close and to the rear of the Paddocks and previously converted Barn of Meadow Barn with access taken from an extension to the access road which serves this existing dwellings mentioned above.

- 1.2. The application site is relatively level, is open to the wider countryside to the west and in close proximity of approximately 5.6 from a railway embankment with overgrown vegetation at the bottom railway tracks to the North. The site forms part of a larger field which extends further to the west and south. There is no physical boundary to the application site to identify it from the larger field. The southern boundary is formed by residential properties in the village. The site lies beyond the established built-up limits of the village of Ambrosden.

2. CONSTRAINTS

- 2.1. The site is within close proximity to the Grade II listed building of Holly Tree Cottage to the south east of the site. The site is on potentially contaminated land and an area of medium archaeological potential. The site has some ecological potential as it is located within 2 KM of the Arncott Bridge Meadows SSSI and the protected species of the House Sparrow and Common Toad have been recorded in the vicinity.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks full planning permission for two new semi-detached dwellings and one detached dwelling with associated garages. The proposed dwellings would be constructed of red stock brick, with plain tiles to the roof and solid timber traditional casements for the windows.
- 3.2. The site benefits from extant outline planning permission for residential development (14/01981/OUT) and a subsequent reserved matters approval application reference (17/00999/REM). The site also benefits from an approval for two new detached dwellings with associated detached garage application reference (18/01076/F). These consents were subject to a number of conditions.
- 3.3. The proposed larger L shaped building extends further to the southeast in comparison to the previous approval. The proposed building incorporating a four bedroom and a three bedroom semi-detached dwellings to west of the site, would in part measure approximately 6.5m depth, 17.8m width and 6m depth 12m width to finish the L shape. It would have an overall roof height of 7.2m sloping down to an eaves height of 3.6m. The proposed four bedroom semi-detached dwelling would incorporate four dormer windows to the rear elevation and one dormer window to the front elevation. The proposed three bedroom semi-detached dwelling would incorporate four rooflights to the rear elevation and three dormer windows to the front elevation.
- 3.4. The three bedroom semi-detached dwelling is proposed to be served by a garage measuring approximately 6m depth, 6m width with an overall roof height of 6.1m sloping down to an eaves height of 2.6m.
- 3.5. The proposed smaller L shaped building which would be relatively the same as the previous approval. The proposed building incorporating a four bedroom dwelling to the north-east of the site would measure approximately 6.6m depth, 14m width and 2.8m depth 6.8m width to finish the L shape. It would have an overall roof height of 7.2m sloping down to an eaves height of 3.6m. The proposed dwelling would incorporate a dormer window and roof lights to the front elevation and five dormer windows to the rear. The dwelling is proposed to be served by a garage measuring approximately 6m depth, 6m width with an overall roof height of 6m sloping down to an eaves height of 2.5m.
- 3.6. Access is proposed as an extension of the access serving the existing properties of Willow Barn, Oak Barn, Meadow Barn and The Paddocks and parking is proposed with the provision of one integral garage and two detached garages.

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>
01/02166/CLUE	Certificate of Lawfulness existing to allow continuous use of land and buildings as a general builders yard	Application Refused
03/01921/F	Conversion of barn to form dwelling with detached garage/workshop, pool and pool house, Demolish existing garage/stable block, create new access and erection of two 2.1 metre high walls (as amended by plans received 26.11.03)	Application Permitted
05/00102/F	Conversion of barn to residential use. Demolition of existing garage/stables and construction of new garage, workshop and store. Construction of pool house and plant room. Erection of two 2.1m boundary walls with alteration to highway access. Resubmission of permission 03/01921/F.	Application Permitted
05/01990/CLUE	Certificate of Lawfulness existing to allow continuous use of land for storage of building materials	Application Refused
07/00983/CLUE	Certificate of Lawfulness existing to allow continuous use of land for storage purposes (B8)	Application Permitted
10/00506/F	Conversion of barn to residential use. Demolition of existing garage/stables and construction of new garage, workshop and store. Construction of pool house and plant room. Erection of two 2.1m boundary walls with alteration to highway access. Resubmission of permission 05/00102/F (as amended by plans received 01/06/10).	Application Permitted
10/00421/DISC	Discharge of Planning Conditions 2, 3, 12, 14, 15 and 19 of 10/00506/F	Application Permitted
10/01887/F	Change of use of barn to a dwelling and erection of a new dwelling and shared garage	Application Permitted

11/00520/F	Change of use of barn to form two dwellings and erection of a shared garage	Application Permitted
11/00118/DISC	Clearance of conditions 3, 15, 17, 20 and 21 of 10/01887/F	Application Permitted
12/00108/F	Variation of condition 22 of 10/01887/F	Application Permitted
12/00263/F	Variation of condition 2 of 11/00520/F	Application Permitted
12/01234/F	Removal of condition 7 of 12/00263/F (retrospective)	Application Permitted
13/00901/F	Insertion of 2no velux windows. New dormer and front porch.	Application Permitted
18/01076/F	Erection of two new detached dwellings with associated detached garages	Application Permitted
19/00070/DISC	Discharge of Conditions 5 (doors, windows, lights) and 7 (Archaeological Written Scheme of Investigation) of 18/01076/F	Pending Consideration

5. PRE-APPLICATION DISCUSSIONS

5.1. No pre-application discussions have taken place with regard to this proposal

6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site 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 25.02.2019, although comments received after this date and before finalising this report have also been taken into account.

6.2. The comments raised by third parties are summarised as follows:

- Three letters received from two neighbours raising objections on the basis of impact on the current residents of the courtyard in relation to highways access, car parking, over development, damage to property, traffic, noise, dust bins and additional development

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.

NOTE: Responses are to be recorded in the example format given for the Parish Council below. Responses should be summarised and should not be copied and pasted in full. If it is necessary to quote from a response *include the quote in italics*

AMBROSDEN PARISH COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. AMBROSDEN PARISH COUNCIL: **object** on the grounds of insufficient access to serve additional traffic, existing access is not wide enough for additional traffic, noise and too close to the wall of the neighbouring house, too much traffic emerging on to the highway, it is unlikely that emergency vehicles could access the furthest dwelling, insufficient space for standing refuse bins for collection, overdevelopment of a small area, it will not resemble a farm yard, the plans do not show Ambrosden Court development opposite, it still shows one property there not 44, there are only four parking spaces shown for three houses, Parking is totally inadequate with very tight turning circle and Gated access means deliveries will not be able to get in, or find the properties.

CONSULTEES

- 7.3. OCC HIGHWAYS: **no objections**.
- 7.4. Building Control – No comments to make
- 7.5. Environmental Health – No objections
- 7.6. Environmental Protection – No comments on noise, air quality, odour and light. But recommend the full contaminated land conditions J12-J16 are placed on any permission granted.
- 7.7. Waste and Recycling – comments received neither objecting to or supporting the Planning application
- 7.8. Ecology – consulted on the 29.01.2019 no comments received to date
- 7.9. Housing Standards – consulted on the 29.01.2019 no comments received to date
- 7.10. Archaeology - comments received neither objecting to nor supporting the Planning application but recommends conditions if the application was to be approved.
- 7.11. Thames Water - comments received neither objecting to nor supporting the Planning application but recommends conditions if the application was to be approved.

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
- BSC1: District Wide Housing Distribution
- BSC2: The Effective and Efficient Use of Land
- ESD1: Mitigating and Adapting to Climate Change
- 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 and Historic Environment
- Policy Villages 1: Village Categorisation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- ENV1: Environmental pollution
- ENV12: Contaminated land

8.3. Other Material Planning Considerations

- 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
- Impact upon the historic environment

- Residential amenity
- Highway safety
- Ecological impact
- Other matters

Principle of Development

- 9.2. The principle of residential development in this location has been assessed and considered acceptable under the outline application reference (14/01981/OUT) and under application (18/01076/F) for two detached dwellings. The proposed development with regards to its scale and layout would not be that dissimilar to that previously approved and given the nature and position of the proposed development it is considered acceptable and would not raise any new issues. Having regards to the previous approvals, it is considered that the proposed development would be acceptable in principle subject to other material considerations further deliberated below such as the appearance, layout, scale of the development and other material consideration.

Impact upon the Character and Appearance of the Area

- 9.3. *Paragraph 124 of the National Planning Policy Framework (NPPF) states the creation of high quality building and places is fundamental to what the planning and development process should achieve. 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. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.*
- 9.4. *Policy ESD13 of the Cherwell Local Plan Part 1 states that: “Development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not be permitted if they would:*
- *Cause undue visual intrusion into the open countryside;*
 - *Be inconsistent with local character;*
 - *Harm the setting of settlements, buildings, structures or other landmark features.”*
- 9.5. *Policy ESD15 of the Cherwell Local Plan 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.”*
- 9.6. *Saved Policy C28 of the Cherwell Local Plan 1996 reflects Government guidance in relation to the design of new development by seeking to ensure that such development is in harmony with the general character of its surroundings and is sympathetic to the environmental context of the site and its surroundings, and the nature, size and prominence of the development proposed.*
- 9.7. The proposed access would be an extension of the existing access serving the properties adjacent to the application site of Willow Barn, Oak Barn, Meadow Barn and The Paddocks¹. The existing access is established and serves the current

¹ Access in this context is defined within the Development Management Procedure Order 2015 as the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.

dwellings mentioned, and is generally the same as the previous approval. The proposal is considered acceptable in visual terms with regards to the proposed dwellings it is to serve. The highway safety implications are assessed below.

- 9.8. In terms of layout, the proposed dwellings are positioned partly to the north and south of the proposed and extended access serving the existing dwellings. The proposal is generally the same layout and orientation as previously approved under application reference (18/01076/F).
- 9.9. In comparison to the previous approval the significant changes to the current application relates to the extension of the larger L shaped building along with its detached garage, which extends further to the southeast and closer to the neighbour at Meadow Barn as previously approved. The proposal is considered not to raise any new issues in terms of its layout.
- 9.10. The proposed layout is considered to sympathetically integrate with the existing development in the area, in creating an organic, rural form of development, which is more appropriate in character and scale to this sensitive edge of village location. The scale and character of the proposed dwellings is considered appropriate to this location. In addition, the proposal would be set to the rear of the existing dwellings at The Paddocks and Meadow Barn and would not be particularly visible from the highway.
- 9.11. As previously rose, with regards to the form, design and materials of the proposed, the application proposes plain tiles to the roof, red stock brick to match the existing barn adjacent to the site at Meadow barn. The proposal also generally reflects the architectural detailing of the existing dwelling at Meadow Barn with the proposed development resulting in appearance as two, one and half storey buildings incorporating dormers windows and conservation style rooflights to the roof and giving a visual appearance of a previously converted agricultural building.
- 9.12. The proposal's design is considered to be simple in form, with the design cues of the development similar to that of Meadow barn and would therefore be in keeping with the scale and massing of the existing built development within the vicinity of the site.
- 9.13. Having regards to the nature of the site, the brick and plain tiles used would be expected to be of high quality and be influenced by the traditional brick used within the historic core of Ambrosden. The effective uses of materials are considered to preserve the character and appearance of the area and an appropriately worded condition would be imposed in this regard.
- 9.14. As previously rose, it is acknowledged whilst there are some trees to the rear of the site. However, these are not protected and are not considered to be of high amenity value therefore a tree survey is not considered necessary. Instead appropriate details of landscaping can be secured by condition, including details of any existing trees to be retained.
- 9.15. For these reasons, it is considered that the proposal would not cause harm to the character and appearance of the area and would be in accordance with to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1 and saved Policies C28 and C30 of the Cherwell Local Plan 1996.

Impact upon the Historic Environment

- 9.16. *Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard to the desirability of preserving a listed building or its setting should be taken.*

- 9.17. *Paragraph 132 of the NPPF states that: "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss 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."*
- 9.19. The proposed dwellings given its location would be relatively close to the Grade II listed building of Holly Tree Cottage, to the south. However, the site does not border the property and is not associated with it, and this Grade II listed building is set within a modern context, with Home Farm Close to the south west and converted residential dwellings to the north. It is therefore considered that the proposal would not materially affect the significance of the Grade II listed building. It is appreciated that.
- 9.20. In relation to the Grade II* listed St Marys Church to the north west of the site, relatively modern housing is situated to the south west of the church , along with an existing rail track which separates the existing site and the Listed Church. The Listed Church is appreciated or viewed from Merton Road with these dwellings to the front. The views of the church tower when approaching the village would still be retained in relation to the proposed development.
- 9.21. Given the above, it is considered that the proposed development would not cause harm to the significance and the setting of the nearby listed buildings.
- 9.22. *Paragraph 193 of the NPPF states that: "When considering the impact of a proposed development on the significance of a designed heritage asset, great weight should be given to the asset's conservation irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance."*
- 9.23. The Oxfordshire County Council Archaeologist has stated that the site lies within an area of some archaeological interest located 180m to the north-west of the site of a medieval Manor House. The Archaeologist notes that the exact location of the Manor House is unknown and could be disturbed by this development. In addition, the Archaeologist states that the site of a second large house, Ambrosden Hall, is located 110m north of the proposal site and this Hall was constructed after 1673 and pulled down in 1768. Furthermore, the Archaeologist notes that the site is also located 120m south of a series of undated features that were recorded, along with Neolithic and Bronze Age flint tools, during a pipeline excavation. Recent archaeological work 650m to the north-west of the site has recorded a series of Iron Age roundhouses and Roman and Saxon ditches.
- 9.24. Given the above, the Archaeologist notes that a condition should be attached which requires the applicant to be responsible for ensuring the implementation of a staged programme of archaeological investigation to be maintained during the period of construction. Given the nature of the site, it is not considered to be unreasonable to request for this information and therefore a condition attached to previous approval would therefore be re-imposed.

Residential Amenity

- 9.25. *Both local and national planning policy and guidance seek to ensure new development provides a satisfactory standard of living for existing and future occupiers of land and buildings.*
- 9.26. There are no residential dwellings directly to the north as the site is bounded to the north by and in close proximity to the existing rail tracks, which the spatial relationship is considered acceptable. There are also no dwellings to the west of the site as it is open countryside.
- 9.27. Given the positioning of the proposed development and in relation to the previous applications at the site, the current proposal would not materially impact the dwellings at Home Farm Close set at approximately 41m to the south of the site or any of the other neighbours apart from The Paddocks and Meadow Barn.
- 9.28. The proposed development would be set to the rear of The Paddocks and Meadow Barn the proposal would have an impact on the said neighbours in terms of residential amenity given its proximity. Although the proposed development would be closer to the neighbour than the previous approval, due to its proposed layout, scale and orientation, the proposal would not unduly harm the adjacent neighbours at The Paddocks and Meadow Barn in terms of loss of light, loss of privacy or overlooking, or result in an overbearing development.
- 9.29. The proposed development would be 26 metres away from the rear wall of Meadow Barn and the side wall of the proposed dwelling directly to the rear of The Paddocks would be over 21metres away. This is considered more than adequate so as to prevent undue harm in terms of loss of privacy or overlooking, loss of light or the creation of an overbearing form of development.
- 9.30. The proposed development would therefore comfortably exceed the minimum recommended separation distance in the Cherwell Householder guidance of 22 metres and 14m from a side wall to a window or opening.
- 9.31. The separating distance of proposed openings on the first floor of the three bedroomed semi-detached dwelling was considered to potentially overlook, particularly in to the master Bedroom of the four bedroomed detached dwelling. But given the separating distance of over 14m along with the orientation of the proposed detached dwelling front elevation angles away from the proposed semi-detached dwellings, it not considered to result in an impact so significant to warrant the refusal of the application.
- 9.32. It is thus considered that the proposed dwelling would not cause demonstrable harm to the adjacent neighbours at Meadow Barn and The Paddocks in terms of loss of light, overlooking or loss of privacy, or the creation of an overbearing affect.
- 9.33. Overall, the proposed development is considered not cause to demonstrable harm to any neighbouring residential properties. Furthermore, each proposed property would have a sizeable private amenity space and it is considered that the amenities of the proposed properties would be adequate.

Highway Safety

- 9.34. Concerns were raised by a neighbouring resident about the impact the proposed development would have on the immediate road network, but the principle of 5 detached dwellings on the site has already been considered acceptable at the outline planning application stage and the subsequent reserved matters application although of a different access. Regard is also had for the previous approval with the provision nine bedrooms in comparison to the overall eleven bedrooms currently

proposed. The proposal would result in an increase of an additional two bedrooms and it is not considered to significantly impact the local highways.

- 9.35. It is considered that adequate parking is provided for the dwellings on the site given the double garages proposed.
- 9.36. The Local Highway Authority (LHA) has raised no objections to the scheme. The previous highways response recommended an approval subject to conditions for parking and manoeuvring, prior to the first occupation of the development. The current proposal would result in marginally more movements in terms of the highways, would also use same existing established access route and an existing junction. Therefore the previously recommended conditions are still considered applicable and would be re-imposed. Having regards to the LHA's comments, it is considered that the proposal would not have a detrimental impact upon highway safety in accordance with Policy ESD15 of the Cherwell Local Plan and Government guidance contained within the NPPF.

Ecological Impact

- 9.37. *Section 40 of the Natural Environment and Rural Communities Act 2006 (as amended) places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making. Paragraph 99 of Circular 06/2005: Biodiversity and Geological Conservation states that: It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.*
- 9.38. Paragraph 170 of the NPPF states that: *"Planning policies and decisions should contribute to and enhance the natural and local environment by: minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures"*
- 9.39. The Council's Ecology officer was consulted but no comments have been received from the consultation. When referring to the previous comments relating to the outline application at the site which stated that a request was made to see ecological information before the determination of the outline application, so that there was a greater understanding of what was on site before a decision was made.
- 9.40. Whilst I understand the concerns of the Ecology Officer within the previous application and it is preferable to have fulsome details on ecological matters submitted as part of a planning application, given that these matters had not been considered in the outline application, it is considered unreasonable to request such information before the determination of this application. Therefore the previous ecological conditions requiring necessary surveys to be undertaken and mitigation implemented as necessary relating to the outline permission would be re-imposed. In the absence of any evidence to the contrary I therefore consider that appropriate conditions can suitably safeguard ecological issues.

Other Matters

- 9.41. *Cherwell District Council's Planning and Waste Management Design Guide (2009) states that the Council will not collect waste or recycling if this involves driving over a private road. Residents will be required to wheel their refuse and recycling to the nearest public highway and a waste collection storage unit is something that will*

have to be considered by the applicant, details of which would be requested as a condition if the application were to be recommended for approval.

- 9.42. Concerns have been raised by third parties and the parish, that the proposed development would put pressure on the existing access, and have a negative impact to the current residents of the courtyard in relation to the previously approved and current application. There were further issues raised by the parish and the third party on noise, excessive distance for the wheelie bins to travel and the lack of space at the front for the bins. Car parking, cramped layout, damage to property and over development were also the basis of objections. However, in relation to any issues other than highways and access, the principle of the 5 dwellings on the site has already been accepted with the approval of the outline application and reserved matters application and full permission for two dwellings. Furthermore, in relation to the highways and access issues raised, the LHA was consulted twice, and as part of the second consultation was presented with the objections of the parish and third party in the last approval and after reviewing the objections received, the LHA confirmed its view that the proposal would be acceptable in terms of the highways, access and parking. The LHA also maintains its stance on the current application and has no objections, whilst indicating that the proposal would not have a significant detrimental impact in terms of highway safety and convenience on the adjacent highway network

Conclusion

9.43. Human Rights and Equalities

- 9.44. The Human Rights Act 1998 (“HRA”) sets out fundamental freedoms which have been laid out by the European Convention on Human Rights (“ECHR”). In making any decisions, Cherwell District Council (“the Council”) should have due regard to and take into account any implications that may arise under the HRA. As a public authority, it is unlawful for the Council to act in a manner which is incompatible with the ECHR.
- 9.45. The rights under the ECHR which the Council views as being the most likely to affect planning matters are: Article 6 (the right to a fair trial); Article 8 (right to respect for private and family life); Article 14 (prohibition of discrimination); and Article 1 of the First Protocol (protection of property).

Article 6

- 9.46. Officers have considered these matters and have resolved that, whilst there are potential rights in play, these will not be affected by the application due to the application being publicised by way of giving affected third parties the opportunity to comment on the application and their views taken into account when considering the application. In this case any comments/concerns raised by third parties are listed above and have been taken into account in assessing the application. Furthermore should a third party be concerned about the way the application was decided they could complain to the Local Government Ombudsman or if they question the lawfulness of a decision can appeal to the Courts for Judicial Review of the application.

Article 8 and Article 1 of the First Protocol

- 9.47. Officers have considered the duties under both Article 8 and Article 1 of the First Protocol and have resolved that the application does respect the private and family life of neighbours and does not fail to protect the neighbours' property.

Duty under The Equalities Act 2010

- 9.48. S149 of the Equalities Act 2010 (“EA”) sets out what is known as the Public Sector Equality Duty (“PSED”). Under the PSED, the Council, as a public authority, must have due regard to the need to, inter alia, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and has to foster good relations between persons who share a relevant protected characteristic and persons who so not share it. The protected characteristics to which the PSED refers are: (a) age; (b) disability; (c) gender reassignment; (d) pregnancy and maternity; (e) race; (f) religion or belief; (g) sex; (h) sexual orientation.
- 9.49. Officers have considered the application and resolved that none of the protected characteristics is affected or potentially affected by the application.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The proposal complies with the relevant Development Plan policies and guidance listed at section 8 of this report, and so is considered to be sustainable development. In accordance with Paragraph 11 of the NPPF, permission should therefore be granted
- 10.2. It is considered that the proposed dwellings will not result in any significant detriment to the character or visual amenities of the area, the setting of heritage assets, nor on the living amenities of the neighbouring properties. In addition it is considered that the development does not result in any significant detriment to highway safety.

11. RECOMMENDATION

DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY TO GRANT PERMISSION, SUBJECT TO:

1. THE CONDITIONS SET OUT BELOW

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 form;
 - Design and Access Statement by Richard Court Designs submitted with the application;
 - Drawing Numbers: 974-5A; 974-6A; 974-7A; 974-8B; 974-9B and 974-10A submitted with the application;

3. 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.

Material Samples

4. Prior to the commencement of the development above slab level, a brick sample panel, to demonstrate brick type, colour, texture, face bond and pointing (minimum 1m² in size), shall be constructed on site, inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the development shown on the approved plans to be brick shall be constructed in strict accordance with the approved brick sample panel and shall be retained as such thereafter.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Material Samples

5. Prior to the commencement of the development above slab level, the tiles to be used in the construction of the roofs of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in strict accordance with the samples so approved and shall be retained as such thereafter.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Windows, Doors and Rooflights

6. Prior to their installation, full details of the doors, windows and roof lights hereby approved, at a scale of 1:20 including a cross section, cill, lintel and recess detail and colour/finish, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the doors and windows and their surrounds shall be installed within the buildings in accordance with the approved details and shall be retained as such thereafter.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Parking and Manoeuvring Areas

7. Prior to the first use of the development hereby approved, full specification details (including construction, layout, surface finish and drainage) of the turning and manoeuvring area which shall be provided within the curtilage of the site so that motor vehicles may enter, turn around and leave in a forward direction, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first use of the development, the turning and

manoeuvring area shall be constructed in accordance with the approved details and shall be retained for the manoeuvring of motor vehicles at all times thereafter.

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

Archaeology (Written Scheme of Investigation)

8. Prior to any demolition and the commencement of the development a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason - To safeguard the recording of archaeological matters within the site in accordance with the NPPF (2012).

Archaeology (Staged Programme Of Archaeological Evaluation And Mitigation)

9. Following the approval of the Written Scheme of Investigation referred to in condition 8, and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

Reason – To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the NPPF (2012).

Landscape Scheme

10. Prior to the first occupation of the development hereby approved, a hard landscape scheme for the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details prior to the first occupation of the development hereby approved and retained as such thereafter.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Permitted Development Rights (Restrictions)

11. Notwithstanding the provisions of Classes A to E (inc.) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, the approved dwellings shall not be extended or enlarged, nor shall any structures be erected within the curtilage of the said dwelling, without the grant of further specific planning permission from the Local Planning Authority.

Reason - To ensure and retain the satisfactory appearance of the completed

development and to ensure a satisfactory amenity for the future occupants of the dwelling, and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Waste Water Network Upgrades/Housing And Infrastructure Phasing Plan

12. No properties shall be occupied until confirmation has been provided that either:- all surface water network upgrades required to accommodate the additional flows from the development have been completed; or - a housing and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

Reason - The development may lead to flooding and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional flows anticipated from the new development. Any necessary reinforcement works will be necessary in order to avoid sewer flooding and/or potential pollution incidents.

Land Contamination: Desk Study/Site Walk Over

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

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

Land Contamination: Intrusive Investigation

14. If a potential risk from contamination is identified as a result of the work carried out under condition (13), prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason – To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell

Local Plan and Government guidance contained within the National Planning Policy Framework.

Land Contamination: Remediation Scheme

15. If Contamination is found by undertaking the work carried out under condition (13), 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 1, and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

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

Land Contamination: Carry out Remediation

16. If remedial works have been identified in condition (13), the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition (13). A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

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

Land Contamination not Previously Found

17. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

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

Waste storage and collection

18. Prior to the first use or occupation of the development hereby permitted, details of the waste storage and collection location for the site shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the waste

storage and collection facilities shall be permanently retained and maintained in connection with the development.

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

Obscure glazing

19. Before the respective dwelling is first occupied the first floor openings on the south-western elevation of the southern-most of the three dwellings shall be glazed with obscure glass (at least Level 3) only and, unless fixed shut, fixed with a ventilation stay restricting the opening of the window to no more than 30 degrees from the elevation in question, and must be permanently maintained as such at all times thereafter.

Reason - To safeguard the living conditions of neighbouring residents and future occupiers of the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

PLANNING NOTES

1. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.
2. The County Council's records do show the presence of known archaeological finds nearby and this should be borne in mind by the applicant. If archaeological finds do occur during development, the applicant is requested to notify the County Archaeologist in order that he may make a site visit or otherwise advise as necessary. Please contact: County Archaeologist, Historic and Natural Environment Team, Infrastructure Planning, Speedwell House, Speedwell Street, Oxford, OX1 1NE (Telephone 01865 328944).
3. Birds and their nests are fully protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds can be avoided by carrying out vegetation removal or building work outside the breeding season, which is March to August inclusive.

Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be necessary if protected species or habitats are affected by the development. If protected species

are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0300 060 3900.

4. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
5. Any necessary reinforcement works will be necessary in order to avoid sewer flooding and/or potential pollution incidents." The developer can request information to support the discharge of this condition by visiting the Thames Water website at thameswater.co.uk/preplanning.
6. Thames Water advise that a drainage strategy should be provided with the details of pre and post development surface water run off rates and the proposed methods of surface water flow management e.g. attenuation, soakaways etc. The drainage strategy should also contain the points of connection to the public sewerage system as well as the anticipated size of the proposed sewer connection/s (including flow calculation method and whether the flow will be discharged by gravity or pumped) into the proposed connection points. If the drainage strategy is not acceptable an impact study will need to be undertaken.

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