

**Kings Two Wheel Centre**  
**139 Oxford Road**  
**Kidlington**  
**OX5 2NP**

**18/01388/F**

**Applicant:** Keble Homes Limited

**Proposal:** Demolition of existing vacant workshop and show room buildings. Erection of two and three storey building to provide 10no dwellings (8 x 2-bed and 2 x 1-bed). Provision of off-street car parking, secure cycle storage and covered refuse/recycling store – revised scheme of 18/00130/F

**Ward:** Kidlington East

**Councillors:** Cllr Maurice Billington  
Cllr Carmen Griffiths  
Cllr Neil Prestidge

**Reason for Referral:** Major application

**Expiry Date:** 1 November 2018      **Committee Date:** 22 November 2018

**Recommendation:** Refuse      **Extension of time:** 30 November 2018

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

### **Proposal**

Planning permission is sought for the demolition of an existing building on the site and the erection of a part 2/part 3 storey building comprising 10 residential units (8 x 2 bed and 2 x 1 bed). The flat roofed building would be constructed from grey fibre cement cladding, buff brick, ashlar Cotswold stone and 'self-coloured' render.

### **Consultations**

Consultees have raised no objections to the application

Two letters of objection have been received, and four letters have been received which request clarification on certain matters.

### **Planning Policy**

The site is within the built up area of Kidlington. A public footpath runs adjacent to the eastern boundary of the site. The site is on land that is potentially contaminated. The site has some ecological potential as protected species have been recorded within the vicinity of the site.

The application has 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 the Development;
- Design, and Impact on the Character of the Area;
- Residential Amenities;

- Accessibility, Highway Safety and Parking;
- Ecological Impact;
- Planning Obligations;
- Other Matters.

The report looks into the key planning issues in detail, and officers conclude that the proposal is unacceptable against the relevant policies for the following reasons:

1. Detrimental harm the character, quality and appearance of the area; and
2. Absence of the completion of a satisfactory Planning Obligation.

## **RECOMMENDATION - REFUSE**

**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 on a corner plot on the north east side of Oxford Road and the north side of Bicester Road. The site comprises a part two/part single storey building which previously accommodated the Kings Two Wheel Centre (a motorcycle dealer), but this business has moved to another location within Kidlington. The locality is predominantly residential in character, but to the east of the site is a car showroom (Kidlington Garage).
- 1.2. The site is not within a conservation area and there are no listed buildings within close proximity to the site. A public footpath runs adjacent to the eastern boundary of the site. The site is on land that is potentially contaminated. The site has some ecological potential as it is located within 2KM of the Rushy Meadows SSSI and a number of legally protected species have been recorded within the vicinity of the site including the west European Hedgehog and bats.

### **2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. Planning permission is sought for the demolition of the vacant showroom building and the erection of a part two/part three storey building to accommodate 10 no dwellings (comprising 8 x 2 bed and 2 x 1 bed). The building would mainly be three storeys in height, but would be two storeys at the north end. The flat roof building is proposed to be constructed from buff coloured brick, 'self-coloured' render, grey fibre cement cladding and ashlar stone. Balconies are proposed for flats a first and second floor level. Courtyard gardens are proposed for the ground floor flats.
- 2.2. The existing vehicular access to the site off Oxford Road is to be utilised, but reduced in width to approximately 5.5m. Parking for 10 vehicles is proposed on the site. A grass verge with planting against a 1.2 metre high facing brick boundary wall is proposed. Bin storage and cycle storage is proposed in the northern corner of the site.

### **3. RELEVANT PLANNING HISTORY**

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
18/00130/F	Demolition of existing vacant workshop and showroom buildings. Erection of two and three storey building to provide 10 no. dwellings (8 x 2-bed and 2 x 1-bed). Provision of off-street car parking, secure cycle storage and covered refuse/recycling store	WITHDRAWN

Officers advised that they could not support the application due to the impact it would have upon the character and appearance of the area. It was stated that the development did not engage with Oxford Road in terms of its siting, form and appearance and that it appeared as a standalone development that does not reinforce local distinctiveness. There were other concerns raised with the proposal including, but not limited to:

- The building being rather uninspiring in terms of design;
- The siting of the building backing onto the public footpath creating a tunnelling effect on the public right of way;
- The 1.8m wall to the front of the site would detach the development from Oxford Road and would not be in keeping with the character of this part of Oxford Road; and
- The southern elevation failed to engage with Bicester Road.

#### **4. PRE-APPLICATION DISCUSSIONS**

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

- 18/00177/PREAPP - 2-3 storey development of 10no dwellings - Closed on 9<sup>th</sup> August 2018. This pre-application request followed the withdrawal of the planning application at the site referred to above. However, it was concluded that officers would not be in a position to support the submitted proposal. It was considered that proposal, but virtue of its siting, scale, form and appearance, would appear as an incongruous standalone addition to the street-scene that would not reinforce local distinctiveness. The reduction in the number of flats was strongly encouraged so as to achieve an acceptable design.

#### **5. RESPONSE TO PUBLICITY**

5.1. 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 21.09.2018, although comments received after this date and before finalising this report have also been taken into account.

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

- Overdevelopment of the site due to the inappropriate scale of the building for the size and location of the plot;

- The scale and massing would not be in-keeping within this context;
- Not in keeping with the residential dwellings on Oxford Road;
- The creation of a tunnelling effect on the alleyway to the rear of the site and this will encourage vandalism and safety issues;
- The colour of the brick should be a darker red/brown and the render should be in a 'colour wash' tone to harmonise with the darker brick;
- Stone copings should be used rather than aluminium;
- Loss of privacy and overlooking into 1 Blenheim Road;
- Overbearing impact upon Kidlington Garage showroom;
- Will increase traffic movements and this could pose highway safety issues;
- The trees proposed are welcomed;
- Inadequate on-site parking provision resulting in dangerous on-street parking;
- 8 swift bricks should be included.

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

## 6. RESPONSE TO CONSULTATION

6.1. 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.

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

6.2. KIDLINGTON PARISH COUNCIL: **No comments received.**

### STATUTORY CONSULTEES

6.3. OCC HIGHWAYS: **No objections** subject to conditions and a contribution of £3,600 towards double yellow lines and bus stop clearways.

6.4. THAMES WATER: **No objections** in relation to waste water network and waste water process infrastructure capacity, as well as water network and water treatment infrastructure capacity.

### NON-STATUTORY CONSULTEES

6.5. OCC ARCHAEOLOGY: **No objections.**

6.6. CDC BUILDING CONTROL: **No objections.** The proposed works will require a building regulation application. The Map of Sewers do not show the proposal to affect public sewers

6.7. CDC ECOLOGY: **No comments received.**

6.8. CDC ENVIRONMENTAL PROTECTION: **No objections** subject to conditions relating to noise and contaminated land.

6.9. CDC HOUSING STANDARDS: **No objections.**

6.10. CDC WASTE & RECYCLING: The developer has not stated that there is adequate storage for waste and recycling but they will have to satisfy the Council that it is accessible and large enough before the application is agreed.

## 7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2. 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
- SLE4: Improved Transport and Connections
- BSC1: District Wide Housing Distribution
- BSC2: The Effective and Efficient and Efficient Use of Land
- BSC4: Housing Mix
- ESD1: Mitigating and Adapting to Climate Change
- ESD7: Sustainable Drainage Systems (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15: The Character of the Built and Historic Environment
- Villages 1: Village Categorisation
- 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
- ENV1: Environmental pollution
- ENV12: Contaminated land

#### 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Kidlington Masterplan Part 1 (2016)
- Cherwell Residential Design Guide Supplementary Planning Document (SPD) (July 2018)
- Developer Contributions Supplementary Planning Document (February 2018)
- Cherwell District Council: Home Extensions and Alterations (2007)
- Technical housing standards – nationally described space standard (2015)

## **8. APPRAISAL**

### 8.1. The key issues for consideration in this case are:

- Principle of the Development
- Design, and Impact on the Character of the Area
- Residential Amenities
- Accessibility, Highway Safety and Parking

- Ecological Impact
- Planning Obligations
- Other Matters

### Principle of the Development

- 8.2. Paragraph 11 of the National Planning Policy Framework (NPPF) states that the decision maker should apply a presumption of sustainable development. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.
- 8.3. Paragraph 12 of the NPPF notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.
- 8.4. Cherwell District Council can demonstrate a five-year supply of deliverable housing sites and paragraph 11 of the NPPF needs to be applied in this context.
- 8.5. Paragraph 103 of the NPPF states that the planning system should: *“Actively manage patterns of growth”*, whilst Policy ESD1 of the Cherwell Local Plan (2011-2031) Part 1 states that: *“Measures will be taken to mitigate the impact of development within the District on climate change.”* Policy ESD1 states that this includes distributing growth to the most sustainable locations as defined in the Local Plan and delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars.
- 8.6. The principle of residential development in Kidlington is assessed against Policy Villages 1 in the Cherwell Local Plan (2011-2031) Part 1. Kidlington is recognised as a Category A village in the Cherwell Local Plan Part 1. Category A villages are considered the most sustainable settlements in the District’s rural areas and have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth. Within Category A villages, residential development will be restricted to the conversion of buildings, infilling and minor development comprising small groups of dwellings on sites within the built up area of the settlement.
- 8.7. Theme 2 of the Kidlington Masterplan focusses on ‘creating a sustainable community’ and in relation to the approach to housing development it states: *“A range of options for development within the existing built-up area should be considered including appropriate redevelopment, intensification and infill while protecting Kidlington’s key assets. This may involve increasing housing densities, reconfiguring land uses and introducing mixed used development.”*
- 8.8. Policy SLE1 of the Cherwell Local Plan (2011-2031) Part 1 aims to retain existing employment sites in employment uses and this Policy then sets out some criteria to when the loss of the use could be acceptable. Employment uses are defined as B class uses within the Cherwell Local Plan (2011-2031) Part 1 (see Para B.48). The site was used as a showroom for motorcycles before the occupiers left and the site is therefore within a sui-generis use. Therefore the proposal would not result in the loss of an employment use as defined in the Cherwell Local Plan. Given this and that there is no policy resisting the loss of such a use, the loss of the showroom is considered acceptable.

- 8.9. This proposal is considered to constitute minor residential development in the village of Kidlington. Given the above and that there are no policies relating to the loss of this car garage use at the site, it is considered that the proposal could be acceptable in principle, but this is subject to other material considerations which I will go on to discuss.

### Design, and Impact on the Character of the Area

#### *Policies*

- 8.10. 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. Further, Paragraph 130 of the NPPF states that permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.

- 8.11. Paragraph 127 of the NPPF states that planning decisions should ensure that developments:

- *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;*
- *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;*
- *Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

- 8.10. 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.”* 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.

- 8.11. 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.

- 8.12. The Cherwell Residential Design Guide SPD states that development within Kidlington should look to strengthen the character of the village.

- 8.13. The Design Guide SPD states that new development should avoid architectural focus on individual buildings rather than the overall street composition. The SPD goes on to state that individual buildings should be designed to relate well to their neighbours, creating a harmonious overall composition and work with site conditions.

- 8.14. Kidlington Masterplan SPD, Theme 2: Creating a sustainable community, subheading 'Securing high design standards' states that: *"The design of the site layout, access arrangements, scale, massing and appearance will be required to demonstrate a positive relationship with the immediate surrounding context of the site and respect and enhance the townscape character of Kidlington as a whole."*
- 8.15. The site is on a prominent corner plot located relatively centrally within Kidlington and therefore the proposed development will be clearly visible from the public domain. The visibility of the building is also increased by the fact a public footpath runs adjacent to the rear boundary (east) of the site.

#### *Layout and Siting*

- 8.16. Existing development on the Oxford Road runs relatively parallel with Oxford Road, including the existing garage building on the site. On Bicester Road, development within close proximity to the site runs in a relatively similar line and again parallel to this highway. However, the proposed building would be set at a different angle to development on Oxford Road and would not run parallel with the Oxford Road. The development would also not run parallel with Bicester Road. Therefore the proposed development does not engage with Oxford Road or Bicester Road in terms of its siting. Instead, it appears as a standalone development.
- 8.17. The applicant's agent has provided a plan which seeks to show why the building is sited as proposed. This includes reasoning such as impacts upon the neighbour amenity of Turner Court and the impact upon the overall design of the scheme. However, these problems could be satisfactorily overcome by reducing the number of units as has been stressed in the previous application at the site and at the pre-application advice stage. There are also other ways of making the proposed building engage with the Oxford Road than displayed on the 'alternative design approach' plan. As noted at the pre-application stage, a potential way of overcoming the siting issue would be for the building, at the northern end of the site, to follow a similar line of development to the dwellings on Oxford Road. This could then kink where it runs close to the rear boundary and then run parallel with this boundary.
- 8.18. The applicant's agent has also provided a plan of showing a possible line of development along Bicester Road if the Kidlington Garage site were to be redeveloped. However, this would not be the context the proposal would be viewed within and this scenario is hypothetical. Therefore I afford this limited weight.
- 8.19. Whilst parking is provided between the proposed building and the highway, the parking area would be more of a forecourt rather than a driveway which is out of character in this locality. Whilst the dwellings on Turner Court to the north-west of the site do not have their own individual driveways, the parking is located to the front of each individual dwelling and there is not a scattered approach to the parking as with this scheme before Members.
- 8.20. In addition to this, small courtyards are provided to the rear of the building rather than a garden area which is found to the rear of other dwellings, though officers acknowledge that it would be difficult to achieve a much larger rear amenity space given the shape of this site.
- 8.21. It is proposed to install a boundary wall of approximately 1.2 metres on the south west side of the site and this is considered to be of an adequate height so as to maintain the open character of the area and not creating an insulated development like at Turner Court. The use of soft landscaping outlined in the application could soften the impact of the rather urban feature of the parking area to the front of the site to some extent.

### *Design and scale*

- 8.22. In relation to Oxford Road, the immediate context to the application site is predominantly one of traditional 1 and 2 storey hipped roof properties, which are mostly rendered. Thus, the street scene of Oxford Road is characterised by relatively modest and more simply detailed suburban housing. In relation to Bicester Road and Blenheim Road, whilst there are buildings which appear more as apartments than single family homes within close proximity to the site, these have the appearance of buildings that are 2½ storeys in height given the detailing of the second floor.
- 8.23. The submitted plans have been annotated to suggest that the proposed building would be no greater in height than the dwellings on Turner Court next door. However, the dwellings on Turner Court are two storeys in height and have pitched roofs whereas the proposed development would have three storeys and a flat roof.
- 8.24. The proposed development would be introducing a three storey building along Oxford Road, where there are mainly 1 and 2 storey dwellings. The overall mass of the building, by reason of its 3 storey scale, would be further emphasised by its excessive width and overly-complicated form with numerous projecting elements, which generates a large and bulky building that is not in keeping with the scale and form of buildings generally in the area. The three storey element of the building would be highly prominent within the street scene given that this site is on a corner plot and given the single storey height of the Kidlington Garage building next door. It is therefore considered that the three storey element of the building would over-dominate the single storey Kidlington Garage building.
- 8.25. Whilst it is acknowledged that part of the third storey of the building is slightly recessed, officers considered that this does not do enough to give the impression of a two and a half storey building rather than a three storey building.
- 8.26. Furthermore, given the height of the building backing on to the footpath, officers consider that this would create a tunnelling effect on this Public Right of Way which would be undesirable and it would not create an attractive place, as required by local and national planning policy. The addition of lighting and windows facing this path would do little to prevent the tunnelling effect.

### *Materials*

- 8.27. Regarding the appearance of the building a mix of construction materials are proposed. Whilst a mix of materials is understandable in attempt to break up the overall width and prevent the building from appearing monotonous, it is considered that the proposed design includes too many materials, which has the effect of making the design an incohesive mish-mash, and which would give the building an overly-complicated appearance that is not in keeping with the residential development in the locality.

### *Conclusion*

- 8.28. Thus, by virtue of the layout of the building on the site which does not engage with Oxford Road or Bicester Road, the overly large scale, bulky and complicated appearance of the building, the poor design of the building, tunnelling effect upon the nearby Public Right of Way and the large car parking area, the proposed development would be an incongruent form of development on a prominent corner plot that would constitute a visually obtrusive form of development within the street scene and nearby public footpath, detrimental to the visual amenities of the locality.

The proposal would therefore not constitute 'minor acceptable development' and would be contrary to Policies Villages 1 and 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 NPPF.

- 8.29. It is considered that a more appropriate scheme could be achieved if the number of units were to be reduced. This point was relayed to the applicant's agent during the last application at the site and at the pre-application enquiry stage.

#### Residential Amenity

##### *Policy*

- 8.30. Policy ESD15 of the Cherwell Local Plan 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.
- 8.31. 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."*
- 8.32. Paragraph 127 of the NPPF states that planning decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

##### *Impact on Turner Close*

- 8.33. No.5 Turner Close is the closest residential property to the site and this is located to the north west of the site. The proposed building would be set at an angle from No.5 and this would prevent the rear and front elevations of the building breaching the informal 45 degree line as taking from the nearest rear and front windows of No.5 to the site. Furthermore, the side of the building would be set away from the rear garden of No.5. The side elevation of No.5 has a first floor window, but this is obscurely glazed and does not serve a habitable room. Officers therefore consider that the proposal would not cause undue harm to No.5 Turner Close in terms of loss of light or the creation of an overbearing effect.
- 8.34. Whilst windows are proposed in the north side elevation at first floor level, these would serve bathrooms and could be conditioned as obscurely glazed so as to prevent undue harm in terms of overlooking into the rear garden of No.5 Turner Close. It is considered that the proposal would not cause undue harm to No.5 Turner Close in terms of overlooking or loss of privacy.

##### *Impact on Blenheim Road*

- 8.35. The residential property of No.1 Blenheim Road is located to the rear of the site. The occupiers of this property have raised concerns in relation to overlooking and loss of privacy as a result of the proposal. However, the rear elevation of this proposed building would not directly face towards the rear of this property as it would be set at an oblique angle from it. It is therefore considered that the proposed building would be sited so as to prevent demonstrable harm to No.1 Blenheim Road in terms of loss of privacy or overlooking. Furthermore, it is considered that the proposed building would be sited so as to prevent demonstrable harm to No.1 in terms of loss of light and the creation of an overbearing effect.

##### *Impact on Kidlington Garage*

8.36. The occupier of the Kidlington Garage to the east of the site has raised concerns that the proposal would overshadow this neighbouring building. Whilst officers consider that the proposed building is likely to have an overbearing effect on the showroom, it is not considered that this would adversely affect the operation or viability of this business.

#### *Impact on Future Occupiers*

8.37. In terms of the amenity of the future occupiers, the Council's Housing Standards Officer has raised no objections to the scale of the rooms. However, a garden for all the apartments has not been provided and the courtyards for the ground floor flats are very limited in scale. That said, there are parks within Kidlington that are accessible to the public parks and the lack of such space is not considered to result in such a poor quality living environment that would warrant the refusal of the application.

8.38. The site is located next to a garage and there is potential for noise disturbance from this use. Paragraph 182 of the NPPF states that planning decisions should ensure that new development can be integrated effectively with existing businesses and that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. However, it is acknowledged that there are other residential properties which are adjacent to the Kidlington Garage.

8.39. The Council's Environmental Protection Officer has requested a condition recommending a report that shows that all habitable rooms within the units will achieve the noise levels specified in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings). Officers consider that should permission be granted a condition relating to mitigating any potential noise from this neighbouring use could be attached.

#### Highway Safety

##### *Policy*

8.40. Policy ESD15 of the CLP (2011-2031) Part 1 states, amongst other matters, that new development proposals should: *"Be designed to deliver high quality safe...places to live and work in."* This is consistent with Paragraph 110 of the NPPF which states that: *"Developments should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles."*

8.41. Policy SLE4 of the CLP (2011-2031) Part 1 states that: *"All development where reasonable to do so, should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling."*

##### *Parking*

8.42. The Local Highways Authority (LHA) has raised no objections to the proposal in principle. 10 parking spaces are proposed on the site, with no space for visitor parking. The LHA has considered the proposal as a low car development, primarily due to its position within reasonable walking distance of Kidlington village centre and also the presence of bus stops with very frequent bus services very close to the site.

8.43. That said, the LHA has noted that they are concerned about the negative impact that any off site, on street parking would have on the efficient operation of the

Oxford Road route due to the proximity of the site to a signalised junction and the use of the road a strategic bus route. The LHA would therefore expect that the applicant makes a financial contribution towards double yellow lines in the vicinity of the Oxford Road/Bicester Road junction – both sides as far as the bus stop laybys north of Bicester Road and both sides of Bicester Road as far as just beyond Buckland Court and Blenheim Road (including a short distance along both those side roads). Additionally, and to protect the pair of bus laybys north of Bicester Road, the LHA has stated that the developer is expected to contribute financially towards the introduction of bus stop clearway markings at both those bus stops. The contribution sought for the above is £3,600.

- 8.44. Cycle parking for 18 bicycles is proposed to the north of the site, which is considered sufficient for this number of apartments in this location, but further details of the stands are required. This matter could be conditioned should permission be granted.

#### *Traffic*

- 8.45. In relation to the impact upon the local highway network, the LHA comments that the amount of traffic movements generated by this development is unlikely to have anything other than a small negative impact on the operation of the local highway network in either road safety or congestion terms, particularly given that the site could be brought back into use as a garage without the need for planning permission.

#### *Access, Waste Collection and Construction Traffic*

- 8.46. The LHA comments that the proposed access is acceptable in principle, but has requested further information about how the access would be formed. This matter could be conditioned should permission be granted.
- 8.47. The development proposals do not give any details about how household waste would be collected from the site and details of waste management could be conditioned should permission be granted. It will be important to minimise the impact upon this important part of the highway network.
- 8.48. The LHA has also requested a construction traffic management plan as well as travel information packs to be provided to residents and these matters could be conditioned should permission be granted.

#### *Conclusion*

- 8.49. Thus, subject to a contribution of £3,600 towards double yellow lines and bus stop clearways and the planning conditions referred to above, the LHA considers that the proposal would not have an adverse impact upon the safe and efficient operation of the highway network. Officers see no reason to disagree with this assessment.

#### Ecological Impact and Trees

- 8.50. 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.”*

- 8.51. Paragraph 170 of the NPPF states that: *“The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity.”*
- 8.52. Policy ESD10 of the Cherwell Local Plan Part 1 reflects the requirements of the Framework to ensure protection and enhancement of biodiversity. The Authority also has a legal duty set out in the Natural Environment and Rural Communities Act 2006 (NERC 2006) which states that: *“Every public authority must in exercising its functions, must have regard... to the purpose of conserving (including restoring / enhancing) biodiversity.”*
- 8.53. Comments have not been received from the Council’s Ecologist during the course of this application, but comments were received during the pre-application process referred to in section 4 of this report. The Ecologist stated that the presence of nesting birds is possible, but provided the works were conducted at a suitable time of year this should not be an issue. The Ecologist also stated that there are opportunities to put in biodiversity enhancements in the new building (for example swift bricks and sparrow terraces) and these could be conditioned should permission be granted. Overall, it is considered unlikely that the proposal would cause adverse harm to protected species.
- 8.54. On the matter of trees, Policy ESD10 of the Cherwell Local Plan (2011-2031) Part 1 requires the protection of trees amongst other ecological requirements. Whilst the tree to the north east of the site is considered to be of amenity value, it is considered that this tree could be protected subject to appropriate construction methods. This matter could be conditioned.

#### Planning Obligations

- 8.55. Policy INF1 of the Cherwell Local Plan (2011-2031) Part 1 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.”*
- 8.56. The Authority is also required to ensure that any planning obligation sought meets the following tests, set out at Regulation 122 of the Community Infrastructure Regulations 2010 (as amended):
- Necessary to make the development acceptable in planning terms;
  - Directly relate to the development; and
  - Fairly and reasonably related in scale and kind to the development.
- 8.57. Policy BSC11 of the Cherwell Local Plan (2011-2031) Part 1 states that: *“Development proposals will be required to contribute to the provision of open space, sport and recreation, together with secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in ‘Local Standards of Provision – Outdoor Recreation’. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement.”*

- 8.58. Policy BSC11 sets out that schemes for 10 or more residential units trigger the requirement for a Local Area for Play (LAP) of a minimum size of 100 square metres of play activity with 300 metres of landscape buffer.
- 8.59. As 10 dwellings are proposed, this triggers the requirement for a LAP. However, the design layout does not allow for the use of a LAP on site, and it is considered that an off-site contribution is reasonably required. This would go towards the enhancement of a nearby play area and further details could be provided should permission be granted. The Developer Contributions SPD highlights that a commuted sum of £23,068.62 would be required for such development.
- 8.60. Policy BSC11 also sets out that for schemes for 10 or more urban dwellings, general green space of 200 square metres will need to be required. However, again, the design layout does not allow for this to be provided on the site. The Developer Contributions SPD highlights that a commuted sum of £14,262.65 will be required for such development. This would go towards addressing shortfalls in the locality or improving/enhancement of existing areas within the locality.
- 8.61. Regarding recreation and sports facilities, the Council's Recreation Department have not been consulted. However, for schemes of a similar scale, they have not been able to identify community hall or sports facility projects within Kidlington as to where the contributions would be focussed. As the PPG sets out that tariff style planning obligations should not be sought for schemes under 10 dwellings, off-site contributions towards sports and community hall facilities will not be requested should permission be approved.
- 8.62. Regarding the matter of education, given the relatively small scale of the scheme, it is considered that the proposal is unlikely going to have a significant impact upon schooling facilities, therefore it is not considered necessary to request any contributions in relation to the matter of education. Furthermore, the proposal does not meet the relevant threshold as set out in the Developer Contributions SPD to request contributions towards primary medical care infrastructure.
- 8.63. Policy BSC3 of the Cherwell Local Plan (2011-2031) Part 1 requires developments of 11 or more dwellings within locations such as Kidlington to provide 35% affordable housing on site and provides detail on the mix that should be sought between affordable/social rent and shared ownership. 10 dwellings are proposed and this falls below this threshold. However Policy BSC3 also notes that affordable housing should be sought on sites suitable for 11 or more dwellings gross. Officers are of the opinion that the addition of further dwellings on the site would likely cause further harm to the character and appearance of the area therefore officers are satisfied that the site would not be suitable to accommodate more than 10 dwellings. Thus, affordable housing is not being sought on the site.

#### Other Matters

- 8.64. On the matter of drainage, OCC Drainage has stated that very few details with respect to the drainage strategy were provided with the application. OCC Drainage has noted that it appears from the submitted details that the proposals will not result in an increase in impermeable areas at the site. The proposals outlined on the submitted plans show the use of permeable paving at the site for parking areas. This will assist in meeting sustainable drainage system (SuDS) objectives of reducing runoff rates and volumes and improving water quality at the site. OCC Drainage has stated that infiltration testing at the site must be undertaken to establish the infiltration potential and OCC has recommended that a condition is attached to any planning permission to secure suitable surface water drainage of the site. Thus, should permission be granted, a drainage strategy could be conditioned.

8.65. The site is on land that is potentially contaminated and the Council's Environmental Protection Officer recommended full contaminated land conditions which include a site walk over and desk based assessment. Should permission be granted, this could be conditioned.

8.66. It is considered that adequate waste storage is provided to the north of the site.

## 9. PLANNING BALANCE AND CONCLUSION

9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.

9.2. Paragraph 12 of the NPPF states that: *"The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Local Planning Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed."* Furthermore, Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that: *"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

9.3. For the reasons set out in this report the proposal would cause demonstrable harm to the character, quality and appearance of the area and would be contrary to Policy Villages 1 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and saved Policies C28 and C30 of the Cherwell Local Plan 1996.

9.4. The proposal would have some limited economic benefits including some construction opportunities. Furthermore, there would be some social benefits including a contribution to the District's on-going five year supply, and in general spatial terms the site is well located to the village. However, these limited benefits are not considered to outweigh the significant and demonstrable harm caused by the development by virtue of the conflict with an up-to date development plan.

9.5. Thus, it is concluded that the proposal does not constitute sustainable development and the application is therefore recommended for refusal.

## 10. RECOMMENDATION

That permission is **refused**, for the following reason(s):

1. The proposal, by virtue of its layout which does not engage with Oxford Road or Bicester Road, overly large scale, bulky and complicated appearance, the poorly articulated design, tunnelling effect upon the nearby Public Right of Way and large car parking area, would fail to sympathetically integrate with the built environment and would constitute a visual intrusion within the street scene and nearby public footpath. The proposal would therefore cause demonstrable harm to the character, quality and appearance of the area and would fail to reinforce local distinctiveness, and so would be contrary to Policies Villages 1 and 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.

2. In the absence of the completion of a satisfactory Planning Obligation, the Local Planning Authority is not convinced that the necessary infrastructure directly required off site as a result of this development, in the interests of highways safety and safeguarding public infrastructure, will be provided. This would be contrary to Policies INF1, PSD1, SLE4, ESD15 and BSC11 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

#### **PLANNING NOTES**

For the avoidance of doubt, the plans and documents considered by the Local Planning Authority in reaching its decision on this application are:

- Application Form and Design and Access Statement submitted with the application;
- Drawing Numbers: 17032-L001; 17032-P010-B; 17032-P011-C; 17032-P012-C; 17032-P013-C; 17032-P014-B; 17032-P015-B; 17032-P016; 17032-P017-C; 17032-P018-A; 17032-P019; 17032-SU001; 0738 1.1; and 17032-P020 received from the applicant's agent by e-mail on 31<sup>st</sup> October 2018; and
- E-mail received from the applicant's agent by e-mail on 31<sup>st</sup> October 2018

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