

**SUPPLEMENTARY INFORMATION****Planning Committee****8 October 2020**

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*If you need any further information about the meeting please contact Lesley Farrell, Democratic and Elections [democracy@cherwellandsouthnorthants.gov.uk](mailto:democracy@cherwellandsouthnorthants.gov.uk), 01295 221591*

## Planning Committee – 8 October 2020 – Public Speakers

Agenda Item	Application Number	Application Address	Ward Member	Speaker Against	Speaker For
7	20/01830/F	Proposed Roundabout Access to Graven Hill and Wretchwick Green, London Road, Bicester	Cllr Dan Sames	Paul Troop	John Jowitt – Agent
8	20/0293/F	Bicester Gateway Business Park, Wendlebury Road, Chesterton	NO SPEAKING – PREVIOUSLY DETERMINED AT JULY COMMITTEE		
9	20/01122/F	OS Parcel 9635 North East of HM Bullingdon Prison, Widnell Lane, Piddington	None	None	None
10	20/01747/F	Land South Side of Widnell Lane, Piddington	None	None	None

11	20/01643/OUT	Land North and West of Bretch Hill Reservoir, Adj to Balmoral Avenue, Banbury	Cllr Mallon	Andy Fathers	Rebecca Bacon - Agent
12	20/01317/F	Magistrates Court, Warwick Road, Banbury, OX16 2AW	None	None	Jamie Pyper - Agent
13	20/01561/F	The Ley Community, Sandy Lane, Yarnton	None	None	Darren Worthington – Applicant Jon Westerman – Planning Agent
14	20/02123/DISC	4 Drapers House, St Johns Road, Banbury, OX16 5BE	None	None	None
15	20/01993/F	17 Fair Close, Bicester, OX26 4YW	None	None	None
16	20/01854/DISC	Land Adjacent to the Oxford Canal, Spiceball Park Road, Banbury – 01854	None	None	None

17	20/00125/DISC	Land Adjacent to the Oxford Canal, Spiceball Park Road, Banbury-00125	None	None	None
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# CHERWELL DISTRICT COUNCIL

## PLANNING COMMITTEE

8 October 2020

### WRITTEN UPDATES

#### Site Visits

None proposed

#### Agenda Item 7

**20/01830/F Proposed Roundabout Access To Graven Hill And Wretchwick Green London Road Bicester**

#### *Additional consultation responses*

**Oxfordshire County Council (Local Highway Authority comments) – No objection**

OCC confirms that the attached drawing (ref: WIE A41 03 001 A03) addresses the concerns raised in Joy White's consultation response dated 3 September 2020 and the points raised below.

The county council has no objection to the general arrangement as shown in the attached plan. The detailed design will be subject to a full technical audit and approval process at the S278 stage.

**Cycling UK Oxfordshire – commenting** "We should also note to the Planning Authority their obligations under the NPPF. I presume that the transport authority needs to be mindful of these in developing its responses'. A copy of paragraphs 102 and 103 of the National Planning Policy Framework were included with the response.

#### *Recommendation*

Approval but Condition 2 will need to be updated to refer to the update drawing no. Also to add any conditions requested by OCC.

#### Agenda Item 8

**20/00293/OUT Bicester Gateway Business Park Wendlebury Road Chesterton**

#### *Additional information*

In response to the Planning Committee Report, the applicant's advisor has provided the following response (provided in full as requested):

"We have come a long way on our planning application for the Bicester Gateway 'Innovation Community'. We achieved a unanimous resolution on 16 July 2020 and since then, with

your direction, we have worked quickly and collaboratively on the Heads of Terms for the Section 106. Thank you.

I have been through your Committee Report for 8 October and would conclude that we have a minor disagreement on health and wellbeing, but a major one on education:

- On the former, we are saying the CCG has not evidenced its case. The concerns raised by the CCG apply to Bicester generally and will be resolved through the Cherwell Local Plan or an adopted CIL Schedule. It is not for Bicester Gateway to make up for general needs at some unspecified point in the future when there is spare capacity, now, at the Bicester Health Centre. To draw this back to the CIL tests (which override the SPD), the claimed contribution is not necessary or directly related. We have therefore proposed £100,000, and suggested this money can be spent on more general Healthy New Town initiatives (such as the town centre and OYAP, which may benefit our scheme). This is a reduction from the claim for £158,112 which, in itself, needs to be reduced by c10% to reflect a smaller population at Bicester Gateway than that assumed by the CCG.
- On education, we are at £289,800.65 against the County's latest, slightly reduced proposal of £768,710. Our proposal is based on Census evidence of child yield rates and it uses the build costs agreed by the Inspector in the recent Albion appeal at Howes Lane (December 2017). We do not accept the County's 'black box' methodology in the face of the precise evidence we have provided and we cannot see how Cherwell would defend another appeal here given even the County initially cited Howes Lane as the correct benchmark on costs. Of course, we have a common interest with Cherwell in wishing to advance housing delivery so an appeal is not in our respective interests. The issues we have raised with the claimed education contributions therefore merit full and detailed scrutiny at Committee: for example, the "independent evidence OCC commissioned" (referenced at paragraph 2.39 of the Committee Report ) was not supported by the appeal Inspector and, with respect to paragraph 2.40, we question the County's strategy of building 600 place secondary schools, which are not operationally efficient compared with the norm of 1200, and which are more expensive to cost plan; in effect, OCC's seems to be costing 600 + 600 rather than 1200/2 to reflect phased construction. We are also a long way apart on the child yield calculations, as explained below.

In summary, we say that:

- Only our approach differentiates between flats and houses, with evidence to support this. CDC, OCC and OCCG have provided no evidence that the yield figures are accurate, and indeed OCC openly acknowledged that its figures included a blend of flats and houses. It would not have been difficult for the County to separate out the flats data in its Excel spreadsheet, or simply make this data available for scrutiny.
- Only our approach uses the previously approved (at appeal) education build costs, with appropriate indexation built in. The relevant appeal decision was not only within Oxfordshire but also within Cherwell, and no evidence has been produced by either CDC or OCC as to why it is not applicable.
- Whilst the CCG has noted that there is spare capacity at Bicester Health Centre (that is currently used for other purposes) we have still offered a contribution, whilst also requesting a wider interpretation of Health and Wellbeing for expenditure we commit to in our S106. We have sought to strike a reasonable compromise.

It is also important to note that we have committed to 30% affordable at a 70/30 mix, which is policy compliant. This is the highest cost planning obligation in the draft S106 HOTs; and it reflects the requests made by three Councillors at Committee on 16 July 2020. This, and

the fact that Bloombridge purchased the Bicester Gateway site at office value (i.e. it is not held at agricultural value), means that there is limited margin available for the full range of contributions envisaged by the SPD. Hence our focus on the CIL tests and, in particular, the precedent appeal.

These are the headlines. To ensure our case is fully justified/evidenced, the remainder of this email provides the detail on the two points in dispute.

#### Response to the Committee Report

As you will know, we have engaged extensively with you and the County, and you have repeatedly stated that there was no evidence for our adopted position. This is clearly not the case, and in fact we are the only party to the S106 agreement who can fully evidence its position other than by stating "this is what we always do". I am sorry if this sounds harsh, but our approach is not unreasonable: it is supported by an Inspector on education and, with regard to health and wellbeing, the CCG has provided no evidence since March, other than their standard return based on "insufficient consulting rooms" (which we have evidenced as not being valid); and the following statement in the CCG's email of 3 September 2020 concurs:

*"Bicester Health Centre indeed has the footprint to extend its current space to accommodate further clinical rooms, although this space is let out to Community Health uses with a lease having several years left to run. This space will need to be refitted/reconfigured for GP use in due course."*

This summary position from the CCG clearly shows that their request is not CIL complaint - there is not a need now or one that is directly related, only "in due course". The spare space must have been let out for "several years" in response to forecast need (and in light of the acceptable capacity currently).

More generally, whilst we have strictly applied the CIL tests, and justified our case with strong evidence, it is true to say that Bloombridge is still making significant contributions, notably with regard to the key HOTS headings. We have requested a 'Viability Review' clause in the S106 (per the Albion appeal), to allow some flexibility, but this is not something that you and your colleagues are willing to entertain, meaning Bloombridge has had to prioritise certain heads of claim for the S106 to ensure the headline affordable housing position remains viable and deliverable. This is set against the background of a challenging business environment and challenges to housing delivery in Cherwell. Please could you therefore ensure that your Update Report for 8 October is clear on this commercial position, but also the progress that we have made.

I now deal with the remaining two points on the Heads of Terms, but starting with evidence on yield for flats.

#### Evidence on Yield for Flats

Your report states:

*"2.5 Firstly, Officers have treated this application on the same basis as any other residential scheme in terms of both the likely occupancy levels for each size of unit which is based upon the occupancy rates for each type of unit as set out in the Council's Developer Contributions SPD. For note, contributions for education are based upon OCC's standard approach and contributions towards health infrastructure are based upon the OCCG's approach, both of which are accepted by the Council as set out in the SPD and are consistently used across all developments in the District."*

In response, I should point out that neither the District nor the County has produced any evidence showing that flats and houses produce the same yield; whilst, in contrast, the evidence Alfredson York have produced is from the 2011 Census (since the next census is

yet to be carried out) and it is therefore robust evidence based on what is actually taking place in housing in the CDC area. This is robust and a far more reliable methodology than either the District or the Council use for developments that solely consist of flats. The clear result of the County not applying precise evidence on flats (and instead using a composite database that includes houses) is that this inflates the costs being claimed. This is unreasonable.

The table below set out the Census evidenced position for total population, and primary and secondary school child yield, compared with those in use (but not evidenced) by CDC and OCC.

Unit	Census Popn	CDC Popn	CCG Popn Children	Census Primary Children	OCC Primary Children	Census 2ndy Children	OCC 2ndy Children
1	1.33	1.28	1.40	0.0089	0	0	0
2	1.91	1.85	2.00	0.098	0.2211	0.0392	0.1368

CDC calculates a total population of the proposed development of 403 persons, OCC calculates this at 402, the Census data indicates 418, and the CCG calculates the yield to be 439. This is reasonably consistent. However, and very importantly, despite a lower overall total population yield, OCC anticipates 38 school age children, where the Census data indicates just over 21. This is a significant discrepancy, confirming that, as previously stated, OCC's methodology overstates the child yield from developments of flats. This reflects the fact that flatted schemes are rare in the County, meaning the existing/standard methodology employed by OCC is not suitable for a flat only scheme, such as Bicester Gateway.

It should also be noted that the CCG uses a significantly higher yield per dwelling, without any corroboration, than either CDC or the Census data. This skews the level of contribution sought when applied to a flatted scheme, and cannot be said to be fairly and reasonably related in size and scale to the development. An adjustment by way of a c10% reduction to the claimed £158,112 is therefore required on yield grounds alone.

## Education

Your Report states:

*"2.39 Education: The applicant has queried the contributions sought from OCC on a number of main grounds including: the number of pupils likely to be generated by the development (based upon a consideration of occupancy of flats v houses) and the costs per pupil place that OCC use (for which they argue should not be based upon the independent evidence OCC commissioned, but instead on national data). They also argue that OCC should not be seeking to build 600 place secondary schools as these are unviable and that costs should be sought on the basis of larger schools.*

*2.40 OCC have reviewed the evidence submitted and provided responses. On the main grounds, this sets out that evidence shows that additional capacity will be required for all age groups (including early education) and that the pupil numbers generated are based only upon 2 bed units, for which the numbers likely to be generated are not unreasonable. That the per pupil costs for building new schools are independently costed and reviewed and are not significantly different to national data once the scale of the school is considered (and that they are therefore robust and evidenced) and that OCC have very recently completed a 600 place secondary school in Bicester*

*and their model going forward is on the same basis. OCC's basis for calculating contributions across the County will be based upon this model.*

*2.43 OCC have not considered the applicant's offer or their arguments at the time of writing this report. If a response is provided, then an update will be provided to Committee, however Officers consider that the evidence provided by OCC is reasonable and justified and demonstrates that contributions of the scale identified are necessary to mitigate the impacts of the development. The amended response offered by OCC is therefore set out in the final heads of terms and is recommended to be secured albeit if there is a variation once OCC have considered the applicant's most recent position, then this will be updated in the written updates. The applicant may be unwilling to sign a legal agreement on this basis."*

Firstly, where data has been commissioned by OCC, it cannot fairly be described as "independent", nor is this data based on actual projects. The data put forward by the applicant is national benchmarked data, suggested for exactly this use by the Department for Education, reflects actual projects delivered, and includes projects of the same size as that proposed by OCC. Whilst we believe that OCC will find that 600 place schools are economically challenging and poor value for money, that is not a relevant point when using this benchmarked information.

OCC's position has already been successfully challenged, at appeal, within Bicester, and for you to state that OCC's position is "reasonable and justified" flies awkwardly in the face of this previous appeal; and your joint position is weakened by not referencing the appeal evidence or by explaining why the appeal can be set aside. Given your knowledge of the appeal, and the position taken by the Inspector, we find it somewhat inexplicable that the same position on costs per place is not acceptable to you here. The only robust evidence produced on this matter fully supports the applicant and is set out again below. This evidence is consistent with the appeal decision (which was first raised as a comparator by the County to underscore its claim for over £981,176). The County has not explained why it now disagrees with the Alfredson York analysis of this appeal.

We therefore do not agree that the County's claimed costs per place have been robustly evidenced, nor have they been supported by an Inspector, as originally claimed. Applying the Albion appeal decision directly to the Bicester Gateway development, and using the highest cost per unit size, would give rise to a total contribution of £633,818.15 (calculation: 95 x £3,555.11 for primary plus 95 x £3,116.66 for secondary). This assumes the child yield that OCC seeks to apply; but our evidence regarding the lower yield to be expected from flats and studios confirms that the County is overestimating the pupil yield at primary level by 40.15% (calculation:  $(25.18-15.07)/25.18$ ) and at secondary level by 52.08% (calculation:  $(13-6.23)/13$ ).

Yields	OCC	Census	Percentage Reduction
Primary (inc Early yrs)	25.18	15.07	40.15%
Secondary (inc 6 <sup>th</sup> form)	13	6.23	52.08%

Applying these reduction factors to the totals calculated from the Albion appeal would give a total contribution (to be indexed at the same date as the appeal) of £289,800.65 (calculation:  $95 \times £3,555.11 \times 0.4015$  plus  $95 \times £3,116.66 \times 0.5208$ ) against the County's latest claim for £768,710 (email from Barbara Chillman, 25 September 2020).

Our proposal of £289,800.65 is a fairly and reasonably related contribution level and is offered without prejudice. It is supported by greater weight of evidence than that produced by either the County or the District with regards to the pupil yield from solely flatted developments, and on costs per place is supported by a recent appeal decision that considered in detail the 'independent' Gleeds cost calculations (on which the County is still seeking to rely in the case of Bicester Gateway) and found them to be an over-estimate. There is no reason, and no evidence, why another appeal Inspector would not follow the same decision basis as the Albion appeal but perhaps this time with costs awarded against the local planning authority. A key point here is that a high density flatted scheme will yield fewer children than a sub-urban housing estate, and this is reflected in our calculations, yet only partially in the "simplified version of the population calculator" suggested in Barbara Chillman's 25 September email. In contrast, our offer is fully explained and fully evidenced, as summarised in this email.

## Health & Well-being

Your report states:

"The CCG have been involved in reviewing the evidence submitted and have provided various correspondence in response. This includes evidencing the pressure the existing practices are under (in that existing healthcare infrastructure is at capacity and medical groups are already seeking new premises in the town to meet the needs of the growing population), the need for additional practice space (which is not limited to space for doctors, space is required for a range of healthcare professionals) and that despite the current pressures caused by COVID-19, different appointment practices does not negate the need to see patients in face to face settings"

This is simply not the case. The CCG acknowledges that there is spare capacity within Bicester Health Centre and whilst it claims that change in appointment practices does not change the need for patients to be seen in practice, it fails to acknowledge that the numbers of such patients is significantly reduced and is impacting on physical capacity requirements, as the CCG's Freedom of Information response previously confirmed.

As above, the evidence to support the CCG's position regarding the population yield from the proposed development is simply not there, nor can it be right that the applicant is expected to pay the rates for a brand new development built to serve the large housing developments elsewhere in Bicester. The percentage of the population attending GP surgeries is significantly down and unlikely to rise significantly in the future with the greater use of online and telephone appointments. Contrary to the CCG's statement, this does reduce the built area required per person.

The original offer on health and well-being set out in the Alfredson York report of 11 August 2020 proposed a nil contribution based on the spare accommodation available to the CCG in Bicester. However, we accept that health and well-being is an important topic and we are therefore willing to make a general contribution of £100,000, but with the S106 including a broader definition of beneficiaries, to include initiatives being proposed by the Bicester Town Centre Task Group and OYAP. This is consistent with the Healthy New Town Programme which, we believe, specifically encompasses the work undertaken by OYAP, not least as a response to the CCG's email (20 July 2020, page 2) raising 'young adult issues' such as work pressures around stress, anxiety and so on. Our feeling is that more flexibility in the drafting is more likely to lead to spending that could be described as necessary and directly related to Bicester Gateway. We have not seen a business case for any pressing expenditure from the CCG, other than the claim in their consultation response from March that there are "insufficient consulting rooms", which we (and the CCG, quoted above) have evidenced as not being the case. Put another way, it is common ground that there is spare capacity locally (in the Bicester Health Centre) and it is this facility that is directly related to the proposed development. There is no CIL Schedule, so the SPD rates cannot be applied

blanket fashion without having regard for the CIL tests – being necessary, directly related, and fairly and reasonably related in scale and kind. In fact, Cherwell’s own SPD makes this clear at paragraph 4.91:

“4.91. New residential development will be expected to contribute towards the provision of additional health care infrastructure generated by its population growth where there is insufficient existing capacity, well located to serve the development. This may include financial contributions and/or the provision of land and buildings to enable the provision of doctor’s surgeries and other health facilities to serve the local population, or the upgrading or extension of existing facilities in some locations.”

I have emphasised the key point.

### Conclusion

We have a robust position with regards to the assertion that flats and studios are not the same as houses when it comes to yields. Where contributions are not fairly and reasonably related in size and scale to the development then they are not CIL compliant. Where the mitigation proposed is not related to the development, then the contribution is not CIL compliant. Where it is not necessary, again it is not CIL compliant.

The fully evidenced position as adopted would lead to contributions at a lower level for education (of £289,800.65, indexed to 2017) and healthcare (where we would suggest a figure of £100,000). These are the only outstanding points that the Committee needs to consider.

Finally, on two points on detail, please note that (1) we remain happy to pay £37,000 on a voluntary basis towards the Chesterton Community Centre and (2) the biodiversity contribution noted at paragraph 2.32 simply tops up what we have already paid with the 2017 permission and this additional payment is offered in response to a request from the Wetlands Trust.

My strong preference is for the entirety of this email to be included in your Update Report.

### **Officers Response**

In response, Officers would comment as follows:

- The applicant provides Members with some information regarding the business environment that they find themselves in. Officers have engaged extensively with the applicant to provide evidence that the proposed contributions are CIL Regulation compliant and have considered thoroughly all proposals put to them. Officers are satisfied that the position reached is a CIL Regulation compliant position. Officers agree that where there are queries regarding legislative compliance, it is reasonable to provide additional information. In this case, Officers are content that the position reported meets those tests.
- Occupancy rates
  - The applicant continues to challenge the occupancy rates used to work out contributions. This is covered in paragraphs 2.5 and 2.6 of the report. The applicant seeks to rely on Census data (2011), which is clearly some age now, however Officers consider that occupancy rates are most appropriately applied in line with the guidance in the SPD. Interestingly, the applicant’s occupancy rates are actually higher than those set out in the SPD so the requested contributions towards indoor and outdoor sport would increase if these rates were used.
  - In addition, OCC, in respect of education, have reviewed the information, specifically in relation to 2 bed units (as 1 bed flats already reflect no pupils are generated). The evidence presented by the applicant, when taking into account moving households, actually shows higher occupancy yields in flats than for

houses. This was further scrutinised taking into account each year of age (10 and under years of age) in each type – houses and flats. This shows that for some years of age, the rate is higher for flats and for some, it is higher for houses. For example, whilst nursery age range is lower yielding in flats, the pre-nursery age range (who would be at nursery within 2 years) is higher for flats. The rate for secondary pupils is identical between flats and houses. The argument therefore made is not supported by the evidence presented.

- OCC have also advised that using the census data rather than the Oxfordshire Survey of New Housing is not valid because they measure different things. The census data is for households who moved in the past year, although not necessarily to a newbuild dwelling. The Oxfordshire data (consistently used) is based upon households who have moved into a new dwelling built in the previous 5 years – the census data would not pick up this data.
- Education – OCC have reviewed the applicant's offer and provided the following response (summarised):
  - It is not valid to suggest reusing a matrix created for one development to calculate the contributions for another. This is because the calculations are based upon an assumed mix (usually SHMA mix), the likely pupil generation for each education type and the cost per pupil for each education type. Pupil generation will depend on the results of the PopCal model and this takes account of the affordable housing percentage and the build out rate. Differences in these variables can make a change to pupil generation. Each matrix is therefore bespoke to each development and so applying the matrix from the Albion Land development is wrong and would not meet the CIL Regulation tests. OCC's approach is directly related to the development and is therefore directly related to the proposed development.
  - At the appeal quoted, each party engaged professional consultants to review the contributions requested by OCC. This led to an agreed modification of the contribution requested, which in turn led to revised contributions that were upheld by the Inspector. Since then, OCC commissioned a full review of school building costs by Gleeds to align future requests for contributions to the outcome of the appeal as well as to reappraise the costs against benchmarks. This was audited and confirmed by Mott MacDonald. Contributions requested therefore account for the outcome of the appeal to derive the most representative building cost per metre square. OCC's costs are therefore based upon the outcome of the appeal and the contributions were upheld.
  - OCC are confident that their costs are robust and could be defended at appeal.
  - In respect of the applicant's advisor's costs on secondary schools, these are a net cost, not a gross cost. The net cost would exclude fees, abnormalities, external works, loose furniture and equipment, minor building works and alterations. Gross costs including these elements need to be recovered from developments. When using the benchmarking report as requested by the applicant, and the gross costs, the figures are much higher than quoted on behalf of the applicant. This however remains a common UK average price level and it needs to be uplifted in line with Oxfordshire regional values. When applying this uplift, a higher per pupil cost results compared to those sought from this development by OCC when using the data source promoted by the applicant once the calculation is completed correctly.
  - Primary school costings have not been re-looked at but the data provided does demonstrate for secondary schools, that the costs used by OCC are reasonable and in line with national benchmarking data.
- Local Primary Health Care
  - As set out in the report, Officers are content with the evidence of the CCG both in respect of the need for additional health care infrastructure in Bicester and on the basis of the calculations for the contribution which has been carried out in

accordance with the information set out in the Council's SPD, which sets out how contributions are to be calculated.

- Officers do not see why the development should not be treated on the same basis as other developments in Bicester when the development proposes residential development that will generate residents who will have healthcare needs.

### **Recommendation**

The areas covered at para 2.45 of the report are recommended to be varied only in accordance with the following points:

- The applicant has confirmed that they are content to agree wording not to require the provision of a MUGA on site and therefore the contributions of £1,036.87 per 1 bed unit and £1498.60 per 2 bed unit, all figures index linked from 2Q17 are the only figures required to be included.
- Rather than 'the provision of a combined LEAP/LAP on site', Officers agree to the provision of a play area strategy to be provided for approval and for plays areas to then be provided in accordance with the agreed strategy.

Otherwise, there is no further proposed change to the recommendation and Members are asked to support the Officer recommendations with regard to what needs to be secured in the S106.

Full planning condition wording is now provided as below. Officers continue to seek delegation in line with the recommendation to make any required changes following further review (including ensuring consultees are content) and to allow the required agreement with the applicant for pre-commencement conditions as well as to take into account any other comments they may have on the recommended wording.

### **Planning conditions – 20/00293/OUT**

#### **TIME LIMITS AND GENERAL IMPLEMENTATION CONDITIONS**

1. The development hereby permitted shall comprise no more than:
  - 4,413sqm (GIA) which shall be used only for the purpose of offices falling within Class B1a of the Town and Country Planning (Use Classes) Order 1987 (as amended)
  - 273 C3 residential units
  - 177sqm (GIA) which shall be used only for purposes falling within class A3 of the Town and Country Planning (Use Classes) Order 1987 (as amended)
  - 794sqm (GIA) which shall be used as a mixed-use co-working hub

Reason – In order to retain planning control over the use of the site and to ensure that the impacts of the development are no greater than those considered under this application in accordance with Policies SLE4 and Bicester 10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

2. No development shall commence on a phase identified within an approved phasing plan until full details of access (in so far as not approved by this decision), layout, scale, appearance and landscaping (hereafter referred to as reserved matters) of the development proposed to take place within that approved phase have been submitted to and approved in writing by the Local Planning Authority.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 6 of the Town and Country Planning (Development Management Procedure (England)) Order 2015 (as amended).

3. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (Development Management Procedure (England)) Order 2015 (as amended).

4. Except where otherwise stipulated by conditions attached to the Reserved Matters Permission(s), the development shall be carried out strictly in accordance with the following plans and documents:

Site Location Plan PL01

Regulating Plan PL03C

Vehicle Access and Pedestrian Improvements 46462/5501/001 Rev C

Reserved Land PL05

Wendlebury Road Proposed Improvements 46463/5501/002 Rev A

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

5. All site clearance (including the removal of any vegetation or works to hedgerows) shall be timed so as to avoid the bird nesting season, this being during the months of March until July inclusive unless the Local Planning Authority has confirmed in writing that such works can proceed, based on submission of a survey (no more than 48hrs before works commence) undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site as required.

Reason: To ensure that the development will conserve and enhance the natural environment and will not cause significant harm to any protected species or its habitat to comply with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

6. Except to allow for the creation of means of access with associated vision splays hereby approved, the existing hedgerows along the western (A41), southern and eastern (Wendlebury Road) boundaries of the site shall be retained and properly maintained from the date of this planning permission (unless otherwise approved as part of the approval of reserved matters submitted in requirement of Condition 2), and if any hedgerow plant/tree dies within five years from the completion of the development it shall be replaced and shall thereafter be properly maintained in accordance with this condition.

Reason - In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policies ESD13 and ESD15 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.

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner, and shall be maintained for a period of 5 years from the completion of the development. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

Reason: To ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity and to accord with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. 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 any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. All applications for approval of reserved matters relating to an approved phase shall be accompanied by details of the existing ground levels together with proposed finished floor levels of all buildings within that phase (with the level no less than 65.30m AOD as set out in the plans accompanying the LLFA Response reference number JAG//43386/Lt004). Development in that phase shall thereafter be undertaken in accordance with the ground/floor levels approved as part of the grant of reserved matters approval.

Reason - To ensure that the proposed development is in scale and harmony with its neighbours and surroundings 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.

10. All applications for approval of reserved matters relating to an approved phase shall be accompanied by details of the proposed ecological enhancement measures to be incorporated within that phase in line with the recommendations at paragraph 18 of the Ecology Briefing Note prepared by Ecology Solutions Limited. All proposed ecological enhancement measures shall thereafter be installed in accordance with the details approved as part of the grant of reserved matters approval.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage and to enhance ecological opportunities at the site in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

11. All applications for approval of reserved matters relating to an approved phase shall be accompanied by an Energy Statement based upon Revision P02 of the Energy Statement prepared by Kyoob that demonstrates which sustainable design measures, including the provision of on-site renewable energy technologies, will be incorporated into that phase. The sustainable design measures shall thereafter be fully incorporated into the development of each phase and no occupation of development within the relevant phase shall take place until the approved sustainable design measures have been provided and, for on-site renewable energy provision, until such measures are fully installed and operational.

Reason – To ensure energy and resource efficiency practices are incorporated into the development in accordance with Policies Bicester 10, ESD3, ESD4 and ESD5 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

12. The non-residential floorspace hereby permitted shall be constructed to at least a BREEAM 'Very Good' Standard.

Reason – To ensure energy and resource efficiency practices are incorporated into the development in accordance with Policies Bicester 10, ESD3, ESD4 and ESD5 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

13. Notwithstanding any provisions contained within the Town and Country Planning (General Permitted Development) (England) Order 2015 (and any Order or Statutory Instrument amending, revoking or re-enacting that order), all water supply, foul water, energy, power and communication infrastructure to serve the development shall be provided underground and retained as such thereafter except where specifically approved otherwise as part of a grant of reserved matters approval for a phase.

Reason - In the interests of ensuring that such above ground infrastructure is not constructed in unsuitable locations on the site where it would be harmful to visual amenity 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.

## **PRE COMMENCEMENT CONDITIONS**

14. No development shall take place until a phasing plan covering the entire application site has been submitted to and approved in writing by the Local Planning Authority identifying the phases by which development will take place. The phasing plan shall demonstrate the delivery of the 794sqm (GIA) mixed-use co-working hub to be delivered prior to the first occupation of any residential development. Thereafter the development shall be carried out in accordance with the approved phasing plan and applications for approval of reserved matters shall be submitted in accordance with the terms of the approved phasing plan and refer to the phase (or phases) to which they relate.

Reason: To ensure the proper phased implementation of the development and associated infrastructure in accordance with Policies ESD15, Bicester 10 and INF1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

15. No development shall take place on any phase, including any works of demolition until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The statement shall be appropriately titled (site and planning permission number) and shall provide for at a minimum:

- The parking of vehicles of site operatives and visitors;
- The routing of HGVs to and from the site;
- Loading and unloading of plant and materials;
- Storage of plant and materials used in constructing the development;
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Wheel washing facilities including type of operation (automated, water recycling etc) and road sweeping;
- Measures to control the emission of dust and dirt during construction;
- A scheme for recycling/ disposing of waste resulting from demolition and construction works;
- Delivery, demolition and construction working hours;
- Spoil locations
- Water management

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason: To ensure the environment is protected during construction in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

16. No development shall take place on any phase (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:

- a) Arrangements for a site walkover survey undertaken by a suitably qualified Ecologist to ensure that no protected species, which could be harmed by the development have moved onto the site since the previous surveys were carried out. If any protected species are found, details of mitigation measures to prevent their harm shall be required to be submitted;
- b) Risk assessment of potentially damaging construction activities;
- c) Identification of 'Biodiversity Protection Zones';
- d) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- e) The location and timing of sensitive works to avoid harm to biodiversity features;

- f) The times during construction when specialist ecologists need to be present on site to oversee works;
- g) Responsible persons and lines of communication;
- h) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- i) Best practice with regard to wildlife including use of protective fences, exclusion barriers and warning signs

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

17.No development shall take place on any phase until an Arboricultural Method Statement for that phase, undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions to include a plan identifying which trees are to be retained and details of how they will be protected, is submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS and any tree protection measures shall be erected before any equipment, machinery or materials are brought onto the site for the purposes of development and shall be maintained until all equipment, machinery and surplus material has been removed from the site.

Reason: To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing built environment and to comply with Policy C28 of the adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

18.No construction shall take place until a Training and Employment Plan for the development has been submitted to and approved in writing by the Local Planning Authority. As a minimum this Plan shall include the arrangements by which the applicant (or other specified persons) will provide construction (and related trades) apprenticeship starts during construction of the development hereby approved. Construction shall take place in accordance with the agreed Plan.

Reason: Paragraphs 80 and 81 of the National Planning Policy Framework support and encourage sustainable economic growth. Para B14 of the adopted Cherwell Local Plan 2011- 2031 recognises that it is important to ensure the population is sufficiently skilled to attract companies and investment to Cherwell and supports proposals to strengthen the skills base of the local economy. Strategic Objective 3 of the adopted Cherwell Local Plan seeks to support an increase in skills.

19.No development shall take place on any phase until a Detailed Design, Surface Water Management Strategy, Drainage Strategy (including calculations, ground levels and plans) and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods for that phase has been submitted to

and approved in writing by the Local Planning Authority. The detailed drainage will follow the Outline Design principles set out in the following documents:

- 43386 Lt004 LLFA Response (JAG) COMPLETE

The approved Sustainable Drainage System shall be implemented in accordance with the approved Detailed Design prior to the first occupation of the development. The Sustainable Drainage Scheme shall be managed and maintained thereafter in perpetuity in accordance with the agreed management and maintenance plan.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal in accordance with Policy ESD8 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

20. No development shall take place on any phase until full details of the means of access between the land and the highway on Wendlebury Road and the A41 pedestrian bridge including position, layout, and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of any of the development, the means of access shall be constructed and retained in accordance with the approved details.

Reason: In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

21. No development shall take place until full details of combined footway/cycleways serving the site along both the A41 and Wendlebury Road, including details of the pedestrian/cycle bridge linking the site to the A41, have been submitted to and approved in writing by the Local Planning Authority. The approved pedestrian and cycle facilities shall thereafter be provided prior to the first occupation any phase of the development.

Reason - In the interests of ensuring that suitable access is provided to the development that prioritises sustainable travel in accordance with the requirements of Policies Bicester 10 and SLE4 of the Cherwell Local Plan 2011-2031 Part 1 and to comply with Government guidance contained within the National Planning Policy Framework. This information is required prior to the commencement of the development as it is fundamental to the acceptability of the scheme.

22. No development shall take place (including any demolition) until and prior to the submission of the first reserved matters application, a professional archaeological organisation acceptable to the Local Planning Authority, has undertaken an archaeological evaluation of the site. This evaluation will need to be undertaken in accordance with a Written Scheme of Investigation, which has first been agreed with the Local Planning Authority. The Archaeological Evaluation of the site shall be submitted to and approved in writing by the Local Planning Authority. The conclusions of the Archaeological Evaluation shall be taken into account in the future layout of the application site.

Reason - To identify areas of significant archaeological interest not included in the previous evaluation to comply with Government advice in the National Planning Policy Framework (NPPF) (Section 16). This information is required prior to the commencement of the development as it is fundamental to the acceptability of the scheme.

23. No development shall take place (including any demolition) and following the agreement of the results of the archaeological evaluation required by condition 22, full details of archaeological protection measures shall be approved in writing by the Local Planning Authority in a Construction Environmental Management Plan (CEMP) or equivalent document as set out in the Archaeological Mitigation Strategy (rev2 June 2020) submitted with this application.

Reason - To safeguard the physical preservation of significant archaeological deposits within the site to comply with Government advice in the National Planning Policy Framework (NPPF) (Section 16). This information is required prior to the commencement of the development as it is fundamental to the acceptability of the scheme.

24. Following the approval of the archaeological protection measures required by condition 23, and prior to any demolition on the site and the commencement of the development (other than in accordance with the archaeological protection measures required by condition 23), a second stage Written Scheme of Investigation, including a programme of methodology, site investigation and recording, shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To secure the provision of archaeological investigation and the subsequent recording of the remains, to comply with Government advice in the National Planning Policy Framework (NPPF) (Section 16). This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

25. Following the approval of the second stage Written Scheme of Investigation referred to in condition 24, and prior to the commencement of the development (other than in accordance with the Written Scheme of Investigation), the programme of archaeological mitigation shall be carried out and fully completed in accordance with the approved second stage 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 within two years of the completion of the archaeological fieldwork.

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 (2019). This information is required prior to the commencement of the development as it is fundamental to the acceptability of the scheme

26. No phase of the development shall take place until a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model has been carried out by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and has been submitted to and approved in writing by the Local Planning

Authority. No development shall take place until the Local Planning Authority has given its written approval that it is satisfied that no potential risk from contamination has been identified.

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

27. If a potential risk from contamination is identified as a result of the work carried out under condition 26, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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

28. If contamination is found by undertaking the work carried out under condition 27, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

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

29. Prior to, and within two months of, the commencement of the development, the site shall be thoroughly checked by a suitably qualified ecologist to ensure that no protected species, which could be harmed by the development, have moved on to the site since the previous surveys were carried out. Should any protected species be found during this check, full details of mitigation measures to prevent their harm shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved mitigation scheme.

Reason: To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

### **CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE SPECIFIC CONSTRUCTION WORKS TAKE PLACE**

30. No piling shall take place until a Piling Method Statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling shall be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme for the works) has been submitted to and approved in writing by the Local Planning Authority (in consultation with Thames Water). Any piling must be undertaken in accordance with the terms of the approved Piling Method Statement.

Reason: In order to protect groundwater and to achieve sustainable development in accordance with Section 15 of the National Planning Policy Framework.

31. No development above slab level on any building proposed to contain residential units shall take place until a scheme for protecting the proposed dwellings from noise has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall achieve internal levels of 30dB LAeq (8 hour) and 45dB LAmaxF in all sleeping areas between 2300 hours and 0700 hours. An internal level of 40dB LAeq 1 hour shall be achieved in all other areas of the building and an external level of 50dB LAeq (16 hours) shall be achieved in garden areas and balconies. Any works which form part of the scheme shall be completed in accordance with the approved details before any of the permitted dwellings to which the scheme relates are occupied.

Reason - To avoid noise giving rise to significant adverse impacts on health and quality of life and to comply with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework.

### **CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE OCCUPATION**

32. No part of the development shall be occupied until confirmation has been provided that either:

- all water network upgrades required to accommodate the additional flows to serve 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 - Network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional demand anticipated from the new development. Any necessary reinforcement works will be necessary in order to avoid low / no water pressure issues. In order to comply with Policy ESD8 of the Cherwell Local Plan 2011 - 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

33. If remedial works have been identified in condition 28, the development shall not be occupied until the remedial works have been carried out in accordance with the

scheme approved under condition 28. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

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

34. Prior to the occupation of the first residential dwelling hereby approved, and in the event that the Poultry Farm to the east of the site is operational, an odour impact assessment, which shall also identify mitigation where any odour nuisance to a proposed residential dwelling is identified, shall be submitted to and approved in writing by the Local Planning Authority. Any identified mitigation measures shall be installed and made operational prior to any dwelling being occupied.

Reason – To safeguard the amenities of the occupiers of the residential properties and to ensure an environment free from odour nuisance in accordance with Saved Policy ENV1 of the Cherwell Local Plan.

35. Prior to the occupation of any phase of the development hereby approved, an updated Framework Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans" and its subsequent amendments, shall be submitted to and approved in writing by the Local Planning Authority for that phase. This Framework Travel Plan shall be based on the draft document 46463 dated January 2020. The travel plan for each phase shall be implemented in accordance with the details approved.

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.

36. Prior to first occupation of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the LEMP shall be carried out in accordance with the approved details.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework.

37. The development hereby permitted shall not be occupied until it has been provided with a system of electrical vehicle charging to serve the development. In addition, ducting should be in place to allow for the easy expansion of the EV charging system as demand increases towards the planned phase out of ICE vehicles (ideally ducting should be provided to every parking space to future proof the development).

Reason: To comply with policies SLE 4, ESD 1, ESD 3 and ESD 5 of the adopted Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with Government guidance within the National Planning Policy Framework.

38. Prior to the first occupation of any development within a phase, a car park management plan relating to that phase shall be submitted to and approved in writing by the Local Planning Authority. The car park management plan shall include measures to ensure that the car parking areas within the phase are made available solely for use in connection with the use of the development hereby approved and for no other purpose whatsoever. Thereafter, the entirety of the development on Phase 1B shall operate in accordance with the approved car park management plan.

Reason - To ensure that car travel is not unduly encouraged as a means of accessing surrounding development and to comply with Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1 as well as Government guidance contained in the National Planning Policy Framework.

39. Details of external lighting including the design, position, orientation and any screening of the lighting shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The lighting shall be installed prior to the first occupation of the development and operated in accordance with the approved details at all times thereafter.

Reason: In order to safeguard the visual amenities of the area and to achieve a suitable lighting scheme which would minimise the impact to ecology and biodiversity in accordance with Policy ESD10 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government advice in The National Planning Policy Framework.

40. No development shall be occupied until a scheme for the commissioning and provision of public art to be accommodated within the site has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented in accordance with the approved details prior to the occupation of any B1a floorspace or 150 residential units whichever is sooner.

Reason - To create an attractive and distinctive development in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Policy C28 of the adopted Cherwell Local Plan and Government guidance within the National Planning Policy Framework.

41. The dwelling(s) hereby approved shall not be occupied until domestic bins for the purposes of refuse, food waste, recycling and green waste have been provided for each of the approved dwellings, in accordance with the Council's current bin specifications and requirements.

Reason - To provide appropriate and essential infrastructure for domestic waste management in accordance with the provisions of Policy INF1 of the Cherwell Local Plan 2011 - 2031.

42. The development shall be constructed so as to meet as a minimum the higher Building Regulation standard for water consumption limited to 110 litres per person per day.

Reason: The site is located in an area of water stress and therefore reaching a higher level of water efficiency is required to comply with Policy ESD3 of the Cherwell Local Plan 2011-2031.

## **Agenda Item 9**

**20/01122/F**      **Os Parcel 9635 North East Of Hm Bullingdon Prison Widnell Lane Piddington**

### ***Additional information received***

None.

### ***Additional Representations received***

None

### ***Officer comment***

Clarifications to the report published in the agenda

7.17 – The Planning Policy consultation response is headed ‘No objections’ but they nonetheless advise that there is no pressing need for additional land to be released for gypsy traveller sites at this time.

9.10 – There would be some increase in the size of the site, i.e. the extent of development would project a bit further to the south.

9.25 – It is noted that the application is not supported by evidence of personal need or circumstances.

9.76 – Significantly larger for the purpose of assessing flood risk

10.11 – Information could be required by condition in this regard

### ***Change to recommendation***

No change

## **Agenda Item 10**

**20/01747/F**      **Land South Side Of Widnell Lane Piddington**

### ***Additional information received***

None.

### ***Additional Representations received***

None.

### ***Officer comment***

Clarifications to the report published in the agenda

7.7 – As noted with 20/1122/F, the Planning Policy consultation response is headed ‘No objections’ but they nonetheless advise that there is no pressing need for additional land to be released for gypsy traveller sites at this time.

9.10 – There is a typographical error where the F of “17/01962/F” has become detached from the rest of the application reference.

### ***Change to recommendation***

No change

## **Agenda Item 11**

**20/01643/OUT**      **Land North And West Of Bretch Hill Reservoir Adj To Balmoral Avenue Banbury**

**Additional information received**

None.

**Additional Representations received**

Comments have been received from the County Council Drainage Engineer removing their objection, subject to a condition requiring a surface water drainage scheme.

Councillor Mallon's comments were not included in the committee report in error. These comments are in full online and they are summarised as follows:

- '1. Planning policy, it is not in the adopted local plan and CDC has a 3 year land supply.
2. Poor drainage mitigation.
3. Highway and Access is from the wrong point and should be from Balmoral Ave North.
4. Adverse impact on the local Highway network. Cumulative impact on Broughton Rd.
5. Poor Amenity standard due to adjacent huge concrete Water Tower
6. Coalescence. This is a landlocked site with no connectivity to the Ruscot ward which it lies within.'

The applicant's agent has written to confirm the applicant's agreement to all the planning obligations set out within the committee report, and has submitted a draft Heads of Terms which reflect the contributions set out in the committee report at section 11.

**Officer comment**

No comment.

Clarifications to report: Paragraph 9.2 – CDC cannot demonstrate a 5 year housing land supply. The correct position is clarified at para 9.8 and 9.9 of the report.

**Change to recommendation**

Condition 4 to be amended to say "generally in accordance" rather than "strictly in accordance"

Condition 14 to be amended to remove the words "and Traffic"

**Agenda Item 12**

**20/01317/F                      Magistrates Court Warwick Road Banbury OX16 2AW**

**Additional representations/Information received**

Consultation response received from CDC Landscape Services raising no objections subject to a condition requiring approval of a detailed landscaping scheme. Further that the proposals trigger the requirement for a Local Area of Play (LAP) or an offsite contribution if there is insufficient space.

Further correspondence has been received from the applicants asking the following to be reported to members:

*Dear Committee*

*As will be appreciated, since submitting this planning application, extensive discussions between ourselves and the original case officer James Kirkham and your conservation officer have been undertaken, which has resulted in significant changes to the scheme being made to allow a favourable recommendation to committee.*

*Of most significance, a reduction in the scale of the proposals has been sought by officers to address their conservation and residential amenity concerns and this has resulted in the number of proposed apartments reducing from 29 to 23. Changes to fenestration and proposed materials have also been requested which has resulted in inefficiencies to the scheme from a commercial standpoint.*

*As a principal consideration in the determination of these proposals is to protect the historic integrity of the existing building, this has placed significant limitations on the efficiencies of converting the building and developing the site. As a consequence of this, the proposals do not deliver the level of return that planning policy permits and this has been demonstrated in a viability report that has been submitted to the Council. The Council have sought a review of this report from their own viability advisor, Bidwells, and they too have come to the same conclusion as the applicant's advisors which is that the proposals cannot afford to provide contribution towards affordable housing or other development related infrastructure.*

*Notwithstanding the above points which the applicant is seeking to manage to ensure that the proposals are deliverable, it is hoped that the committee understand the viability situation is a direct result of seeking to achieve a suitable planning 'balance' where in this instance, heritage and amenity considerations has been given primacy over the number of units, therefore directly impacting upon viability.*

*Banbury Magistrates Court is a prominent building within the Conservation Area and it is hoped that committee agree with their officers that these proposals provide an appropriate solution to secure its long term future. In order to avoid significant funding penalties, the applicant is committed to commencing works on site as soon as possible in order not to compound the viability situation further and would therefore ask that committee look favourably upon the conclusions made by their viability advisors.*

*If members, having reviewed the Bidwells report are unable to support the proposals due to the inability for the scheme to provide developer contributions whilst maintaining a degree of viability, the applicant, in an effort to avoid an appeal situation, would be prepared to make a contribution of £25,000 on a without prejudice basis to the application being approved at committee, to associated development infrastructure(s) of the committee's choosing. The need to provide a financial contribution would though make the delivery of the proposals more marginal than is already the case and it is therefore respectfully requested that committee appreciate that on challenging sites such as this, it is not always possible to provide developer contributions before forming a view.*

*Planning Officers have discussed the above with CDC Legal Team and then with the applicant's agent in relation this offer needing to be either being put forward against an identified need or withdrawn in the light of the overall viability of the scheme. Subsequent to these conversations, the offer was withdrawn, with the applicant's agent advising:*

*Further to our discussion last week and having received further clarity from my client's viability advisors, who have now had the opportunity to review Bidwell's response in detail as well as considering the recently published committee report, regrettably it is not viable to provide any contributions as part of these proposals – a position that both Bidwells and officers support, with James providing a robust summary within his report. This shows that even with a reduced developer profit level of 15% (rather than the recommended 20% minimum as stated in the Planning Practice Guidance) the scheme remains unviable.*

**Officer Comment**

The requirement for approval of a detailed landscaping scheme and its implementation is already included within the recommendation at conditions 27 & 28 on page 169 of the report.

In respect of the requirement for a LAP, there is insufficient space within the site for this to be incorporated. Given the evidenced viability issues with the development, and when balanced against the benefits of providing new flats in a sustainable location and a new use for the building on this conflict is not considered to justify refusing the application on the lack of any offsite contribution for a LAP.

Matters of the overall viability of the proposals are discussed at length by the Case Officer in his report to committee at paragraphs 9.63-9.81 (pages 158-160 of the committee report). Again given the evidenced viability issues with the development, as confirmed by Bidwells, (Council's viability consultants) and when balanced against the benefits of the proposals it is considered that the lack of any financial contributions is not considered to sufficient reason to justify refusing the application on such grounds.

***Change to recommendation***

None.

**Agenda Item 13**

**20/01561/F            The Ley Community Sandy Lane Yarnton OX5 1PB**

***Additional information received***

None.

***Additional Representations received***

From the applicant's agent in relation to the recommended conditions:

The applicant would like to split conditions 23, 25, 26 and 27, which relate to materials and architectural detailing, so that in each case there is one condition relating to the 10 dwellings and one condition relating to the care home.

Condition 28 is a duplicate of Condition 8.

Finally, the applicant has made a request for various of the pre-commencement conditions to allow for demolition, tree removal and site clearance.

***Officer comment***

Conditions 23, 25, 26 and 27 – Officers consider this to be a reasonable request.

Condition 28 will be removed.

Officers will consider this request for each individual condition for which it has been requested, in consultation with the relevant consultee if the condition was requested by a consultee. It may be more reasonable to make the applicant's suggested amendment on some of the conditions than others.

***Change to recommendation***

No change

**Agenda Item 14**

**20/02123/DISC 4 Drapers House, St Johns Road, Banbury, OX16 5BE**

No update

**Agenda Item 15**

**20/01993/F 17 Fair Close, Bicester, OX26 4YW**

No update

**Agenda Item 16**

**20//01854/DISC Land adj to Oxford Canal, Spiceball Park Rd, Banbury - 01854**

No update

**Agenda Item 17**

**20//00125/DISC Land adj to Oxford Canal, Spiceball Park Rd, Banbury – 00125**

No additional information.

***Recommendation***

Add additional plan to Condition 6 - Softworks Plan 5 P11478-00-001-404 Rev 02

**Agenda Item 18**

**Appeals Progress Report**

No update

**Agenda Item 19**

**Enforcement Report**

No update

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