

Committee: Planning Committee

Date: Thursday 18 April 2019

Time: 4.00 pm

Venue Bodicote House, Bodicote, Banbury, OX15 4AA

Membership

Councillor David Hughes (Chairman)

Councillor Andrew Beere
Councillor Phil Chapman
Councillor Ian Corkin
Councillor Chris Heath
Councillor Mike Kerford-Byrnes
Councillor Richard Mould
Councillor D M Pickford
Councillor G A Reynolds

Councillor James Macnamara (Vice-Chairman)

Councillor Maurice Billington
Councillor Colin Clarke
Councillor Surinder Dhesi
Councillor Simon Holland
Councillor Alan MacKenzie-Wintle
Councillor Cassi Perry
Councillor Lynn Pratt
Councillor Les Sibley

Substitutes

Councillor Mike Bishop
Councillor John Donaldson
Councillor Tony Ilott
Councillor Barry Richards
Councillor Douglas Webb
Councillor Sean Woodcock

Councillor John Broad
Councillor Timothy Hallchurch MBE
Councillor Tony Mephram
Councillor Nicholas Turner
Councillor Barry Wood

AGENDA

1. **Apologies for Absence and Notification of Substitute Members**
2. **Declarations of Interest**

Members are asked to declare any interest and the nature of that interest which they may have in any of the items under consideration at this meeting

3. Requests to Address the Meeting

The Chairman to report on any requests to address the meeting.

4. Urgent Business

The Chairman to advise whether they have agreed to any item of urgent business being admitted to the agenda.

5. Minutes (Pages 1 - 16)

To confirm as a correct record the Minutes of the meeting of the Committee held on 14 March 2019.

6. Chairman's Announcements

To receive communications from the Chairman.

7. Proposed Pre-Committee Site Visits (if any)

Report of Assistant Director – Planning and Economy

To be circulated with the written update

Planning Applications

8. **OS Parcel 4300 North of Shortlands and South of High Rock, Hook Norton Road, Sibford Ferris** (Pages 19 - 60) **18/01894/OUT**

9. **Robert Keith Cars Sales Ltd, 2 Cherwell Street, Banbury, OX16 2BB**
(Pages 61 - 89) **18/01569/F**

10. **Land To The Rear Of 7 And 7A, High Street, Banbury** (Pages 90 - 113)
18/00487/F

11. **Dcs Group, Rear Pt Lxb Rp No 26, Oceans House, Noral Way, Banbury, OX16 2AA** (Pages 114 - 130) **19/00010/F**

12. **Motor Fuel Ltd, Bloxham Service Station, South Newington Road, Bloxham, OX15 4QF** (Pages 131 - 140) **19/00245/ADV**

13. **Park Farm Agricultural Barn, New Street, Deddington** (Pages 141 - 146)
19/00082/DISC

14. **Park Farm Agricultural Barn, New Street, Deddington** (Pages 147 - 151)
19/00095/DISC

15. **Part Land East And Adj To Roundabout At Junction Of Bicester Road, Launton** (Pages 152 - 162) **19/00163/F**

Review and Monitoring Reports

16. Appeals Progress Report (Pages 163 - 175)

Report of Assistant Director for Planning Policy and Development

Summary

This report aims to keep members informed upon applications which have been determined by the Council, where new appeals have been lodged. Public Inquiries/hearings scheduled or appeal results achieved.

Recommendations

The meeting is recommended:

- 1.1 To accept the position statement.

Councillors are requested to collect any post from their pigeon hole in the Members Room at the end of the meeting.

Information about this Agenda

Apologies for Absence

Apologies for absence should be notified to democracy@cherwellandsouthnorthants.gov.uk or 01295 227956 prior to the start of the meeting.

Declarations of Interest

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item.

Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates

Members are reminded that any member who is two months in arrears with Council Tax must declare the fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

Evacuation Procedure

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the car park as directed by Democratic Services staff and await further instructions.

Access to Meetings

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named below, giving as much notice as possible before the meeting.

Mobile Phones

Please ensure that any device is switched to silent operation or switched off.

Queries Regarding this Agenda

Please contact Aaron Hetherington, Democratic and Elections
aaron.hetherington@cherwellandsouthnorthants.gov.uk, 01295 227956

Yvonne Rees
Chief Executive

Published on Wednesday 10 April 2019

Cherwell District Council

Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House,
Bodicote, Banbury, OX15 4AA, on 14 March 2019 at 4.00 pm

Present: Councillor David Hughes (Chairman)
Councillor James Macnamara (Vice-Chairman)

Councillor Andrew Beere
Councillor Colin Clarke
Councillor Chris Heath
Councillor Mike Kerford-Byrnes
Councillor Alan MacKenzie-Wintle
Councillor Cassi Perry
Councillor D M Pickford
Councillor Lynn Pratt
Councillor G A Reynolds

Substitute Members: Councillor John Broad (In place of Councillor Les Sibley)
Councillor Barry Richards (In place of Councillor Surinder Dhesi)
Councillor Douglas Webb (In place of Councillor Richard Mould)
Councillor Barry Wood (In place of Councillor Ian Corkin)

Also Present: Councillor Hugo Brown
Councillor Dan Sames – Speaking on item 12

Apologies for absence: Councillor Maurice Billington
Councillor Phil Chapman
Councillor Ian Corkin
Councillor Surinder Dhesi
Councillor Simon Holland
Councillor Richard Mould
Councillor Les Sibley

Officers: Robert Jolley, Assistant Director: Planning & Economy
Paul Seckington, Senior Manager Development Management
James Kirkham, Principal Planning Officer
Bob Neville, Senior Planning Officer
Matt Chadwick, Senior Planning Officer
Aaron Hetherington, Democratic and Elections Officer

156 **Declarations of Interest**

8. Hardwick Hill, Southam Road, Banbury.

Councillor Andrew Beere, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application.

Councillor Barry Richards, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application.

Councillor Colin Clarke, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application.

17. The Hill, Dover Avenue, Banbury, OX16 0JE.

Councillor Andrew Beere, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application.

Councillor Barry Richards, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application.

Councillor Barry Wood, Declaration, as a member of the Executive and would leave the chamber for the duration of the item.

Councillor Colin Clarke, Declaration, as a member of Banbury Town Council which had been consulted on the application and a separate declaration as a member of the Executive and would therefore leave the Chamber for the duration of the item.

Councillor D M Pickford, Declaration, as a member of the Executive and would leave the chamber for the duration of the item.

Councillor Lynn Pratt, Declaration, as a member of the Executive and would leave the chamber for the duration of the item.

157 **Requests to Address the Meeting**

The Chairman advised that requests to address the meeting would be dealt with at each item.

158 **Urgent Business**

There were no items of urgent business.

159 **Minutes**

The Minutes of the meeting held on 14 February 2019 were agreed as a correct record and signed by the Chairman.

160 **Chairman's Announcements**

The Chairman made the following announcement:

1. Under the Openness of Local Government Bodies Regulations 2014, members of the public were permitted to film, broadcast and report on the meeting, subject to the efficient running of the meeting not being affected.

161 **Proposed Pre-Committee Site Visits (if any)**

The Assistant Director of Planning and Economy submitted a report, which recommended that Planning Committee agree to hold a pre-Committee site visit for the following application. It was anticipated that this application would be brought before the Committee for determination at its next meeting

Application No.: 18/01894/OUT

Proposal: Outline planning permission with all matters reserved for up to 25 dwellings with associated open space, parking and sustainable drainage

Location: OS Parcel 4300 North of Shortlands and South of High Rock, Hook Norton Road, Sibford Ferris

Reason for the visit: Major development

Resolved

- (1) That a site visit be arranged for application 18/01894/OUT on Thursday 18 April 2019.

162 **Hardwick Hill, Southam Road, Banbury**

The Committee considered application 18/01614/F for a full planning application for 83 dwellings comprising a partial re-plan of the approved layout under reserved matters phase 2 (LPA ref: 15/00961/REM) to include an uplift of 23 no. dwellings and a revised mix across the development parcel, and associated development at Hardwick Hill, Southam Road, Banbury for Bellway Homes Limited (Northern Home Counties).

In reaching their decision the committee considered the officer's report, presentation and written update.

Resolved

That authority be delegated to the Assistant Director for Planning and Economy to grant permission for application 18/01614/F, subject to:

1. No additional consultation responses being received by 4 April 2019 which raise substantive new issues not already addressed in the officers report.

2. Conditions to be agreed in consultation with the Chairman of planning committee.
3. The completion of a planning obligation under section 106 of the Town and Country Planning Act 1990, as substituted by the Planning and Compensation Act 1991.

163

OS Parcel 4278 North West of Lessor Grange, Milcombe

The Committee considered application 18/01707/F for the erection of a straw and machinery storage barn and associated hardstanding at OS Parcel 4278 North West of Lessor Grange, Milcombe for Mr Bertrand Facon.

Mr Bertrand Facon, the applicant, addressed the committee in support of the application. This address also covered the subsequent application 18/01724/F.

In reaching their decision the committee considered the officers report, presentation, written update and the address of the public speaker.

Resolved

That authority be delegated to the Assistant Director for Planning and Economy to grant permission for application 18/01707/F, subject to the conditions set out below (and any amendments to those conditions as deemed necessary):

Time Limit

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

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Supporting Statement dated September 2018, Transport Statement date November 2018 and drawings numbered: KCC2395/02A, KCC2395/04, KCC2395/05 and KCC2395/07.

Access, Manoeuvring Area and Vision Splays

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

shall be retained for the manoeuvring of motor vehicles at all times thereafter.

4. Other than the approved access shown on approved plan KCC2395/02A no other means of access whatsoever shall be formed or used between the land and the adopted highway, unless otherwise agreed in writing with the Local Planning Authority.
5. The vision splays at the access onto the adopted highway shall not be obstructed by any object, structure, planting or other material of a height exceeding 1m measured from the carriageway level.

Landscaping Scheme

6. Notwithstanding the details submitted, prior to the first use of the development hereby approved, a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-
 - (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
 - (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
 - (c) details of the hard surface areas, including construction and drainage.The development shall be carried out in strict accordance with the approved landscaping scheme and the hard landscape elements of the approved scheme shall be retained as such thereafter.
7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, 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. Any trees, herbaceous planting and 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 current/next planting season with others of similar size and species.

Ecology and Biodiversity

8. Prior to the first use of the development hereby approved, a method statement for enhancing biodiversity on site through the inclusion of integrated features for bats or birds, a planting and management scheme shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures

shall be carried out and retained in accordance with the approved details.

9. Prior to the commencement of the development hereby approved above slab level, a Lighting Strategy including a plan of estimated lux spill shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the lighting shall be installed and retained in accordance with the approved details, unless otherwise agreed in writing by the Local planning Authority.

Agricultural Restriction

10. The development hereby permitted shall be used only for the purpose of agriculture, as defined in Section 336 (l) of the Town and Country Planning Act, 1990.

164

OS Parcel 4278 North West of Lessor Grange, Milcombe

The Committee considered application 18/01724/F for the erection of a cattle shed, manure store and associated hardstanding at OS Parcel 4278 North West of Lessor Grange, Milcombe for Mr Bertrand Facon.

In reaching their decision the committee considered the officers' report, presentation, written update and address of the public speaker. This address also covered the previous application 18/01707/F.

Resolved

That authority be delegated for application 18/01724/F to the Assistant Director for Planning and Economy to grant permission, subject to the conditions set out below (and any amendments to those conditions as deemed necessary)

Time Limit

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

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Supporting Statement dated September 2018, Transport Statement date November 2018 and drawings numbered: KCC2395/02A, KCC2395/03 and KCC2395/06A.

Access, Manoeuvring Area and Vision Splays

3. Prior to the first use of the development hereby approved, full specification details (including construction, layout, surface finish and drainage) of the turning and manoeuvring area which shall be provided

within the curtilage of the site so that motor vehicles may enter, turn around and leave in a forward direction, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first use of the development, the turning and manoeuvring area shall be constructed in accordance with the approved details and shall be retained for the manoeuvring of motor vehicles at all times thereafter.

4. Other than the approved access shown on approved plan KCC2395/02A no other means of access whatsoever shall be formed or used between the land and the adopted highway, unless otherwise agreed in writing with the Local Planning Authority.
5. The vision splays at the access onto the adopted highway shall not be obstructed by any object, structure, planting or other material of a height exceeding 1m measured from the carriageway level.

Landscaping Scheme

6. Notwithstanding the details submitted, prior to the first use of the development hereby approved, a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-
 - (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
 - (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
 - (c) details of the hard surface areas, including construction and drainage.

The development shall be carried out in strict accordance with the approved landscaping scheme and the hard landscape elements of the approved scheme shall be retained as such thereafter.

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, 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. Any trees, herbaceous planting and 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 current/next planting season with others of similar size and species.

Ecology and Biodiversity

8. Prior to the first use of the development hereby approved, a method statement for enhancing biodiversity on site through the inclusion of integrated features for bats or birds, a planting and management scheme shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.
9. Prior to the commencement of the development hereby approved above slab level, a Lighting Strategy including a plan of estimated lux spill shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the lighting shall be installed and retained in accordance with the approved details, unless otherwise agreed in writing by the Local planning Authority.

Agricultural Restriction

10. The development hereby permitted shall be used only for the purpose of agriculture, as defined in Section 336 (l) of the Town and Country Planning Act, 1990.

165

OS Parcel 4278 North West Of Lessor Grange, Milcombe

The Committee considered application 18/01708/OUT for the erection of an agricultural workers dwelling at OS Parcel 4278 North West of Lessor Grange Milcombe for Mr Bertrand Facon.

Councillor Hugo Brown addressed the committee as Ward Member.

Mr Bertrand Facon, the applicant, addressed the committee in support to the application.

Councillor Kerford Byrnes proposed that application 18/01708/OUT be approved, subject to conditions with the exact wording delegated to officers. Councillor Macnamara seconded the proposal.

In reaching their decision, the committee considered the officers' report, presentation, written update and the address of the Ward member and public speaker.

Resolved

That application 18/01708/OUT be approved subject to:

1. No development shall commence until full details of the layout, scale, appearance and landscaping (hereafter referred to as "the reserved matters") of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority.
2. In the case of the reserved matters, no application for approval shall be made later than the expiration of three years beginning with the date of this permission.

3. The development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents accompanying the application: Drawing Nos. 2395/01 and 2395/02A.
5. Notwithstanding the details on the approved plans, no development shall commence on site unless and until detailed plans showing the extent of the residential curtilage have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details and shall be retained as such thereafter.
6. Prior to the first occupation of the development hereby approved, full specification details (including construction, layout, surface finish and drainage) of the turning and manoeuvring area which shall be provided within the curtilage of the site so that motor vehicles may enter, turn around and leave in a forward direction, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first use of the development, the turning and manoeuvring area shall be constructed in accordance with the approved details and shall be retained for the manoeuvring of motor vehicles at all times thereafter.
7. Other than the approved access shown on approved plan KCC2395/02A no other means of access whatsoever shall be formed or used between the land and the adopted highway, unless otherwise agreed in writing with the Local Planning Authority.
8. The vision splays at the access onto the adopted highway shall not be obstructed by any object, structure, planting or other material of a height exceeding 1 metre measured from the carriageway level.
9. The dwelling hereby approved shall not be constructed unless and until the agricultural buildings approved under applications 18/01707/F and 18/01724/F, or any subsequent planning permissions to modify those buildings, have been erected and brought into use.
10. The dwelling shall be occupied only by a person solely or mainly employed, or last solely or mainly employed in the locality in agriculture, as defined in Section 336(1) of the Town and Country Planning Act 1990, or in forestry, including any dependants of such a person residing with him or her, or a widow or widower of such a person.
11. The dwelling hereby approved (including any garage and/or other residential outbuilding(s)) shall have a gross external floor area of no more than 100 square metres.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions or other form of enlargement to the dwelling hereby permitted, no erection of porches, outbuildings or hardstandings, shall take place.

166 **Meadow Barn, Merton Road, Ambrosden, OX25 2LZ**

The Committee considered application 19/00055/F for 2 new semi-detached dwellings and 1 detached dwelling with associated parking and gardens at Meadow Barn, Merton Road, Ambrosden, OX25 2LZ for Mr Rhys Oliver.

Councillor Dan Sames, addressed the committee as Ward Member.

Dr Mark Johnson, a neighbour to the application site, addressed the committee in objection to the application.

Councillor Pickford proposed that application 19/00055/F be refused as it would lead to overdevelopment of the application site. Councillor Pratt seconded the proposal.

In reaching their decision the committee considered the officers' report, presentation, written update and address of the Ward member and public speaker.

Resolved

That application 19/00055/F be refused as it would lead to overdevelopment of the site.

167 **The Old Rectory, Stoke Lyne, Bicester, OX27 8RU**

The Committee considered application 19/00244/F to replace an existing front conservatory with a stone built structure at The Old Rectory, Stoke Lyne, Bicester, OX27 8RU for Mr Hugo Brown.

In reaching their decision the committee considered the officers' report, presentation and written update.

Resolved

That application 19/00244/F be approved and that authority be delegated to the Assistant Director for Planning and Economy to grant permission, subject to the conditions set out below (and any amendments to those conditions as deemed necessary)

Time Limit

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

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: 3250 – (Su) – 02 and 3250 – (L) – 01.

Natural Stone

3. The natural stone to be used on the walls of the extension shall be of the same type, texture, colour and appearance as the stone on the existing building and shall be laid dressed, coursed and pointed to match that of the existing building.

168

Evelyns Farm, Brill Road, Horton Cum Studley, OX33 1BZ

The Committee considered application 18/02150/F for the demolition of three asbestos clad industrial units and an asbestos clad garage, conversion of indoor pool building and former greenhouse to form a single dwelling together with a new garage and work from home office, improved vehicular access and landscaping at Evelyns Farm, Brill Road, Horton Cum Studley, OX33 1BZ for Mr B Hearn.

Jeff Emmett, the applicant's agent and Ben Hearn, the applicant, addressed the committee in support of the application.

Councillor Pickford proposed that application 18/02150/F be approved, subject to conditions with the exact wording delegated to officers. Councillor Pratt seconded the proposal.

In reaching their decision, the committee considered the officers' report, presentation, written update and address of the public speakers.

Resolved

That application 18/02150/F be approved subject to conditions with the exact wording delegated to officers.

169

Land North West Of Fabis House, Rattlecombe Road, Shenington

The Committee considered application 19/00014/F for the conversion of a barn to form a new dwelling (re-submission of application 18/01114/F) at Land North West of Fabis House, Rattlecombe Road, Shenington for The Magpie Partnership Ltd.

In reaching their decision the committee considered the officers' report, presentation and written update.

Resolved

That application 19/00014/F be approved and that authority be delegated to the Assistant Director for Planning and Economy to grant permission, subject to the conditions set out below (and any amendments to those conditions as deemed necessary)

CONDITIONS

Time Limit

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

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Site Location Plan and 'Scheme Drawings Barn A' (P751-022X).

Stone walls

3. The external walls of the dwellings to be constructed in stone shall be laid, dressed, coursed and pointed in strict accordance with the stone sample panel viewed on site by the planning case officer on 5th April 2018, as approved under 18/00065/DISC.

Slate Roof

4. No externally facing tiles shall be used in the development other than in strict accordance with the slate sample viewed on site by the planning case officer on 5th April 2018, as approved under 18/00065/DISC.

Window Details to be submitted

5. Within one month of the date of this consent and prior to the installation of the doors, windows and rooflights, full details of the doors, windows and rooflights hereby approved, at a scale of 1:20 including a cross section, cill, lintel and recess detail and colour/finish, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the doors and windows and their surrounds, and the rooflights, shall be installed within the buildings in accordance with the approved details and shall be retained as such thereafter.

Parking

6. The development shall not be occupied unless and until the parking and manoeuvring areas have been provided in strict accordance with set out in drawings titled 'Proposed Hard Landscaping Details' and

drawing numbers '17 27251/50 P1', '17 27251/51 P1', '17 27251/52 P1' and '17 27251/53 P2', as approved under 17/00570/DISC and shall be maintained as such thereafter.

Surface Water Drainage

7. The development shall not be occupied unless and until the surface water drainage scheme has been carried out in accordance with the details shown on Drainage Layout Design (drawing number 17 27251/50 rev P1) and Drainage Construction Details (drawing number 17 27251/51 rev P1) as approved under 18/01098/F and shall be maintained as such thereafter.

Bat and Bird Mitigation Strategy

8. The development shall not be occupied unless and until the bat and bird mitigation measures and the measures for enhancing swift nesting have been carried out as set out on page 8 of the 'Mitigation Strategy - Bats, Nesting Birds & Swifts' prepared by Ridgeway Ecology, dated 22nd August 2017, as approved under 17/00441/DISC and shall be retained as such thereafter.

Submission of Landscaping Scheme

9. Within one month of the date of this consent, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-
 - (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
 - (b) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps,
 - (c) details of the boundary treatments and means of enclosure, including height, layout, materials and finished appearance.

The development shall be carried out in strict accordance with the approved landscaping scheme and the approved hard surface areas and boundary treatments shall be provided prior to the first occupation of the development and shall be retained as such thereafter.

Maintenance of Landscaping

10. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, 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. Any trees, herbaceous planting and 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 current/next planting season with others of similar size and species.

Rainwater Goods

11. No rainwater goods shall be used in the development unless they are either cast iron or aluminium finished and shall be painted matt black.

Removal of Permitted Development Rights

12. Notwithstanding the provisions of Classes A to D (inc.) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, the approved dwellings shall not be extended or altered without the grant of further specific planning permission from the Local Planning Authority.

170

Land North West Of Fabis House, Rattlecombe Road, Shenington

The Committee considered application 19/00015/LB, listed building consent for the conversion of barn to form a new dwelling (re-submission of application 18/01115/LB) at Land North West Of Fabis House, Rattlecombe Road, Shenington for The Magpie Partnership Ltd.

In reaching their decision the committee considered the officers' report and presentation.

Resolved

That application 19/00015/LB be approved and that authority be delegated to the Assistant Director for Planning and Economy to grant permission, subject to the conditions set out below (and any amendments to those conditions as deemed necessary)

Time Limit

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

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Site Location Plan and 'Scheme Drawings Barn A' (P751-022X).

Stone

3. The external walls of the dwellings to be constructed in stone shall be laid, dressed, coursed and pointed in strict accordance with the stone

sample panel viewed on site by the planning case officer on 5th April 2018, as approved under 18/00065/DISC.

Slate Roof

4. No externally facing tiles shall be used in the development other than in strict accordance with the slate sample viewed on site by the planning case officer on 5th April 2018, as approved under 18/00065/DISC.

Window Details to be submitted

5. Within one month of the date of this consent and prior to the installation of the doors, windows and rooflights, full details of the doors, windows and rooflights hereby approved, at a scale of 1:20 including a cross section, cill, lintel and recess detail and colour/finish, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the doors and windows and their surrounds, and the rooflights, shall be installed within the buildings in accordance with the approved details.

Rainwater goods

6. No rainwater goods shall be used in the development unless they are either cast iron or aluminium finished and shall be painted matt black.

Bat and Bird Mitigation Strategy

7. The development shall not be occupied unless and until the bat and bird mitigation measures and the measures for enhancing swift nesting have been carried out as set out on page 8 of the 'Mitigation Strategy - Bats, Nesting Birds & Swifts' prepared by Ridgeway Ecology, dated 22nd August 2017, as approved under 17/00441/DISC and shall be retained as such thereafter.

171 **The Hill, Dover Avenue, Banbury, OX16 0JE**

The Committee considered application 19/00014/NMA for the change of cladding manufacturer, louvres on east and west of building and swift boxes on south and north elevations (Proposed as Non-Material Amendment to 18/00952/CDC) at The Hill, Dover Avenue, Banbury, OX16 0JE for Cherwell District Council (Build! Department).

In reaching their decision the committee considered the officers' report and presentation.

Resolved

That application 19/00014/NMA be approved and that authority be delegated to the Assistant Director for Planning and Economy to grant permission for the proposed change as a non-material amendment in accordance with drawing numbers WG673-013 REV D and WG673-014 REV D and the submitted render sample.

172 **Appeals Progress Report**

The Assistant Director for Planning Policy and Economy submitted a report which informed Members on applications which had been determined by the Council, where new appeals have been lodged, public Inquiries/hearings scheduled or appeal results achieved.

Resolved

- (1) That the position statement be accepted.

The meeting ended at 7.06 pm

Chairman:

Date:

CHERWELL DISTRICT COUNCIL

PLANNING COMMITTEE

14 March 2019

PLANNING APPLICATIONS INDEX

The Officer's recommendations are given at the end of the report on each application.

Members should get in touch with staff as soon as possible after receiving this agenda if they wish to have any further information on the applications.

Any responses to consultations, or information which has been received after the application report was finalised, will be reported at the meeting.

The individual reports normally only refer to the main topic policies in the Cherwell Local Plan that are appropriate to the proposal. However, there may be other policies in the Development Plan, or the Local Plan, or other national and local planning guidance that are material to the proposal but are not specifically referred to.

The reports also only include a summary of the planning issues received in consultee representations and statements submitted on an application. Full copies of the comments received are available for inspection by Members in advance of the meeting.

Legal, Health and Safety, Crime and Disorder, Sustainability and Equalities Implications

Any relevant matters pertaining to the specific applications are as set out in the individual reports.

Human Rights Implications

The recommendations in the reports may, if accepted, affect the human rights of individuals under Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights. However, in all the circumstances relating to the development proposals, it is concluded that the recommendations are in accordance with the law and are necessary in a democratic society for the protection of the rights and freedom of others and are also necessary to control the use of property in the interest of the public.

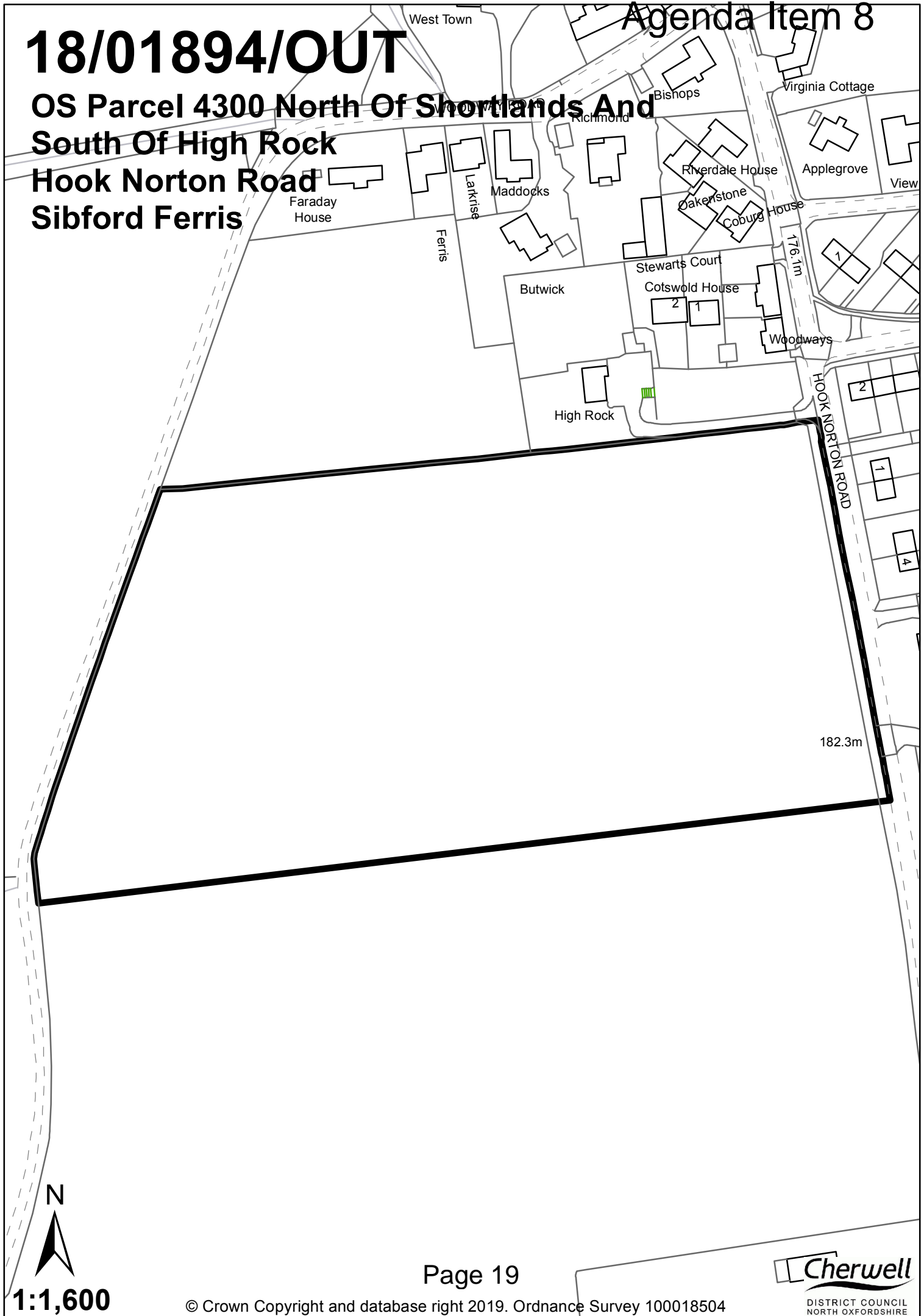
Background Papers

For each of the applications listed are: the application form; the accompanying certificates and plans and any other information provided by the applicant/agent; representations made by bodies or persons consulted on the application; any submissions supporting or objecting to the application; any decision notices or letters containing previous planning decisions relating to the application site

	Site	Application No.	Ward	Recommendation	Contact Officer
8	OS Parcel 4300 North of Shortlands and South of High Rock, Hook Norton Road, Sibford Ferris	18/01894/OUT	Cropredy, Sibfords and Wroxton	Approval	Bob Neville
9	Robert Keith Cars Sales Ltd 2 Cherwell Street Banbury OX16 2BB	18/01569/F	Banbury Cross and Neithrop	Approval	James Kirkham
10	Land To The Rear Of 7 And 7A High Street Banbury	18/00487/F	Banbury Cross and Neithrop	Approval	James Kirkham
11	Dcs Group Rear Pt Lxb Rp No 26 Oceans House Noral Way Banbury OX16 2AA	19/00010/F	Banbury Hardwick	Approval	Matthew Chadwick
12	Motor Fuel Ltd Bloxham Service Station South Newington Road Bloxham OX15 4QF	19/00245/ADV	Adderbury, Bloxham And Bodicote	Approval	Matthew Chadwick
13	Park Farm Agricultural Barn New Street Deddington	19/00082/DISC	Deddington	Approval	Matthew Chadwick
14	Park Farm Agricultural Barn New Street Deddington	19/00095/DISC	Deddington	Approval	Matthew Chadwick
15	Part Land East And Adj To Roundabout At Junction Of Bicester Road Launton	19/00163/F	Launton And Otmoor	Refusal	George Smith

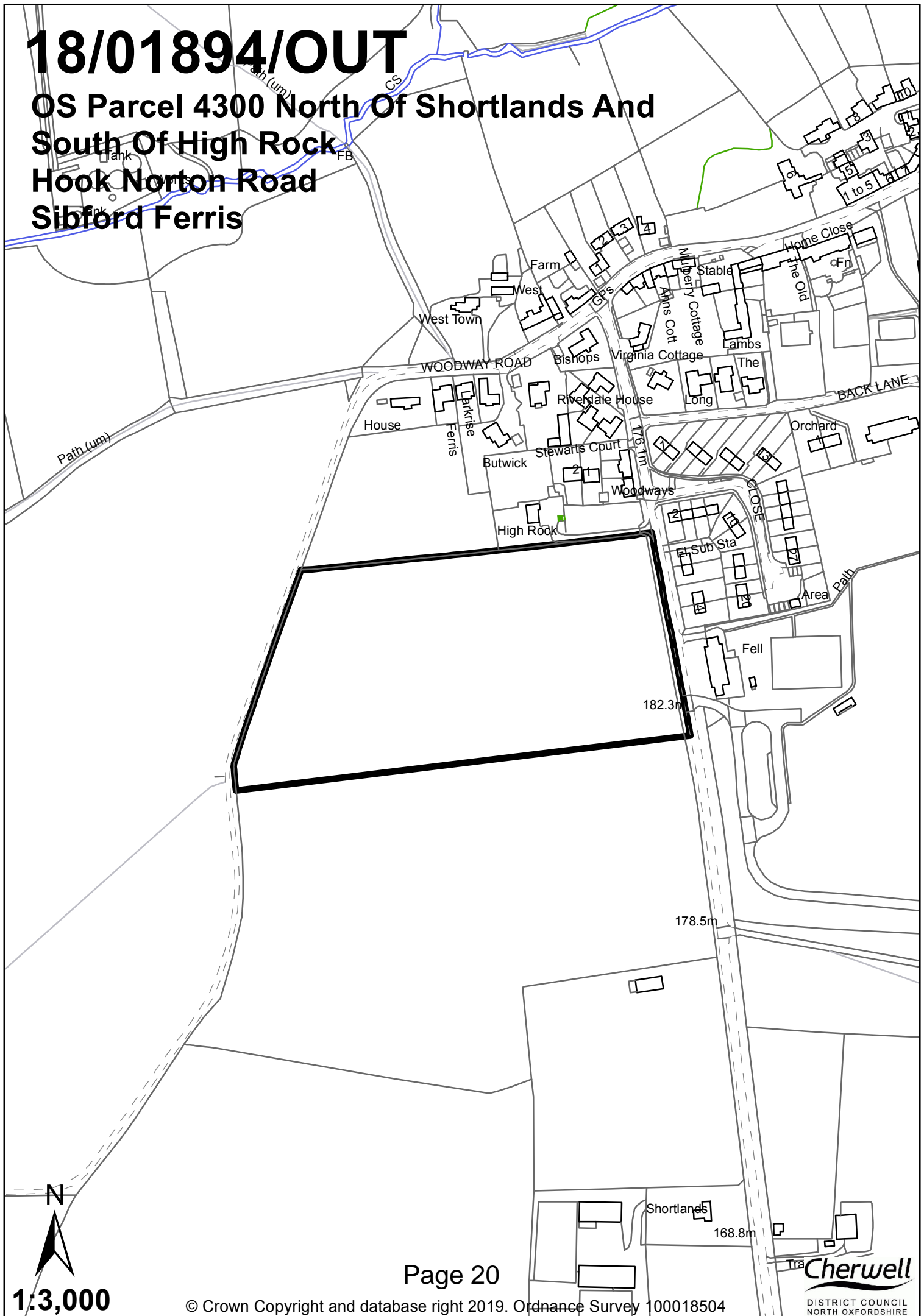
18/01894/OUT

**OS Parcel 4300 North Of Shortlands And
South Of High Rock
Hook Norton Road
Sibford Ferris**



18/01894/OUT

OS Parcel 4300 North Of Shortlands And
South Of High Rock
Hook Norton Road
Sibford Ferris



**OS Parcel 4300 North of Shortlands and South of
High Rock
Hook Norton Road
Sibford Ferris**

18/01894/OUT

Case Officer: Bob Neville

Applicant: Land & Partners Limited

Proposal: Outline planning permission with all matters reserved for up to 25 dwellings with associated open space, parking and sustainable drainage

Ward: Cropredy, Sibfords And Wroxton

Councillors: Cllr George Reynolds
Cllr Douglas Webb
Cllr Phil Chapman

Reason for Referral: Major Development

Expiry Date: 02.01.2019

Committee Date: 18.04.2019

Extension of Time: 30.04.2019

This application is subject to a Committee Members Site Visit, taking place on 18 April 2019.

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY TO GRANT PERMISSION SUBJECT TO NO OBJECTIONS FROM COUNTY COUNCIL'S ARCHAEOLOGIST AND SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

- a) Provision of 35% affordable housing together with 70/30 tenure split between social rented and shared ownership or other low cost home ownership which shall be agreed with CDC;**
- b) Provision of public open amenity space and future maintenance arrangements;**
- c) Provision of a combined on-site LAP together with future maintenance arrangements;**
- d) Maintenance arrangements for on-site trees, hedgerows, and drainage features;**
- e) Payment of a financial contribution towards the provision of refuse/recycling bins for the development.**
- f) Financial contributions towards improvements to off-site indoor and outdoor sports facilities;**

- g) **Financial contribution towards the provision of new community hall facilities or the improvement/expansion of existing facilities where there is not enough space capacity in existing appropriate facilities.**
- h) **Public Transport Infrastructure Financial Contribution of £20,000 towards a new bus shelter and hardstanding for the existing bus stop on Main Street, Sibford Ferris;**
- i) **Traffic Regulation Order Financial Contribution of £4,850 towards the alteration of the speed limit TRO on Hook Norton Road, and provision of a gateway feature and highway markings**
- j) **To secure entry into a S278 agreement (Highways Act 1980) to secure mitigation/improvement works, including: Formation of a new site access and provision of a footway from the pedestrian access on Hook Norton Road to the existing footway network**

Proposal

Outline planning permission is sought for the erection of up to 25 dwellings, with associated open space, parking, sustainable drainage and vehicular access point from the Hook Norton Road. The application includes an indicative concept plan which details provision of a Local Area of Play (LAP), Community Orchard, Allotments, footpath link through the site and green open-space. The submitted plans indicate that access would be taken from the adjacent Hook Norton Road. The application leaves all matters reserved for future consideration.

Consultations

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

- Sibford Ferris Parish Council, Sibford Gower Parish Council and OCC Archaeology.

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

- CDC Arboriculture, CDC Building Control, CDC Conservation, CDC Ecology, CDC Leisure and Recreation, CDC Planning Policy, OCC Highways, OCC Education, OCC Drainage, CDC Landscaping, CDC Strategic Housing, Severn Trent Water (sewage), Thames Valley Police and Thames Water (water supply).

110 letters of objection have been received and 1 letter of support has been received.

Planning Policy and Constraints

The site is part (3.7Ha) of an agricultural field classified by Natural England as being Grade 2 'very good' Agricultural Land. The Cotswolds Area of Outstanding Natural Beauty lies approximately 1.5km (0.9mile) west of the site. The Sibford Ferris Conservation Area boundary lies some 70m to the north of the site with existing residential properties on intervening land. The nearest listed buildings within the Conservation Area lie some 175m to the north-east of the site located on the main street through the village. The site has some ecological potential as the site is located within 2km (1.2mile) of Sharps Hill Quarry SSSI and notable and legally protected species have been recorded within the vicinity of the site. The site is identified as having archaeological potential. Public Rights of Way (PRoW) run adjacent crossing land west (Footpath 347/2/10) and east (Footpath 347/4/10) of the site; with further PRoW to the north (Bridleway 347/1/10) and south-east (Footpath 347/6/10) of the site.

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

Conclusion

The key issues arising from the application details are:

- Principle of Development;
- Landscape Visual Impact and Local Character;
- Impact on the Historic Environment;
- Transport and Highways Impact;
- Impact on Residential Amenity;
- Ecology and Biodiversity;
- Flooding Risk and Drainage;
- Impact on Local Infrastructure;
- Human Rights and Equalities.

The report looks into the key planning issues in detail, and Officers conclude that, subject to no adverse comments from the County Council's Archaeologist, the proposal is acceptable subject to conditions and completion of an appropriate S106 Agreement.

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 part (3.7Ha) of an agricultural field adjacent the village of Sibford Ferris. There are predominantly two storey residential properties with varying styles and palette of materials to the north and east of the site and Sibford School and associated supporting buildings also lie to the east. The site is bounded by mature agricultural boundary hedgerows with trees at points within the hedgerow. The Hook Norton Road runs adjacent the eastern boundary of the site, whilst Woodway Road, a single-track road runs along the western boundary. The north-eastern corner of the site sits at a similar level to the neighbouring residential properties to the north but falls away to the west, north and south.

2. CONSTRAINTS

- 2.1. In terms of site constraints the site is part (3.7Ha) of an agricultural field classified by Natural England as being Grade 2 'very good' Agricultural Land. The Cotswolds Area of Outstanding Natural Beauty lies approximately 1.5km (0.9mile) west of the site. The Sibford Ferris Conservation Area boundary lies some 70m to the north of the site with existing residential properties on intervening land. The nearest listed buildings within the Conservation Area lie some 175m to the north-east of the site located on the main street through the village. The site has some ecological potential as the site is located within 2km (1.2mile) of Sharps Hill Quarry SSSI and notable and legally protected species have been recorded within the vicinity of the site. The site is identified as having archaeological potential and further in an area known to contain naturally occurring elevated levels of arsenic, Nickel and Chromium; as seen across much of the district. Public Rights of Way (PRoW) run adjacent crossing land west (Footpath 347/2/10) and east (Footpath 347/4/10) of the site; with further PRoW to the north (Bridleway 347/1/10) and south-east (Footpath 347/6/10) of the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks outline planning permission for the erection of up to 25 dwellings, with associated open space, parking and sustainable drainage and vehicular access point from the Hook Norton Road. The application leaves all matters reserved for future consideration.
- 3.2. Whilst all matters are reserved the applicants have submitted a Concept Schematic Plan (Drwg. No. 3361-101) which gives an indicative layout. Further plans have been submitted during the application in response to officers' concerns in respect of securing land use parameters (Drwg. No. 6426/ASP3/PP Rev. C) and further information regarding the landscape strategy (Drwg. No. 6426/ASP4/LSP Rev. A). The indicative layout shows the scale and density of the development diminishing outwards from the north-eastern corner of the site; with development scaling down from 2 storeys to 1.5 storeys, and densities decreasing from 30 DPH (dwellings per hectare) to 5 DPH on the rural facing boundaries of the site.
- 3.3. The indicative layout also includes the provision green open space, a Local Area of Play (LAP) a community orchard, allotments, balancing pond and a connecting route through the site between existing PRow's that run to the east and west of the site.
- 3.4. The following technical documents have also been submitted in support of the application:
 - Planning and Sustainability Statement;
 - Design and Access Statement;
 - Transport Assessment;
 - Landscape and Visual Impact Assessment; including Topographical Survey;
 - Flood Risk Assessment;
 - Arboricultural Impact Assessment;
 - Ecological Impact Assessment;
 - Archaeological Desk-Based Assessment;
 - A Technical Note assessing location of utilities;
 - Flood Risk Assessment and drainage Strategy Report;
 - Statement of Community Involvement.
- 3.5. During the application an objection was raised by the County Council's Archaeologist, requiring further archaeological investigative work to be undertaken prior to the determination of the application. An extension of time of the determination period of the application has subsequently been agreed with the applicant to allow for such work to be undertaken and appropriate reports to be submitted in support of the application; this is discussed further below.

4. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
98/00646/AGD	Construction of a general purpose agricultural building and an 80 ton grain silo	Application Refused

Refused on the grounds that the proposed agricultural building and grain silo would constitute unduly prominent and visually intrusive features in the attractive and sensitive landscape within a designated Area of High landscape value; contrary to Policies C7 and C13 of the Cherwell Local Plan 1996.

14/00962/OUT	OUTLINE - Erection of six Affordable Local Needs Dwellings and two Market Sale Dwellings with associated car parking and	Application Withdrawn
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access road including the provision of open space and allotments

Application 14/00962/OUT originally received a resolution to grant planning permission at planning committee on 27.11.2014, subject to completion of an appropriate S106 Legal Agreement, to secure the affordable housing provision. However, after a number years and there being no resolution of the S106, a decision was taken by the then applicants, Green Square Group, to withdraw the application.

5. PRE-APPLICATION DISCUSSIONS

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

<u>Application Ref.</u>	<u>Proposal</u>
17/00321/PREAPP	Development of up to 25 dwellings with associated open space and sustainable drainage

- 5.2. In summary of the Council's response to this pre-application enquiry, the layout proposed within the enquiry put forward a relatively loose-knit development of 25 dwellings over the site, with varying house-types. Whilst largely advising on what issues needed to be addressed and the necessary information that would be required to support a future planning application, the Council expressed concerns with regards to the principle of developing of 25no dwellings on the site, the sustainability of the location of the site and whether such proposals would be in compliance with the Council's policies in respect of the District's rural housing strategy. Further concerns were expressed with regards to the proposed layout as submitted and to the potential visual harm that would arise from such a development should development be allowed to intrude into the open rural landscape, beyond the extents which had been identified as being acceptable within the Council's 2017 Housing and Economic Land Availability Assessment (HELAA), which identified the site as having potential for residential development. The Council's response was issued on 13/12/2017.

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 08.02.2019, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. 110 letters of objection have been received (including letters from David Locke Associates on behalf of 'The Sibfords Action Group') and 1 letter of support has been received.
- 6.3. The comments raised in objection by third parties are summarised as follows:
- The proposals do not represent a sustainable form of development. The principle of development is considered contrary to the Council's rural housing strategy and associated development plan policies; including the provisions of Policy Villages 1 and Policy Villages 2 of the Cherwell local Plan 2011-2031 Part 1.

- The proposed development would be a disproportionate addition to the village contrary to local community wishes, expressed with the Sibfords' Community Plan (2012). Further that an appropriate mix of new houses is not being brought forward to allow more people to stay in the village.
- Proposals not in keeping with the character of the existing village. With a total of around 160 houses in Sibford Ferris, the additional 25 dwellings represent a significant increase in population and over-development in the rural community.
- There is a general lack of infrastructure within the village to support an additional 25 dwellings; putting massive pressure on water pressure, sewage capacity, local school and GP practice. Further there is a lack of continuous footpath routes through the village to available services and facilities including school, shop and surgery.
- The outline plan shows roads within the development deliberately left open to develop further housing in fields on either side of the proposed site, leaving open the potential for future development and an un-welcomed precedent
- If outline planning permission is granted there is nothing to stop a commercial developer making a new application to increase density and/or design with the benefit that development on the site has already been accepted. With outline permission granted, it is much easier for any developer to expand and alter any planning permission when detailed planning permission is applied for.
- The development would increase the amount of traffic on the village's already narrow and substandard roads. There is significant traffic conflict with the adjacent school at peak times where there are often traffic jams between the shop and Folly Court. Existing traffic brings the village to a standstill at peak times due to on-street parking and the narrowing of roads at points through the village. Additional traffic as a result of the proposed development would result in increased highway safety risks for pedestrians, cyclists and horse riders.
- The traffic estimates that were put forward in the proposal were very misleading and underestimated. Future occupants would be reliant on the use of a car as the bus service is not frequent enough for people to rely on for the purposes of travelling to work, school etc. Further that there is a limited range of services and facilities within the village.
- The proposals do not provide satisfactory vehicular and pedestrian access and egress. There is also a further concern with regards to the safety of the access given the speeds of vehicle entering the village and limited visibility coming over the brow of the hill.
- The route through the village is regularly used as a 'rat-run' by vehicles and this would be exacerbated by the proposed development
- Before any development proceeds there should be consideration and investment from local highways to traffic calming and pedestrian routes and crossings.
- The development would see the loss of Grade 2 'very good' agricultural land on what is a 'Greenfield' site. The proposals would result in detrimental

impact on landscape and views into and out of the village and views of users of the Public Rights of Way. Further, that proposals would detrimentally impact on the Cotswolds ANOB.

- Proposals would detrimentally impact on existing features of ecology and biodiversity value; including the potential for light pollution affecting local bird and bat populations and relocation of Badgers.
 - Proposals would be detrimental to the character and appearance of the Conservation Area. Why was Historic England not consulted, particularly in view of the fact that there are over 30 Listed Grade II buildings in the villages of Sibford Ferris and Sibford Gower.
 - There is support within the village for development of lesser numbers of new dwellings on the site.
 - Proposals would increase flood-risk on and adjacent the site on Woodway Road.
 - Sibford Ferris and Sibford Gower are not sustainable villages when considered separately.
 - Cherwell's rural housing need, including that identified within Policy Villages 2, has already been met; and as such there is not a need for such significant development in Sibford Ferris. Further, Oxford's unmet housing need should not be considered relevant to Sibford.
 - The proposals are in excess of what was considered acceptable by the Council's HELAA.
 - There does not appear to have been any assessment as to whether there are more suitable sites.
 - A previous development was approved for 8-10 homes, this being an appropriate number for a small village; this is just a further increase.
 - All the new developments in our region look the same and the Cherwell region is becoming a homogeneous sprawl of houses; with some being of questionable quality.
 - Concerns are raised in respect of the lack of finalised archaeological investigation and evaluation work at the site, in light of the objection of the County Council's Archaeologist.
 - A recent planning appeal is highlighted (Fringford Cottage, Main Street, Fringford OX27 8DP (Appeal Ref: APP/C3105/W/18/3204920) for its relevance in consideration of sustainability and housing land supply issues and comparisons with the current application at the site.
- 6.4. One letter of support was received which highlighted some positive aspects of the proposals (including; the site not being cramped up; helping the younger generation to get on the property ladder; additional pupils supporting the school; additional support for the shop and the public houses and also benefits of the provision of the proposed orchard and allotments) and further the author's interest in owning such a property, should the development proceed.

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. SIBFORD FERRIS PARISH COUNCIL: **Objects**, on the following grounds:

- The proposals would be contrary to development plan policy with regards to new residential development within Category A Villages; as the proposals sit adjacent the village boundary and would become an extension to the village.
- The proposed site is 'Grade 2' best and most versatile agricultural land and is in close proximity to the Cotswold AONB.
- There is insufficient evidence within the application to prove that an additional 25 households can be supported by the existing services and infrastructure of the area; particularly noting:
 - The nature of the village road network is incompatible with any significant increase in volume, particularly during peak hours
 - Concerns with regard to the capacity of the foul and waste water systems to handle a circa 10% increase in volume.
- The proposed outline planning application does not align with the community view as assessed and recorded in the Sibfords Community Plan 2012

- 7.3. SIBFORD GOWER PARISH COUNCIL: **Objects, on the following grounds:**

- The application has been identified with land in the adjoining parish of Sibford Ferris, but would have significant infrastructure impact on the village of Sibford Gower. It would, furthermore, profoundly affect the character of the village community as a whole, and set a precedent that would have potential repercussions throughout both villages.
- The proposals would not be in accordance with the Development Plan (Adopted Cherwell Local Plan 2011-2031 (Part 1)). Further that the site lies outside of the search areas of Partial Review of the Local Plan Part 1 in relation to meeting Oxford's unmet housing need, and therefore is of no relevance in consideration of the current application.
- The proposed outline planning application does not align with the community view as assessed and recorded in the Sibfords Community Plan 2012.
- There being no justification for the change from the approval for 8 houses granted in 2014 to the current application for 25 houses. Further range of housing density figures are offered by the applicant for different elements of the current proposal, the essential focus of the 2014 approval, supported at the time by the local community, has been entirely corrupted by incorporating 19 market value houses (64%) of varying size and potential value.
- There would be conflict with the provisions of Policy Villages 2. The land has not been previously developed and is classed as Grade 2 agricultural land, of which there is a presumption against the development of such land for residential purposes, as it is classed as the 'best and most versatile' agricultural land.
- The proposals would set a precedent for further future development.

- Raises similar concerns to those of Sibford Ferris PC with regards to infrastructure capacity. Further highlighting that existing facilities would be over-whelmed and there is the lack of footpath routes to these services.
- Highway safety issues in relation to vehicle movements which would compromise existing pinch-points within the village.
- Raises concerns with regards to the potential that whilst the current proposal identifies a response to the potential built environment, there is no guarantee that any subsequent developer would respect the proposals as they seek to gain full planning permission. And further that the character of the entire area, a listed area of outstanding natural beauty, would be directly threatened by this proposal.

CONSULTEES

- 7.4. CDC ARBORICULTURE: **No objections**, subject to conditions to ensure the retention and protection of existing trees to be retained, and approval of a detailed landscaping scheme.
- 7.5. CDC BUILDING CONTROL: **No objections**, commenting that a Building Regulations application would be required and further site investigations should be undertaken. Further that when considering a detailed layout due regard would need to be had to guidance in respect of appropriate access for emergency and refuse collection vehicles.
- 7.6. CDC CONSERVATION: **No objections**. It being considered that the proposed development would not harm the character of the conservation area or the setting of any Listed Buildings.
- 7.7. CDC ECOLOGY: **No objections**, subject to conditions requiring approval of a Landscape and Ecological Management Plan (LEMP) and Construction Environmental Management Plans (CEMP) for Biodiversity
- 7.8. CDC FINANCE: **No comments received**.
- 7.9. CDC LANDSCAPING: **No objections**, subject to an appropriate landscaping scheme being brought forward. And whilst originally recommending that the proposed building line be set back further from the edge of Hook Norton Road, verbally acknowledged that this was only to ensure that the existing hedgerow along this boundary be retained.
- 7.10. CDC LEISURE AND RECREATION: **No objections**.
- 7.11. CDC PLANNING POLICY: **No objections**.
- 7.12. CDC STRATEGIC HOUSING: **No objections**, subject to the proposed affordable housing mix and tenure being secured by way of S106 Agreement.
- 7.13. CDC WASTE AND RECYCLING: **No comments received**.
- 7.14. CLINICAL COMMISSIONING GROUP: **No comments received**.
- 7.15. OCC ARCHAEOLOGY: **Objects**, commenting that: *'A programme of archaeological investigation will be required to support this application as set out in the submitted desk based assessment by Orion Heritage'*.
- 7.16. OCC HIGHWAYS: **No objections**, subject to conditions (in relation to Access, Vision Splays, Parking and Manoeuvring, Travel Information pack, Cycle Parking

and a Construction Management Plan), securing contributions through a S106 Agreement (in respect of Public Transport Infrastructure and a Traffic Regulation Order) and securing an obligation to enter into a S278 Agreement (in respect of any new access)

7.17. OCC EDUCATION: **No objections.**

7.18. OCC DRAINAGE: **No objections**, subject to a condition requiring a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, to be submitted and approved prior to the commencement of development.

7.19. OPEN SPACES SOCIETY: **No comments received.**

7.20. RAMBLERS ASSOCIATION: **No comments received.**

7.21. SEVERN TRENT WATER (SEWAGE): **No objections**, subject to conditions in respect of the proposed sewage drainage strategy including a sewer modelling assessment.

7.22. THAMES VALLEY POLICE: **No objections.**

7.23. THAMES WATER (WATER SUPPLY): **No objections.**

7.24. WESTERN POWER: **No comments received.**

7.25. Officer comment: Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the 1990 Act (as amended) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

7.26. In this particular instance, the above financial payments are not considered to be material to the decision as they would not make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority and hence the above response from the Council's Finance department is therefore provided on an information basis only.

8. RELEVANT PLANNING POLICY AND GUIDANCE

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

8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

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

- PSD1: Presumption in Favour of Sustainable Development
- SLE4: Improved Transport and Connections
- BSC1: District Wide Housing Distribution
- BSC2: The Effective and Efficient Use of Land – Brownfield land and Housing Density
- BSC3: Affordable Housing
- BSC4: Housing Mix
- BSC7: Meeting Education Needs
- BSC8: Securing Health and Well-Being
- BSC9: Public Services and Utilities
- BSC10: Open Space, Outdoor Sport and Recreation Provision
- BSC11: Local Standards of Provision – Outdoor Recreation
- BSC12: Indoor Sport, Recreation and Community Facilities
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems (SuDs)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD 12: Cotswold Area of Outstanding Natural Beauty (AONB)
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment
- ESD17: Green Infrastructure
- VILLAGES 1: Village Categorisation
- VILLAGES 2: Distributing Growth
- INF1: Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18: New dwellings in the countryside
- TR1: Transportation funding
- TR7: Development attracting traffic on minor roads
- C8: Sporadic development in the countryside
- C14: Countryside management projects
- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- ENV1: Development likely to cause detrimental levels of pollution
- ENV12: Development on contaminated land

8.3. Other Material Planning Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2010
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)
- Developer Contributions SPD (February 2018)
- Cherwell Residential Design Guide SPD (July 2018)
- Oxfordshire Wildlife & Landscape Study 2004
- Annual Monitoring Report (AMR) (December 2018)

- Housing & Economic Land Availability Assessment 2018 (HELAA)
- Housing Land Supply in Oxfordshire: Ministerial Statement of 12th September 2018
- Cotswolds AONB Management Plan
- Sibfords Community Plan 2012 (SCP)
- Oxfordshire County Council: Local Transport Plan 4 (2015-2031)

8.4. Council Corporate Priorities

Cherwell District Council's Business Plan for 2019-20 sets out the Council's three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is “Clean, Green and Safe”, that it supports “Thriving Communities & Wellbeing”, and is a District of “Opportunity & Growth”. All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) deliver the Growth Deal; (9) delivery innovative and effective housing schemes; and (10) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals depending on the issues raised.

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

9. APPRAISAL

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

- Principle of Development;
- Site Layout and Design principles
- Landscape and Visual Impact and Local Character;
- Impact on the Historic Environment;
- Transport and Highways Impact;
- Impact on Residential Amenity;
- Flooding Risk and Drainage;
- Affordable Housing;
- Impact on Local Infrastructure;
- Ecology and Biodiversity;
- Human Rights and Equalities.

Principle of Development

9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 and the saved policies of the Cherwell Local Plan 1996 as well as a

number of Adopted Neighbourhood Plans (although none of which are relevant to Sibford Ferris).

Policy Context

- 9.3. The National Planning Policy Framework (NPPF) explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 9.4. Paragraph 7 of the NPPF sets out the Government's view of what sustainable development means in practice for the planning system – the three strands being the economic, social and environmental roles. It is clear from this that as well as proximity to facilities, sustainability also relates to ensuring the physical and natural environment is conserved and enhanced as well as contributing to building a strong economy through the provision of new housing of the right type in the right location at the right time.
- 9.5. Policy PSD1 contained within the CLP 2031 echoes the NPPF's requirements for 'sustainable development' and that planning applications that accord with the policies in the Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.
- 9.6. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that conflicts with the Local Plan should be refused unless other material considerations indicate otherwise (Para. 12). Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015 and can demonstrate a 5 year housing land supply.
- 9.7. The Cherwell Local Plan 2011-2031 seeks to allocate sufficient land to meet District Wide Housing needs. The overall housing strategy is to focus strategic housing growth at the towns of Banbury and Bicester and a small number of strategic sites outside of these towns. With regards to villages, the Local Plan notes that the intention is to protect and enhance the services, facilities, landscapes and natural and historic built environments of the villages and rural areas. It does however advise that there is a need within the rural areas to meet local and Cherwell-wide needs.
- 9.8. Policy Villages 1 of the CLP 2031 provides a framework for housing growth in the rural areas of the district and groups villages into three separate categories (A, B and C), with Category A villages being considered the most sustainable settlements in the District's rural areas which have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth. Minor development, infilling and conversions are considered acceptable types of development within Category A villages.
- 9.9. Policy Villages 2 of the CLP 2015 states that: "*A total of 750 homes will be delivered at Category A villages. This will be in addition to the rural allowance for small site 'windfalls' and planning permissions for 10 or more dwellings as at 31 March 2014*". This Policy notes that sites will be identified through the preparation of the Local Plan Part 2, through the preparation of the Neighbourhood Plan where applicable, and through the determination of applications for planning permission.
- 9.10. Policy Villages 2 then sets out that when identifying and considering sites, particular regard will be given to the following criteria:

- *“Whether the land has been previously developed land or is of less environmental value;*
- *Whether significant adverse impact on heritage and wildlife assets could be avoided;*
- *Whether development would contribute in enhancing the built environment;*
- *Whether best and most versatile agricultural land could be avoided;*
- *Whether significant adverse landscape impacts could be avoided;*
- *Whether satisfactory vehicular and pedestrian access/egress could be provided;*
- *Whether the site is well located to services and facilities;*
- *Whether necessary infrastructure could be provided;*
- *Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period;*
- *Whether land the subject of an application for planning permission could be delivered within the next five years; and*
- *Whether development would have an adverse impact on flood risk.”*

Assessment

- 9.11. Cherwell District Council can demonstrate a five-year supply of deliverable housing sites. In addition to this, the Written Ministerial Statement of 12th September 2018 provides for a temporary change to housing land supply policies as they apply in Oxfordshire. Until the adoption of the Joint Statutory Spatial Plan, the Oxfordshire Authorities are required to demonstrate a 3 year supply of deliverable housing sites (as well as meeting their requirements in respect of the Housing Delivery Test). As such, policies for determining the application are only to be considered out of date (in accordance with paragraph 11d – footnote 7 of the NPPF) where a 3 year supply of deliverable sites cannot be demonstrated. The presumption in favour of sustainable development, as advised by the NPPF, will need to be applied in this context.
- 9.12. The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan and the site sits outside the built up limits of the village.
- 9.13. The site has in part been considered as having potential for residential development within the Council’s Housing & Economic Land Availability Assessment 2018 (HELAA). The site, referenced HELAA 204, is considered suitable, available and achievable for up to 10no dwellings, with the final report stating: *‘In view of the relationship with the existing built-form of the village, some limited potential exists but this should be confined to the north-east corner of the site having regard to detailed consideration of the landscape impact and the impact on character of the village’*. A further site to the north (HELAA 267) is identified as having potential for up to 20 dwellings. However, whilst the potential for residential development at the site and adjacent to the north has been identified, this is not a formal allocation under the Development Plan.
- 9.14. Within Policy Villages 1 of the CLP 2031 Sibford Ferris is recognised as a ‘Category A’ village, by virtue of its close association with Burdrop and Sibford Gower. In terms of scale, the Sibfords combined population (2011) is approximately 984 and the village has not seen any significant new housing since this data was collated. It is located some 7.5 miles from Banbury and 7.7 miles from Chipping Norton, with bus links to both Banbury and Stratford upon Avon (4 no. pick-up times west-bound and 5 pick-ups east-bound). It has recreation and

community facilities, a primary school, nursery, shop/post office, public house and GP surgery. The Sibfords are considered to be one of the more sustainable Category A villages within the district given the services and facilities available within the village group.

- 9.15. As the proposal seeks permission for residential development on the edge of a Category A Village, it such does not find support under Policy Villages 1. As the proposal is for over 10 dwellings on land outside, but immediately adjacent to the built up limits of the village of Sibford Ferris, it can therefore be considered under Policy Villages 2 of the CLP 2031.
- 9.16. The acceptability of the proposal therefore needs to be tested against the criteria listed in Policy Villages 2 of the CLP 2015 (as set out in para 9.10 above), as well as other material planning considerations. However, in the first instance it is important to consider the matter of scale and quantity of development, and in particular whether the proposal is in accordance with the overarching housing strategy of the CLP 2031.
- 9.17. The Council's AMR 2018 (published December 2018), identifies that permission has been granted for 746 homes at Category A villages under Policy Villages 2 of the CLP 2031 (and therefore 4 remaining from the Policy Villages 2 requirement). Officers consider that most of these dwellings have, or, are likely to be delivered: 124 of the 746 dwellings have been completed and a further 425 are under construction.
- 9.18. The 750 dwellings to be delivered at Category A villages is not an upper limit, but the policy describes it as a 'total' and significant deviation from this may result in unconstrained growth in less sustainable locations which would conflict with the housing strategy of the Development Plan. This conclusion has been endorsed in Inspector's conclusion in various recent appeal decisions received by the Council, including appeals at Kirtlington (27 August 2015 - APP/C3105/W/14/3001612), Weston on the Green (8 February 2017 - APP/C3105/W/16/3158925), and Finmere (17 May 2018 - APP/C3105/W/17/3169168).
- 9.19. The NPPF places great importance on boosting the supply of homes - that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay (NPPF, Para 59). And further, that: *'Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly'* (NPPF, Para 59).
- 9.20. In 2014 the Council resolved to grant outline planning permission (14/00962/OUT) for 6 affordable homes and 2 open market homes on part of what is the current site. However, unfortunately due to irrevocable complications with the completion of an associated legal agreement the application was withdrawn by the then applicants (Green Square Group). The application was in part justified on meeting an identified housing need identified in a Housing Needs Survey which was carried out in March 2010 followed by a Register of Interest in December 2013. That report highlighted 10 individuals which had a local housing need and 9 with a local connection to the parish. In this respect, as noted above, the Sibfords have not seen any recent significant new residential development, and whilst there are no up-to-date housing needs assessments, it is likely that there remains a need for affordable housing within the village.
- 9.21. In terms of affordable housing, the proposals would provide 35% of the proposed units (9 no units) as affordable dwellings, in line with the provisions of Policy BSC 3 of the CLP 2031. The Council's Strategic Housing Team provided advice and

guidance on the proposed mix and tenure of affordable housing that would be considered acceptable at the pre-application stage; this has been carried forward to the current application. Officers have commenced discussions on agreeing Draft Heads of Terms of a S106 Agreement which would look to secure the affordable housing mix considered acceptable by the Strategic Housing Team:

Affordable Rent

2 x 1b2pM - Affordable Rented

3 x 2b4pH - Affordable Rented

1 x 3b5pH - Affordable Rented

Shared Ownership

2 x 2b4pH - Shared Ownership

1 x 3b5pH – Shared Ownership

- 9.22. Turning to the assessment of the proposals against the criteria of Policy Villages 2:
- 9.23. The village is surrounded by agricultural fields and as such any expansion of the village would likely result in the loss of agricultural land. Whilst the site is a 'green field' site classified as being 'very good' agricultural land, and therefore there would be conflict with the relevant criterion of Policy Villages 2, it is considered that proposals would be unlikely to result in significant adverse impact on heritage, wildlife assets or the surrounding landscape (these matters are discussed in more detail further below).
- 9.24. Given that all matters are reserved for future consideration it cannot be fully established at this stage that the proposals would contribute to the enhancement of the built environment; conversely it cannot be assumed that that it categorically would not. The proposals would have an impact on the site and the setting of surrounding land and development by virtue of introducing built form where currently none exists. It is considered that the indicative layout and associated parameter plans and Landscape Visual Impact Assessment gives a degree of confidence that such matters could be satisfactorily resolved at any such detailed application stage to allow for an acceptable form of development that would look to respect/enhance the existing character of the existing built form at the edge of the village.
- 9.25. In terms of safe vehicular and pedestrian access/egress being provided, whilst this is again a matter for future consideration, the LHA has assessed the proposals and considers the principle of development acceptable in terms of highway safety, subject to approval of appropriate details which could be secured by way of condition attached to any such permission.
- 9.26. With regard to being well located to services and facilities, third party comment is made with regards to the fact that existing services and facilities would need to be accessed via car due to the lack of footpath connectivity through the villages; however, this could be said to be the same circumstance for many of the residents in this part of the village. As detailed above the site is considered to be adjacent to one of the more sustainable Category A villages, as identified within the Development Plan. Due regard must therefore be had to the fact that village is considered sustainable in respect of the services and facilities, and access to such - including the regular bus service - that it has to offer, and further that the proposed development would look to support existing facilities, including the local shop and primary school.
- 9.27. In terms of infrastructure, notwithstanding third party comments raised in objection to the application, no technical objections have been received from utility suppliers

in terms of capacity of existing facilities and services, including water supply and sewage disposal or from the LHA in terms of the capacity of the local road network. It is considered that any such matters in relation to provision of appropriate infrastructure could be secured by way of appropriate conditions attached to any such permission supported by a S106 agreement as necessary or at any such detailed application stage.

- 9.28. In terms of deliverability of the site, the proposals are for a modest development on a green field site. Officers are not aware of any evidence that would suggest that there is not a reasonable prospect of development being brought forward in a reasonable timeframe, should permission be granted.
- 9.29. With regards to potential for flood risk the site is not within an area considered to be at a high risk of flooding. Whilst the submitted Flood-Risk Assessment (FRA) has identified the potential for flood-risk from 'perched' groundwater it is considered by the Local Drainage Authority that an acceptable drainage strategy could be achieved that would not exacerbate flood-risk either on the site or elsewhere as a result of the proposed development.
- 9.30. A number of representations made in objection to the application refer to the proposals being contrary to the Sibfords Community Plan 2012 (SCP). The SCP represents the outcome of voluntary work by people from the villages during 2011 and 2012, including information gathered via a household questionnaire, and looks to set out a vision of how the community wants to develop and identifies the actions needed to achieve it. In respect of new housing the SCP identifies that the majority of respondents to the questionnaire were not prepared to see more than 20 new houses. Whilst the SCP is clearly reflective of the views of a significant proportion of the population of the Sibfords that responded to the questionnaire, the Plan does not have any formal status within the Development Plan and therefore it can only be afforded limited weight.

Conclusion

- 9.31. As the proposal is for a residential development over 10 dwellings at the Category A village of Sibford Ferris, the proposal stands to be assessed against Policy Villages 2 of the CLP 2031, as well as other material planning considerations, which will be discussed in greater detail further below.
- 9.32. Officers acknowledge that granting planning permission for these 25 homes would result in planning permission having been granted for more than 750 homes under Policy Villages 2. However, officers consider the 750 would not be significantly exceeded or to the extent that it would undermine the Council's overall spatial housing strategy. In addition, the proposal would be a proportionate addition to the settlement of Sibford Ferris which is considered to be a sustainable settlement as above and which has not accommodated any of the Policy Village 2 numbers to date. It is notable that the majority of the more sustainable Category A villages have received new development under Policy Villages 2; only the Sibfords, Steeple Aston and Deddington are yet to receive any development within the plan period
- 9.33. Whilst there would be some limited conflict with the provisions of Policy Villages 2, in that this would be development of Grade 2 agricultural land, a planning balance needs to be undertaken as to whether material considerations would outweigh this conflict.
- 9.34. The development would provide a positive contribution towards maintaining the Council's housing land supply and provision of affordable housing, within a sustainable location where residential development has previously been accepted. The proposals put forward also look to provide further benefits to the local

community including: new informal green open space, community orchard, allotments, footpath links and further commitments with regards infrastructure improvements through an associated S106 agreement. On balance, it is therefore considered that the principle of development could be acceptable subject to further considerations discussed further below.

Site Layout and Design Principles

Policy Context

- 9.35. Policy ESD15 of the CLP 2015 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high quality design meeting high design standards and complementing any nearby heritage assets. The National Planning Policy Framework is clear that good design is a fundamental to what the planning and development process should achieve.
- 9.36. The Council's Residential Design Guide SPD seeks to ensure that new development responds to the traditional settlement pattern, character and context of a village. This includes the use of continuous building forms along principle routes and adjacent to areas of the public open space, the use of traditional building materials and detailing and form that respond to the local vernacular.

Assessment

- 9.37. The application is in outline with all matters reserved except for access. The application is accompanied by an indicative concept layout, and during the application officers have further sought and received land use parameter plans setting out uses within the site and potential build zones within the site. It is expected that the indicative concept layout, land use parameter plans and design and access statement would demonstrate that the development proposed can be appropriately accommodated and which sets appropriate design principles so that should outline planning permission be granted, future detailed proposals can be secured and achieved.
- 9.38. The layout as submitted is considered to embrace the principles as set out in the 2018 adopted Residential Design Guide. The proposals demonstrate a strong frontage on the Hook Norton Road, reflecting the pattern of residential development through the village, whilst decreasing in density on the rural edges of the development, reflecting the more loose-knit pattern of development often experienced on the edge of rural villages.
- 9.39. Whilst design and materials would be future assessment under a reserved matters application it is considered that, given the visual sensitivity of the site, appropriate levels of control should be secured at any such detailed application stage, to ensure compliance with design principles reflective of those within the village and wider district.
- 9.40. The proposed landscaping, allotments and green open space further would provide a softer edge to the proposed development allowing for a transition to the surrounding rural landscape.
- 9.41. Third party comments raise concerns that whilst the indicative layout shows a set layout, that given all matters are reserved for future consideration, should outline permission be granted, the site could then be sold onto to a different developer who may wish to put forward an alternative layout that may not include the benefits (open space, orchard LAP etc.) as put forward in this current scheme or increase

the density of the site; and that the Local Planning Authority might be in a weakened position in terms of resisting less appropriate development. This is a reasonable comment to make. The indicative layout shows an attractive and relatively bespoke layout of development that officers considered acceptable. A different, less distinctive layout would likely have a greater impact and not be likely to attract officer support.

- 9.42. That said, whilst every application would need to be assessed on its own planning merits at the time of the of any such application, officers are confident of the level of control that could be safeguarded through ensuring broad compliance with any approved plans secured by way of appropriate condition attached to any such permission.
- 9.43. Further comment is made in relation to any such approval on the current site setting a precedent for allowing future further residential development, on the adjacent site to the north and further south down the Hook Norton Road. As noted above any such application would need to be assessed on its own planning merits and in the policy context at the time of any such application.

Conclusion

- 9.44. It is considered that an appropriately detailed scheme could be brought forward based on the concept scheme put forward within this application, and that it could be ensured that such a scheme would sympathetic to the character and rural edge of village context, embracing the design principles expressed within Cherwell's Residential Design Guide.

Landscape and Visual Impact and Local Character

Policy Context

- 9.45. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 9.46. These aims are also echoed within Policy ESD15 of the CLP 2031 which looks to promote and support development of a high standard which contributes positively to an area's character and identity by creating or reinforcing local distinctiveness, stating that: *"New development proposals should respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly designed active public frontages"*.
- 9.47. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development. Further, saved Policy C30 of CLP 1996 states control will be exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 9.48. Policy ESD12 of the CLP 2031 states that: *'High priority will be given to the protection and enhancement of the Cotswolds AONB and the Council will seek to protect the AONB and its setting from potentially damaging and inappropriate development. The Cotswolds AONB Management Plan will be used as supplementary guidance in decision making relevant to the AONB'*.

- 9.49. Policy ESD13 of the CLP 2031 states that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not normally be permitted if they would cause undue visual intrusion into the open countryside, cause undue harm to important natural landscape features and topography, be inconsistent with local character, or impact on areas judged to have a high level of tranquillity.
- 9.50. Further as noted above, Policy Villages 2 of CLP 2031 states that in identifying site, particular regard will be given to:
- Whether land has been previously developed land or is of less environmental value;
 - Whether development would contribute in enhancing the built environment
 - Whether significant adverse landscape and impacts could be avoided

Assessment

- 9.51. The application is accompanied by a Landscape and Visual Appraisal (LVA) prepared by Aspect Landscape Planning, which seeks to introduce the principle of development into the context of the existing landscape character, visual environment and landscape related policy to assess the ability of the site to integrate future development. In terms of the visual assessment carried out by Aspect, fieldwork was undertaken to identify a number of viewpoints in the immediate and wider setting of the site.
- 9.52. Within the Oxfordshire Wildlife & Landscape Study the site is identified as being located within the 'Rolling Valley Pastures' landscape type, and within close proximity to the 'Wooded Pasture Valleys & Slopes' landscape type which is located approximately 200m to the south. Rolling Valley Pastures' landscape type are identified as being:
- A strongly undulating landform of rounded hills and small valleys;
 - Small to medium-sized fields with mixed land uses, but predominantly pasture;
 - Densely scattered hedgerow trees;
 - Well defined nucleated villages with little dispersal into the wider countryside.
- 9.53. As noted above the site is a 'greenfield' site set at the edge of the village, and is currently in agricultural use, with the Cotswolds ANOB lying some 0.9 miles (1.5km) west of the site. Whilst acknowledging that the site currently represents an undeveloped arable field, the LVA comments on the site's context and features that detract from its immediate setting. Ultimately it concludes that the site itself is of limited landscape value given its settlement edge nature, and as such was considered to be of medium landscape value.
- 9.54. The Council's Landscape Officer (CLO) has assessed the proposals and supporting LVA and associated assessment of key viewpoints and raises no objections; largely accepting Aspect's comments within the LVA in respect of the visual receptor viewpoints. The CLO comments that '*...the indicative structure planting on the southern and western boundaries, with the appropriate native tree groupings, hedgerow and thicket species, will, over time contribute and reinforce the existing attractive 'tree-scape' across the entire village when experienced from the PRow...*'; and further that in maturity such planting would integrate the site into the village setting and mitigating the existing built edge of Cotswold Close and Margaret Fell House of Hook Norton Road.

- 9.55. Whilst noting that the proposed landscaping will take time to fully mature, the CLO highlights that the dwellings would be seen and experienced from Viewpoint 9 (VP9) west of the site, but considers that if the buildings are constructed from local stone, this will improve the visual appeal of the new urban edge.
- 9.56. The CLO does raise concerns with regards to potential views from the PRoW east of the site, and initially advised that development be pushed further back into the site, but later confirmed that this was only to ensure that the existing hedgerow along the Hook Norton Road would be retained. In assessing the suitability of the site under the HEELAs, it was considered that the number of dwellings achievable would be restricted to those that could be developed on the north-east corner of the site, given the topography of the site and that new development would be more intrusive the further west and south you went in the site. Officers consider it more appropriate to present a strong frontage along the Hook Norton Road rather than push development back into the site and consider that the proposed indicative layout presents an achievable scheme that would meet this objective whilst retaining the hedgerow along the frontage. (Whereas a different layout would not likely meet this objective.)
- 9.57. As noted above within the village residential buildings predominantly face onto adjacent the highway, although there are elements of back-land development, and in the immediate vicinity the more modern development of Cotswold Close sees dwellings sited around a cul-de-sac with turning head. The context existing built form at this edge of village setting is one of varying building typologies and palettes of materials. Officers consider that the proposals, whilst only in outline form, have the potential – if developed in accord with the indicative layout – to not only be reflective of the more positive elements and character of the village but also to enhance the edge of village setting, through quality landscaping, providing a more gradual transition from the built form to the rural open countryside.

Conclusion

- 9.58. Officers consider that, whilst the proposals would result in the loss of part the existing agricultural field and a greenfield site, any harm that would be caused to the wider landscape setting and setting of the Cotswold AONB would not be so significant that it would warrant a reason to refuse the application and that such impacts could be largely be mitigated through the introduction of an acceptable landscaping scheme, open space and allotments; further that the benefits of the proposals are a material consideration that would outweigh this harm.

Impact on the Historic Environment

Policy Context

- 9.59. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the Local Planning Authority gives special regard to the desirability of preserving a listed building or its setting.
- 9.60. Paragraph 189 of the NPPF states that: *“In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance.”*
- 9.61. Paragraph 193 of the NPPF states that: *“When considering the impacts of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any*

potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.” Paragraph 194 of the NPPF goes on to state that: “Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification.”

- 9.62. Paragraph 196 of the NPPF states that: *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*
- 9.63. Policy ESD15 of the CLP 2015 states that new development proposals should: *“Conserve, sustain and enhance designated ‘heritage assets’ (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG.”*

Assessment

- 9.64. The application site is not within a designated conservation area and there are no listed buildings within the immediate vicinity of the site. The Sibford Ferris Conservation Area boundary lies approximately 70m north of the site, with existing development on intervening land. The nearest listed building would be The Old House on Main Street through the village some 175m north-east of the site.
- 9.65. Given the context of the site and its site constraints there is no statutory requirement to consult with Historic England on the application, thereby relying on the Council’s own Conservation Team for advice and guidance on this matter. The Council’s Conservation Officer raises no objections to the application and officers see no reason not to agree with this opinion. The application site is outside the conservation area for Sibford Ferris and is separated from it by 20th century development; and the proposals would not generally be seen in the same context as properties within the Conservation Area. The closest Listed Buildings are on Main Street which is some distance from the development site and as such there would be no impact on these buildings or their settings.
- 9.66. Whilst it is acknowledged by officers that this is an outline application, and therefore the site layout is indicative, the indicative concept layout demonstrates properties fronting the site which appear to address the road in a similar way to the properties opposite and green space is proposed to maintain a ‘green’ edge to the village. It is considered that, whilst the proposal would introduce development where currently none exists, subject to approval of a detailed scheme the proposed development would be sympathetic to the edge of village context and would not significantly detract from the visual amenities of the surrounding area, sustaining the character of the nearby Conservation Area.
- 9.67. Records indicate that the site is not within an area identified as being of any significant archaeological interest; however, it is considered by the County Council’s Archaeologist that this may just be down to the lack of any formal investigative work. The application was initially supported by an archaeological desk based assessment by Orion Heritage which concluded that the site has low archaeological potential for all periods. However, following concerns and an objection being raised by OCC’s Archaeologist, a further interim geophysical survey was undertaken which showed that there were potential archaeological features within the north-eastern part of the site.
- 9.68. Further investigative work, including trenching, has been agreed with the applicant and such works are to commence on site (w/c 08/04/2019) following a written of investigation being agreed with the County’s Archaeologist; and whilst the potential

for significant archaeological interest is considered to be relatively low, the outcome of an evaluation was not available at the time of the preparation of this report to confirm such matters. It is considered likely that any such archaeological issues could be resolved through appropriate conditions attached to any such permission. However, it is considered appropriate to wait to receive County Council's Archaeologist's response to ensure that any such conditions would be appropriate and meet the tests for use of conditions as set out within the NPPF.

Conclusion

- 9.69. Subject to there being no adverse comments being made by the County Archaeologist once any archaeological potential is fully realised, it is considered unlikely that the proposals would result in any significant harm on features of archaeological significance.
- 9.70. It is considered that the proposed development would not result in any significant harm to the character and appearance of the Conservation Area, its setting or the setting of any Listed Buildings, and as a result the significance of these Heritage Assets will not be harmed; in line with Policy ESD15 of the CLP 2031 and Government guidance within the NPPF.

Transport and Highways Impact

Policy Context

- 9.71. The NPPF (Para. 108) states that the planning system should actively manage patterns of growth in support of the achievement of promoting sustainable transport. However, notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.
- 9.72. The NPPF (Para. 108) advises that in assessing specific applications for development, it should be ensured that:
- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
 - b) safe and suitable access to the site can be achieved for all users; and
 - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 9.73. Both Policies ESD15 and SLE4 of the CLP 2031 reflect the provision and aims of the NPPF. Policy ESD15 of the CLP 2031 states that: *“New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions”*; whilst Policy SLE4 states that: *“All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported”*.
- 9.74. Policy TR7 states that: *‘Development that would regularly attract large commercial vehicles or large numbers of cars onto unsuitable minor roads will not normally be permitted’*.

Assessment

- 9.75. Given that all matters are reserved for future consideration, including access and layout, it is only the principle of the development and associated potential transport related issues that can be considered at this stage. However, the applicants have submitted a concept plan, which shows an indicative access, and a detailed Transport Statement in support of the application, which allows for an appropriate assessment of these potential transport impacts.
- 9.76. Whilst it is acknowledged that significant concerns have been raised in representations in objection to the application, in terms of highway safety and impacts on the local road network. However, the Local Highway Authority (LHA) have assessed the detailed submission and has raised no objection to the proposal subject to conditions, S106 contributions and an obligation to enter into a S278 agreement.
- 9.77. The LHA highlights that the proposed development is within a Category A village, a service village as identified within the Development Plan, and as such it is important from a strategy point of view that the residents of the proposed development would be able to access the shop/Post Office. As noted in third party comments the footway is not complete through the village to these services and facilities; however, the LHA advises that the route to services would be no more problematic than for the residents of the existing dwellings in Cotswold Close and on Hook Norton Road. And further that there is existing network of PRow routes through the village that would be accessible from the site.
- 9.78. The applicants have submitted a detailed Transport Statement (TS) in support of the application, updated during the course of the application (to include details of where the automated traffic counters (ATCs)). The LHA considers the TS and its detail to be appropriate for the scale of development proposed.
- 9.79. TRICS (Trip Rate Information Computer System) is a database of trip rates for developments used in the United Kingdom for transport planning purposes, specifically to quantify the trip generation of new developments. An analysis determines an average amount of vehicle movements based on actual counts from existing developments. With regards to potential trip generation, the TS uses this TRICS data to calculate potential traffic movements and the LHA are satisfied that this reasonably concludes a trip rate of 0.5 per dwelling in the morning peak hour, which would equate to 13 two-way movements (10 out and 3 in).
- 9.80. The TS also calculates a distribution equating to 5 out of 6 movements southwards from the site access. The LHA consider that this appears to be rather skewed, especially as the out-and-back trips are likely to be local, to the facilities in the village and Sibford Gower, both to the north, and this is similar to concerns raised in representations in objection to the application. However, the LHA advises that: *'as a worst case, if (say) 10 of the 13 movements were to the north, this would equate to one additional car every 6 minutes. Compared to the 5-day average two-way vehicle flow for the morning peak of 209 (111 northbound plus 98 southbound, from the northern site ATC), this equates to an increase of less than 5%'*.
- 9.81. The NPPF (Para. 109) states that: 'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'.
- 9.82. Significant comment is made in representations with regard to the 'pinch-points' in the road network through the village and the impact of traffic at peak times, particularly at pick-up and drop-off times of Sibford School. Whilst officers acknowledge that this is an issue, given that the LHA concludes that the proposed development would not result in a significant increase in traffic generation (5%

increase) - and raises no objection in this respect, it is considered that the potential impacts on the local road network would not warrant a reason to refuse the application on these grounds that could be sustained.

- 9.83. With regards to access at the site, whilst the detailed of any such access is reserved for future consideration, the applicant provides an indicative access point shown on the submitted Schematic Concept plan (Drwg. 3361.101). Whilst the proposed site entrance would be well within the existing 30mph speed limit, from measured survey data (with Automated Traffic Counters (ATCs) having been sited at sites either side of the proposed access), the TS indicates that the average 85thile speeds recorded are as: Southbound (at northern site) 37.8mph and Northbound (at southern site) 34.0mph.
- 9.84. The LHA considers Manual for Streets (MfS) to be appropriate in assessing the acceptability of the access, however disagrees with the vision splays identified as being necessary within the TS (paras. 4.3 and 4.4); based on the speeds identified from survey data. However, the LHA further concludes that appropriate vision splays could be achieved, through the relocation of the speed limit further to the south given the geometry of the existing road.
- 9.85. The northern site is well within the residential area and 30mph speed limit. The southbound traffic speed identified by the survey requires a visibility splay of approximately 60m, rather than the 43m (TS para. 4.3). However, the available visibility of 90m is considered more than adequate by the LHA.
- 9.86. In respect of northbound vehicles, these will become visible from the access whilst they are still within the National Speed Limit. The 85 percentile speed of 34mph (measured by the ATC at the speed limit sign) requires a visibility of 52m, which is marginally less than the 55m that is possible. The LHA considers that in order for the MfS criteria to apply, the 30mph speed limit would need to be relocated further to the south – the logical place would be to coincide with the village sign. Further that speed reduction would also best be highlighted by the addition of “dragon’s teeth” lining and a single gateway feature.
- 9.87. It is considered that the requirements of the LHA could be secured through appropriate conditions, S106 contributions required to fund the change to the Traffic Regulation Order (moving of speed limit and the physical works and a further S278 agreement in respect of works within the highway. Subject to these matters being satisfactorily addressed it is considered that an acceptable access could be achieved and the proposals would be acceptable in this regard.
- 9.88. The LHA has provided advice on what should be provided at the reserved matters stage should outline permission be granted, including parking standards that would need to be adhered to, road and footpath widths, swept path analysis for refuse vehicles for all manoeuvres in forward gear and visibility splays. Whilst the detailed layout is for future consideration, it is considered that an appropriate layout could be achieved and parking provision for both vehicles and cycles could be accommodated within the site that would not exacerbate on-street parking within the area of the site.
- 9.89. In terms of Public Rights of Way the proposals would not have a direct impact on any authorised routes, other than in a visual nature. The LHA welcomes the addition of a continuous pedestrian route across the site which would connect the two existing PRoW, 347/2 (at the western boundary) and 347/4 (to the east), but confirms that in their opinion footpath is not dedicated, but that the western section is provided as part of the Public Open Space and secured by a legal agreement and the eastern section is incorporated in the S38 adoptable highway. Further that

the specification of the path through the open space/orchard can be decided by the district council, to best suit the landscape.

- 9.90. In respect of public transport the LHA acknowledges that the existing 3A bus service to Banbury is of a low frequency and offers limited connectivity; and ultimately any new dwelling residents will be car-dependent for most trips. However, the LHA further advises that: 'Given the small scale of the development, any financial contribution to improving bus operations or service frequency for the 3A service is unlikely to be sufficient'.

Conclusion

- 9.91. The LHA concludes that the proposal would not have a significant adverse impact upon the safe and efficient operation of the highway network subject to conditions, S106 contributions and an obligation to enter into a S278 agreement. Whilst officers acknowledge the concerns of the Parish Councils and local residents in respect of traffic flow through the village at peak times, given that it is considered that the proposals would not result in a significant increase in traffic movements officers see no reason to disagree with the LHA's assessment.

Impact on Residential Amenity

Policy Context

- 9.92. Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2031 which states that: '*new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space*'.

Assessment

- 9.93. The application is in outline only. Any detailed proposals would need to have due regard to requirements of Section 6 of the Residential Design Guide SPD with regard to appropriate standards of amenity for both existing and future residents. Appropriate positioning and scale of dwellings, boundary treatments and the nature of such treatments could be given due consideration at reserved matters stage.
- 9.94. The nearest residential properties to the site would be High Rock adjacent the boundary of the site to the north and properties along the eastern side of the Hook Norton Road to the east of the site.
- 9.95. High Rock dwellinghouse sits some 13 metres off the boundary of the proposed site with a mature hedgerow and a number of trees along this boundary. It is considered that, subject to appropriate scale and design of any proposed dwellings along the northern boundary of the site, and retention and potential enhancement of existing boundary planting it is likely that a satisfactory layout could be achieved that would unlikely result in any significant unacceptable impacts on the residential amenity of the neighbouring residential properties.
- 9.96. Existing properties along the Hook Norton Road would face the frontage of the proposed site; however, would be separated from the site by the Hook Norton Road. It is considered that the degree separation provided by the highway would ensure that the amenity currently enjoyed by these properties would not be unduly affected by the proposed development.

- 9.97. Assessment of internal amenity with the proposed dwellings would be a matter for consideration at any such detailed application stage. Whilst only indicative at this stage, the concept layout indicates an appropriate layout that would provide for both public and private outdoor amenity space that would allow for an acceptable standard of living to be achieved for potential future occupants. Outdoor amenity standards would be further enhancement through the provision of the proposed LAP, Public Orchard, Allotments, Open Space and links to PRoW.

Conclusion

- 9.98. Given the above, officers are satisfied that the development can be made acceptable in residential amenity terms, both for existing residents neighbouring the site and future occupiers, with acceptable details to be secured at reserved matters stage.

Flooding Risk and Drainage

Policy Context

- 9.99. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.
- 9.100. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.

Assessment

- 9.101. A site-specific Flood Risk Assessment (FRA) prepared JNP Group Consulting Engineers has been submitted in support of the application. The Environment Agency's flood maps indicate that site is not within a higher risk flood zone and are within Flood Zone 1 where residential development is acceptable in principle subject to no increased flood risk elsewhere as a result of proposal.
- 9.102. The FRA identifies that the site does has the potential to be affected by a risk of flooding from 'perched', groundwater, due to impermeable 'Whitby Mudstone' being encountered at shallow depths in the southern end of the site, but generally that the site is at a low risk from other sources of flooding. The FRA sets out that further investigation is required, but that flood risk can be likely be mitigated to an acceptable level through an appropriate drainage strategy and certain mitigation measures.
- 9.103. The drainage strategy put forward within the application considers a range of SuDS (A sustainable drainage system) across the site, which includes Soakaways, Swales, Permeable Paving, and Ponds.
- 9.104. The County Council's Drainage Team has assessed the proposals and raises no objections based on the submitted information, but indicates that whilst some positive soakaway test have been undertaken at the site further investigative work needs to be undertaken to inform the detailed requirements of a satisfactory drainage which embraces the principles of SuDs. The Drainage Team further advises of the need for assessment of potential flood routing across the site in the event of exceedance conditions and for a requirement of further details in respect of SuDS Management and Maintenance Plan.

- 9.105. Third party comments have raised concerns with regards to the capacity of the Sewage system and its ability to cope with additional load as a result of the proposed development. Severn Trent Water (STW) who provides waste water/sewage services, whilst noting that further modelling work is required sewer modelling assessment will be required due to pumped system being proposed, have confirmed that they raise no objections to the application, and that appropriate information i.e. sewage drainage strategy could be secured through an appropriate condition. The further note that any potential capital improvements that are required will not require any contributions from the applicant as that is done at Severn Trent's cost.

Conclusion

- 9.106. Officers consider that, in light of there being no technical objections being raised, and subject to appropriate conditions securing an a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development and an acceptable sewage drainage strategy, the proposals could be considered acceptable in terms of flood-risk and drainage.

Impact on Local Infrastructure

Policy Context

- 9.107. Policy INF1 of the CLP 2015 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.”*
- 9.108. Policy BSC11 of the CLP 2015 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.”*
- 9.109. Policy BSC3 of the CLP 2015 states that: *“At Kidlington and elsewhere, all proposed developments that include 11 or more dwellings (gross), or which would be provided on sites suitable for 11 or more dwellings (gross), will be expected to provide at least 35% of new housing as affordable homes on site.”* Policy BSC3 requires this to be a mix of affordable rent and intermediate tenure.
- 9.110. The Council has an adopted Supplementary Planning Document (SPD) setting out its position in respect of requiring financial and on site contributions towards ensuring the necessary infrastructure or service requirements are provided to meet the needs of development, and to ensure the additional pressure placed on existing services and infrastructure is mitigated. This is the starting point for negotiations in respect of completing S106 Agreements.

Assessment

- 9.111. Where on and off site infrastructure/measures need to be secured through a planning obligation (i.e. legal agreement) they must meet statutory tests set out in regulation 122 of the Community Infrastructure Ley (CIL) Regulations 2010 (as amended). These tests are that each obligation must be:

- i. Necessary to make the development acceptable in planning terms;
- ii. Directly related to the development;
- iii. Fairly and reasonably related in scale and kind to the development.

9.112. Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. In short, these tests exist to ensure that local planning authorities do not seek disproportionate and/or unjustified infrastructure or financial contributions as part of deciding to grant planning permission. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them to ensure that any decision reached is lawful.

9.113. Having regard to the above, in the event that Members were to resolve to grant planning permission, the following items would in officers' view need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts:

Cherwell District Council

- Provision of 35% affordable housing together with 70/30 tenure split between social rented and shared ownership or other low cost home ownership which should be agreed with CDC;
- Provision of public open amenity space and future maintenance arrangements;
- Provision of a combined on-site LAP together with future maintenance arrangements;
- Maintenance arrangements for on-site trees, hedgerows, and drainage features;
- Payment of a financial contribution towards the provision of refuse/recycling bins for the development.
- Financial contributions towards improvements to off-site indoor and outdoor sports facilities;
- Financial contribution towards the provision of new community hall facilities or the improvement/expansion of existing facilities where there is not enough space capacity in existing appropriate facilities.

Oxfordshire County Council

- Public Transport Infrastructure Financial Contribution of £20,000 towards a new bus shelter and hardstanding for the existing bus stop on Main Street, Sibford Ferris;
- Traffic Regulation Order Financial Contribution of £4,850 towards the alteration of the speed limit TRO on Hook Norton Road, and provision of a gateway feature and highway markings
- To secure entry into a S278 agreement (Highways Act 1980) to secure mitigation/improvement works, including: Formation of a new site access and provision of a footway from the pedestrian access on Hook Norton Road to the existing footway network

9.114. In terms of education OCC considers that there is sufficient capacity in terms of primary and early years in the area. In terms of Secondary and SEN OCC considers that education contributions meet the tests required by Regulation 122 (2) of the CIL Regulations but they are not sought due to Regulation 123; in that the limit of pooled contributions (5 contributions) have previously received in relation to these facilities within the area.

9.115. CDC's Developer Contributions SPD states that 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. Whilst the Oxfordshire Clinical Commission Group has been consulted, comments have not been received from this consultee. Thus, officers do not consider that they can request contributions towards health care infrastructure.

9.116. *Conclusion*

9.117. A number of items would need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council, in order to secure an appropriate quality of development as well as adequately mitigate adverse impacts that would otherwise occur.

Ecology and Biodiversity

Legislative context

9.118. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.

9.119. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.

9.120. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.

9.121. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:

(1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?

(2) That there is no satisfactory alternative.

- (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

9.122. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

Policy Context

9.123. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

9.124. Paragraph 175 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

9.125. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

9.126. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.

9.127. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.

9.128. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.

9.129. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there

is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

9.130. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:

- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPAs can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

9.131. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site whilst not considered to contain any significant features of ecological and biodiversity value there are a number of mature trees and hedgerows that bound the site, and therefore has the potential to be suitable habitat for bats, breeding birds and badgers.

9.132. In order for the local planning authority to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.

9.133. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.

9.134. The application is supported by a detailed Ecological Impact Assessment prepared by Prime Environment which concluded that there are no major constraints on site with it largely being an arable field; and that only minor mitigation measures would be required to protect badgers and birds during construction; and that ultimately the proposals would likely deliver a net gain to the area's local biodiversity through the creation of new habitats, orchards, allotments and public open space.

9.135. The Council's Ecologist has assessed the submitted report and is satisfied with the detail of the report and its recommendations and mitigation measures, considering the proposals '*...likely to lead to a fair biodiversity gain*'. However, the Ecologist considers it both necessary and appropriate to secure further information by way conditions with regards to how habitats on site will be created, managed and funded and further in relation details of the measures to be taken to ensure that construction works do not adversely affect biodiversity; to ensure protection

habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 and national guidance.

Conclusion

- 9.136. Officers are satisfied, on the basis of the advice from the Council's Ecologist and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

Human Rights and Equalities

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

Article 8 and Article 1 of the First Protocol

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

Duty under The Equalities Act 2010

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

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 advises that the three dimensions to sustainable development (economic, social and environmental), which are interdependent; need to be pursued in mutually supportive ways.
- 10.2. Government guidance within the NPPF supports the plan-led system and advises that applications that accord with an up-to-date plan should be approved without delay.

- 10.3. In reaching an informed decision on planning applications there is a need for the Local Planning Authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. It is also necessary to recognise that Section 38 of the 1990 Act continues to require decisions to be made in accordance with the development plan and the NPPF highlights the importance of the plan led system as a whole.
- 10.4. The site is unallocated in the adopted CLP 2031. Sibford Ferris is designated a Category A Village under Policy Villages 1 of the CLP 2031 and as such suitable for minor development within its built up limits. Policy Villages 2 supports development of sites for more than 10 homes in the Category A villages in certain circumstances. 750 homes are to be delivered across these villages. When considering sites under this Policy a number of considerations apply relating to the site's environmental value and impact and deliverability. It is considered that the site would broadly comply with these criteria.
- 10.5. Whilst the Sibfords have not seen any significant new residential development under Policy Villages 2 of the CLP 2031, it is acknowledged that the 750 distribution of homes across the Category A villages during the plan period is already close to being met in terms of permissions granted/resolved. The Council's housing land supply position is also noted. However, 750 dwellings is not a ceiling and the actual delivery of dwellings under this policy currently falls below 750, and in officers' opinion to permit a modest development of 25 additional dwellings at one of the three main Category A settlements not to have received development under Policy Villages 2 would not be so significant to the extent that it would undermine the Council's overall spatial housing strategy.
- 10.6. The proposals are considered acceptable in terms of transport, heritage impact and neighbour amenity. It is further considered that an acceptable drainage solution is achievable at the site that would ensure that flood-risk is not exacerbated. It is acknowledged that the proposals would result in the loss of a 'Greenfield' site and agricultural land, but that such impacts could be largely be mitigated through the introduction of an acceptable landscaping scheme, open space and allotments, potentially enhancing the edge of village setting.
- 10.7. The development would make a valuable contribution to housing delivery (including affordable housing) and the provision of areas of public open space for the whole community would also be a benefit, as would any resultant ecological enhancements. There would also be some economic benefit in the support of construction jobs and spending in the area those future residents would bring about. It is considered that these benefits are material considerations that would outweigh any limited conflict with development plan policies and any harm that would be caused in this instance.
- 10.8. Given the above assessment and in light of current guiding national and local policy set out in the report, the officers consider that the proposal would amount to sustainable development for which Government policy sets a presumption in favour and is therefore recommended for approval.

11. RECOMMENDATION

RECOMMENDATION: DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY TO GRANT PERMISSION SUBJECT TO NO OBJECTIONS FROM COUNTY COUNCIL'S ARCHAEOLOGIST AND SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE

CONDITIONS AS DEEMED NECESSARY) AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

- a) Provision of 35% affordable housing together with 70/30 tenure split between social rented and shared ownership or other low cost home ownership which should be agreed with CDC;**
- b) Provision of public open amenity space and future maintenance arrangements;**
- c) Provision of a combined on-site LAP together with future maintenance arrangements;**
- d) Maintenance arrangements for on-site trees, hedgerows, and drainage features;**
- e) Payment of a financial contribution towards the provision of refuse/recycling bins for the development.**
- f) Financial contributions towards improvements to off-site indoor and outdoor sports facilities;**
- g) Financial contribution towards the provision of new community hall facilities or the improvement/expansion of existing facilities where there is not enough space capacity in existing appropriate facilities.**
- h) Public Transport Infrastructure Financial Contribution of £20,000 towards a new bus shelter and hardstanding for the existing bus stop on Main Street, Sibford Ferris;**
- i) Traffic Regulation Order Financial Contribution of £4,850 towards the alteration of the speed limit TRO on Hook Norton Road, and provision of a gateway feature and highway markings**
- j) To secure entry into a S278 agreement (Highways Act 1980) to secure mitigation/improvement works, including: Formation of a new site access and provision of a footway from the pedestrian access on Hook Norton Road to the existing footway network**

CONDITIONS

General Implementation

1. No development shall commence until full details of the access, layout (including the layout of the internal access roads and footpaths), scale, appearance, and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.

Reason: This permission is in outline only and is granted 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

2. In the case of the reserved matters, the final application for approval shall be made not later than the expiration of three years beginning with the date of this permission. Each application shall demonstrate how the design and access principles shown on drawings 6426/SAP3/PP Rev. C - Parameter Plan and 6426/ASP4/LSP Rev. A - Landscape Strategy Plan have been used to inform the reserved matters.

Reason: This permission is in outline only and is granted 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

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 (General Development Procedure) Order 2015 (as amended).

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Design and Access Statement; Flood Risk Assessment; Arboricultural Impact Assessment; Ecological Impact Assessment; Archaeological Desk-Based Assessment; Flood Risk Assessment and drainage Strategy Report and drawings labelled: 3361.101 - Concept Schematic, 6426/SAP3/PP Rev. C - Parameter Plan and 6426/ASP4/LSP Rev. A - Landscape Strategy Plan.

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

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

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

Highways and Transport

6. Prior to the commencement of the development hereby approved, full details of the means of access between the land and the highway shall be submitted to and approved in writing by the Local Planning Authority. The access shall be broadly in accordance with the positioning indicated on the approved plan 3361.101 - Concept Schematic, 6426/SAP3/PP and include details of layout, and vision splays. 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 and to comply with Government guidance contained within the National Planning Policy Framework.

7. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Construction Traffic

Management Plan shall be implemented and operated in accordance with the approved details.

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

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

Reason: to ensure all residents and employees are aware of the travel choices available to them from the outset

Drainage

9. Prior to the commencement of the development hereby approved, full details of a drainage strategy for the entire site, detailing all on and off site drainage works required in relation to the development which shall be broadly in accordance with the drainage proposals set out in the submitted Flood Risk Assessment produced by JNP Group Consulting Engineers (unless otherwise agreed in writing), and which shall include a Sewer Modelling Assessment, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the drainage works shall be carried out and completed in accordance with the approved strategy, until which time no discharge of foul or surface water from the site shall be accepted into the public system. The scheme shall also include:
 - Discharge Rates
 - Discharge Volumes
 - SUDS (Permeable Paving, Soakaways, Infiltration devices, Attenuation Pond, Swales)
 - Sizing of features – attenuation volume
 - Maintenance and management of SUDS features (To include provision of a SuDS Management and Maintenance Plan)
 - Infiltration in accordance with BRE365 (To include comprehensive infiltration testing and annual monitoring and recording of groundwater levels across the site)
 - Detailed drainage layout with pipe numbers
 - Network drainage calculations
 - Phasing
 - Flood Flow Routing in exceedance conditions (To include provision of a flood exceedance route plan)

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community in accordance 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.

Ecology and Biodiversity

10. Prior to the commencement of the development hereby approved, a Landscape and Ecology Management Plan (LEMP), showing how all habitats on site will be created, managed and funded and to include details of a bat and bird box scheme shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in strict accordance with the approved LEMP.

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.

11. Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a Construction Environmental Management Plan (CEMP), which shall include details of the measures to be taken to ensure that construction works do not adversely affect biodiversity, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in strict accordance with the approved CEMP.

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.

Contamination

12. 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 Section 15 of the National Planning Policy Framework.

Planning Notes:

1. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.
2. In the submission of reserved matter details for approval, it is expected that the new scheme will closely follow the indicative plans, layout and landscaping strategy accompanying this application.
3. In respect of condition 7 the CTMP should look to detail:
 - The CTMP must be appropriately titled, include the site and

- planning permission number.
 - Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
 - Details of and approval of any road closures needed during construction.
 - Details of and approval of any traffic management needed during construction.
 - Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
 - Details of appropriate signing, to accord with the necessary standards/requirements, for pedestrians during construction works, including any footpath diversions.
 - The erection and maintenance of security hoarding / scaffolding if required.
 - A regime to inspect and maintain all signing, barriers etc.
 - Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.
 - The use of appropriately trained, qualified• No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will be parked and occupiers transported to/from site to be submitted for consideration and approval. Areas to be shown on a plan not less than 1:500.
 - Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.
 - A before-work commencement highway condition survey and agreement with a representative of the Highways Depot – contact 0345 310 1111. Final correspondence is required to be submitted.
 - Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution.
 - Any temporary access arrangements to be agreed with and approved by Highways Depot.
 - Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.
4. Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be necessary if protected species or habitats are affected by the development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0300 060 3900.
 5. Bats are a highly mobile species which move between a number of roosts throughout the year. Therefore all works must proceed with caution and should any bats be found during the course of works all activity in that area must cease until a bat consultant has been contacted for advice on how to proceed. Under the Wildlife & Countryside Act 1981 (as amended) and the Habitat and Species Regulations 2010 it is illegal to intentionally or recklessly disturb, harm or kill bats or destroy their resting places.
 6. Birds and their nests are fully protected under the Wildlife and Countryside Act

1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds can be avoided by carrying out vegetation removal or building work outside the breeding season, which is March to August inclusive.

7. Prior to commencement of development, a separate consent must be obtained from OCC Road Agreements Team for the new highway vehicular access under S278 of the Highway Act. Contact: 01865 815700; RoadAgreements@oxfordshire.gov.uk.
8. Please note the Advance Payments Code (APC), Sections 219-225 of the Highways Act, is in force in the county to ensure financial security from the developer to off-set the frontage owners' liability for private street works, typically in the form of a cash deposit or bond. Should a developer wish for a street or estate to remain private then to secure exemption from the APC procedure a 'Private Road Agreement' must be entered into with the County Council to protect the interests of prospective frontage owners.

CASE OFFICER: Bob Neville

TEL: 01295 221875

18/01569/F

Robert Keith Cars Sales Ltd
2 Cherwell Street
Banbury
OX16 2BB

Works Works

Garage Garage

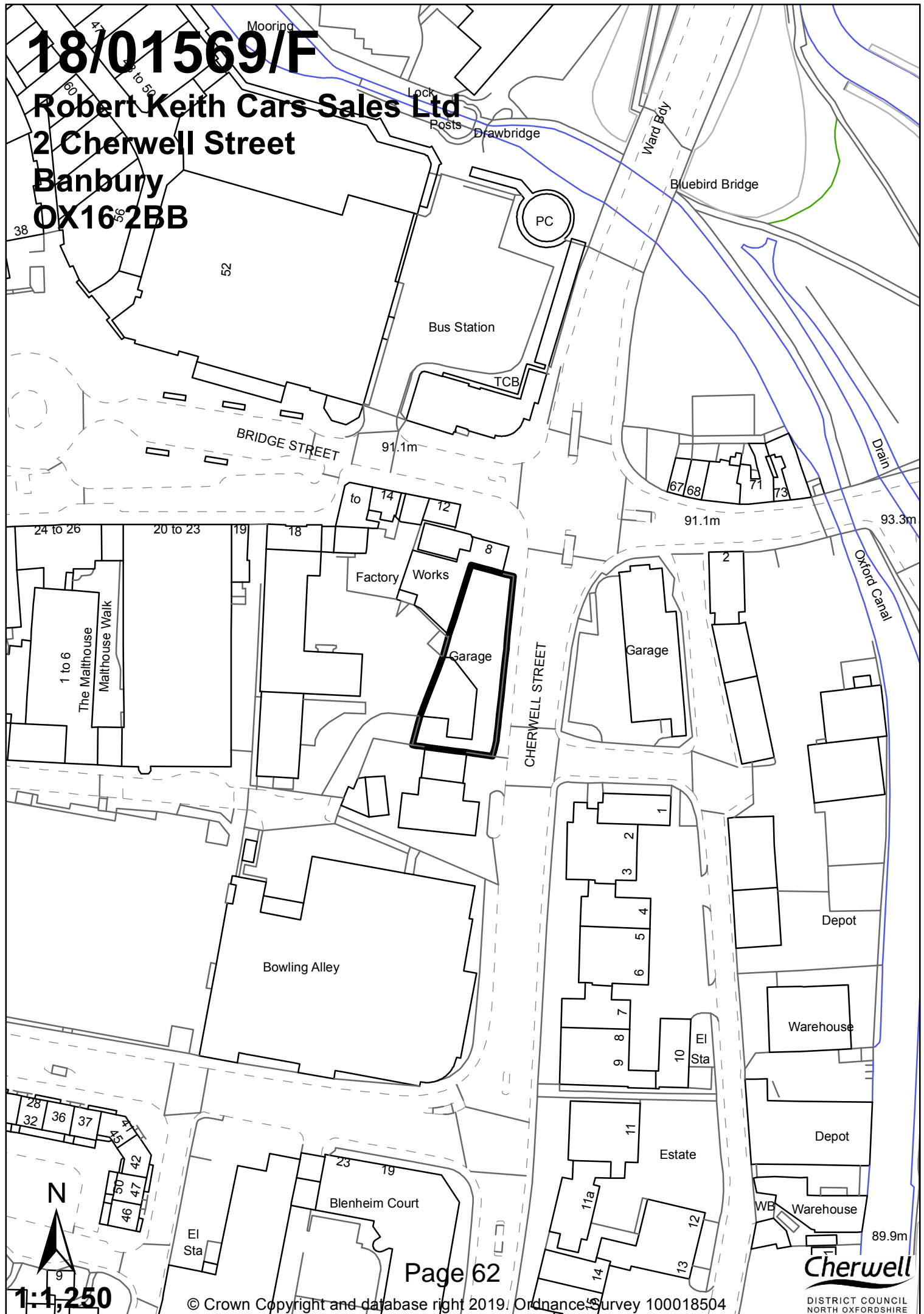
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18/01569/F

Robert Keith Cars Sales Ltd
2 Cherwell Street
Banbury
OX16 2BB



Case Officer: James Kirkham

Applicant: Darlow Hemphill Ltd

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

Ward: Banbury Cross And Neithrop

Councillors: Cllr Hannah Banfield
Cllr Surinder Dhesi
Cllr Cassi Perry

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

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

Proposal

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

Consultations

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

- OCC Highways, Banbury Civic Society

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

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

One letter of objection has been received.

Planning Policy and Constraints

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

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

Conclusion

The key issues arising from the application details are:

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

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

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

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

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

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

2. CONSTRAINTS

- 2.1 The application site is within the strategic regeneration area allocated as Banbury 1: Canalside with the Cherwell Local Plan Part 1 (2015). A small element of the western boundary of the site falls within Flood Zone 2. The Banbury Conservation Area exists approximately 30 metres to the north-west of the site on Bridge Street and the Oxford Canal Conservation Area exists approximately 40m to the west of the site. The site is located within an area of high radon gas and is also located in an area of archaeological interest.
- 2.2 Amended plans have been received during the course of the application. The officer assessment set out in this report is made on the basis of the latest set of amended plans.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The current application seeks permission to redevelop the site to provide commercial floor space (use class A2 or B1 uses) on the ground floor with 19 apartments above. The proposal would provide accommodation over 4 floors with the building having the appearance of 3 storey building with accommodation in the roof space with the provision of dormer windows. It would be constructed of a variety of bricks with stone bands and coping.
- 3.2. Bin and cycle stores would be provided within the building to serve development on the ground floor. The proposed development would be car-free having no car parking on site.

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

4. RELEVANT PLANNING HISTORY

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

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

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

5. PRE-APPLICATION DISCUSSIONS

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

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

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

6. RESPONSE TO PUBLICITY

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

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

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

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

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

7. RESPONSE TO CONSULTATION

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

TOWN COUNCIL

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

CONSULTEES

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

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

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

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

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

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

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

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

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

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

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

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

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

8. RELEVANT PLANNING POLICY AND GUIDANCE

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

8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

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

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

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

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

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

8.3. Other Material Planning Considerations

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

8.4. Council Corporate Priorities

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

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

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

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

9. APPRAISAL

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

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

Principle of Development

Policy context

- 9.1. Planning law requires that planning decisions are made in accordance with the Development Plan unless material considerations indicate otherwise. Paragraph 2 of the National Planning Policy Framework (NPPF) makes clear that it does not change the statutory status of the development plan as the starting point for decision making. However the NPPF is a significant material consideration.
- 9.2. Paragraph 11 of the NPPF explains the Government's presumption in favour of sustainable development. For decision-taking this means approving proposals that accord with an up to date development plan and in cases where there are either no relevant development plan policies or those policies important for determining the application are out of date; granting permission unless the NPPF policies provide a clear reason for refusal or any adverse impacts significantly and demonstrably outweigh the benefits.
- 9.3. The Development Plan comprises the saved policies of the 1996 adopted Cherwell Local Plan and the 2015 adopted Cherwell Local Plan (2011-2031) Part 1. The policies important for determining this application are referenced above in Section 8.
- 9.4. The application site is located in Banbury Town Centre commercial area under Banbury 7 of the Cherwell Local Plan Part 1. Banbury 7 states that shopping, leisure and other main town uses will be supported in the town centre and that residential development will be supported except where it will lead to a loss of retail or other main town centre uses. It also encourages mixed use schemes and states that A1 uses will not be permitted within the existing town centre commercial area.
- 9.5. The site also forms a small part of the strategic regeneration allocation identified under Banbury 1: Banbury Canalside which covers 26 hectares of land to the east of the site. This proposes a mixed use regeneration of approximately 700 homes and 15,000m² of employment land and commercial uses. The site is located in the north west of the site. The policy indicates that flats and smaller homes will generally be located to the north and west of the site. The policy requires a distinctive residential development which: integrates well and helps make connections to the town centre and railway; uses high quality architecture and materials; focus commercial uses to the north of the site adjacent to the town centre; and implements improved junction arrangements on Bridge Street and Cherwell Street to improve traffic capacity.
- 9.6. Policy Banbury 1 also states that development proposals will be expected to be in accordance with a SPD for the site and ideally come forward for the whole site and cover large area of land in order to achieve continuity in design and vision. However, applications on part of the site may be permitted provided that they clearly

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

Assessment

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

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

Conclusion

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

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

Policy Context

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

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

Assessment

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

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

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

Conclusion

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

Residential Amenities

Policy Context

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

Assessment

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

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

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

Conclusion

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

Highway safety

Policy context

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

Assessment

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

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

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

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

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

Conclusion

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

Affordable Housing

Policy

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

Assessment

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

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

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

Flood Risk

Policy

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

Assessment

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

Infrastructure

- 9.40. Policy INF1 of the Local Plan states that: *development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities*. Policies BSC11 and 12 require development to provide indoor and outdoor recreation and community facilities. The Developer Contributions SPD 2018 provides further guidance on this and is the starting point for such contributions however the local authority is also required to ensure that any contributions sought meet the following tests, set out at Regulation 122 of the Community Infrastructure Regulations 2011 (as amended):

- Necessary to make the development acceptable in planning terms;
- Directly relate to the development; and
- Fairly and reasonable related in scale and kind to the development.

- 9.41. Having regard to the above, the following would be sought if this application were to be approved:

- Off site outdoor sports – £38,328 towards the provision of 3G sports pitch at North Oxfordshire Academy

- Off site indoor sports – £9,657.22 towards extending the fitness provision at Spiceball Leisure Centre i

- Community Halls - £12,326.60 towards the improvement/enhancement of Grimsbury Community Hall

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

Other matters

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

10. PLANNING BALANCE AND CONCLUSION

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

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

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

11. RECOMMENDATION

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

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

CONDITIONS

Time Limit

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

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

Compliance with Plans

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

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

Levels

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

approved levels.

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

Construction Traffic Management Plan

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

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

Construction Environmental Management Plan

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

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

Land Contamination Desk Study / Site Walkover

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

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

Land Contamination Intrusive Investigation

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

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

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

Land Contamination Remediation Scheme

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

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

Land Contamination Remediation Works

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

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

Sustainable Construction

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

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

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

Biodiversity

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

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

Noise report

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

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

Drainage

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

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

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

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

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

Landscaping

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

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

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

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

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

Architectural detailing

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

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

Shop fronts

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

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

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

Schedule of materials

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

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

Brick Sample Panel

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

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

Sample of roof materials

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

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

Window and door details

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

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

Obscure glazing

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

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

Boundary treatments

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

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

Cycle Parking Provision

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

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

Travel Information Packs

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

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

accordance with the National Planning Policy Framework

Bin stores

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

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

Rainwater goods

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

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

Water Efficiency

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

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

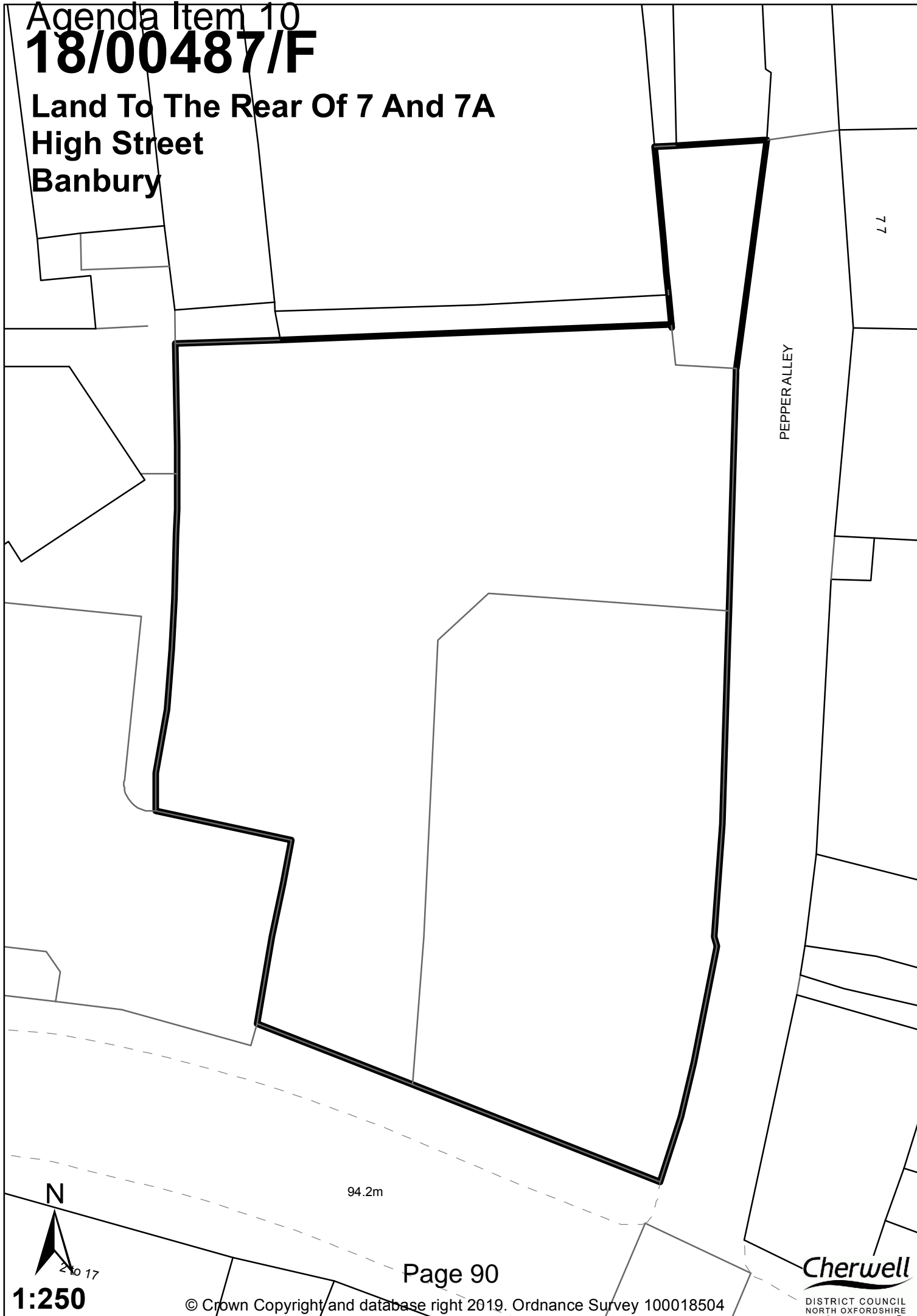
Exclusion of fencing/ walls to frontage

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

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

Agenda Item 10
18/00487/F

**Land To The Rear Of 7 And 7A
High Street
Banbury**

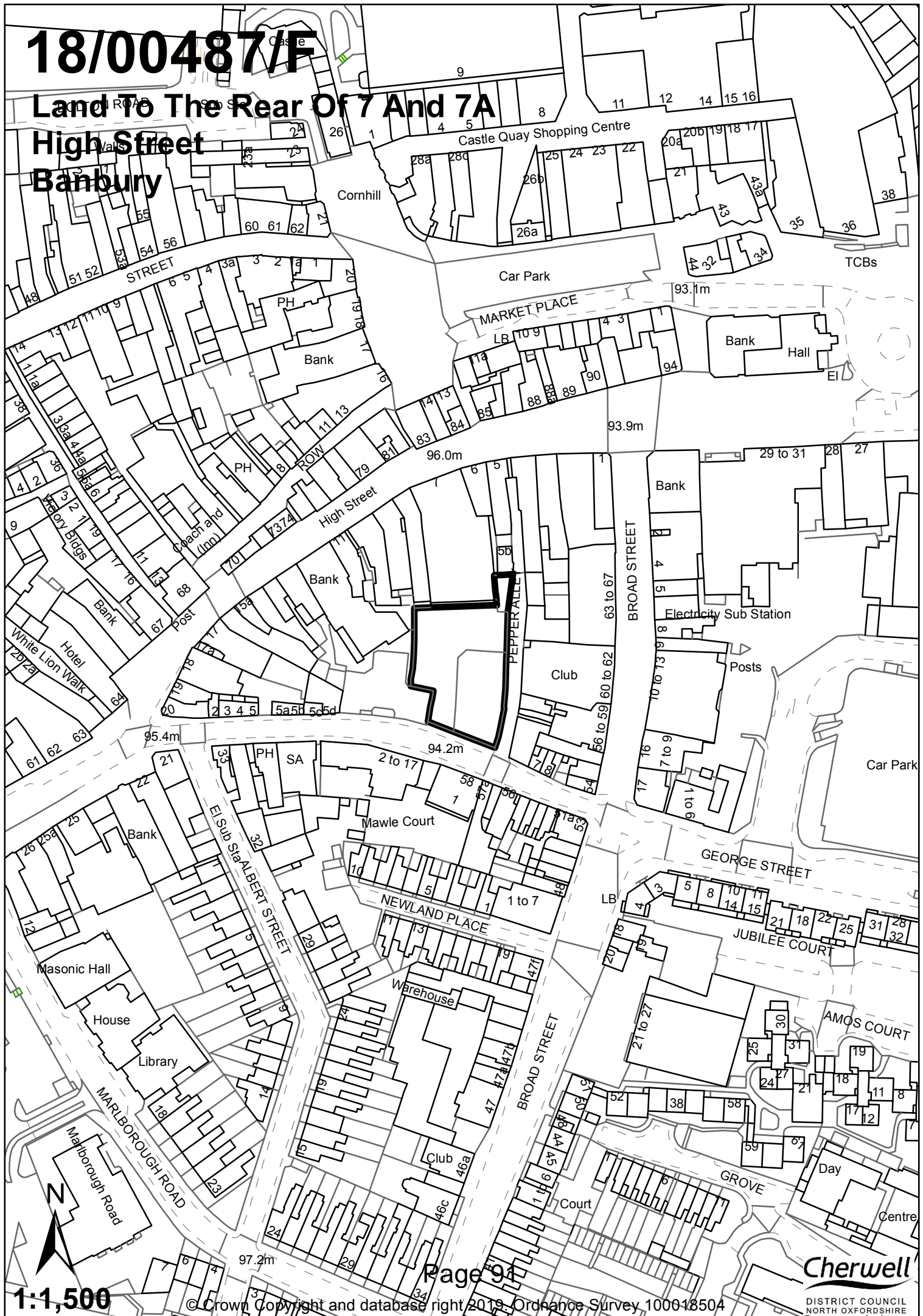


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18/00487/F

Land To The Rear Of 7 And 7A

High Street
Banbury



Case Officer: James Kirkham

Applicant: Gigo Leisure Ltd

Proposal: Part three storey, part two storey development of 14 flats with ground floor commercial units, on land to rear on 7 High Street and car parking area to rear accessed from George Street

Ward: Banbury Cross And Neithrop

Councillors: Cllr Hannah Banfield
Cllr Surinder Dhesi
Cllr Cassi Perry

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

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

Proposal

The current application seeks permission to redevelop the site (a service yard) for a mixed use development comprising commercial space on the ground floor and 14 flats on the upper floors.

Consultations

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

- Banbury Civic Society

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

- Banbury Town Council, CDC Strategic Housing, OCC Highway, Archaeology, OCC Drainage, Thames Water

1 letters of support has been received.

Planning Policy and Constraints

The site lies within the area identified as Banbury Town Centre shopping area. It also lies within Banbury Conservation Area. The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

Conclusion

The key issues arising from the application details are:

- Principle of development
- Heritage, design, and impact on the character of the area
- Residential amenity
- Highways
- Affordable housing
- Ecology impact
- Infrastructure
- Other matters

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

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 a service yard to the rear (south) of properties onto the High Street in Banbury Town Centre. The site is currently laid to hard standing with a vehicle access from George Street with palisade gates. The remainder of the site is surrounded by a brick wall. Pepper Alley runs along the eastern boundary of the site and the car park serving Lloyds Bank exists to the west of the site.

2. CONSTRAINTS

- 2.1. The application site is within Banbury Conservation Area and also within the setting of a number of listed buildings which are predominantly situated on the High Street. The site is noted as potentially contaminated land and also is identified as an area of high levels of radon. There are records of bats and swifts within 250m of the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The current application seeks permission for a mixed use development on the site. This would include commercial development on the ground floor (flexible use class A1, A2, A3, B1 and D1 use) with 14 flats provided on the upper floors of the building. The building would be sited with frontage onto George Street and Pepper Alley with a 3 storey building along the George Street frontage and the southern part of the Pepper Alley frontage. The building would then reduce to two storeys along the remainder (northern part) of the Pepper Alley frontage. The building would be constructed of a mix of brick and render with a series of pitched roofs in slate.
- 3.2. A rear parking court providing 18 parking spaces would be provided on the site accessed via a drive thru element of the building from George Street.
- 3.3. The form, massing and detailed design of the development has been amended during the course of the application and the officer assessment in this report is based on the latest set of amended plans.
- 3.4. *Timescales for Delivery:* The applicant has not indicated the timescale for delivery of the site.

4. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
07/01040/F	Installation of new security fencing and access gates to rear of property	Application Refused

08/01968/F	Two/three storey office development (as amended by drawing numbered PL02-RevC received 11.11.08 with agent's email of same date and drawing numbered PL01-RevC received 12.11.08 with agent's email of same date).	Application Permitted
11/00559/F	Extension of time-limit of 08/01968/F - Two/three storey office development (as amended by drawing numbered PL02-RevC received 11.11.08 with agent's email of same date and drawing numbered PL01-RevC received 12.11.08 with agent's email of same date).	Application Permitted
18/00027/SO	Three storey development of flats, with 3 No ground floor commercial units, on land to rear of 7 High Street. Car parking area to rear accessed from George Street.	Screening Opinion not requesting EIA

5. PRE-APPLICATION DISCUSSIONS

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

<u>Application Ref.</u>	<u>Proposal</u>
17/00004/PREAPP	A new development of 26 flats in a mixture of one and two bedrooms with 28 car parking spaces. The development is arranged in two buildings with one unit on the George Street frontage with a further building running at right angles into the site. These buildings will form a new square off Pepper Alley

- 5.2. The principle of redeveloping the site was supported. It was considered that residential at ground floor level was not appropriate and that commercial uses should be explored for a mixed use development. Information in relation to the loss of the service yard was also requested. The design put forward proposed the building set away from Pepper Alley and the creation of a parking square. This was not considered to be appropriate for the Conservation Area, which is characterised by traditional properties being located immediately to the back edge of the highway. Concerns were raised relating to the proposal for 3 storey development across the site and the detailed design of the building due to its scale, mass and design. Advice was also provided on affordable housing levels and highways matters.

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 14.03.2019, although comments received after this date and before finalising this report have also been taken into account.

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

- Support the proposal which could make a valuable contribution to additional to residential population in the Town Centre and which could improve the viability and vitality of the area.
- Incentives should be given to existing businesses in more peripheral locations to occupy the site and focus the commercial uses in the town centre.

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. BANBURY TOWN COUNCIL: **No objection**; considers the amended design is better and more sympathetic to the Conservation Area. In order for the design to overcome the shortage of allocated parking spaces, would encourage the applicant to provide the recommended 43 cycle parking spaces.

CONSULTEES

7.3. CDC CONSERVATION: Comments awaited on the amended plans. Previously raised a number of concerns regarding the design and detailing of the proposal.

7.4. CDC PLANNING POLICY: **No objection**. The principle of the development is broadly supported subjected to detailed considered relating to housing mix, design, access and parking.

7.5. OCC HIGHWAYS: **No objections** subject to conditions on access, surface water drainage, cycle parking provision and a construction traffic management plan. The vehicle access has been widened to 4.1m in accordance with earlier comments. The footway adjacent to the access should have a standard width for its length as it currently narrows at either end. The parking is in accordance with the guidelines for unallocated spaces and need to be to the required dimensions. The commercial units may use the spaces as they are not allocated spaces; however, it is noted it is not unusual for a town centre location.

7.6. 30 cycle parking spaces are provided in accordance with the previous advice (1 per bedroom and 8 visitor spaces). These spaces should all be covered.

7.7. CDC STRATEGIC HOUSING: **Comments**. 30% affordable housing equates to 4 units. The affordable units are all clustered in one block and all are 1 bed in accordance with earlier comments. All the flats should be affordable rent. Raises some concern regarding the size of the second floor flats in relation to the National Space Standard.

7.8. CDC ENVIRONMENTAL PROTECTION: **No objection** subject to conditions on noise report, construction environmental management plan, ground investigation and provision of ducting for the installation of electric vehicle charging points.

- 7.9. CDC LANDSCAPE: **Comments** - No planting is provided on the site and some planting should be provided in the rear courtyard. It is noted that 10 flat usually triggers an off-site contribution for the improvement of a local play area from the developer. However the nearest play areas are in People's Park which was refurbished successfully a few years ago. There is therefore no justification for this contribution.
- 7.10. OCC ARCHAEOLOGY: **No objection** subject to conditions required a stages programme of archaeological works.
- 7.11. OCC EDUCATION: **No objection**.
- 7.12. CDC RECREATION AND LEISURE: **No objection** subject to contributions for off-site outdoor sports facilities, offsite indoor sports facilities and community halls facilities in accordance with the Developer Contributions SPD.
- 7.13. BANBURY CIVIC SOCIETY: **Objects** to some elements to the scheme. The principle is welcome with housing and small commercial units. Concerns regarding the use of render (including potential maintenance and staining) and the plain and overbearing effect of the Pepper Alley frontage, the uninteresting and unsympathetic mass of the roof-scape towards the High Street. Efforts should be made to 're-populate' Pepper Alley by providing street access to some of the residential units along that frontage. Parking and refuse collection are catered for. Some concerns regarding loss of service yard to High Street properties. With regards to the name of the site the Red Lion Yard would be more appropriate.
- 7.14. HISTORIC ENGLAND: **No comments**.
- 7.15. THAMES WATER: **No objection**. The existing waste water systems and water network have capacity for the proposed development. Request informative in relation to the site being situated within 15m of Thames Water waste water assets

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

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

- PSD1 – Presumption in Favour of Sustainable Development
- SLE2 – Securing Dynamic Town Centres
- SLE4 – Improving Transport and Connections
- BSC2 – The Effective and Efficient Use of Land – Brownfield Land and Housing Density
- BSC3 – Affordable Housing
- BSC4 – Housing Mix
- BSC10 – Open Space, Outdoor Sport and Recreation Provision
- BSC11 – Local Standards of Provision – Outdoor Recreation

- BSC12 – Indoor Sport, Recreation and Community Facilities
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 and ESD3 – Sustainable Construction
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems
- ESD10 – Protection and Enhancement of Biodiversity and Natural Environment.
- ESD15 - The Character of the Built and Historic Environment
- Banbury 7 – Strengthening Banbury Town Centre
- INF1 - Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C23 - Features in conservation areas
- C28 - Layout, design and external appearance of new development
- C30 - Design of new residential development
- ENV1- Development likely to cause detrimental levels of pollution
- ENV12 – Contaminated Land

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Banbury Conservation Area Appraisal
- Banbury Vision and Master Plan SPD (2016)
- Developer Contributions SPD (2018)

8.4. Council Corporate Priorities

Cherwell District Council's Business Plan for 2019-20 sets out the Council's three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is “Clean, Green and Safe”, that it supports “Thriving Communities & Wellbeing”, and is a District of “Opportunity & Growth”. All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) deliver the Growth Deal; (9) delivery innovative and effective housing schemes; and (10) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals depending on the issues raised.

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

9. APPRAISAL

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

- Principle of development
- Heritage, design, and impact on the character of the area
- Residential amenity
- Highways
- Affordable housing
- Ecology impact
- Infrastructure
- Other matters

Principle of Development

Policy Context

- 9.2. The application site is located within Banbury Town Centre which is covered by Policy Banbury 7 of the Cherwell Local Plan 2011 – 2031 Part 1. The site is located in the area identified as the Town Centre Shopping Area but is not located within the Primary Shopping Frontage. Policy Banbury 7 supports main town centres uses within the area and states that residential development will be supported in appropriate locations except where they would lead to the loss of retail or other main town centre uses. It goes on to state that mixed use schemes will be encouraged. Banbury Vision and Masterplan SPD identify the area around George Street and Broad Street as a specific area that could benefit from developments that strengthen the vitality of the town centre.
- 9.3. The NPPF advises that planning decisions should support the role that town centres play at the heart of local communities by taking a positive approach to their growth and management. Paragraph 85 goes on to note that decisions should recognise that residential development can often play an important role in ensuring the vitality of centres and encourages residential development on appropriate sites.
- 9.4. Policy BSC2 of the Cherwell Local Plan encourages the reuse of previously developed land in sustainable locations.

Assessment

- 9.5. The site lies within Banbury Town Centre shopping area and is also previously developed land. The proposal to develop the site for a mixed use development, with commercial development on the ground floor and flats above, is considered to positively contribute to the vitality and viability of the town centre and would be in general accordance with Policy Banbury 7 and the Banbury Masterplan which seek to support the town centre. The mix of commercial development on the ground floor (A1, A2, A3, B1 and D1 use class) would be appropriate for the town centre location and would positively add to the activity in the area and provide smaller units. The application provides a wide range of use and also offers a flexible layout where units could merged if a future occupier required.
- 9.6. The proposed development would not lead to the direct loss of any main town centre use. However, the proposal would lead to the loss of the servicing arrangements for the property on the High Street. That said, this was the same in the earlier permitted scheme on the site for office development, which has not be implemented and it is noted that the majority of the properties on the High Street do not benefit for rear access and have their servicing requirements met from the High Street. Therefore, whilst this is not ideal, it is not considered reasonable for the application to be refused on the basis of this matter.

- 9.7. The site is previously developed land in a highly sustainable location and this is another factor that weighs in favour of the redevelopment of the site.

Conclusion

- 9.8. Overall the principle of a mixed use development with commercial uses on the ground floor and residential development is considered to be acceptable subject to other material considerations.

Heritage, design and impact on character and appearance of area

Legislative and policy context

- 9.9. The site is within Banbury Conservation Area and is also within the setting of a number of Grade II listed building to the north of the site on the High Street and the properties to the west of the site on George Street. There are also a number of locally listed buildings in the vicinity of the site.
- 9.10. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.11. Likewise Section 66 of the same Act states that: *In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* Therefore significant weight must be given to these matters in the assessment of this planning application.
- 9.12. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.
- 9.13. Policy ESD15 seeks to ensure that new development contributes positively to an area's character and identity. It goes on to note that development should be designed to deliver high quality safe, attractive and durable places to live and should be designed to integrate with existing streets and respect the form, scale and massing of existing properties. The NPPF advises high quality buildings and places are fundamental to what the planning system should achieve. Paragraph 127 states developments should function well, be visually attractive, be sympathetic to local character and history and maintain a strong sense of place.
- 9.14. Paragraph 199 of the NPPF states local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.

Assessment

- 9.15. The site lies within Banbury's Medieval Core (as identified within the Conservation Area Appraisal). The Conservation Area Appraisal notes: *'Banbury is an*

increasingly rare example of a market town where the medieval street pattern in the historic core remains substantially preserved.' It goes on to note that interlinking historic lanes such as Pepper Alley, Church Walk, Church Lane and Butchers Row with their high levels of enclosure all add to the richness of the townscape.

- 9.16. The service yard currently provides a gap in the otherwise built up area and is not considered to positively contribute to the character and appearance of the area which is noted to be characterised by dense built form with continuous enclosed street frontage. The Conservation Area Appraisal notes that the demolition of buildings around areas such as Pepper Alley has resulted in the loss of historically significant buildings and spaces and that any development proposals should ensure the enclosed and intimate nature of these spaces is ensued and re-establish an intimate built form and historic settlement pattern.
- 9.17. The site and locality currently has a rather degraded appearance. However, recently approved development to the north east of the site in Pepper Alley, proposed redevelopment of the Former Grand and the development of the current site all provide an opportunity to regenerate this area and make a positive contribution to the Conservation Area and in turn the vitality of the town centre.
- 9.18. The proposed building has been sited to respect the traditional pattern of development with a strong continuous frontage and building line close to the back edge of the highway onto George Street and Pepper Alley. This is in line with advice in the Conservation Area Appraisal, which notes the importance of such relationships and sense of enclosure. The proposed development has commercial frontage onto both George Street and Pepper Alley, which would provide some active frontage and add to the vitality of the area.
- 9.19. The three storey scale of the proposed building along George Street is considered to be appropriate for the area and is in keeping with a number of other buildings in the locality. The slight increase in height of the building on the corner is also considered to be acceptable as taller buildings with a greater presence are often seen on corners within the Conservation Area.
- 9.20. The frontage proposed along Pepper Alley is part 3 storey and part 2 storeys. Whilst officers have some concerns regarding the overall extent of 3 storey development proposed along Pepper Alley, some of the proposed residential accommodation is situated with the roof void of the building and the building reduces in scale away from George Street in line with the Conservation Officer's comments on an earlier iteration of the scheme.
- 9.21. Furthermore whilst some of the development on the opposite side of Pepper Alley is already 3 storey in scale, the area of frontage closest to George Street where the proposed development is 3 storey is single storey. Officers are mindful that the scheme needs to ensure that the scale of the building does not result in an oppressive environment being formed in Pepper Alley i.e. pedestrians and those operating at ground floor level being overpowered by the scale of buildings.
- 9.22. However, on balance, the scale of the building is considered to be acceptable having regard to the medieval street pattern with development up against the highway contributes to the significance of the Conservation Area and where interlinking lanes such as Pepper Alley have a high degree of enclosure.
- 9.23. The form of the building has a series of pitched roofs, which is in keeping with the form of buildings locally and a double gable plan form has been used in some places to conceal the depth of the building and reduce the overall height of the building. Whilst a flat roof element is used in the centre of the roof this would not be

visible from most public vantage points due to being screened by other buildings. The overall bulk and massing of the building has been broken up by dividing the building up into a number of smaller elements with varied eaves and ridge heights and minor changes to the alignment of the building frontage. This is considered broadly acceptable and ensures the overall massing of the building is in keeping with the surroundings.

- 9.24. The form and detailed design of the building picks up on the strong sense of rhythm and vertical emphasis that is seen throughout, and characterises many of the buildings and spaces on the Conservation Area. The fenestration of each element of the building is slightly different to differentiate between the different elements of the building and break up the overall mass of the building into smaller segments. The use of a mix of styles of sash windows with deep recesses is an important element, and full details of the architectural detailing of the building would need to be secured through conditions. There are a couple of outstanding issues relating to the placement of chimneys which are still in discussion with the applicant.
- 9.25. It is proposed that the building would be a mixture of brick and render, which is considered to be appropriate for the Conservation Area. Officers have questioned the use of render with the applicant due to concerns over weathering and staining. However, the corner building and the drive-thru element of the building are still shown to the render. Whilst this not considered to be ideal, it is noted that that are a number of other rendered buildings in the locality and it is generally only the upper floors of the proposed building which would be rendered due to the design of the shop fronts. Furthermore the applicant has stated there are stain resistant renders available. On balance this is considered acceptable.
- 9.26. In regard to the setting of the listed buildings, most of these exist on the High Street to the north of the site and many are separated from the proposed development by modern extensions to the rear of the High Street. The proposal is therefore not considered to have a significant impact on the setting of any of these buildings. The proposal would also affect the setting the Wheatsheaf Inn on George Street which is Grade II listed. The proposal would form part of the historic street scene which forms part of the setting of this building, however given the conclusions on the appropriateness of the scale and design of the proposal, the proposed development is not considered to adversely impact on the setting of this building.
- 9.27. In respect of archaeological heritage assets the site is located within an area of archaeological interest and is situated opposite a site that produced evidence of a medieval settlement and there is a chance that such remains may be present on the site. An archaeological evaluation consisting of a single trench was undertaken on part of the site, which recorded C19th and C12th building remains, and it is possible further features exist on site. The County Archaeologist has therefore requested conditions securing a stages programme of archaeological investigation, which can be secured through a planning condition.

Conclusion

- 9.28. The proposed development is considered to be appropriate in terms of siting, scaling and detailing for the Conservation Area and setting of the nearby listed buildings, and in archaeological terms. Subject to conditions, the proposal is therefore considered to be acceptable in this regard.

Residential Amenity

Policy context

- 9.29. 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. The NPPF also notes that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Saved Policy ENV12 seeks to ensure that potentially contaminated land is suitable for their intended use.

Assessment

- 9.30. The proposed development would lead to a change of outlook and degree of overlooking to the buildings on the opposite site of George Street (largely residential) and also the buildings which exist the opposite side of Pepper Alley, many of which benefit from planning consent to have the upper floors converted to residential with commercial uses on the ground floor (like the current application).
- 9.31. Whilst the distances between the front elevations of the proposed development and these existing buildings is relatively close this is not uncommon in the historic town centre, which has a number of narrow streets and lanes with flats over commercial units. Whilst this is not ideal in terms of residential development, on balance it is considered to be acceptable particularly in light of the heritage constraints of the site and the historic town centre location where residents would be likely to accept a lower level of privacy than in a suburban location. Furthermore it is noted that amendments have been made to reduce the scale of the building along Pepper Alley, where the relationship is particularly tight and this has aided in reducing these impacts to some degree.
- 9.32. The proposed commercial use of the ground floor units for commercial uses will aid in providing more surveillance and activity in Pepper Alley. However, given the tight nature of the lane it is considered important to control the opening hours of the units to protect the amenity of the upper floor residential units. This can be secured through planning condition.
- 9.33. The proposed flats are considered to be acceptable in terms of size and layout and would provide a satisfactory standard of amenity for future occupants. The Environmental Protection Officer has also requested a noise report be submitted through condition to ensure that the internal layout of the building provides noise levels in line with the latest British Standards.
- 9.34. Given the previously developed nature of the site and the possibility for contamination on the site the Environmental Protection Officer has requested a ground investigation condition be imposed on any consent to ensure the site is suitable for the residential accommodation.

Highways

Policy context

- 9.35. Policy SLE4 states that: *“All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported.”* Paragraph 109 of the NPPF states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety or the impacts on the road network would be severe.

Assessment

- 9.36. The Local Highway Authority (LHA) has no objection to the application subject to conditions. The parking requirement is in accordance with the OCC Guidelines for unallocated parking and is therefore considered to be acceptable. The use of one of the spaces to the north of the parking area is below the recommended width (2.5m instead of 2.75m when adjacent to a wall) and would therefore be difficult to use. However, given the town centre location of the site and the fact the Council has permitted a number of car-free developments in the locality, even if this space is not used the level of parking proposed is still considered to be acceptable for this highly sustainable location. Whilst the commercial units are not provided with any designated parking the site is located in a town centre where use of the public car parks for staff and customers is not uncommon and is considered to be an acceptable arrangement.
- 9.37. The site makes provision for 30 cycle parking spaces in accordance with the local highway authorities' advice to be used by residents and the commercial units and this is considered to be acceptable.
- 9.38. The LHA is generally satisfied with the access to the site but has some concerns that the footway into the site adjacent to the vehicle access reduces in width closest to George Street, which may force pedestrians into the vehicle access into the site. It is considered a condition could be imposed to require amended plans to show the width of this being maintained to George Street. The traffic generated by the proposal is not considered to result in severe impact on traffic in the area given the relatively modest scale of the proposal.
- 9.39. Given the constrained nature of the site the LHA has requested a construction traffic management plan to mitigate the construction impacts of the development. This should be secured through a condition.

Conclusion

- 9.40. The proposed development is considered to be acceptable in terms of highway matters.

Affordable Housing

Policy context

- 9.41. Policy BSC3 requires development within Banbury to provide 30% affordable housing on site and provides detail on the mix that should be sought between affordable social rent (70%) and shared ownership (30%).

Assessment

- 9.42. The development proposes 30% affordable housing on the site (4 units) in accordance with Policy BSC3 of the Cherwell Local Plan. These are all 1 bed unit and arranged in a single block in accordance with the housing officers earlier requests. This would need to be secured a legal agreement. Discussions are ongoing to the housing officer regarding the tenure of the units and a number of minor details which will be reported in the written update to committee.

Infrastructure

- 9.43. Policy INF1 of the Local Plan states that: *development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.* Policies BSC11 and 12 require development to provide indoor and outdoor recreation and community

facilities. The Developer Contributions SPD 2018 provides further guidance on this and is the starting point for such contributions however the local authority is also required to ensure that any contributions sought meet the following tests, set out at Regulation 122 of the Community Infrastructure Regulations 2011 (as amended):

- Necessary to make the development acceptable in planning terms;
- Directly relate to the development; and
- Fairly and reasonable related in scale and kind to the development.

9.44. Having regard to the above, officers have requested that the following contributions from the applicant:

- Off-site outdoor sports facilities - £28,238.42 towards resurfacing of Wykham Park Academy artificial turf sports area.
- Off-site indoor sports facilities - £7,537.99 towards the provision of changing facilities and improvement of car parking at Ricochet Trampoline club
- Community Hall Facilities - £10,320.15 towards refurbishment of Ruscote Community Centre

Other matters

9.45. Policy ESD1 of the Cherwell Local Plan Part 1 states that measures should be taken to mitigate the impact of development within the District on climate change, and Policy ESD2 of the Cherwell Local Plan Part 1 seeks to achieve carbon emission reductions. Policy ESD3 of the Cherwell Local Plan Part 1 encourages sustainable construction methods. The reference to allowable solution in Policy ESD2 and 'zero carbon' are no longer being pursued by the government so are no longer relevant however the water usage requirements of ESD3 are still required to be met. In regard to energy efficiency the Council now seek to secure in excess of that required under the 2013 Building Regulations, up to the equivalent of the (now withdrawn) Code for Sustainable Homes Level 4 – i.e. a 19% improvement in carbon reductions on 2013 Part L of the Building Regulations. An energy statement to demonstrate the feasibility and compliance with this could be controlled through a condition.

9.46. In terms of flood risk the site lies within Flood Zone 1 (lowest area of flood risk). The Lead Local Flood Authority has raised no objection to the scheme subject to a condition requiring a full drainage scheme. Thames Water has raised no objection to the proposal in relation to foul water connection or water supply.

9.47. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing sites of biodiversity; and d) minimising impacts on and providing net gains for biodiversity. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value. Given the site is largely laid to hardstanding with only a small area of scrub. It is therefore of limited ecological value and subject to mitigation measures and enhancements the proposal is therefore considered acceptable in this regard.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The site would provide a beneficial regeneration of an existing underused site for a mixed use development in a sustainable town centre location and would preserve the Conservation Area and the setting of the nearby listed building. The proposal would, on balance, be acceptable in terms of scale and residential amenity and would also provide a policy compliant level of affordable homes. The highway aspects of the scheme are considered to be appropriate and there are not considered to be any other materials consideration which would outweigh the benefits of the scheme. The proposal therefore complies with the relevant Development Plan policies and guidance listed at section 8 of this report, and so is considered to be sustainable development. In accordance with Paragraph 11 of the NPPF, permission should therefore be granted.

11. RECOMMENDATION

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

- a) Provision of 40% affordable housing on site
- b) Payment of a financial contribution towards off site sports, recreation provision and community facilities in the locality as detailed at paragraph 9.40 above.

CONDITIONS

Time Limit

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

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

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: TBC

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

Archaeology

3. Prior to any demolition and the commencement of the development a Archaeological Written Scheme of Investigation relating to the application site area shall be submitted to and approved in writing by the Local Planning Authority. Following the approval of the Written Scheme of Investigation referred to above, and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation

shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

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

Levels

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

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

Drainage

5. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:

- Discharge Rates
- Discharge Volumes
- Maintenance and management of SUDS features
- Infiltration in accordance with BRE365 (including seasonal monitoring and recording of groundwater levels)
- Detailed drainage layout with pipe numbers
- Network drainage calculations
- Phasing
- Flood Flow Routing in exceedance conditions
- No private drainage into the existing or proposed adoptable highway drainage system.

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

Construction Traffic Management Plan

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

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

Access details

7. Prior to the commencement of the development hereby approved, full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the means of access shall be constructed and retained in accordance with the approved details.

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

Land Contamination Desk Study / Site Walkover

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

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

Land Contamination Intrusive Investigation

9. If a potential risk from contamination is identified as a result of the work carried out under condition 8, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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

Land Contamination Remediation Scheme

10. If contamination is found by undertaking the work carried out under condition 9, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and

the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

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

Land Contamination Remediation Works

11. If remedial works have been identified in condition 10, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 10. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

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

Sustainable Construction

12. Prior to the commencement of any works associated with the construction of a dwelling, details of the means by which all dwellings will be designed and constructed to achieve an energy performance standard equivalent to a 19% improvement in carbon reductions on 2013 Part L of the Building Regulations (unless a different standard is agreed) shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details and no dwelling occupied until it has been constructed in accordance with the approved energy performance measures.

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

Biodiversity

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

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

Noise report

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

Reason : To protect the amenity of the future occupiers of the development in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and advice in the NPPF.

Hard landscaping

15. Unless an alternative time frame is agreed in writing by the developer and the Local Planning Authority, no development shall commence above slab level unless a scheme for the landscaping the site has been submitted to and approved in writing by the Local Planning Authority, which shall include details of the hard landscaping including hard surface areas, pavements, pedestrian areas and steps. The approved scheme shall be implemented prior to the first occupation of the development and shall be retained as such thereafter.

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

Bin store

16. Prior to any works above slab level full details of the bin store enclosures shall be submitted and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details and permanently retained as ancillary to development.

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

Architectural detailing

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

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

Shop fronts

18. Prior to the installation of any shop front full details of the shop fronts shall be submitted and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details prior to the first occupation of the building and shall be retained as such thereafter.

Reason: In order to safeguard the visual amenities of the area and the significance of the heritage asset in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996.

Schedule of materials

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

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

Brick Sample Panel

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

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

Render

21. Prior to its occupation, the external wall(s) of the element of the building shown rendered shall be rendered in accordance with a colour and texture sample which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the development is constructed and finished in materials which are in harmony with the materials used in the area and to preserve the significance of the heritage asset and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Sample of roof materials

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

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

Window and door details

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

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

Boundary treatments

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

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

Cycle Parking Provision

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

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

Parking provision

26. The proposed access and parking, turning areas shall be provided in accordance with the approved plans before first occupation of the development hereby permitted. The access, parking and turning facilities shall thereafter be retained for use in connection with the development for those purposes only.

Reason : In the interests of highway safety, to ensure the provision of adequate off-street car parking to comply with Government guidance in Section 12 of the National Planning Policy Framework.

Rainwater goods

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

Reason: In order to safeguard the visual amenities of the area and the significance of the heritage asset in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996

Roof lights

28. All rooflights shall be conservation grade rooflights and shall fit flush with the plane of the roof and shall not project forward of the roof slope into which they are inserted.

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

Water Efficiency

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

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

EV Charging points

30. No building hereby permitted shall be occupied until it has been provided with a system of ducting to allow for the future installation of electrical vehicle charging infrastructure to serve that parking space.

Reason : To comply with Policies 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 the National Planning Policy Framework.

Ventilation and Fume Extraction

31. A scheme for the ventilation and extraction of cooking fumes shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the use of any part of the building as a A3 use. The approved

system shall be installed and operated in accordance with the approved scheme at all times the building is in use for the purposes hereby permitted.

Reason: To protect the amenities of nearby residents and the character of the area and to comply with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Open hours

32. Prior to the occupation of any unit for use class A3 full details of the opening hours of the use shall be submitted and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To protect the amenities of nearby residents and to comply with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Exclusion of fencing/ walls to frontage

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

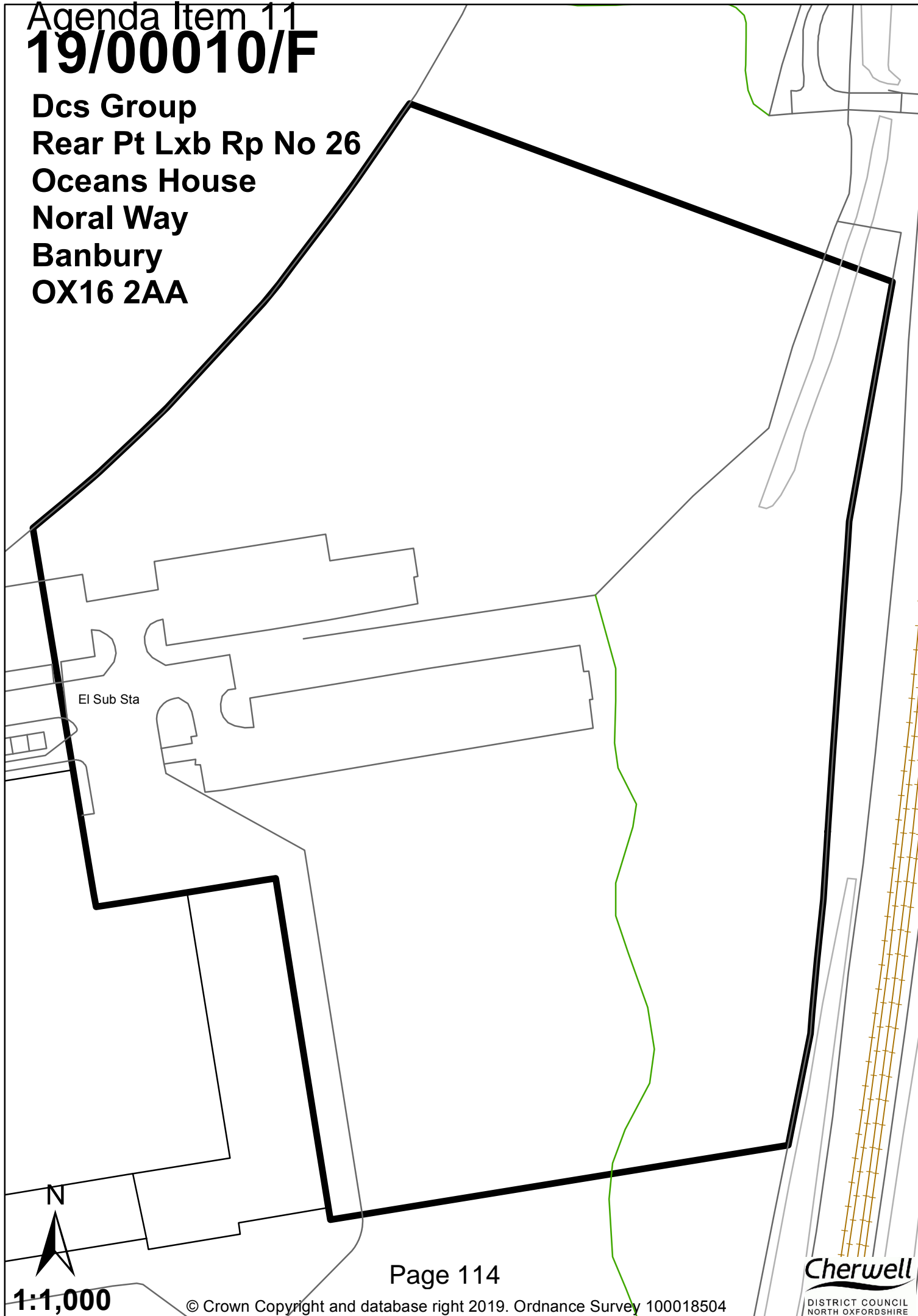
Reason: In order to retain the open character of the development and area in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: James Kirkham

TEL: 01295 221896

Agenda Item 11
19/00010/F

**Dcs Group
Rear Pt Lxb Rp No 26
Oceans House
Noral Way
Banbury
OX16 2AA**



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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

19/00010/F

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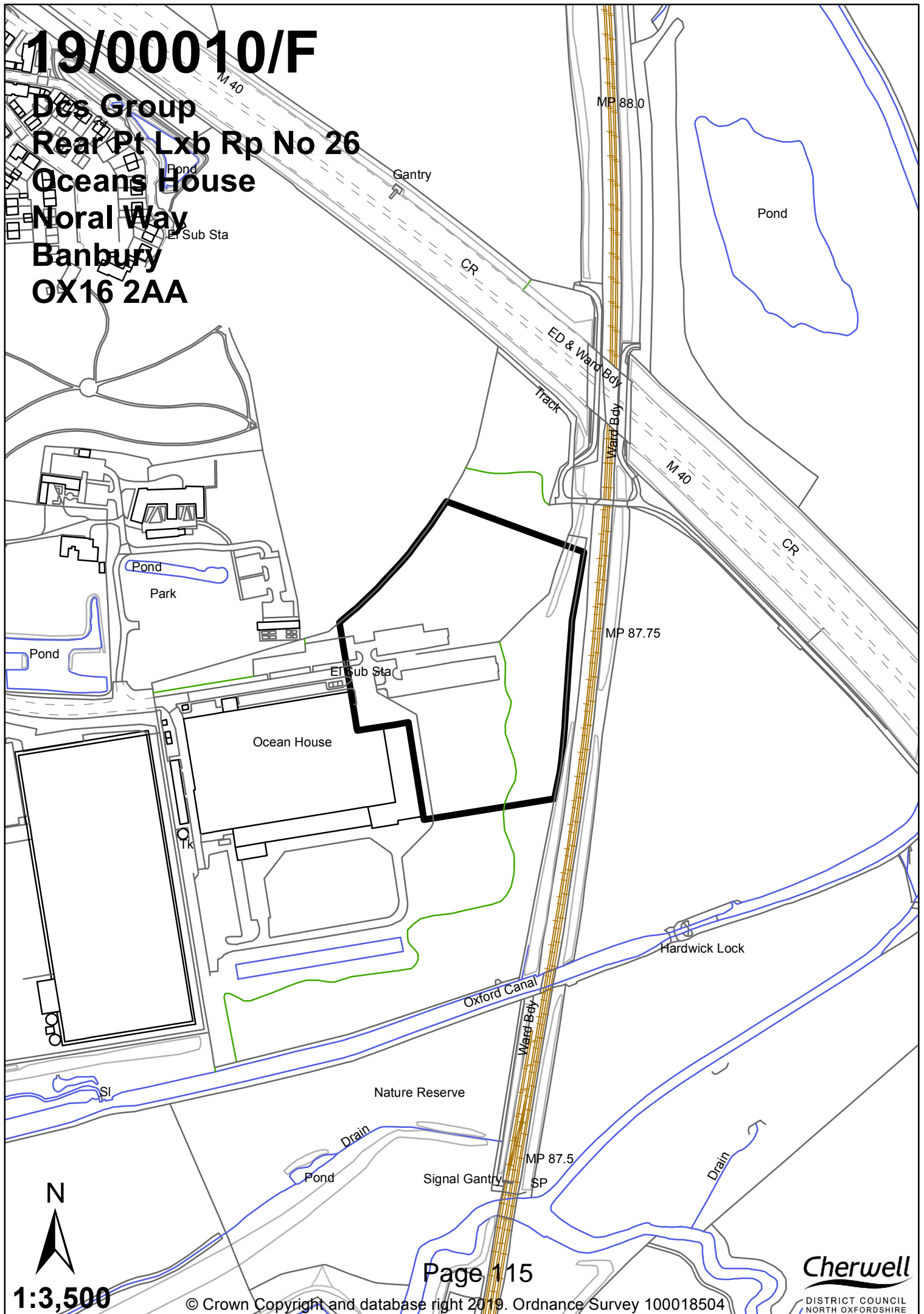
Rear Pt Lxb Rp No 26

Oceans House

Noral Way

Banbury

OX16 2AA



Dcs Group
Rear Pt Lxb Rp No 26
Oceans House
Noral Way
Banbury
OX16 2AA

19/00010/F

Case Officer: Matthew Chadwick

Applicant: Dcs Group

Proposal: Erection of warehouse extension, and relocation of lorry park and drivers amenity building, together with associated external works

Ward: Banbury Hardwick

Councillors: Cllr Tony Ilott
Cllr J A Donaldson
Cllr Nicholas Turner

Reason for Referral: Major by floor space created

Expiry date: 29 April 2019 **Committee date:** 18 April 2019

Recommendation: Approve

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

Planning consent is sought for the erection of a warehouse extension on the site of the existing lorry park, the relocation of the lorry park to the north and the construction of a new interior road

Consultations

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

- OCC Highways

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

- Banbury Town Council, Canal and River Trust, CDC Ecology, CDC Environmental
CDC Landscape Services, Network Rail, Thames Valley Police Design Advisor

Planning Policy and Constraints

The site is located in an existing strategic employment site as identified in the Cherwell Local Plan. The site lies within an area of potentially contaminated land.

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

Conclusion

The key issues arising from the application details are:

- Principle of Development

- Design and impact on the character of the area
- Residential amenity and environmental protection
- Highway safety
- Ecology

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

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

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is a parcel of land on the DCS Group site. The site is located in the north of the town of Banbury, at the end of Noral Way. The application site is located to the east and north of the existing building at Ocean's House and is currently occupied by the existing lorry park and an area of grassland.
- 1.2. The wider site of Oceans House is bounded by the M40 to the north-east, Hardwick Farm and the new Southam Road development to the north, the Banbury to Birmingham Chiltern railway line to the east, the Oxford Canal to the south and the former SAPA works site to the west, now redeveloped as large employment units occupied by The Entertainer and Amazon.

2. CONSTRAINTS

- 2.1. The site is not located within a conservation area and there are no listed buildings in the immediate vicinity of the application site. The site lies within an area of potentially contaminated land.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. Planning consent is sought for the erection of an extension to the existing warehouse, which would also accommodate offices associated with the business and the construction of a new lorry park on an area of grassland in the north of the site.

4. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
16/00927/F	Change of use of existing buildings from Class B2 with ancillary Class B1(a) to Class B8 with ancillary Class B1(a)	Application Permitted
16/02002/F	Extension of existing loading canopy and widening of access roadway to rear of existing warehouse	Application Permitted

5. PRE-APPLICATION DISCUSSIONS

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

<u>Application Ref.</u>	<u>Proposal</u>
18/00160/PREAPP	Proposed extension to existing warehouse / offices and relocation of existing lorry park.

- 5.2. The broad principle of development was considered to be acceptable, but this was subject to the applicant demonstrating that the scheme would not cause harm to the amenity of neighbours.

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 07.03.2019, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. No comments have been raised by third parties.

7. RESPONSE TO CONSULTATION

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

TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. BANBURY TOWN COUNCIL: **No objections.**

CONSULTEES

- 7.3. CDC BUILDING CONTROL: No comments received.
- 7.4. CANAL AND RIVER TRUST: **No objections**, subject to conditions relating to a drainage strategy and Construction Environment Management Plan.
- 7.5. CDC ECOLOGY: **No objections**, subject to conditions relating to the development being carried out in accordance with the mitigation set out in the ecological survey, the submission of a landscape and ecological management plan and an updated lighting strategy.
- 7.6. CDC ENVIRONMENTAL HEALTH: **No objections**, subject to the submission of a Construction Environment Management Plan, the full land contaminated conditions and that the noise management scheme is implemented.
- 7.7. OCC HIGHWAYS: **Objects**. No Transport Assessment or Workplace Travel Plan have been submitted.

- 7.8. CDC LANDSCAPE SERVICES: **No objections**.
- 7.9. NETWORK RAIL: **No objections**, subject to a number of requirements.
- 7.10. CDC PLANNING POLICY: No comments received.
- 7.11. CDC PUBLIC ART: Requests a financial contribution of £64,800.
- 7.12. THAMES VALLEY POLICE DESIGN ADVISER: **No objections**.
- 7.13. THAMES WATER: **No objections**, subject to conditions relating to surface water drainage and impact on the water network.

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

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

- PSD1 – Presumption in Favour of Sustainable Development
- SLE1 – Employment Development
- SLE4 – Improved Transport and Connections
- ESD1 – Mitigation and Adapting to Climate Change
- ESD2 – Energy Hierarchy And Allowable Solutions
- ESD3 – Sustainable Construction
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems (SuDS)
- ESD15 - The Character of the Built and Historic Environment
- ESD16 – Oxford Canal

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- C29 – Appearance of development adjacent to the Oxford Canal
- ENV1 – Development likely to cause detrimental levels of pollution
- ENV12 – Potentially contaminated land

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Developer Contributions SPD 2018
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017

- Circular 06/2005 (Biodiversity and Geological Conservation)

8.4. Council Corporate Priorities

Cherwell District Council's Business Plan for 2019-20 sets out the Council's three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is “Clean, Green and Safe”, that it supports “Thriving Communities & Wellbeing”, and is a District of “Opportunity & Growth”. All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) deliver the Growth Deal; (9) delivery innovative and effective housing schemes; and (10) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals depending on the issues raised.

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

9. APPRAISAL

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

- Principle of development
- Design, and impact on the character of the area and heritage assets
- Residential amenity and environmental protection
- Highway safety
- Ecology impact
- Other matters

Principle of Development

Policy Context

- 9.2. The application site is identified in the Cherwell Local Plan 2011 – 2031 Part 1 as an existing strategic employment site. Policy SLE1 of the Cherwell Local Plan 2011-2031 Part 1 states that: *on existing operational or vacant employment sites at Banbury....employment development, including intensification, will be permitted subject to compliance with other Policies in the Plan and other material considerations.*

Assessment

- 9.3. The use of Oceans House falls within Class B8 warehousing with ancillary B1(a) offices. The new warehousing and offices would be ancillary to the main building on the site and in the same uses. The application form indicates that 25 new jobs would be created as a result of the development. The development would not extend

outside the existing site and there would be no change of use. Therefore, the principle of development is acceptable.

Conclusion

- 9.4. Given that there is no change of use, the principle of development is considered to be acceptable, subject to the other material considerations discussed below.

Design and impact on the character of the area

Policy context

- 9.5. Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, 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.
- 9.6. Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 states that new development proposals should contribute positively to an area's character and identity by creating or reinforcing local distinctiveness. Development should respect the traditional pattern of spaces, blocks and plots and the form, scale and massing of buildings.
- 9.7. Policy ESD16 of the Cherwell Local Plan 2011 – 2031 Part 1 states that proposals which would be detrimental to the character and appearance of the Oxford Canal will not be permitted.
- 9.8. Saved Policy C28 of the Cherwell Local Plan 1996 states that control will be exercised over all new development to ensure that the standards of layout, design and external appearance, including the choice of materials, are sympathetic to the character of the context of that development.
- 9.9. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

Assessment

- 9.10. The proposed warehouse extension would have a footprint of 100m in length and 80m in depth and would be constructed from materials to match those of the existing warehouse on the site. The warehouse extension would be of a similar scale to the previous warehouse extension approved under 17/02269/F. The site is well screened from the public domain by nearby buildings and vegetation and would not be clearly visible from the Oxford Canal or from the M40 motorway. The Landscape Officer has offered no objections to the scheme. The building may be visible from the Southam Road development to the north of the site. However, it would be seen in the context of the existing industrial site and would be visually contained within the existing site.
- 9.11. The site is located in close proximity to the Oxford Canal Conservation Area and under this proposal, the buildings would be extending closer to the heritage asset. However, the site is well screened from the Oxford Canal and is in an industrial use which would not change under this application.

Conclusion

- 9.12. It is considered that the development would not cause harm to the character and appearance of the Oxford Canal Conservation Area or the visual amenities of the wider area and that the development is acceptable in this regard.

Residential amenity and environmental protection

Policy context

- 9.13. Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 states that new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.
- 9.14. Saved Policy ENV1 of the Cherwell Local Plan 1996 states that development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke other types of environmental pollution will not normally be permitted.
- 9.15. Saved Policy ENV12 of the Cherwell Local Plan 1996 states that development on land which is known or suspected to be contaminated will only be permitted if adequate measures can be taken to remove any threat of contamination to future occupiers of the site, the development is not likely to result in contamination of surface or underground water resources or the proposed use does not conflict with the other policies in the plan.

Assessment

- 9.16. The proposal would extend the industrial use on the site to be in closer proximity to the Southam Road residential development, with the car and lorry parking areas in particular moving to the north to be closer than the existing development. This site is still under development. The application site is located in an area of potentially contaminated land, likely owing to the Oxfordshire Ironstone Railway that historically ran across the site.
- 9.17. Following concerns raised at pre-application stage, the applicant has submitted a number of reports alongside this application, including a noise assessment, air quality assessment and a contaminated land desk study. The Environmental Protection Officer has raised no objections to the scheme, subject to a number of conditions. The first condition requires that the recommendations of the noise assessment are complied with, and is reasonable to be imposed on any permission given. The second condition relates to the submission of a Construction Environment Management Plan, which would need to be imposed to ensure that the construction works do not adversely affect nearby residential properties to the north of the site. The third set of conditions relate to contaminated land, which are considered to be reasonable given the findings of the report submitted by the applicant and the historic use of the site. The fourth recommended condition relates to the provision of EV charging points at the site. However, this condition is not considered to be reasonable or necessary to make the development acceptable, as there already a number of EV charging points provided at the site.
- 9.18. The Environmental Protection Officer initially objected on the grounds of an insufficient air quality assessment. However, following clarifications from the applicant this objection has been withdrawn.
- 9.19. The use of the lorry park and warehouse would be restricted by the operating hours approved under 16/00927/F, which limited the use from 6am to 8pm Monday to

Friday. It is considered that with the imposed conditions and the operating hours of the site, that the development would not cause harm to the amenities of neighbours.

Conclusion

- 9.20. On balance and to conclude, it is considered that the development would not cause harm to the amenities of neighbours, subject to the conditions that have been set out above.

Highway safety

Policy context

- 9.21. Policy SLE4 of the Cherwell Local Plan 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. New development in the district will be required to provide financial and/or in-kind contributions to mitigate the transport impacts of development.
- 9.22. Government guidance contained within the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. Development should first give priority to pedestrian and cycle movements and second to facilitating access to high quality public transport.

Assessment

- 9.23. The Transport Planner has objected to the scheme on the lack of the submission of a Travel Plan and Transport Assessment. Subsequently a Travel Plan has been submitted to the Transport Planner and at the time of writing this report the Transport Assessment is being prepared.
- 9.24. The Travel Plan has a number of recommendations, including but not limited to, increasing cycle parking at the site, promoting the car-sharing scheme that already exists and supporting flexible working practices to reduce the use of transport to work. The scheme would result in an additional 25 staff being employed at the site.
- 9.25. The Transport Planner has requested a financial contribution for the monitoring of the Travel Plan. A condition requiring a Travel Plan was imposed on the planning permission for the building under (16/00927/F) and no financial contribution was required. Given that this application is for an extension to the building that would provide 25 further jobs on top of the 295 jobs already at the site, it is considered that this contribution would not be necessary and would therefore fail to meet the tests of Paragraph 56 of the NPPF.
- 9.26. The Transport Planner has requested 11 additional cycle parking spaces. This is considered to be a reasonable condition in order to promote sustainable transport options for the employees at the site.

Conclusion

- 9.27. The submitted Travel Plan is considered to be acceptable and would promote sustainable transport options to the site. The Transport Assessment has not been finalised at the time of writing this report but it is considered that it is likely that an acceptable scheme could be achieved in this regard and it is requested that Members delegate authority on this issue to Officers.

Ecology Impact

Legislative context

- 9.28. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
- 9.29. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.30. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.
- 9.31. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
 - (2) That there is no satisfactory alternative.
 - (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
- 9.32. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

Policy Context

- 9.33. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for

biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

- 9.34. Paragraph 175 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.35. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 9.36. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.37. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.38. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

- 9.39. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:
- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPA's can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

- 9.40. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site contains a large area of grassland, is adjacent to the Oxford Canal and there are a number of mature trees and hedgerows within and adjacent the site, and therefore has the potential to be suitable habitat for reptiles, otters, Great Crested Newts and badgers.
- 9.41. In order for the local planning authority to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.
- 9.42. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.
- 9.43. The application is supported by a detailed protected species survey which concluded that the development would not result in significant harm to biodiversity and would instead provide a number of new biodiversity benefits. The Council's Ecologist has offered no objections to the scheme, subject to conditions that the recommendations of the ecological report are adhered to, a landscape and ecological management plan is submitted and an updated lighting strategy is submitted.
- 9.44. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

Other matters

- 9.45. The Council's Public Art Officer has requested a financial contribution of £64,800. It is stated that this would enhance public spaces by introducing unique features for people to meet, interact and socialise. Cherwell District Council's Developer Contributions SPD (2018) states that the level of financial contributions will reflect the character and scope of the works required. It is considered that this contribution would fail to meet the requirements of Paragraph 56 of the NPPF which states that developer contributions should be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The NPPF states that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives.
- 10.2. The proposed development would help support the local economy by expanding an existing business that employs nearly 300 local people on a strategic employment

site that is recognised in the Local Plan. The development would provide a development that – through conditions – would ensure that the amenities of neighbouring occupiers are protected. The development would have an environmental benefit, with a number of biodiversity enhancements secured through conditions. It is therefore considered that the development would comply with the provisions of Paragraph 8 of the NPPF and is acceptable subject to the conditions set out below.

11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY TO GRANT PERMISSION SUBJECT TO RECEIPT OF SATISFACTORY AMENDED PLANS INCLUDING TRANSPORT ASSESSMENT REPORT AND SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)

CONDITIONS

Time Limit

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

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

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Location Plan (1988/602); Proposed Site Plan (1988/604); Proposed Floor Plan (1988/605) and Proposed Elevations (1988/606).

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

Drainage strategy

3. Prior to the first occupation of the development hereby approved, the sewage disposal/drainage works to serve it (as shown on drawing no. 2018 – 204 – 100) shall be completed and operational and the development connected thereto.

Reason - To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

Sustainable construction

4. All buildings hereby approved shall be constructed to achieve at least a BREEAM 'Very Good' rating based on the relevant BREEAM standard for that building type applicable at the time of the decision.

Reason - To ensure sustainable construction and reduce carbon emissions in

accordance with Government guidance contained within the National Planning Policy Framework.

Travel Plan

5. The Workplace Travel Plan prepared by David Tucker Associates dated 3rd April 2019 shall be implemented and carried out in accordance with the recommendations set out in Table 3.

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

Development carried out in accordance with ecological appraisal

6. The development hereby approved shall be carried out in accordance with the mitigation recommendations set out in sections MM1, MM2, MM3, MM5 and MM6 of the Ecological Appraisal carried out by Aspect Ecology dated March 2019.

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.

Landscape and Ecological Management Plan

7. Prior to the commencement of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) to include the biodiversity enhancement measures outlined within sections EE1 – EE7 inclusive of the Ecological Appraisal carried out by Aspect Ecology dated March 2019 submitted with the application and to include details of landscaping, planting schedules and ongoing management and funding, 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 LEMP.

Reason - To conserve and enhance biodiversity and prevent the spread of non-native species in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Lighting strategy

8. Prior to the commencement of the development hereby approved, an updated lighting strategy, to include the recommendations outlined within section MM4 of the Ecological Appraisal carried out by Aspect Ecology dated March 2019, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the works shall be carried out in accordance with the approved details.

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.

Construction Environment Management Plan

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

Reason - To ensure the 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.

Land contamination: Intrusive investigation

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

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Land contamination: Remediation scheme

11. If contamination is found by undertaking the work carried out under condition 9, 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 risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Land contamination: Carry out remediation

12. If remedial works have been identified in condition 10, the development shall not be occupied until the remedial works have been carried out in accordance with

the scheme approved under condition 10. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Land contamination not previously found

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

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Matthew Chadwick

TEL: 01295 753754

19/00245/ADV

**Motor Fuel Ltd
Bloxham Service Station
South Newington Road
Bloxham
Banbury
OX15 4QF**

LB LB

Shelter Shelter

Garage Garage

1 1

3 3

1 1

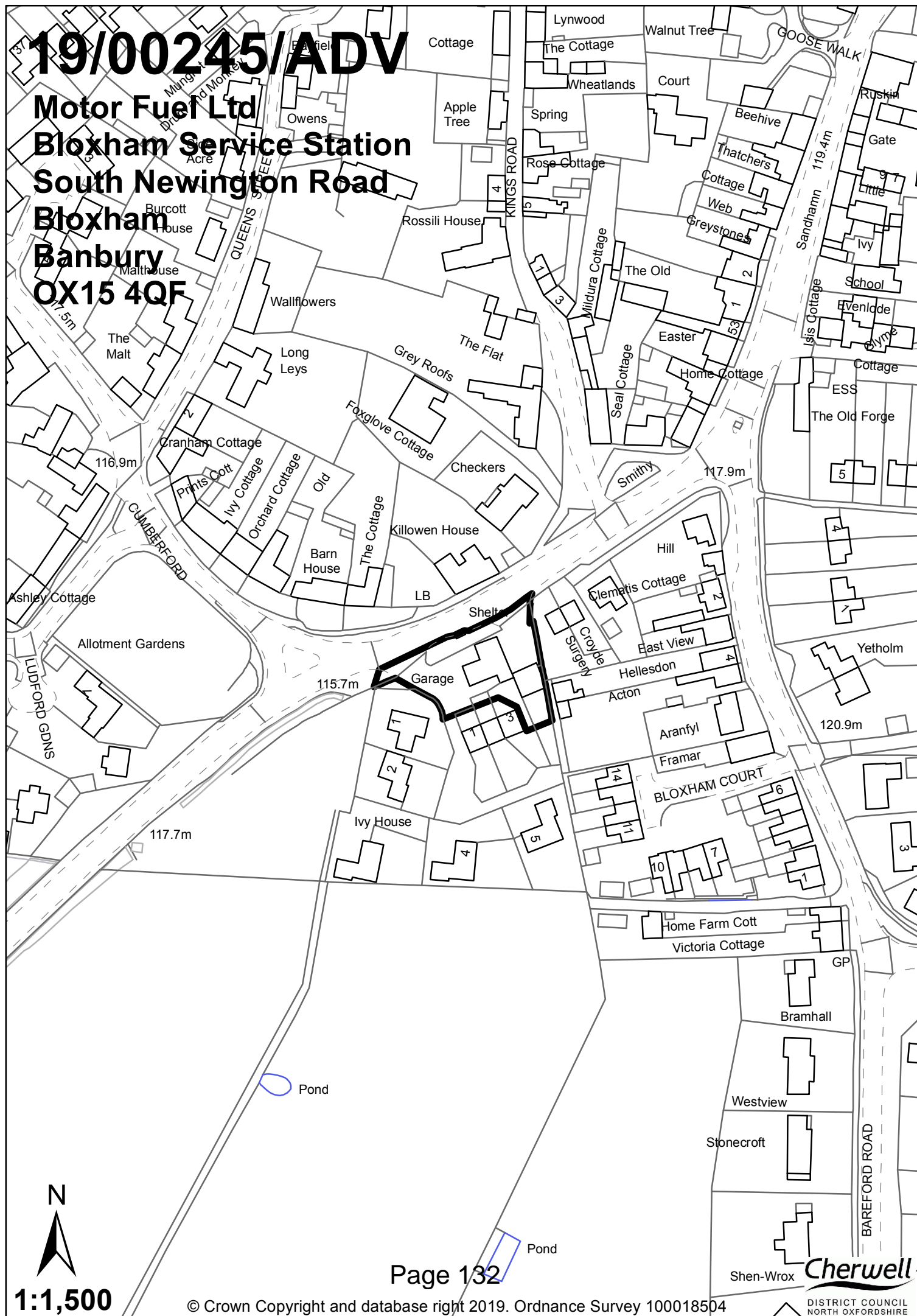
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19/00245/ADV

Motor Fuel Ltd
Bloxham Service Station
South Newington Road
Bloxham
Banbury
OX15 4QF



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Shen-Wrox **Cherwell**
DISTRICT COUNCIL
NORTH OXFORDSHIRE

**Motor Fuel Ltd
Bloxham Service Station
South Newington Road
Bloxham
OX15 4QF**

19/00245/ADV

Case Officer: Matthew Chadwick

Applicant: Motor Fuel Group

Proposal: Retrospective - 2 No externally illuminated fascia signs (Londis)

Ward: Adderbury, Bloxham And Bodicote

Councillors: Cllr Mike Bishop
Cllr Chris Heath
Cllr Andrew McHugh

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

Retrospective advertisement consent is sought for the erection of two fascia signs on the shop and payment area serving the petrol station.

Consultations

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

- Bloxham Parish Council

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

- CDC Conservation, OCC Highways

The following consultees have commented on the application:

- CDC Environmental Protection

Five letters of objection have been received.

Planning Policy and Constraints

The application site is outside but abuts the Bloxham Conservation Area and is located opposite Killowen House, a grade II listed building.

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

Conclusion

The key issues arising from the application details are the impact on amenity and public safety.

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

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

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located in the south of the village of Bloxham on the east side of South Newington Road (A361). The site is used as a petrol station, currently run by Motor Fuel Ltd. The site is situated in close proximity to the edge of the village, with only the dwellings at Hartshill Close to the south separating it from the open countryside.

2. CONSTRAINTS

- 2.1. The application site is outside but abuts the Bloxham Conservation Area and is located opposite Killowen House, a grade II listed building. The site also lies in an area of potentially contaminated land, an area of naturally elevated arsenic and swifts have been located in proximity to the site, which are a protected species.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. Retrospective advertisement consent is sought for the erection of two signs on the shop and payment area serving the petrol station. The signs are approximately 3 metres in length and 1 metre in height and the signs are externally illuminated by an LED trough light.

4. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
18/00814/ADV	1 x PID internally illuminated, 2 x Banners and 5 x free standing display - Retrospective	Application Refused
18/01112/ADV	1 x 5.0m PID - Price Identification Sign limited illumination between 9pm and 6am to price display digits, 2 x Free standing posters - Retrospective	Application Permitted
18/01113/F	New recessed forecourt canopy lights - Retrospective	Application Refused

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, 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 21.03.2019, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. Five letters of objection have been received during the consultation process. The comments raised by third parties are summarised as follows:
- The lights are too bright and cause harm to the amenities of neighbours.
 - The lights cause harm to the setting of the nearby listed building and conservation area.
 - The lights would distract motorists on the A361.
- 6.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

7. RESPONSE TO CONSULTATION

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

PARISH COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. BLOXHAM PARISH COUNCIL: **Objects.** No times of operation are included and no evidence is included to show that the shop needs to be illuminated. The development would cause harm to the amenities of neighbours.

CONSULTEES

- 7.3. CDC CONSERVATION: **No objections.**
- 7.4. CDC ENVIRONMENTAL HEALTH: **Comments.** The lighting should be limited during the hours of darkness and should comply with the recommendations of the December 2018 Design for Lighting report.
- 7.5. OCC HIGHWAYS: **No objections.**

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

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

- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- ENV1 – Development likely to cause detrimental levels of pollution

8.3. Under Section 38 of the Planning and Compulsory Purchase Act 2004, a Neighbourhood Plan that has been approved at referendum also forms part of the statutory development plan for the area. In this case, the application site falls within the Bloxham Neighbourhood Plan, and the following Policies of the Neighbourhood Plan are considered relevant:

- BL9 – Residential amenity
- BL10 – Bloxham Conservation Area
- BL11 – Residential design

8.4. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

8.5. Council Corporate Priorities

Cherwell District Council’s Business Plan for 2019-20 sets out the Council’s three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is “Clean, Green and Safe”, that it supports “Thriving Communities & Wellbeing”, and is a District of “Opportunity & Growth”. All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) deliver the Growth Deal; (9) delivery innovative and effective housing schemes; and (10) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals depending on the issues raised.

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

9. APPRAISAL

- 9.1. Regulation 3 of the Advertisement Regulations limits the Local Planning Authority's powers in respect of advertisement applications to the consideration of amenity and public safety. Therefore these are the key issues for consideration in this case.

Amenity

Policy Context

- 9.2. Regulation 3(2a) of the Advertisement Regulations states that: *factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest.*
- 9.3. Paragraph 132 of the NPPF recognises that: *poorly placed advertisements can have a negative impact on the appearance of the built and natural environment.* However it goes on to state that: *only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the local planning authority's detailed assessment.*

Assessment

- 9.4. Advertisement consent is sought for the erection of two externally illuminated fascia signs. The site is located in a sensitive area, on the edge of Bloxham in an area that is predominately residential in character. The area to the west of the site is agricultural and adds to the rural character of the area. The site abuts the Bloxham Conservation Area and there is a Grade II listed building on the opposite side of the road.
- 9.5. A number of concerns have been raised by neighbours regarding the brightness of the lights subject of the current application. The Environmental Protection Officer has stated that the lights should be operated on a curfew basis. The totem sign was granted advertisement consent under 18/01112/ADV subject to a condition that restricts its illumination between the hours of 9pm and 6am.
- 9.6. The Design for Lighting report submitted with application 18/01113/F noted at paragraph 6.3.6 that *"...there appears to be no benefit to the business of this illuminated signage lighting due to limited commercial competition in the area."*
- 9.7. The luminance of the advertisements is greater than those they replaced and they have a significant visual impact on the amenity of the local area. Along with other lighting at the site, the advertisements subject of this application give the site an urban feel which is at odds with its rural context. The site is in a sensitive location in close proximity to a number of dwellings and heritage assets. Given their nature the impact is after sunset.
- 9.8. It is therefore considered reasonable to impose a curfew similar to that on the consent for the totem sign and it is considered that with this condition the development would not cause harm to amenities of the area.

Conclusion

- 9.9. It is considered that subject to the conditions set out below the development would not cause harm to local amenity and is acceptable in this regard.

Public safety

Policy Context

- 9.10. Regulation 3(2b) of the Advertisement Regulations makes clear that factors relevant to public safety include the safety of persons using the transport network, including the potential for an advertisement to obscure views of transport signage or equipment, and the potential for an advertisement to hinder the operation of any device used for security purposes.

Assessment

- 9.11. The Highways Authority has offered no objections to the signage and considers that the signage and lighting would not cause harm to the safety of the highway network.

Conclusion

- 9.12. It is considered that subject to the conditions set out below the development would not cause harm to public safety and is acceptable in this regard.

Human Rights and Equalities

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

Article 6

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

Article 8 and Article 1 of the First Protocol

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

Duty under The Equalities Act 2010

- 9.17. S149 of the Equalities Act 2010 ("EA") sets out what is known as the Public Sector Equality Duty ("PSED"). Under the PSED, the Council, as a public authority, must have due regard to the need to, inter alia, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not

share it and has to foster good relations between persons who share a relevant protected characteristic and persons who so not share it. The protected characteristics to which the PSED refers are: (a) age; (b) disability; (c) gender reassignment; (d) pregnancy and maternity; (e) race; (f) religion or belief; (g) sex; (h) sexual orientation.

- 9.18. Officers have considered the application and resolved that none of the protected characteristics is affected or potentially affected by the application.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The proposal complies with the relevant Development Plan policies and guidance listed at section 8 of this report, and so is considered to be sustainable development. In accordance with Paragraph 11 of the NPPF, permission should therefore be granted.

11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY TO GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)

CONDITIONS

Time

1. This consent to display advertisements shall expire at the end of 5 years, beginning on the date this consent was granted.

Reason - To comply with the provisions of Regulation 14 of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended).

Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Location and Block Plan (CD31); Site Layout (CD32); Proposed Site Elevations (CD33) and signage details prepared by Impact Signs Ltd dated 04/01/2019.

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

Permission of owner

3. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

Reason - To comply with the provisions of Regulation 14 of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended).

Signage not endangering, obscuring or hindering

4. No advertisement shall be sited or displayed so as to—

- (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
- (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
- (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

Reason - To comply with the provisions of Regulation 14 of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended).

Signage to be maintained

5. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

Reason - To comply with the provisions of Regulation 14 of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended).

Structure or hoarding to be maintained

6. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

Reason - To comply with the provisions of Regulation 14 of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended).

Site shall be left in good visual condition

7. Where an advertisement is required under the Advertisement Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason - To comply with the provisions of Regulation 14 of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended).

Hours of use

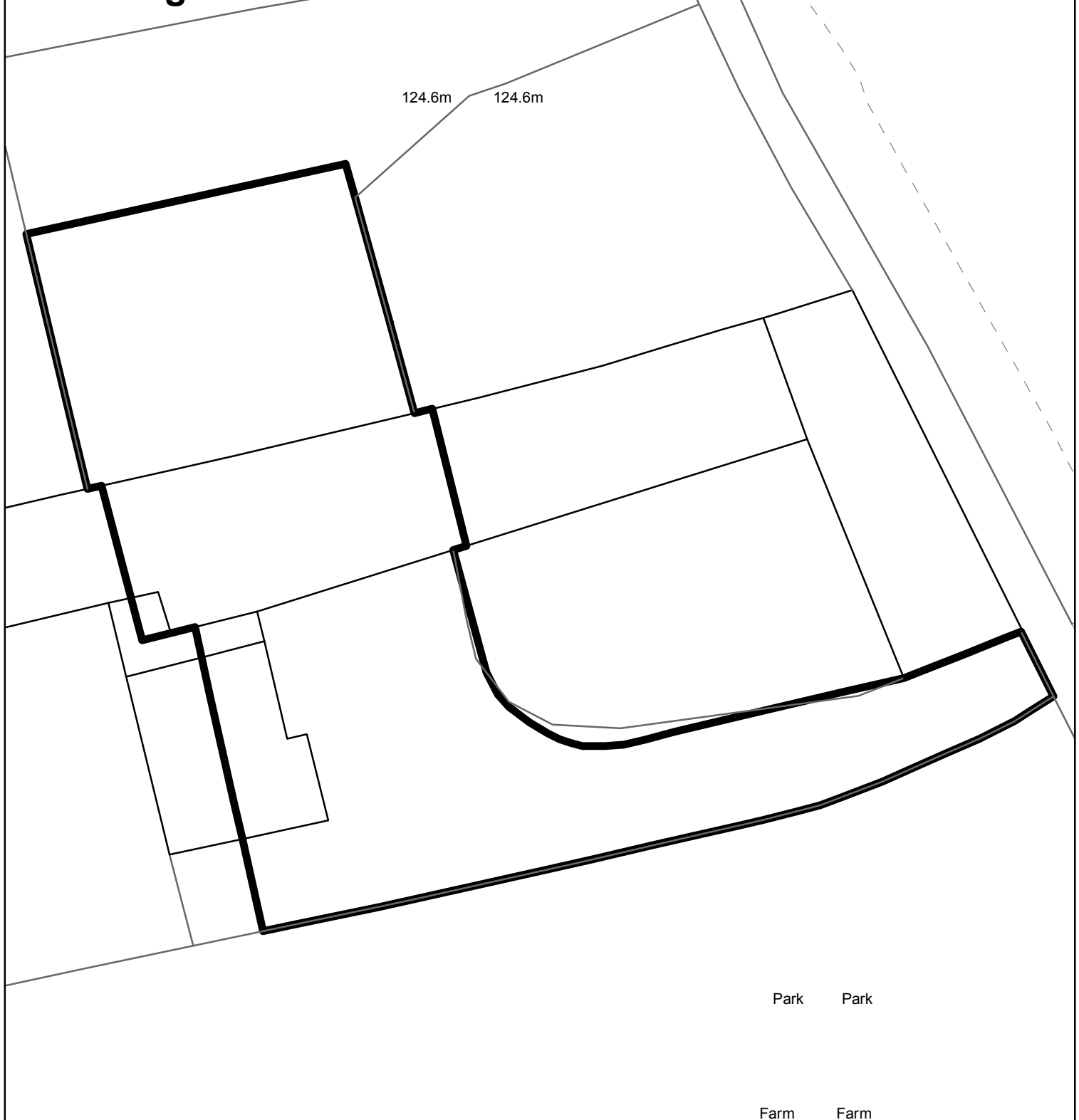
8. The fascia signs hereby approved shall not be illuminated whatsoever between the hours of 9pm and 6am.

Reason - In the interests of amenity and public safety and to comply with Government guidance contained within the National Planning Policy Framework.

Park Farm Agricultural Barn

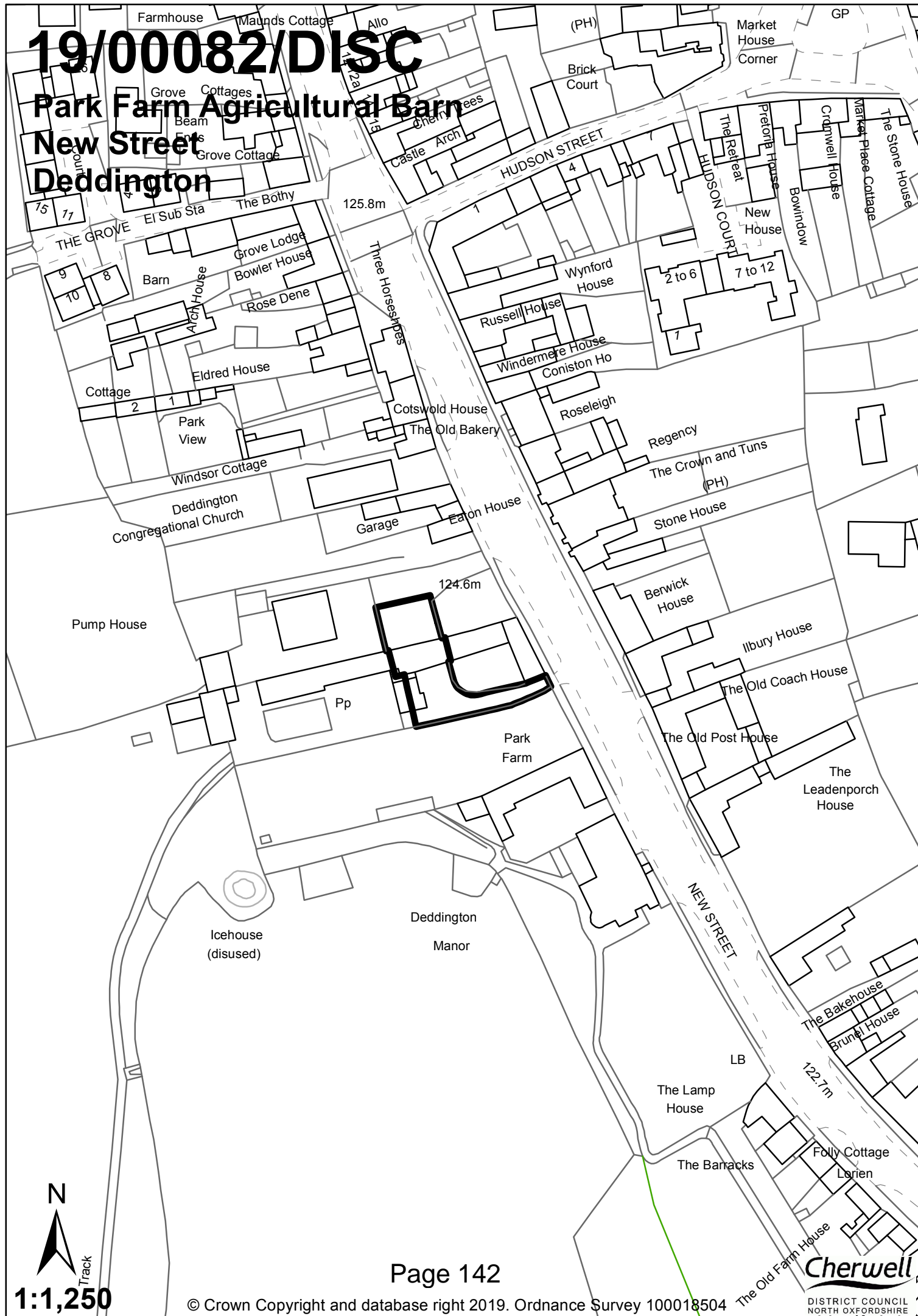
New Street

Deddington



19/00082/DISC

Park Farm Agricultural Barn
New Street
Deddington



Case Officer: Matthew Chadwick

Applicant: Mr & Mrs Bryn Williams

Proposal: Discharge conditions 3 (stone sample), 8 (contamination present) and 9 (scheme of remediation) of 18/00971/F

Ward: Deddington

Councillors: Cllr Bryn Williams
Cllr Hugo Brown
Cllr Mike Kerford-Byrnes

Reason for Referral: Application submitted by a CDC Councillor

Expiry date: 23 April 2019

Committee date: 18 April 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: DELEGATE DETERMINATION OF THE APPLICATION TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY

Proposal

This application seeks the clearance of conditions attached to the full planning approval ref. 18/00971/F.

Consultations

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

- CDC Environmental Protection

No third party letters of objection have been received.

Planning Policy and Constraints

The application building is a grade II listed building and is located within the Deddington Conservation Area. There are records of protected species in proximity of the site and the site lies within an area of potentially contaminated land.

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

Conclusion

The applicant seeks to discharge conditions relating to land contamination and a stone sample panel. The details relating to land contamination are considered to be acceptable, however the stone sample panel prepared at the time of writing is not acceptable. Following discussions with the applicant's agent, officers do not anticipate any particular difficulties in being able to approve satisfactory details and are therefore seeking delegated authority to approve this application once acceptable details are submitted.

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 relates to an existing stone barn with natural slate roof, which is part of a wider complex of buildings in a linear arrangement, and which is considered to have previously formed part of Park Farm. Land levels drop across the site from east to west down from the access into the site. To the west of the barn are adjoining stables and previously converted buildings now in residential use. Attached to the south of the main barn is a single storey outbuilding which is of stone and red brick construction again under a natural slate roof. Whilst only single storey this outbuilding is on two levels, given the topography of the site, with only the top (eastern) section falling within the application's site boundary.
- 1.2. To the east of the barn are again adjoining buildings which have been converted to residential use, with grade II listed Park Farm House further to the east fronting on to New Street (A4260), one of the main routes through the village of Deddington. Adjacent to the south is a residential property and walled garden, whilst to the north there an agricultural building with residential properties beyond. The site is accessed via an existing vehicular access off New Street which also serves Park Farm House and other previously converted building.

2. CONSTRAINTS

- 2.1. The application building is a grade II listed building (curtilage listed by association to Park Farm House) and sits within the Deddington Conservation Area; the site is considered of archaeological interest. The southern boundary wall is a grade II listed structure in its own right with further grade II listed buildings to the south, including Deddington Manor. There are records of protected and notable species (including Eurasian Badger and Common Swift) within the vicinity of the site. The site also sits within a buffer zone surrounding an area of potentially contaminated land north of the site; and further an area where the geology is known to contain naturally occurring elevated levels of Arsenic, Nickel and Chromium; as seen in many areas across the district.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. This application seeks the clearance of conditions attached to the full planning approval 18/00971/F. Approval is sought for details concerning:
 - Stone sample panel (Condition 3)
 - Comprehensive intrusive investigation (Condition 8)
 - Scheme of remediation (Condition 9)

4. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
18/00971/F	and Conversion of existing barn and associated out-building/stables to residential use. Raise	Application

18/00972/LB	roof of out-building/stables by 860mm. New single storey extension to rear with living roof.	Permitted
18/00472/DISC	Discharge of Conditions 4 (Weatherboarding sample), 5 (door and window details), 6 (Parking and manoeuvring details) and 7 (Desk study and site walk over) of 18/00971/F	Application Permitted

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site and by advertisement in the local newspaper. The final date for comments was 04.04.2019, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. No comments have been raised by third parties.

7. RESPONSE TO CONSULTATION

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

CONSULTEES

- 7.2. CDC CONSERVATION: No comments received.
- 7.3. CDC ENVIRONMENTAL HEALTH: **No objections.**

8. APPRAISAL

- 8.1. Condition 3 requires that prior to the commencement of the development that a stone sample panel of the ironstone to be used in the construction of the walls of the development to be submitted and approved. The stone sample panel prepared at the time of writing this report would not match the existing building with regard to the stone used, the coursing or the mortar. However, following discussions with the applicant's agent, officers do not anticipate any particular difficulties in being able to approve satisfactory details and are therefore seeking delegated authority to approve this application once acceptable details are submitted.
- 8.2. Condition 8 requires that prior to the commencement of the development that a comprehensive intrusive investigation is undertaken and report submitted to the LPA. The applicants have submitted a Phase 2: Site Investigation Report prepared by 'Your Environment' (ref. YE6584 (Revision 1), dated February 2019) in respect of this condition. The Council's Environmental Protection Team has reviewed the report and its recommendations and considers it acceptable in terms of meeting the requirements of condition 7.
- 8.3. Condition 9 requires that prior to the commencement of the development a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use is

undertaken and report submitted to the LPA. The applicants have submitted a Phase 2: Site Investigation Report prepared by 'Your Environment' (ref. YE6584 (Revision 1), dated February 2019) in respect of this condition. The Council's Environmental protection Team has reviewed the report and its recommendations and considers it acceptable in terms of meeting the requirements of condition 9.

9. RECOMMENDATION

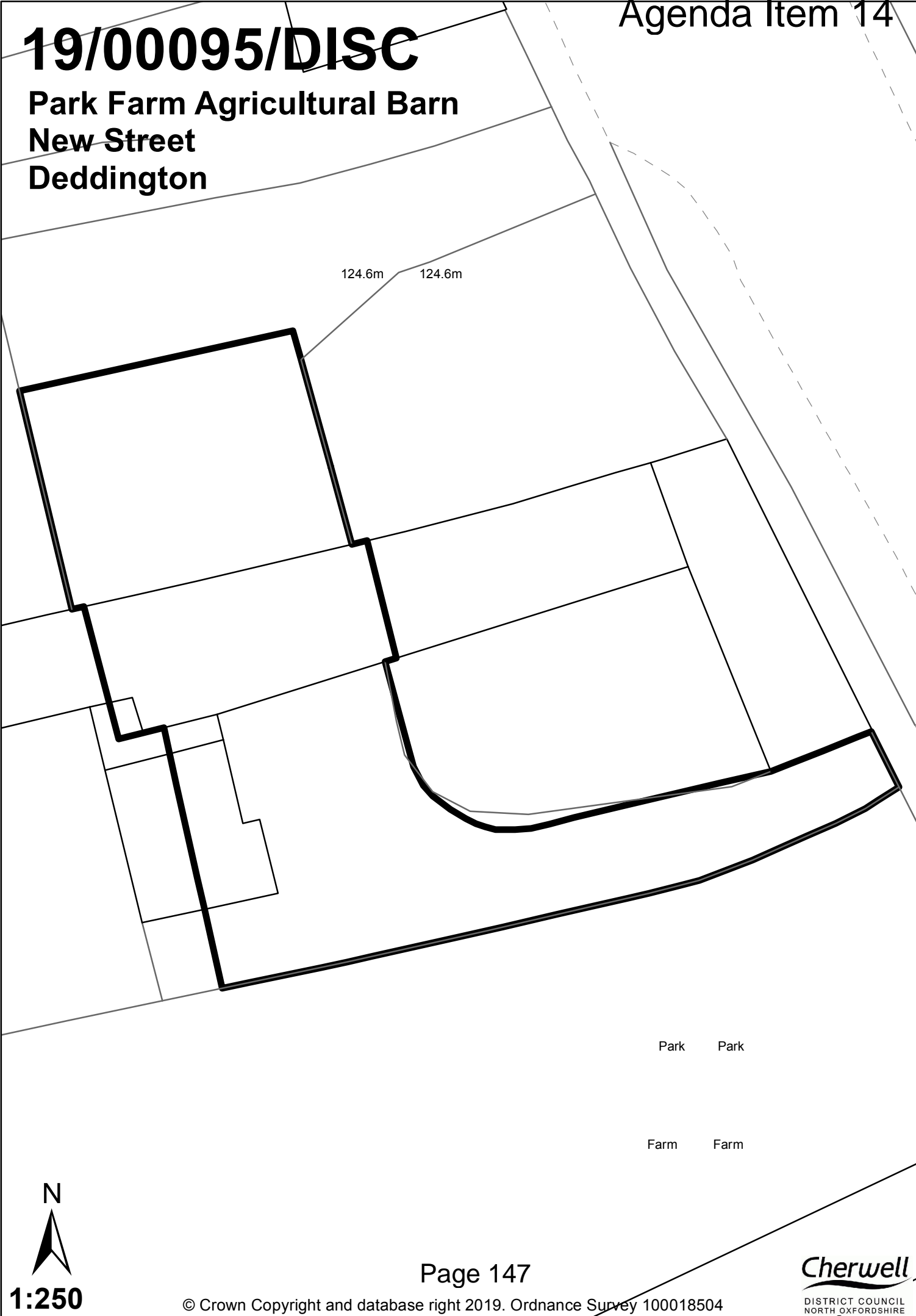
DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY TO **APPROVE THE DETAILS SUBMITTED SUBJECT TO THE AMENDMENTS CONSIDERED NECESSARY BY OFFICERS** AS SUMMARISED IN THIS REPORT.

CASE OFFICER: Matthew Chadwick

TEL: 01295 753754

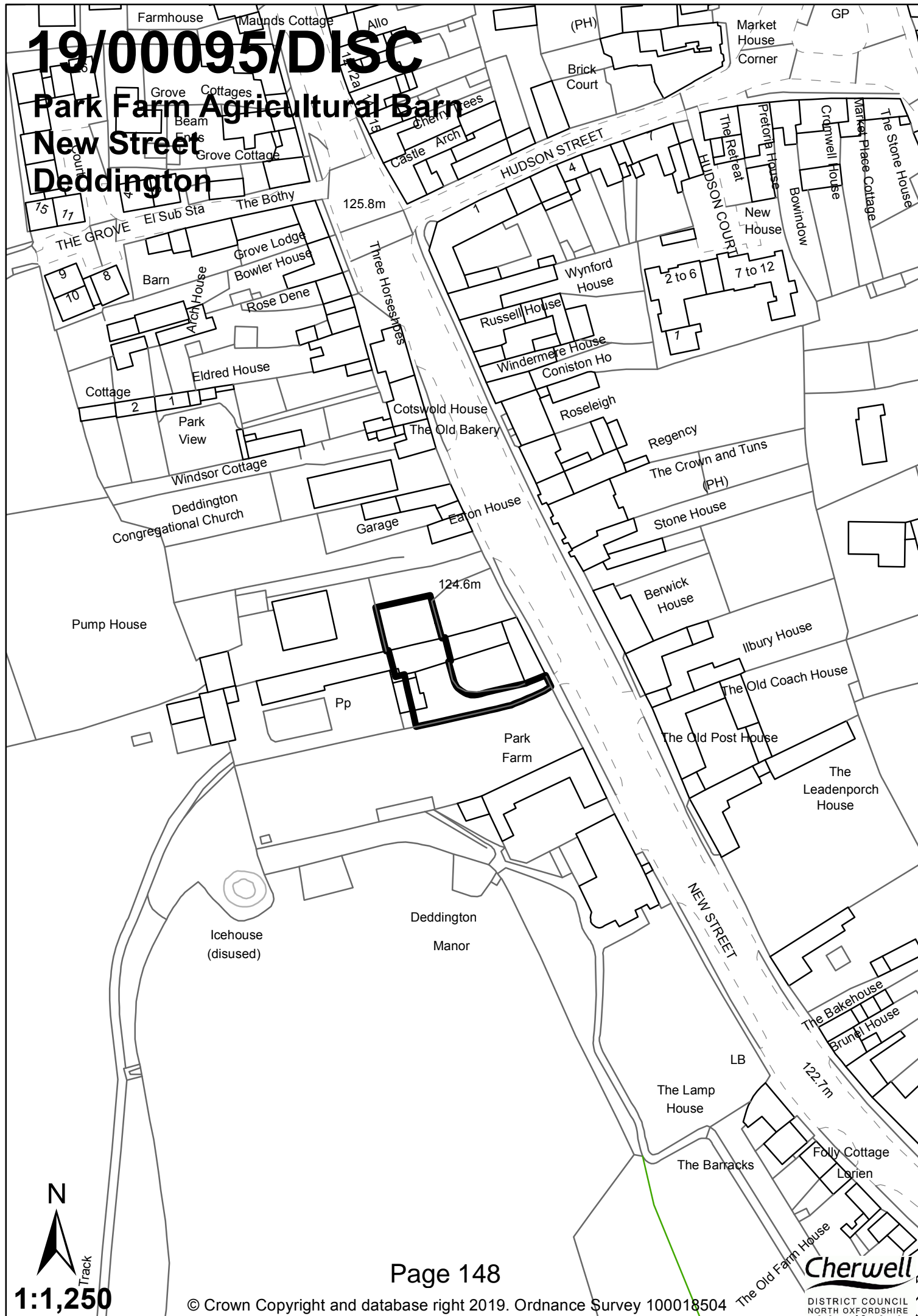
19/00095/DISC

Park Farm Agricultural Barn
New Street
Deddington



19/00095/DISC

Park Farm Agricultural Barn
New Street
Deddington



Case Officer: Matthew Chadwick

Applicant: Mr & Mrs Bryn Williams

Proposal: Discharge conditions 3 (stone sample) of 18/00972/LB

Ward: Deddington

Councillors: Cllr Bryn Williams
Cllr Hugo Brown
Cllr Mike Kerford-Byrnes

Reason for Referral: Application submitted by a CDC Councillor

Expiry date: 23 April 2019

Committee date: 18 April 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: DELEGATE DETERMINATION OF THE APPLICATION TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY

Proposal

This application seeks the clearance of conditions attached to the listed building consent ref. 18/00972/LB.

Consultations

No consultees have commented on the application.

No third party letters of objection have been received.

Planning Policy and Constraints

The application building is a grade II listed building and is located within the Deddington Conservation Area. There are records of protected species in proximity of the site and the site lies within an area of potentially contaminated land.

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

Conclusion

The applicant seeks to discharge conditions relating to a stone sample panel. The stone sample panel prepared at the time of writing is not acceptable. Following discussions with the applicant's agent, officers do not anticipate any particular difficulties in being able to approve satisfactory details and are therefore seeking delegated authority to approve this application once acceptable details are submitted.

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 relates to an existing stone barn with natural slate roof, which is part of a wider complex of buildings in a linear arrangement, and which is considered to have previously formed part of Park Farm. Land levels drop across the site from east to west down from the access into the site. To the west of the barn are adjoining stables and previously converted buildings now in residential use. Attached to the south of the main barn is a single storey outbuilding which is of stone and red brick construction again under a natural slate roof. Whilst only single storey this outbuilding is on two levels, given the topography of the site, with only the top (eastern) section falling within the application's site boundary.
- 1.2. To the east of the barn are again adjoining buildings which have been converted to residential use, with grade II listed Park Farm House further to the east fronting on to New Street (A4260), one of the main routes through the village of Deddington. Adjacent to the south is a residential property and walled garden, whilst to the north there an agricultural building with residential properties beyond. The site is accessed via an existing vehicular access off New Street which also serves Park Farm House and other previously converted building.

2. CONSTRAINTS

- 2.1. The application building is a grade II listed building (curtilage listed by association to Park Farm House) and sits within the Deddington Conservation Area; the site is considered of archaeological interest. The southern boundary wall is a grade II listed structure in its own right with further grade II listed buildings to the south, including Deddington Manor. There are records of protected and notable species (including Eurasian Badger and Common Swift) within the vicinity of the site. The site also sits within a buffer zone surrounding an area of potentially contaminated land north of the site; and further an area where the geology is known to contain naturally occurring elevated levels of Arsenic, Nickel and Chromium; as seen in many areas across the district.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. This application seeks the clearance of conditions attached to the listed building consent 18/00972/LB. Approval is sought for details concerning:

- Stone sample panel (Condition 3)

4. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
18/00971/F and 18/00972/LB	Conversion of existing barn and associated out-building/stables to residential use. Raise roof of out-building/stables by 860mm. New single storey extension to rear with living roof.	Application Permitted

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site and by advertisement in the local newspaper. The final date for comments was 08.04.2019, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. No comments have been raised by third parties.

7. RESPONSE TO CONSULTATION

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

CONSULTEES

- 7.2. CDC CONSERVATION: No comments received.

8. APPRAISAL

- 8.1. Condition 3 requires that prior to the commencement of the development that a stone sample panel of the ironstone to be used in the construction of the walls of the development to be submitted and approved. The stone sample panel prepared at the time of writing this report would not match the existing building with regard to the stone used, the coursing or the mortar. However, following discussions with the applicant's agent, officers do not anticipate any particular difficulties in being able to approve satisfactory details and are therefore seeking delegated authority to approve this application once acceptable details are submitted.

9. RECOMMENDATION

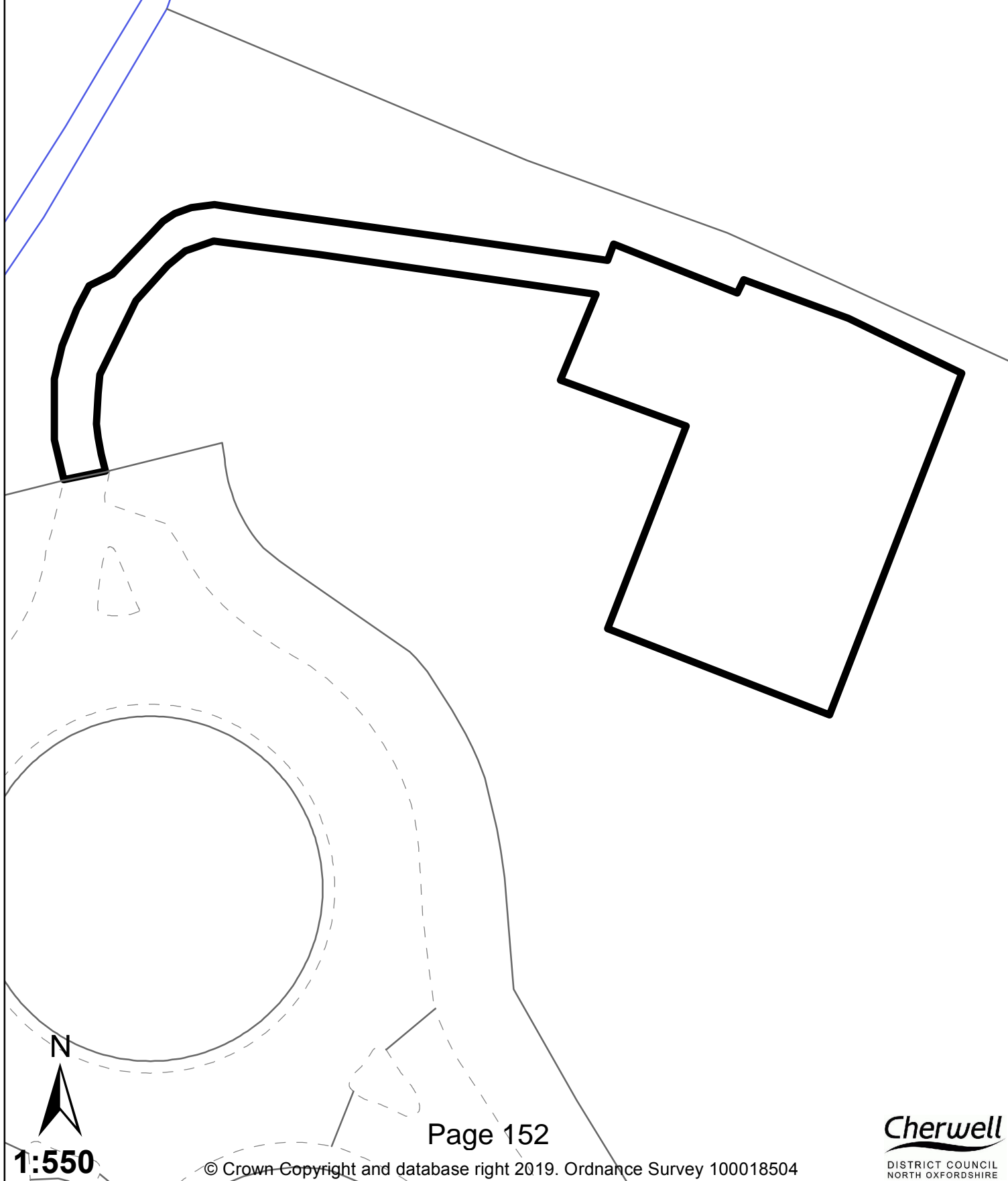
DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY TO **APPROVE THE DETAILS SUBMITTED SUBJECT TO THE AMENDMENTS CONSIDERED NECESSARY BY OFFICERS** AS SUMMARISED IN THIS REPORT.

CASE OFFICER: Matthew Chadwick

TEL: 01295 753754

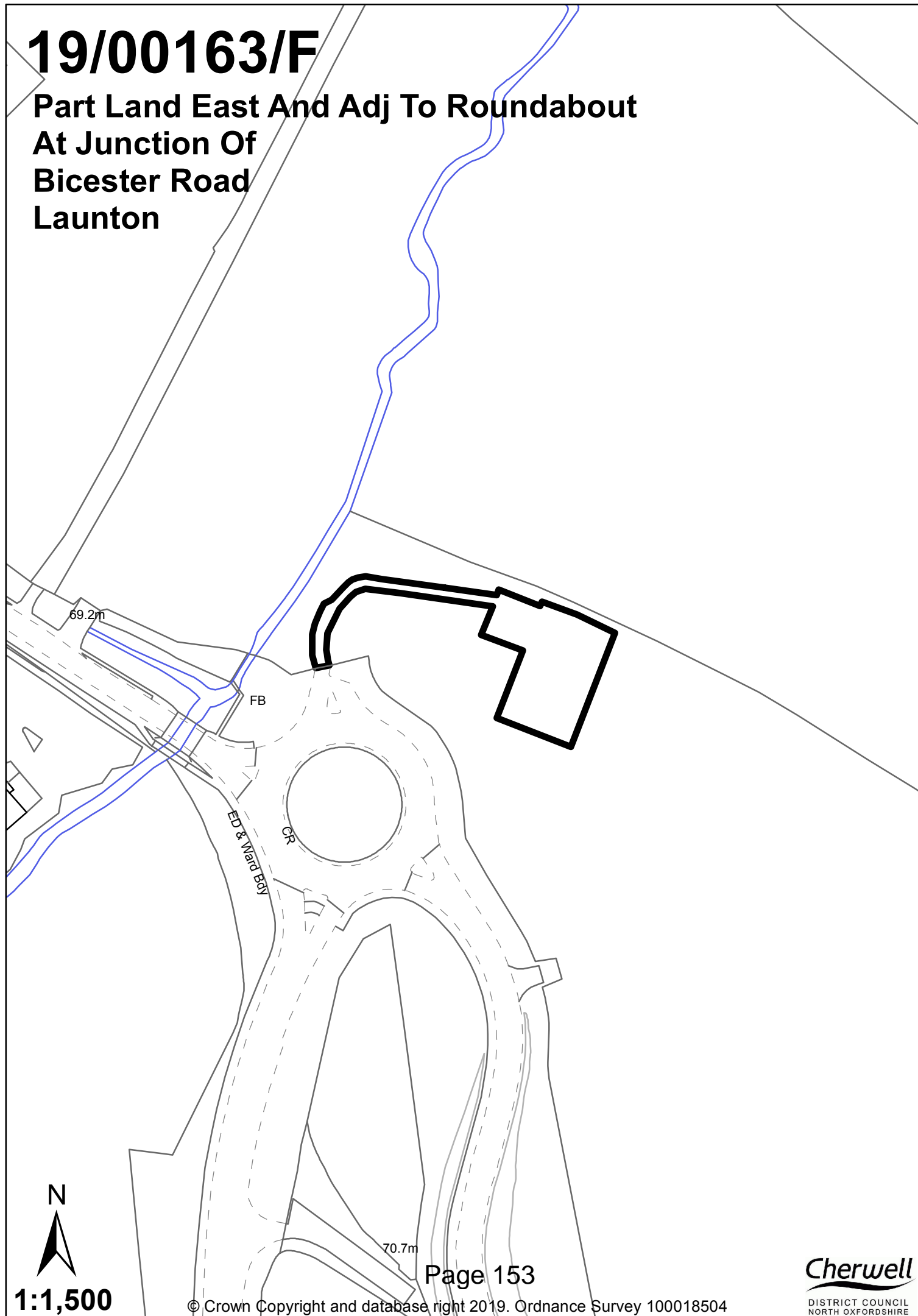
Agenda Item 15
19/00163/F

**Part Land East And Adj To Roundabout
At Junction Of
Bicester Road
Launton**



19/00163/F

Part Land East And Adj To Roundabout
At Junction Of
Bicester Road
Launton



Case Officer: George Smith

Applicant: Powersun Ltd - Mr I Brent-Smith

Proposal: Erection of accommodation building and associated ancillary external works to accommodate gas fuelled demand response electric generation facility to support the National Grid

Ward: Launton And Otmoor

Councillors: Cllr Tim Hallchurch
Cllr Simon Holland
Cllr David Hughes

Reason for referral: Cllr Hughes called in the application to be considered by the Planning Committee

Committee Date: 18/04/2019

Expiry Date: 02/04/2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: REFUSE PERMISSION

Proposal

Planning consent is sought for the erection of an accommodation building and associated infrastructure which would accommodate gas fuelled demand response electric generation units. The building itself would be built to a height of 7.5m and constructed using metal cladded sheets. The footprint of the main building would be approximately 33.5m x 13m. Associated infrastructure includes an access track and parking area, a gas kiosk and 5 additional structures to the east of the building

Consultations

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

- Launton Parish Council

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

- OCC Highways, CDC Ecology, CDC Environmental Health, Environment Agency

No other third party representations have been received, either of objection or support.

Planning Policy and Constraints

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

Conclusion

The key issues arising from the application details are:

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

- Highway safety
- Flood Risk
- Ecology impact

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

1. Adverse visual harm, impacting on the rural and agricultural setting, without sufficient justification.

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 existing agricultural land, forming part of a field. The field is bound by dense hedgerows. The field has an existing access off a roundabout which serves the A4421 and which links Bicester to the village of Launton. The site has a narrow strip of land which leads from the existing field access, past an existing tree and to the larger proportion of the site. Ground levels are relatively flat in this part of the field.

2. CONSTRAINTS

- 2.1. The western part of the application site falls within Flood Zones 2 and 3. A public footpath (272/15/20) runs to the west of the site. The Kingfisher is identified as a protected and notable species within close proximity to the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The applicant seeks planning consent for the erection of an electric generation facility which is to support of the National Grid. The site would be accessed via the existing field access off the roundabout serving the A4421. The building which houses the electric generation units would be 7.5m high at ridge with a dual pitched roof and made of metal clad sheeting. The walls are to be finished in a "Bottle Green" colour with the roof a "Willow Green" colour. The building would be 33.5m x 13m (d x w),
- 3.2. The building is designed to accommodate:
 - 5x1Mw generators
 - Battery storage units
 - Transformers
 - Cooling Plant
 - Self-bunded waste oil tank
 - Self-bunded clean oil tank

- WPD sub-station

3.3. The proposal would also include a gas kiosk and an additional 5 structures sited to the east of the main building which would reach a maximum height of 1.8m. There is no reference to these buildings within the applications drawings or Design and Access Statement as to their purpose.

4. RELEVANT PLANNING HISTORY

4.1. There is no planning history directly relevant to the proposal.

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 08.03.2019, although comments received after this date and before finalising this report have also been taken into account.

6.2. No comments have been raised by third parties.

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. LAUNTON PARISH COUNCIL: **Objects** on loss of visual amenity in a countryside setting, failing to comply with Policy ESD10 and ESD13 of the CLP 2031. Building is unsympathetic with and to the surrounding countryside. Would open potential for development in this field. Field should be protected in order to prevent future coalescence between the village and Bicester. Building too tall for this setting and poorly designed, with no visual mitigation. Would be visible from Bicester Road. No limits on the operation of the building so could be permanent. Concerns with noise and air pollution. No detail on CO2 emissions, or carbon recovery.

CONSULTEES

7.3. BICESTER DELIVERY TEAM: **Comments** that the application would contribute to serving an important need for the electricity infrastructure, however that need is not urgent or an emergency and should be borne in mind when considering the application.

7.4. OCC HIGHWAYS: **No objections** subject to standard conditions in respect of access and turning areas and car parking provision.

7.5. CDC ECOLOGY: **No objections** subject to a biodiversity scheme being submitted.

7.6. CDC ENVIRONMENTAL HEALTH: **No objections**

- 7.7. ENVIRONMENT AGENCY: **No objections** subject to development being carried out in accordance with the FRA and mitigation measures being carried out.

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

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

- PSD1: Presumption in Favour of Sustainable Development
- BSC 9: Public Services and Utilities
- ESD 1: Mitigating and Adapting to Climate Change
- ESD 2: Energy Hierarchy and Allowable Solutions
- ESD 5: Renewable Energy
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15: The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8: Sporadic development in the open countryside
- C28: Layout, design and external appearance of new development
- C31: Compatibility of proposals in residential areas

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

8.4. Council Corporate Priorities

Cherwell District Council’s Business Plan for 2019-20 sets out the Council’s three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future

taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is “Clean, Green and Safe”, that it supports “Thriving Communities & Wellbeing”, and is a District of “Opportunity & Growth”. All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) deliver the Growth Deal; (9) delivery innovative and effective housing schemes; and (10) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals depending on the issues raised.

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

9. APPRAISAL

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

- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Highway safety
- Flood Risk
- Ecology impact

Principle of Development

- 9.2. Government guidance contained within the NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 9.3. Policy PSD1 contained within the CLP 2031 echoes the NPPF’s requirements for ‘sustainable development’ and that planning applications that accord with the policies in the Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.
- 9.4. Both the NPPF and Environmentally Sustainable Development policies of the CLP 2031 (notably ESD 1, ESD 2 and ESD 4) look to support the need for a transition to low carbon electricity generation. Policy BSC 9 further indicates the Council’s support for development proposals which involve new or improvements to public services/utilities.
- 9.5. Saved Policy C8 of the CLP 1996 seeks to restrict sporadic development within the open countryside. So whilst this proposal would not strictly accord with this policy and the development in the open countryside is not desirable, development in this case could be acceptable should there be an essential need for the compound or in the case where material harm in other respects is limited.
- 9.6. The applicant identifies that the proposal would look to support other forms of renewable energy production, such as wind and solar photovoltaic electricity generation and would look to temporarily support the existing local electricity grid in

times of peak demand and when there is an energy gap. Both the NPPF and Environmentally, Sustainable Development policies of the Cherwell Local Plan (2011-2031) Part 1 (notably ESD 1, ESD 2 and ESD 4) look to support the need for a transition to low carbon electricity generation. Policy BSC 9 of the Local Plan further indicates the Council's support for development proposals which involve new or improvements to public services/utilities.

- 9.7. Officers note that in the applicant's Flood Risk Assessment, the proposed development is identified as being "*less vulnerable*" in flood risk terms. The applicant thereby avoids classifying the site as being "*essential infrastructure*", which includes "*Essential utility infrastructure which has to be located in a flood risk area for operational reasons, including electricity generating power stations and grid and primary substations.*" In this regard, the applicant is therefore not making the case that the facility would constitute essential utility infrastructure.
- 9.8. It has not been demonstrated in this case that the electric generation facility is essential in supporting the National Grid. The application would contribute to serving an important need for the electricity infrastructure, but that need is not urgent or an emergency.
- 9.9. This needs to be weighed in the balance. Overall, however, the principle of development could be acceptable in this case, subject to other material planning considerations, in particular its visual impact on the site and surrounding area. These are discussed below.

Design, and impact on the character of the area:

Policy context

- 9.10. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 9.11. These aims are also echoed within Policy ESD15 of the CLP 2031 which in part looks to promote and support development of a high standard which delivers buildings, places and spaces that can adapt to changing social, technological, economic and environmental conditions and also support the efficient use of land and infrastructure, through appropriate land uses, mix and density/development intensity. Additionally, this policy states that new development will be expected to complement and enhance the character of its context through sensitive siting and layout and that new development proposals should contribute positively to an area's character and identity and respect local topography and landscape features.
- 9.12. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the rural or urban context of that development.
- 9.13. Policy ESD13 of the Cherwell Local Plan 2011 – 2031 Part 1 states that development will be expected to respect and enhance local landscape character and proposals will not be permitted if they would cause undue visual intrusion into the open countryside, cause undue harm to important natural landscape features or be inconsistent with local character.

Assessment

- 9.14. The site is located immediately to the east of the Bicester ring road (A4421) and thus linked closely to the industrial estate in the east of Bicester. Furthermore, the allocated site Bicester 11 (employment land to the north east of Bicester) is to the north of the site.

- 9.15. However, the parcel of land subject to this application forms part of a wider agricultural field. The electricity generation facility would change the appearance of the site and given its height and footprint would be clearly visible in the wider area. The change of use of this existing section of agricultural land is substantial, with the development by its very nature being industrial in appearance.
- 9.16. Having regard to its proposed use, and its size and scale, the proposed building would have a significant impact both to the field and its immediate surrounds and to the wider landscape, particularly bearing mind its close proximity to a well-used A-Road and a footpath immediately to the west of the site.
- 9.17. Whilst it is appreciated that the building is designed to be of similar appearance to a typical agricultural building (i.e. scale, materials), the function of the building is not one of agriculture and its day-to-day activity would not serve any agricultural need. This would be apparent given the building's proliferation of fenestration that is not of an agricultural nature, the proposed chimneys and vents, the other operational development not contained within the building (additional subsidiary structures i.e. the gas kiosk and 5 structures to the east of the building) and the activity that would take place outside of the building within the application site.
- 9.18. The creation of a new access track and area of hardstanding is considered to cause additional harm to this pleasant and rural agricultural field.
- 9.19. Overall, the proposal is considered to cause significant and demonstrable harm by virtue of the visual prominence of the proposed building and its associated hardstanding, in this existing rural agricultural field, which has a pleasant, undeveloped character. The proposal would therefore fail to comply with Policies ESD13 and ESD15 of the CLP 2031, Saved Policy C8 of the CLP 1996 and relevant paragraphs of the NPPF.

Residential amenity

- 9.20. Saved Policy C31 of the CLP 1996 requires that in existing residential areas any development which is not compatible with the residential character of the area, should not cause an unacceptable level of nuisance or visual intrusion. These provisions are echoed in Policy ESD15 of the CLP 2031 which states that: 'new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space'.
- 9.21. There are no residential properties within close proximity to the site. A residential care home is located approximately 250m to the northwest, whereas Manor Farm is located approximately 350m to the southeast (also separated by a railway line).
- 9.22. The application is supported by noise and air quality report with proposed mitigation measures. The Council's Environmental Protection Team has assessed the proposals and the submitted report and its recommendations and has no objections in this regard.
- 9.23. Officers see no reason to disagree with this opinion and consider that, given the context of the site the nature of the proposed development and its relationship with surrounding properties, the proposed development would not result in any significant detrimental impacts on residential amenity and is therefore acceptable in this regard.

Highway safety

- 9.24. The Highways Liaison Officer has not raised any objections to this proposal, subject to conditions for access and turning area details to be submitted, together with details of parking. The Officer states that no alterations would be required to the roundabout or this access and therefore the proposal is unlikely to have any adverse impact on the local highway network. Officers see no reason to disagree with this assessment and as such the proposal is acceptable in this regard.

Flooding

- 9.25. Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1 states that: *the Council will manage and reduce flood risk in the District through using a sequential approach to development; locating vulnerable developments in areas at lower risk of flooding. Development proposals will be assessed according to the sequential approach and where necessary the exceptions test as set out in the NPPF and NPPG.*
- 9.26. The Environment Agency has been consulted on the application and raised no objections, subject to mitigation measures.
- 9.27. New development should be directed to areas of lower risk of flooding. No evidence has been submitted of a sequential test having been undertaken.
- 9.28. Turning to the exception test and as discussed at paragraph 9.6 of this committee report, the applicant classifies the proposed development as being 'less vulnerable', as set out in Government guidance on flood risk and planning. (Table 2 of the 'Flood Risk Vulnerability Classification' - as detailed at Paragraph: 066 Reference ID: 7-066-20140306 of their guidance). Depending on whether the building is essential national infrastructure, this *type* of facility could be classified as 'essential infrastructure'.
- 9.29. Further, at Table 3 'Flood Risk and Vulnerability and Flood Zone Compatibility', it states that 'less vulnerable developments' should 'not be permitted' in Flood Zone 3b. The proposed electricity facility building is therefore considered to comply with Policy ESD6 of the CLP 2031.
- 9.30. The applicant has submitted an FRA which states that the building itself is in Flood Zone 1. However, the access and a significant amount of the proposed hardstanding is located within Flood Zones 2/3. It is considered that a condition could be attached to any consent given to ensure that the access and parking areas are constructed in porous materials to prevent standing water. The Highways Liaison Officer has confirmed that the use of porous materials would be acceptable in highway safety terms to provide a suitable surface for the proposed activity.
- 9.31. Overall, the proposal is therefore considered acceptable with regard to flood risk.

Ecology Impact

- 9.32. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.33. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.34. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.

9.35. The Ecologist has not objected to the application as submitted, however requests that a biodiversity enhancement scheme in the form of landscaping is conditioned. Officers see no reason to disagree with the assessment of the ecologist, and recommend that the proposal is acceptable in this regard.

10. PLANNING BALANCE AND CONCLUSION

10.1. The proposal would result in sporadic development in the open countryside and by for the reasons set out in this report would cause significant and demonstrable harm to the rural character and setting of the site, without justification that the generation facility will serve an essential need for national or local infrastructure. The proposal therefore fails to comply with the relevant Development Plan policies and guidance listed at section 8 of this report. There are no other material considerations that outweigh this conflict and the harm caused, and therefore permission should be refused.

11. RECOMMENDATION

RECOMMENDATION - REFUSAL FOR THE REASONS SET OUT BELOW

1. The proposed electric generation facility, by virtue of its siting scale, design and proliferation of structures, is considered to result in significant and demonstrable harm to the rural and agricultural nature of the site which would be clearly visible from public views. It has not been demonstrated that this harm is outweighed by any public benefits in serving an essential need for local or national infrastructure or that other less harmful sites have been discounted. The proposal therefore fails to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C8 of the Cherwell Local Plan 1996 and relevant paragraphs the National Planning Policy Framework.

CASE OFFICER: George Smith

TEL: 01295 221899

Cherwell District Council

Planning Committee

18 April 2019

Appeals Progress Report

Report of Assistant Director of Planning and Economy

This report is public

Purpose of Report

This report aims to keep members informed upon applications which have been determined by the Council, where new appeals have been lodged. Public Inquiries/hearings scheduled or appeal results achieved.

1.0 Recommendations

The meeting is recommended:

- 1.1 To accept the position statement.

2.0 Report Details

2.1 New Appeals

18/01644/F – Sycamore House, Shepherds Close, Weston On The Green, OX25 3RF – Erection of building to form 1-bed dwelling, on the siting of the previously demolished barn, with courtyard garden and dedicated parking space

18/00034/F - Former Little Chef, Part Of A34 By Weston On The Green, Weston On The Green, Oxford, OX25 3QQ - Erection of a new building to provide a drive thru bakery (Use Class A1) and a sandwich shop (Use Class A1) plus a compound building, retention of the existing car parking, landscaping and all other associated works. Construction of a drive thru access lane in association with the use of the former Little Chef building as a drive thru coffee shop (Use Class A1)

18/00848/F – Streamways, 8 Rectory Close, Wendlebury, OX25 2PG - Erection of new detached dwelling with integral garage

18/01193/OUT – Highlands, 48 Bucknell Road, Bicester, OX26 2DG - OUTLINE: The demolition of an existing bungalow and proposed development of 4no. apartments with external works and parking

18/01734/F – 13 Longford Park Road, Banbury, OX15 4FU – RETROSPECTIVE – Brick wall with pier caps

18/01926/F – Greene House, Brill Road, Horton Cum Studley, OX33 1BZ -
Erection of timber garage and workshop (alternative scheme to development approved under application ref. 17/01894/f, comprising higher ridge line, increased length of building and eaves height to approved and insertion of 4no rooflights to east-facing roof elevation) (existing unauthorised)

2.2 Appeals in progress

17/01962/F OS Parcel 9635 North East Of HM Bullingdon Prison, Widnell Lane, Piddington - Appeal by Mr H.L Foster against the refusal of Planning Permission for the Material change of use of land to use as a residential caravan site for 6 gypsy families, each with two caravans, including improvement of access and laying of hardstanding.

Method of determination: Public Inquiry

Key Dates

Start Date: 04.09.2018 **Inquiry Date:** 26.03.2019 **Decision:** Awaited

17/02384/OUT - OS Parcel 9100 Adjoining And East Of Last House, Adjoining And North Of Berry Hill Road, Adderbury – Appeal by Hollins Strategic Land LLP against the refusal of Planning Permission for Outline planning permission for up to 55 dwellings with associated landscaping, open space and vehicular access off Berry Hill Road.

Method of determination: Public Inquiry

Key Dates

Start Date: 11.12.2018 **Inquiry Date:** 03.09.2019(tbc) **Decision:** Awaited

18/00278/F Land Adj To West Cottages, Bicester Road, Stratton Audley. Appeal by Stonebridge Investments against the refusal of Planning Permission for erection of detached dwelling house including demolition of existing single garage.

Method of determination: Written Reps.

Key Dates:

Start Date: 26.10.2018 **Statement Due:** 30.11.2018 **Decision:** Awaited

18/00350/F – The Dower House, Church Road, Weston On The Green, OX25 3QP – appeal by Mr & Mrs A and P Doyle against the refusal of Planning Permission for Alterations, extensions to and conversion of existing timber frame garage and store to form one dwelling (revised scheme of 17/01865/F)

Method of determination: Written Reps.

Key Dates:

Start Date: 22.01.2019 **Statement Due:** 26.02.2019 **Decision:** Awaited

18/00920/F - Corble Farm, Piddington, Aylesbury, HP18 9XB – Appeal by Mr and Mrs S Amies against the refusal of Planning Permission for Provision of a glazed link between the existing farmhouse and the existing barn - Re-submission of 17/00285/F

Method of determination: Written Reps.

Key Dates:

Start Date: 04.03.2019 **Statement Due:** 08.04.2019 **Decision:** Awaited

18/00921/LB - Corble Farm, Piddington, Aylesbury, HP18 9XB – Appeal by Mr and Mrs S Amies against the refusal of Listed Building Consent for

Provision of a glazed link between the existing farmhouse and the existing barn

Method of determination: Written Reps.

Key Dates:

Start Date: 04.03.2019 **Statement Due:** 08.04.2019 **Decision:** Awaited

18/01074/F Stonelea, School Lane, Great Bourton, Banbury

OX17 1QY. Appeal by Mr and Mrs Martin against the refusal of Planning Permission for Two dwellings with new shared access from School Lane.

Method of determination: Written Reps.

Key Dates:

Start Date: 07.12.2018 **Statement Due:** 11.01.2019 **Decision:** Awaited

18/01113/F - Motor Fuel Ltd, Bloxham Service Station, South Newington Road, Bloxham, Banbury, OX15 4QF – Appeal by Motor Fuel Group - New recessed forecourt canopy lights – Retrospective

Method of determination: Written Reps.

Key Dates:

Start Date: 26.02.2019 **Statement Due:** 05.03.2019 **Decision:** Awaited

18/01203/F – The Oxfordshire Inn, Meadow Walk, Heathfield, Kidlington, OX5 3FG – Appeal by Investfront Ltd against the refusal of Planning Permission for Demolition of existing function hall and redevelopment of the site to provide 2no detached dwellings

Method of determination: Written Reps.

Key Dates:

Start Date: 21.01.2019 **Statement Due:** 25.02.2019 **Decision:** Awaited

18/01248/F – Heathfield Cattery, Heathfield, Kidlington, OX5 3DX – appeal by Mr Paul Jarvis against the refusal of Planning Permission for Alteration and conversion of cattery building to form a single detached dwelling house.

Method of determination: Written Reps.

Key Dates:

Start Date: 23.01.2019 **Statement Due:** 27.02.2019 **Decision:** Awaited

18/01332/F - Land West Of M40 Adj To A4095, Kirtlington Road, Chesterton – Appeal by Mr C Smith and Mr R Butcher - Change of use of land to use as a residential caravan site for 3 gypsy families, each with two caravans and an amenity building; improvement of existing access, construction of driveway, laying of hardstanding, installation of package sewage treatment plant and acoustic bund

Method of determination: Public Inquiry

Key Dates:

Start Date: 29.01.2019 **Inquiry date:** TBC **Decision:** Awaited

18/01432/Q56 - Agricultural Barn, Oak Tree Farm, Tadmarton Road, Bloxham – Appeal by Mr P Davenport against the refusal of Prior Approval for Change of use of barn to 1no dwelling house and associated operational development.

Method of determination: Written Reps.

Key Dates:

Start Date: 20.02.2019 **Statement Due:** 27.03.2019 **Decision:** Awaited

18/01436/F – Land Adjacent and West of Roba, Camp Road, Upper Heyford – appeal by Sharon Haddy & Mandy Borton against the refusal of Planning Permission for Erection of three residential dwellings.

Method of determination: Written Reps.

Key Dates:

Start Date: 18.01.2019 **Statement Due:** 22.02.2019 **Decision:** Awaited

18/01490/F - Manor Farm Cottage, Church Lane, Charlton On Otmoor, Kidlington, OX5 2UA. Appeal by David and James Aubrey Calcutt against the refusal of Planning Permission for Erection of building to replace existing outbuilding, the erection of a new glazed link, alterations to another existing building, and their conversion to form one single bedroom dwelling with private amenity area.

Method of determination: Written Reps.

Key Dates:

Start Date: 07.12.2018 **Statement Due:** 11.01.2019 **Decision:** Awaited

18/01891/F – 2 Grimsbury Drive, Banbury, OX16 3HL. Appeal by Mrs H Beckett against the refusal of Planning Permission for first floor side extension.

Method of determination: Householder (Fast Track)

Key Dates:

Start Date: 12.02.2019 **Decision:** Awaited

2.3 Forthcoming Public Inquires and Hearings between 18 April and the 23 May.

None

2.4 Results

Inspectors appointed by the Secretary of State have:

- 1. Dismissed the appeal by Mr N Carter for Erection of 2no detached 3 bedroom dwellings and associated car parking (4 spaces) (revised scheme of 17/01255/F). 41 Easington Road, Banbury, OX16 9HJ – 18/00875/F (Delegated)**

This appeal related to refusal of planning permission to erect 2 No. detached 3 bedroom dwellings and associated car parking in the rear garden of 41 Easington Road, Banbury.

The Inspector considered that the main issues were the effect of the development on the character and appearance of the area and the living conditions of future and neighbouring occupiers.

The appeal site is located on Easington Road in Banbury, a residential area of the town which predominantly hosts semi-detached and terraced two-storey houses, fronting onto broadly straight, formally laid out streets.

The Inspector found that the construction of two dwellings in the rear garden of the property would be at odds with the prevailing linear pattern of development in the area and would not be read as part of Easington Road as it would have no active frontage with the road. Furthermore, the massing and siting of the two storey buildings would appear conspicuous and dominant

when viewed from public vantage points and that this would cause harm to the sylvan and verdant character of the area.

The Inspector recognised that the two dwellings would have limited garden space, however as there are no amenity space standards adopted locally and given the close proximity to recreation space, the garden space was considered to be adequate. The Inspector also found that there would not be significant harm to existing or future occupiers with regard to a loss of outlook or sunlight.

The Inspector considered that the development would cause harm to the character and appearance of the area and that the benefits of the proposal would be limited given the small scale of the scheme and would therefore not outweigh this harm and thus the appeal was dismissed.

2. Dismissed the appeal by Mr J Kent-Baguley for the proposed Sub-division of Existing 4 Flats into 7 Individual Self - contained Units (Part-retrospective). 107 Middleton Road, Banbury OX16 3QS - 18/00228/F (Delegated)

This appeal related to refusal of full planning permission (18/00228/F) for the proposed Sub-division of Existing 4 Flats into 7 Individual Self - contained Units (Part- retrospective). 107 Middleton Road, Banbury an existing end terrace building within the Grimsbury Conservation Area. The application was refused the grounds of the development resulting in an unacceptably poor living environment for potential occupants and the development having a detrimental impact on the character and appearance of the Grimsbury Conservation Area; contrary to the policies of the Cherwell Development Plan. The Inspector considered that the main issues were:

- a) whether the proposed development would preserve or enhance the character or appearance of the Grimsbury Conservation Area (CA), and
- b) the effect of the proposed development on the living conditions of future occupants, with particular regard to internal space.

In respect of the impact of the Conservation Area (CA), the Inspector noted the Conservation Area's (CA) significance as lying in its exemplification of a 19th century freehold estate, and that the site building, a non-designated heritage asset was prominently sited within the CA and made a positive contribution to the CA.

The Inspector agreed with the Council's position that the proposals would result in an intensification of the use of the site. The proposed parking spaces for the development would replace a grassed garden area to the rear. The Inspector considered that garden space was an important element of the CA's character, and that some of and as such the proposal would unacceptably undermine the verdant and spacious rear garden character of the area. Further that the proposed seven off-road parking spaces would result in car parking overly dominating the appearance of the side and rear of the site.

The Inspector further noted the lack of bin storage provision within the scheme, giving some weight to the Council's Planning and Waste Management Design Advice. On this matter the Inspector concluded that it

had not been conclusively demonstrated that refuse management for the proposed development would work effectively 'on the ground'. Accordingly, the proposal is likely to result in unacceptable bin clutter arising from the proposed seven households, around the appeal building.

Concluding on the issue of the impact on the CA the Inspector stated that the public benefits arising from the scheme did not outweigh the great weight given to the conservation of the CA and the harm identified to its significance with the development failing to preserve or enhance the character or appearance of the CA; and on that basis, it would conflict with saved Policy C28 of the Cherwell Local Plan 1996 and Policy ESD15 of The Cherwell Local Plan 2011-2031, Part 1.

With regard to future amenity of occupants, the Inspector noted that the proposals were inadequate in a number of ways including: inadequate bathroom sizes, inadequate kitchen facilities and that the proposals would not provide adequate lobby protection off the single stairwell, to achieve a safe place to live. In concluding on this matter the Inspector considered that the development would not provide acceptable living conditions contrary to the provisions of Saved Policy C30 of the Cherwell Local Plan 1996 and Policy ESD15 of The Cherwell Local Plan 2011-2031, Part 1.

On the basis of the above, the appeal was dismissed. The appeal was for largely retrospective works and in the light of this, the unauthorised works are being pursued by the Council's Planning Enforcement Team.

3. Dismissed the appeal by Stonebridge Investments for Erection of detached dwelling house including demolition of existing single garage. Land Adj To West Cottages, Bicester Road, Stratton Audley – 18/00278/F (Delegated)

The application was for the erection of a single detached dwelling in the side garden of an end of terrace property. The site was in the conservation area and adjacent to a row of properties which are locally listed.

The inspector considered the proposal was within the built limits of the village contrary to the Council's view. However as the village is a category C village, Policy villages 1 only allows for infill and conversion. As the site was situated at the end of a row of terrace properties with open fields to the other side, the inspector agreed with the Council that the development did not meet the definition of infill as defined in the local plan i.e. A small gap in an otherwise continuous built up frontage. The proposal was therefore in conflict with policy ESD1 and policy villages 1 which seeks to restrict new developments in category C villages to manage growth in a sustainable manner.

The inspector also agreed with the council that the proposal would be harmful to the character and appearance of the conservation area due to its overall siting, scale and form.

Finally the proposal would result in the existing dwelling losing its off-street parking. In this respect the inspector noted other properties relied on on-street parking and the small increase in on-street parking would not unduly impact on highway safety.

4. Allowed the appeal by Mr B Bennett for Change of use to convert existing agricultural building into two dwelling houses. Barn At Wooden Hill Farm, Barford Road, Bloxham, OX15 4LP - 18/01144/Q56 (Delegated)

This appeal related to the refusal of a prior approval application (Part 3, Class Q) for the change of use and building operations to convert a modern agricultural barn into two dwellinghouses.

The Inspector considered that the main issue was whether the proposed alterations would go beyond the permissible building operations that could reasonably be considered necessary to enable the building to function as a dwellinghouse.

The structural integrity of the building was not disputed. The Inspector considered that all four of the external walls of the existing structure would be substantially retained, with insulation being undertaken as internal works to the building. In addition, the Inspector noted that steel portal framed buildings are not a suitable form of building for conversion under Class Q of the GPDO.

The Inspector noted that the proposed works involved the stopping up of the existing agricultural scale openings and the insertion of domestic doors and a number of windows, the replacement of the roof covering and internal works. However, the Inspector considered that the works complied with those specified under Class Q.1.(i)(i) and that the works proposed would be reasonable operations to provide a suitable living environment for future occupiers. As a result, the Inspector considered that the building was capable of conversion to residential use without building operations that would amount either to complete or substantial re-building of the pre-existing structure and that the development was permitted by Class Q.

5. Dismissed the appeal by Mr M Chick for Single yard managers dwelling in connection with existing Stratton Fields Livery Stables. Stratton Fields Livery Stables, Launton Road, Stratton Audley, Bicester, OX27 9AS – 18/00032/F (Delegated)

The appeal related to a refusal for planning permission for the construction of a single-storey dwelling that would be tied to the existing Stratton Fields Livery Stables, to be used by a yard manager.

The Inspector considered that the main issues were; a) whether there is an essential need for a new dwelling in this location in the context of development plan and national policies relating to development in rural areas and if an essential need is proven, whether any existing accommodation could meet that need; and b) the effect of the development on the character and appearance of the area.

In 2016 a Certificate of Lawfulness of existing use (CLEUD) was granted on the site for a self-contained flat at first floor level in the stables. In the current case the Council had made an assessment that the livery stables would not require an essential need for a dwelling on site, but in any case if there was an essential need, the existing flat within the stables would fulfil that need. The Inspector notes that the proposed flat would not be a like-for-like replacement given its larger footprint. Additionally, the inspector notes that due to the existing flat being granted by virtue of a CLEUD, extinguishing it

could not be achieved by a planning condition as this would not meet the required tests as set out in Planning Practice Guidance.

The Inspector found that an essential need had not been demonstrated, due to the uncertainty in relation to the proposed expansion and the business appearing reliant on the need to grant further and separate planning permissions for the livery expansion. Nonetheless, the Inspector determined that there is accommodation on-site that could ensure adequate welfare for the horses in livery and provide a 24-hour presence to oversee vulnerable livestock and to provide security; therefore, there is no demonstrable need for a new dwelling. The Inspector concludes that a new dwelling in the proposed location would conflict with Saved Policy H18 of the Local Plan and to the aims of the Framework which together seek to resist development in the countryside unless it is to meet a proven essential need.

With regard to the effect on the character and appearance of the area, the Inspector determines that, in the context of the topography and the existing vegetation the dwelling would be visually well related to the existing stable buildings on the site and to that extent the impact on the rural character and appearance of the area would be limited. By consequence, the Inspector concludes that there would be no material harm to the character and appearance of the area in the context of Saved Policies C8 and C28 and Policies ESD13 and ESD15 of the Local Plan.

The appeal was dismissed.

6. Dismissed the appeal by Mr and Mrs David Bignell for the replacement of rotten fence – frontage No 60, replacement of broken trellis/rotten posts No 58 replaced with post and rail. 58-60 North Street, Fritwell, OX27 7QR – 18/01119/F (Delegated)

The application had been refused on the grounds that, by virtue of its height and appearance, the boundary treatment failed to preserve or enhance the character and appearance of the Fritwell Conservation Area. The Inspector agreed that this was the main issue to consider, as well as its impact on the setting of the adjacent listed building.

The Inspector cited the Council's conservation area appraisal which observes that the street pattern in North Street is landscape dominated with a sense of enclosure created by low limestone walls, rather than a built up frontage, which is a key element in creating North Street's distinctive character.

The Inspector agreed with the Council that the fence is incongruous in this environment and causes harm to the Conservation Area and the setting of a nearby listed building. Therefore notwithstanding arguments in respect of the privacy and security the fence provides, the Inspector dismissed the appeal.

3.0 Enforcement Appeals

3.1 New Enforcement appeals

None

3.2 Enforcement appeals in progress

None

3.3 Enforcement appeal results

1. **Dismissed the appeal by Total Property Developments UK Ltd against an Enforcement Notice issued on 12 April 2018 for the material change of use of an incidental outbuilding to a self-contained residential unit with its own curtilage within the rear garden of 44 West Street, Banbury, OX16 3HD. (ref: 16/00242/EUNDEV)**

The Enforcement notice related to a building which had been erected within the rear garden of the above property and was in use as self-contained residential accommodation. At the start of the investigation there was found to be a person residing in the independent residential dwelling and paying rent to do so. The building did not have planning permission and the only permission that was in place was for two separate buildings to be used as bin stores for 44 and 44a West Street in the place where the current building stood.

The notice required a number of actions to remedy the breach including the cessation of the unauthorised use, and removal from the building of all fixtures and fittings associated with residential use, and the removal of all utilities from the building.

The time period given with which to comply was 3 months.

The appeal was submitted under ground (f) section 174(2) of the Town and Country Planning Act 1990 as amended. (f) "that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".

The appellant in their appeal statement, contested some of the requirements of the notice and also that the steps required to comply exceeded what was necessary to remedy the breach of planning control. The Council accepted some minor alterations to the wording of the requirements of the notice and the notice was varied by the Inspector with the words "for residential use" deleted and substituted with "as a self-contained residential unit" at requirement 5 (1) and 5(2). The insertion of the words "with the exception of the electricity supply" was applied at requirement 5 (3) as electricity was supplied to the building before the breach took place and could therefore not be considered to have 'facilitated' the change of use. Requirements 5(4) and 5(5) of the notice were deleted, these required fencing to be removed, however it was not clear if this fencing was erected prior to the breach taking place, to shield the bin stores from the properties and therefore went beyond what was required to remedy the breach of planning control.

The appellant also submitted an application for costs against the Council on the grounds that it had acted unreasonably by not entering into negotiations after the enforcement notice had been served. Following the issuing of the

enforcement notice, the appellant had requested that the Council withdraw the notice and issue a new notice with lesser steps. The Council disagreed with this approach and the appellant was informed that the correct route to challenge the notice would be through an appeal to PINS. The costs application was refused with the Planning Inspectorate finding that the Council had not behaved unreasonably and its behaviour had not lead the appellant to incur unnecessary or wasted expense. The Inspector agreed that the correct procedure was to make their arguments through the appeal process.

The appellant now has until the 4 June to fully comply with the requirements of the notice and an inspection will take place shortly after that date. The Council has already confirmed that the self-contained residential use has ceased.

For completeness, the requirements of the notice (as varied) are as follows:

1. Cease the use of the building as a self-contained residential unit;
2. Remove from the building all fixtures and fittings associated with residential use and remove them from the Land including, but not limited to kitchen units, kitchen sink, cooker, toilet, shower, sink, satellite dish;
3. Remove all utilities associated with the building, with the exception of the electricity supply, including, but not limited to the meter box and any pipe work associated with the building;
4. Remove from the land the post box that relates to the unauthorised dwelling house
5. Restore the land to its condition before the breach took place.

2. Dismissed the appeal by Mrs Phillipa Hawes against an Enforcement Notice issued on 4 April 2018 for the material change of use of the Land from residential garden associated with the occupation of dwellings No.5 and 6 Heathfield Cottages Kidlington OX5 3DX to (a) the siting of a caravan/mobile home used as an independent dwellinghouse (b) erection of decking and fencing and (c) sub dividing garden. (Ref: 16/00126/UNDEV)

The enforcement notice related to the unauthorised use of the land as a caravan site including the stationing of a caravan/mobile home and its use for residential purposes as an independent unit of occupation in the Green Belt and the sub-division of the garden land to of 5 and 6 Heathfield Cottages to land to facilitate this change of use.

The notice required a number of actions to remedy the breach including the cessation of the unauthorised use, removal of the caravan/mobile home and the removal of unauthorised decking and walkways. The notice also required the removal of any waste materials and making good damage to the land caused by the breach.

The time period given with which to comply was 3 months.

The appeal was submitted under ground (a) and ground (g) of section 174(2) of the Town and Country Planning Act 1990 as amended. (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged; and (g)

that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Under the ground (a) appeal the Inspector considered the main issues to be:

- (i) Whether the development amounts to “inappropriate development” within the Green Belt, having regard to local and national policy;
- (ii) Whether the location of the development would facilitate sustainable modes of travel;
- (iii) If the development does amount to inappropriate development within the Green Belt, whether the harm by way of that inappropriateness, and any other harm, is clearly outweighed by other material considerations such that very special circumstances exist to justify a grant of planning permission.

The planning Inspector found that the development was inappropriate development in the Green Belt and had led to a reduction in the openness of the Green Belt. He concluded that the very special circumstances needed to justify a grant of planning permission did not exist and therefore the appeal on ground (a) failed.

Under ground (g) the appellant argued that the compliance period was too short as the caravan was tenanted for 6 months and a further 3 months should be added to the compliance period. On this ground, the Inspector stated that the appellant had not provided any convincing argument to justify the request for the extension of time and as such the appeal of ground (g) also failed.

The notice was varied by the Inspector as follows: The red line on the plan attached to the notice was amended so as not to include the properties No.5 and 6 Heathfield Cottages and the main part of their gardens. The deletion of the words “the siting of a caravan/mobile home used as an independent dwellinghouse” were replaced with “the use of the land as a caravan site including the stationing of a caravan/mobile home and its use for residential purposes as an independent unit of occupation” and the insertion of the words “of the land as a caravan site” at requirement 5(1).

The appellant now has until 6 June 2019 to fully comply with the requirements of the notice and an inspection will take place shortly after that date.

The full requirements of the notice (as varied) are as follows:

1. Cease the use of the land as a caravan site and remove the caravan/mobile home from the site, demolish the unauthorised raised decking, the walkways around the sides of the caravan/mobile home and the raised deck patio together with associated hand rails;
2. Remove all waste materials, (equipment and debris) created as a result of any demolition works carried out in order to comply with the other requirements of the notice.
3. Make good any damage resulting from carrying out the unauthorised works or from the works required to ensure compliance with this Notice and reinstate the garden to the previous condition.

4.0 Consultation

None

5.0 Alternative Options and Reasons for Rejection

- 5.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: To accept the position statement.

Option 2: Not to accept the position statement. This is not recommended as the report is submitted for Members' information only.

6.0 Implications

Financial and Resource Implications

- 6.1 The cost of defending appeals can normally be met from within existing budgets. Where this is not possible a separate report is made to the Executive to consider the need for a supplementary estimate.

Comments checked by:

Denise Taylor, Group Accountant, 01295 221982,
Denise.Taylor@cherwellandsouthnorthants.gov.uk

Legal Implications

- 6.2 There are no additional legal implications arising for the Council from accepting this recommendation as this is a monitoring report.

Comments checked by:

David Mytton, Solicitor, For and on behalf of Nick Graham, Director of Law and Governance and Monitoring Officer, David.Mytton@Oxfordshire.gov.uk

Risk Management

- 6.3 This is a monitoring report where no additional action is proposed. As such there are no risks arising from accepting the recommendation.

Comments checked by:

David Mytton, Solicitor, For and on behalf of Nick Graham, Director of Law and Governance and Monitoring Officer, David.Mytton@Oxfordshire.gov.uk

7.0 Decision Information

Wards Affected

All

Links to Corporate Plan and Policy Framework

A district of opportunity

Lead Councillor

Councillor Colin Clarke, Lead Member for Planning

Document Information

Appendix No	Title
None	
Background Papers	
None	
Report Author	Paul Seckington, Senior Manager of Development Management
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