

Committee: Planning Committee

Date: Thursday 18 July 2019

Time: 4.00 pm

Venue Bodicote House, Bodicote, Banbury, OX15 4AA

Membership

Councillor James Macnamara (Chairman)

Councillor Andrew Beere
Councillor Hugo Brown
Councillor Colin Clarke
Councillor Chris Heath
Councillor David Hughes
Councillor Cassi Perry
Councillor G A Reynolds
Councillor Les Sibley

Councillor Maurice Billington (Vice-Chairman)

Councillor John Broad
Councillor Phil Chapman
Councillor Ian Corkin
Councillor Simon Holland
Councillor Mike Kerford-Byrnes
Councillor Lynn Pratt
Councillor Barry Richards
Councillor Katherine Tyson

Substitutes

Councillor Mike Bishop
Councillor John Donaldson
Councillor Tony Ilott
Councillor Ian Middleton
Councillor Fraser Webster
Councillor Barry Wood

Councillor Surinder Dhesi
Councillor Timothy Hallchurch MBE
Councillor Tony Mephram
Councillor Douglas Webb
Councillor Bryn Williams
Councillor Sean Woodcock

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. Minutes (Pages 1 - 16)

To confirm as a correct record the Minutes of the meeting of the Committee held on 20 June 2019.

5. Chairman's Announcements

To receive communications from the Chairman.

6. Urgent Business

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

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

Report of Assistant Director - Planning and Economy

This will be circulated at the meeting.

Planning Applications

- | | | |
|------------|---|---------------------|
| 8. | S Grundon Services Ltd, Merton Street, Banbury, OX16 4RN (Pages 20 - 54) | 16/00472/OUT |
| 9. | 29 Murdock Road, Bicester, OX26 4PP (Pages 55 - 68) | 19/00722/F |
| 10. | Land To The East Of The Warriner School, Bloxham Grove Road, Bloxham, Oxfordshire (Pages 69 - 101) | 19/00617/F |
| 11. | Land to Rear Of No. 23 To 29, Crouch Street, Banbury (Pages 102 - 125) | 19/00777/F |
| 12. | Summer Place, Blackthorn Road, Launton (Pages 126 - 147) | 18/01259/F |
| 13. | Symmetry Park, Morrell Way, Ambrosden (Pages 148 - 180) | 19/00388/F |
| 14. | Proposal for New Highway Aligned With Howes Lane, Bicester
(Pages 181 - 232) | 14/01968/F |
| 15. | Part Of Railway Embankment North East Of Aldershot Farm, Howes Lane, Bicester (Pages 233 - 252) | 19/00770/F |
| 16. | Heyford Park, Camp Road, Upper Heyford, Bicester, OX25 5HD
(Pages 253 - 285) | 19/00446/F |
| 17. | Unit 6, Chalker Way, Banbury, OX16 4XD (Pages 286 - 298) | 19/00487/F |

18. **Former The Admiral Holland, Woodgreen Avenue, Banbury** (Pages 299 - 304) **19/00209/DISC**
19. **The Hill, Dover Avenue, Banbury, OX16 0JE** (Pages 305 - 310) **19/00194/DISC**

Review and Monitoring Reports

20. **Planning Enforcement Report** (Pages 311 - 317)

Report of Interim Senior Manager – Development Management

Purpose of report

To update the Committee on the work of the Cherwell Planning Enforcement Team and to initiate a regular Enforcement Update Report that will be presented at future Planning Committees.

Recommendations

The meeting is recommended:

- 1.1 To note the contents of the report; and
- 1.2 To provide feedback regarding the format and frequency of future Enforcement Update Reports.

21. **Appeals Progress Report** (Pages 318 - 324)

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 July 2019

Cherwell District Council

Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House,
Bodicote, Banbury, OX15 4AA, on 20 June 2019 at 4.00 pm

Present: Councillor James Macnamara (Chairman)

Councillor Andrew Beere
Councillor John Broad
Councillor Phil Chapman
Councillor Colin Clarke
Councillor David Hughes
Councillor Mike Kerford-Byrnes
Councillor Cassi Perry
Councillor Lynn Pratt
Councillor G A Reynolds

Substitute Members: Councillor Surinder Dhesi (In place of Councillor Barry Richards)
Councillor Tony Ilott (In place of Councillor Ian Corkin)
Councillor Barry Wood (In place of Councillor Hugo Brown)

Also Present: Councillor Dan Sames – Ward Member speaking on item 11

Apologies for absence: Councillor Maurice Billington
Councillor Hugo Brown
Councillor Ian Corkin
Councillor Chris Heath
Councillor Simon Holland
Councillor Barry Richards
Councillor Les Sibley
Councillor Katherine Tyson

Officers: Robert Jolley, Assistant Director: Planning & Economy
Bob Duxbury, Joint Majors Manager
Linda Griffiths, Principal Planning Officer
Aaron Hetherington, Democratic and Elections Officer
Matt Chadwick, Senior Planning Officer
Michael Sackey, Assistant Planning Officer
Nat Stock, Minors Team Leader
Aaron Hetherington, Democratic and Elections Officer
Jennifer Crouch, Solicitor

19 **Declarations of Interest**

10. Land For Proposed Development At Drayton Lodge Farmhouse, Warwick Road, Banbury.

Councillor Andrew Beere, 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.

Councillor G A Reynolds, Declaration, as he is Parish Clerk to Drayton Parish Council, but did not make any comment during the consultation of this item.

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

20 **Requests to Address the Meeting**

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

21 **Minutes**

The Minutes of the meeting held on 30 May 2019 were agreed as a correct record and signed by the Chairman.

22 **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.

23 **Urgent Business**

The Chairman reported that he had agreed to add one item of exempt urgent business to the agenda, application 18/02056/OUT - Land North of Merton Road, Ambrosden. The matter had arisen after agenda publication and a decision was required before the next scheduled meeting of the Committee. The item would be taken after the Appeals Progress report and as the item was exempt, Members would be requested to agree to exclude the press and public.

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

There were no pre-Committee site visits proposed.

Land At Network Railway Embankment Between Piddington And Blackthorn, Marsh Gibbon Road, Piddington

The Committee considered application 18/00211/F for a railway embankment stabilisation scheme, including earthwork re-grading, construction of access route and ecological mitigation measures (resubmission of 13/01805/F) at Land at Network Railway Embankment Between Piddington And Blackthorn, Marsh Gibbon Road, Piddington for Network Rail Infrastructure Ltd.

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

Resolved

That authority be delegated to the Assistant Director for Planning and Economy to grant permission for application 18/00211/F, subject to the conditions set out below (and any amendments to those conditions as deemed necessary).

CONDITIONS

Time Limits

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: [to be confirmed at the planning committee]

Noise Mitigation

3. Prior to the commencement of the development, full details of the proposed acoustic barriers, including their position and materials of construction, required as part of the noise mitigation identified in the ES and the Construction Noise Assessment Report dated July 2018 shall be submitted to and approved in writing by the Local Planning Authority. The acoustic barriers shall be installed as approved prior to the works commencing and retained in situ until construction works are complete. Upon completion of the works hereby approved the acoustic barrier shall be removed from the site.

Temporary Obstructions

4. No materials, plant, temporary structures or excavations of any kind should be deposited/undertaken on or adjacent to the Public Right of Way that obstructs the public right of way whilst development takes

place.

Route Alterations/Public Right of Way

5. The development should be designed and implemented to fit in with the existing public rights of way network. No changes to the public right of way's legally recorded direction or width must be made without first securing appropriate temporary or permanent diversion through separate legal process. Alterations to surface, signing or structures shall not be made without prior permission by Oxfordshire County Council.
6. No construction/demolition vehicle access may be taken along or across a public right of way without prior written permission and appropriate safety/mitigation measures approved by Oxfordshire county Council
7. No vehicle access may be taken along or across the public right of way to residential or commercial sites without prior written permission and appropriate safety and surfacing measures approved by Oxfordshire county Council.
8. Any gates provided in association with the development shall be set back from the public right of way or shall not open outwards from the site across the public right of way.

Archaeology

9. Prior to any demolition and the commencement of the development a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area which shall be submitted to and approved in writing by the Local Planning Authority.
10. Following the approval of the Written Scheme of Investigation referred to in condition 6, and prior to any demolition on the site and the commencement of the development (other than in accordance with the 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.

Drainage

11. Development shall not begin until a revised surface water drainage scheme, based on the drainage principles listed below have 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 drainage must include but not be limited to:

- Evidence that the proposed flows from the site will be restricted to greenfield run-off rates for all events up to and including the 1 in 100 year event+ allowance for climate change (currently 40%)
 - Evidence that the proposed run-off volume will not increase the existing greenfield volume for the corresponding event
 - Details of how the drainage scheme has been designed to incorporate SuDS techniques to manage water quantity and maintain water quality in accordance with best practice guidance including the latest SuDS manual C753
 - Detailed drainage plan showing the location of the proposed SuDS and drainage network with exceedance flow routes clearly identified
 - Detailed drainage calculations for all rainfall events up to and including the 1 in 100 year plus climate change event to demonstrate that all SuDS features and the drainage network can cater for the critical storm event for its lifetime
 - Details of how the scheme shall be maintained and managed after completion. Construction phase surface water management plan including details of how water quality shall be maintained during and after construction
 - The submission of evidence relating to accepted outfalls from the site, particularly from any third party riparian or network owners
12. The development shall be implemented in accordance with the approved Habitat Creation and Restoration Scheme (NLG Ecology 24th May 2018) and illustrated on drawing numbers 151661-NWR-DRG-ECV-HCR.1-3 inclusive. Any variation to the approved plan shall be agreed in writing with the Local Planning Authority before such change is made.
13. Prior to the commencement of the development hereby approved, a report on the hydrological impact of the drainage works on Meadow farm Local Wildlife Site shall be submitted to and approved in writing by the Local Planning Authority. The report is to detail appropriate mitigation measures should they be considered necessary, including any amendments to the approved scheme. Thereafter the development shall be carried out in accordance with the approved details.
14. The development shall be carried out in accordance with the FRA (Blackthorn and Piddington Rail Embankment Stabilisation, Revision 2.1, Atkins March 2019) and the following mitigation measures detailed within the FRA
- A minimum of 1,909m³ of compensatory flood plain storage is provided as shown in Table 5-2, section 5.1.4 of the FRA
 - Where the access track is located within the floodplain, it will be set at existing ground level as per section 5.1.2 of the FRA
- The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may be subsequently agreed in writing by the local planning authority.
15. No development shall take place until the Blackthorn and Piddington Railway Embankment Stabilisation Habitat Creation and Restoration

Scheme and Blackthorn and Piddington Biodiversity Monitoring and Maintenance Scheme documents are updated to reflect the changes to the scheme as detailed in the Technical Memo 100454-NWR-MEM-ECV-000005 dated 18/12/18. The updates should include details of the location and number of coir rolls being installed, species list for any new planting or seeding and monitoring and management prescriptions for the new features being created.

16. Contamination report
17. Verification of contamination report
18. Contamination not previously identified
19. Prior to the commencement of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping shall include details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass/turfed areas, details of the existing trees 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 and the details of hard surfaced areas, reduced dig areas, crossing points etc
20. 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 British Standard, in the first planting and seeding seasons following the line being first brought back into use, or completion of the development, whichever is 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.

26 **Dewey Sports Centre, Barley Close, Bloxham, Banbury, OX15 4NJ**

The Chairman advised that application 18/01852/F had been withdrawn by the applicant.

27 **Land For Proposed Development At Drayton Lodge Farmhouse, Warwick Road, Banbury**

The Committee considered application 18/01882/OUT, an outline application for a residential development, comprising the erection of up to 320 dwellings including affordable housing, together with a local centre of 0.5ha (providing retail and community facilities), landscaping, public open space, playing fields, allotments, access and associated infrastructure land for a proposed development at, Drayton Lodge Farmhouse, Warwick Road, Banbury for Trinity College (Bursar).

Chris Ferguson, the agent, addressed the committee in support of the application.

In reaching their decision, the Committee considered the case officer's report and presentation, the comments from the public speaker and the written update.

Resolved

That authority be delegated to the Assistant Director for Planning and Economy to grant permission for application 18/01882/OUT, subject to:

- i. the conditions set out below (and any amendments to those as deemed necessary)

CONDITIONS

Time Limit

1. Time limit relating to outline

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: to be inserted]
3. Standard condition 1.9
4. Standard condition 3.7 tree survey
5. Standard condition 3.8 protection of trees
6. Standard condition 3.10 soil levels around trees
7. Thames Water recommended conditions
8. Standard contamination conditions
9. Archaeological conditions re Written Scheme of Investigation
10. OCC transport and drainage conditions as recommended
11. Ecological conditions as recommended by ecologist
12. Design code
13. Levels
14. Soli management plan
15. Management/storage and disposal of spoil

16. Lighting details
 17. Scheme for public art
 18. Provision of waste and recycling bins
 19. Energy efficiency at 19% above building regulations
 20. Water efficiency limit of 110 litres per dwelling
 21. All utilities to be provided underground
 22. Protection of existing trees and hedges except where new access to Warwick road
 23. Non-residential buildings to meet BREAM very good
 24. Housing mix in accordance with Policy BSC4
 25. Noise mitigation measures in respect of Warwick Road
 26. Not more than 320 dwellings
- ii. the receipt of a satisfactory amended design and access statement and parameter plans
 - iii. 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 30% affordable housing on site
 - b) Provision of and commuted sum for open space/habitat management
 - c) provision of and commuted sum for on-site sports pitches
 - d) Provision of and commuted sum for on-site allotments
 - e) commuted sum for maintenance of existing trees and hedgerows on site
 - f) commuted sum for SuDS maintenance
 - g) provision of and commuted sum for on site play areas and equipment
 - h) contribution of £267,182.98 toward off-site indoor sports facilities
 - i) provision of on-site community building/retail facility and commuted sum for maintenance
 - j) contribution towards community worker on site
 - k) provision of on-site public art
 - l) financial contribution to TVP
 - m) financial contribution of £276,480 to support local primary care infrastructure
 - n) additional land to south west to be kept clear of built development
 - o) Payment of a financial contribution of £3,552,751 towards educational infrastructure serving the development
 - p) Payment of £16,942 public transport infrastructure
 - q) Payment of £2,600 traffic regulation order
 - r) Payment of a financial contribution towards public transport service of £457,142.57
 - s) fire payment of £113,409
 - t) strategic

- transport contribution
- h) Payment of the Council's monitoring costs of £1,240. Section 278 Agreement to secure highway works

28

Meadow Barn, Merton Road, Ambrosden, Bicester, 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, Bicester, OX25 2LZ for Mr Rhys Oliver

Councillor Sames addressed the committee as Ward Member.

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

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

Resolved

That authority be delegated to the Assistant Director for Planning and Economy to grant permission for application 19/00055/F, subject to the following conditions:

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:
 - Application form;
 - Design and Access Statement by Richard Court Designs submitted with the application;
 - Drawing Numbers: 974-5A; 974-6A; 974-7A; 974-8B; 974-9B and 974-10A submitted with the application;
3. Reason: For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

Material Samples

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

Material Samples

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

Windows, Doors and Rooflights

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

Parking and Manoeuvring Areas

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

Archaeology (Written Scheme of Investigation)

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

Archaeology (Staged Programme of Archaeological Evaluation and Mitigation)

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

Landscape Scheme

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

Permitted Development Rights (Restrictions)

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

Waste Water Network Upgrades/Housing and Infrastructure Phasing Plan

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

Land Contamination: Desk Study/Site Walk Over

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

Land Contamination: Intrusive Investigation

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

Land Contamination: Remediation Scheme

15. If Contamination is found by undertaking the work carried out under condition (13), prior to the commencement of the development hereby permitted, a scheme of remediation and/ or monitoring to ensure the site is suitable for its proposed use shall be prepare by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 1, and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Land Contamination: Carry out Remediation

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

Land Contamination not Previously Found

17. If, during development, contamination not previously identified is found to be present at the site, no further development shall be 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.

Waste storage and collection

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

Obscure glazing

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

29

Land North Of Southfield Farm, North Lane, Weston On The Green

The Committee considered application 19/00596/OUT for a residential development of up to 18 dwellings with associated access, internal roads, car parking, public open space, landscaping, drainage and other associated infrastructure Land North of Southfield Farm, North Lane, Weston-on-the Green, Greystoke Land Limited.

Diane Bohm, Chairman of Weston-on-the-Green Parish Council addressed the committee in objection.

Anthony Crean QC, the applicant, addressed the committee in support of the application.

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

Resolved

That application 19/00596/OUT be refused for the following reasons:

1. The development proposed, by reason of its scale and siting beyond the built up limits of the village, encroachment into the open countryside, and taking account of the Council's ability to demonstrate an up-to-date five year housing land supply, is considered to be unnecessary, undesirable and unsustainable new development that would harm the rural character and setting of the village. The proposal

is therefore unacceptable in principle and contrary to Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework.

2. The development proposed, by reason of its poor connectivity and links to the existing village and position adjacent to the busy Northampton Road, and the relative lack of facilities within the village, would represent an unsustainable form of development, that would not give future occupiers a realistic choice of travel means. The proposed development would therefore be contrary to Policies SLE4, ESD1 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework which seeks to ensure that new development facilitates sustainable modes of transport and provides opportunities for the use of public transport, walking and cycling.
3. The submitted Drainage Strategy is inadequate and does not provide sufficient information to demonstrate that a drainage strategy based on Sustainable Urban Drainage Systems has been explored for the site. The proposal is therefore contrary to Policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.
4. In the absence of the completion of a satisfactory Planning Obligation, the Local Planning Authority is not convinced that the necessary infrastructure directly required as a result of this development, in the interests of supporting the sustainability of the village and the development, and in the interests of safeguarding public infrastructure and securing on site future maintenance arrangements, will be provided. The proposal therefore conflicts with Policies BSC3 and INF1 of the adopted Cherwell Local Plan 2011-2031 Part 1 and Government advice within the National Planning Policy Framework.

30 **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.

31 **Exclusion of Press and Public**

Resolved

That, in accordance with Section 100A (4) of Local Government Act 1972, the press and public be excluded from the meeting for the following item of

business, on the grounds that they could involve the likely disclosure of exempt information as defined in paragraph 5 of Schedule 12A of that Act

32 **18/02056/OUT - Land North Of Merton Road, Ambrosden**

The Interim Senior Manager, Development Management submitted an exempt urgent report relating to application 18/02056/OUT - Land North of Merton Road, Ambrosden.

Resolved

- (1) As set out in the exempt minute

The meeting ended at 6.24 pm

Chairman:

Date:

Document is Restricted

CHERWELL DISTRICT COUNCIL

PLANNING COMMITTEE

18 July 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

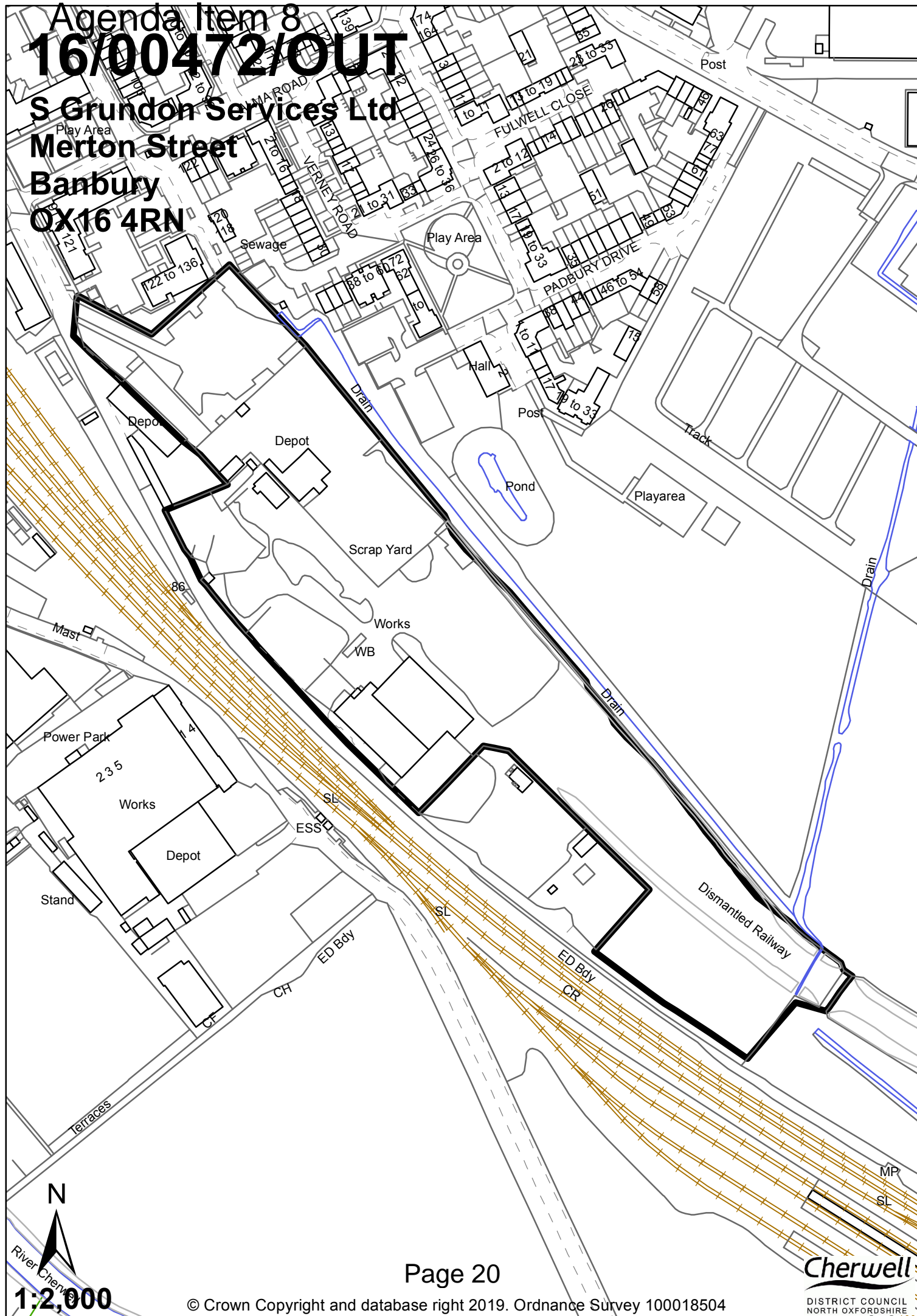
For each of the applications listed are: the application form; the accompanying certificates and plans and any other information provided by the applicant/agent; representations made by bodies or persons consulted on the application; any submissions supporting or objecting to the application; any decision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

	Site	Application No.	Ward	Recommendation	Contact Officer
8	S Grundon Services Ltd Merton Street Banbury OX16 4RN	16/00472/OUT	Banbury Grimsbury And Hightown	Approval	Bob Duxbury
9	29 Murdock Road Bicester OX26 4PP	19/00722/F	Bicester East	Approval	Sarah Greenall
10	Land To The East Of The Warriner School Bloxham Grove Road Bloxham Oxfordshire	19/00617/F	Adderbury, Bloxham And Bodicote	Approval	James Kirkham
11	Land to Rear Of No. 23 To 29 Crouch Street Banbury	19/00777/F	Banbury Cross And Neithrop	Approval	James Kirkham
12	Summer Place Blackthorn Road Launton	18/01259/F	Launton And Otmoor	Approval	Nat Stock
13	Symmetry Park Morrell Way Ambrosden	19/00388/F	Bicester South And Ambrosden	Approval	Linda Griffiths
14	Proposal for New Highway Aligned With Howes Lane Bicester	14/01968/F	Bicester North and Caversfield (part Bicester West)	Approval	Caroline Ford
15	Part Of Railway Embankment North East Of Aldershot Farm Howes Lane Bicester	19/00770/F	Bicester North And Caversfield	Approval	Caroline Ford
16	Heyford Park Camp Road Upper Heyford Bicester OX25 5HD	19/00446/F	Fringford And Heyfords	Approval	Andrew Lewis
17	Unit 6 Chalker Way Banbury OX16 4XD	19/00487/F	Banbury Grimsbury And Hightown	Approval	Samantha Taylor
18	Former The Admiral Holland Woodgreen Avenue Banbury	19/00209/DISC	Banbury Ruscote	Approval	James Kirkham

19	The Hill Dover Avenue Banbury OX16 0JE	19/00194/DISC	Banbury Ruscote	Approval	Matthew Chadwick
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Agenda Item 8 16/00472/OUT

S Grundon Services Ltd
Merton Street
Banbury
OX16 4RN



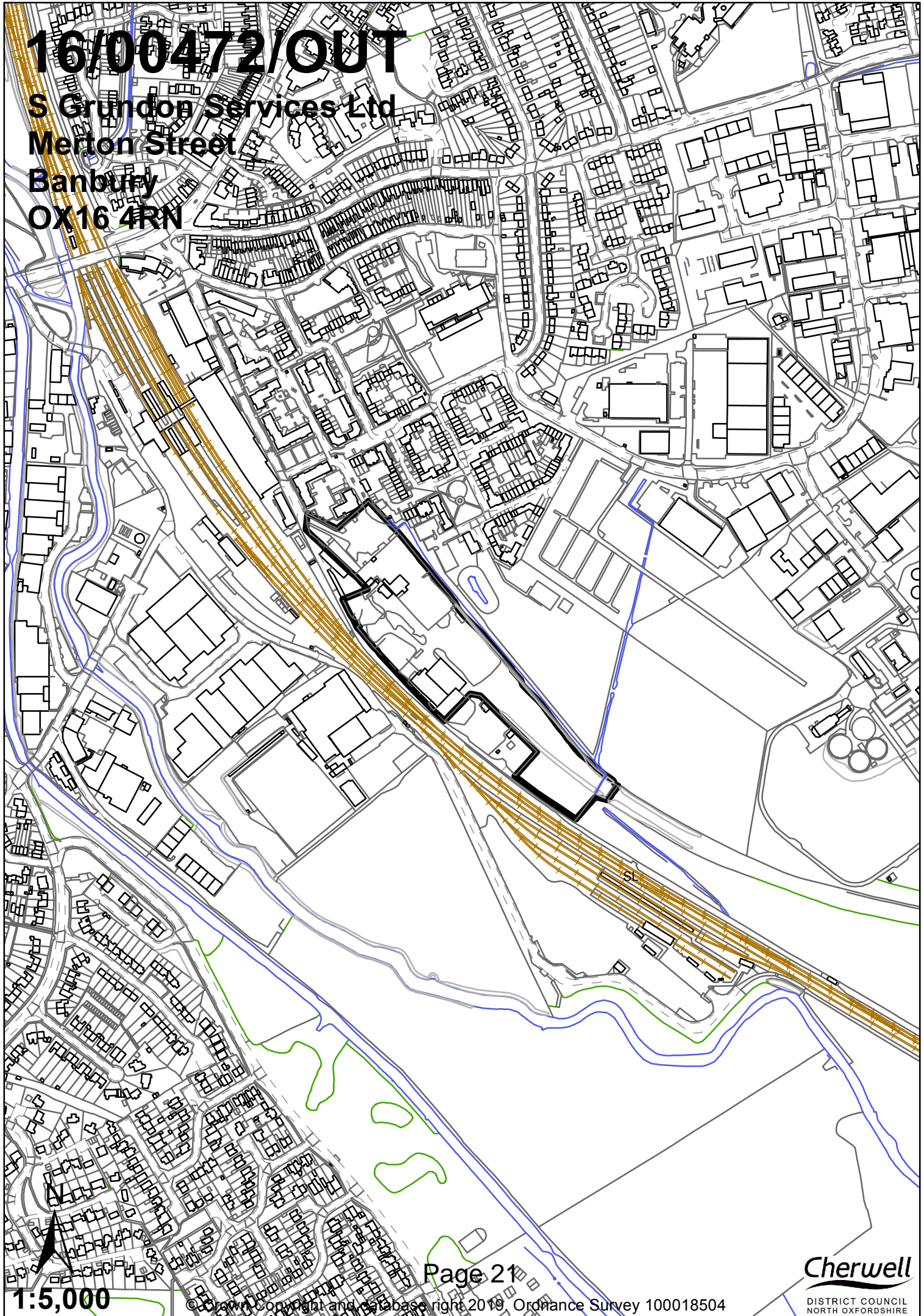
16/00472/OUT

S Grindon Services Ltd

Merton Street

Banbury

OX16 4RN



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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Applicant: Grundon Waste Management Ltd & Cemex UK

Proposal: Proposed residential redevelopment for approximately 200 units

Ward: Banbury Grimsbury And Hightown

Councillors: Cllr Andrew Beere
Cllr Perran Moon
Cllr Shaida Hussain

Reason for Referral: Major application

Expiry Date: 30 November 2016 **Committee Date:** 18 July 2019

Recommendation: Approve

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

Proposal

This outline application (with all matters reserved) seeks planning permission for 200 dwellings. Illustrative plans accompanying the application show that the dwellings would be provided in multiple blocks of apartments of three, four and five stories in height. Car parking (at one space per unit) would be provided as undercroft parking in the ground floors of the blocks. Communal landscaped areas and play provision would be provided around the blocks.

Consultations

The following statutory consultees have raised objections to the application:

- Banbury Town Council, OCC Highways, and Environment Agency

The following non-statutory consultees have raised objections to the application:

- Banbury Civic Society

2 Letters of objection have been received

Planning Policy

The site consists of the Banbury 19 strategic allocation which proposes 150 units on this site. Other relevant policies are set out at para 7.2 and 7.3 below

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

Conclusion

The key issues arising from the amended application details are:

- Principle of development
- Access and transport impacts

- Car parking
- Flood risk and drainage
- Design, and impact on the character of the area
- Housing mix and affordable housing
- Ecology and biodiversity
- Noise impact assessment
- Climate change mitigation
- Open space and outdoor recreation
- Minerals and waste matters
- Contaminated land
- Planning obligations

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. The scheme meets the requirements of relevant CDC policies.

RECOMMENDATION - GRANT PERMISSION 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. This application relates to a 3 hectare site on the eastern side of the railway just south of Banbury railway station. It is currently used as an operational base for waste freighters operated by the applicants. It consists in part of surfaced and unsurfaced yard areas and contains some buildings in workshop and welfare uses.
- 1.2. The site is bounded to the south west by the London-Birmingham rail lines, beyond which lie commercial buildings accessed off Station Approach (the area is known as Power Park). To the north lie 2 and 3 storey houses and 3 and 4 storey flats in Marshall Road and Vernay Road. To the north-east are areas of parking and open space associated with the development off Vernay Road and Chandos Close, and areas of open undeveloped land lie to the south east.
- 1.3. The site is accessed off Higham Way, which in turn are linked through Merton Street to Middleton Road.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. This outline application (with all matters reserved) seeks planning permission for 200 dwellings. Illustrative plans accompanying the application show that the dwellings would be provided in multiple blocks of apartments of three, four and five stories in height. Car parking (at one space per unit) would be provided as undercroft parking in the ground floors of the blocks. Communal landscaped areas and play provision would be provided around the blocks.
- 2.2. The road access to the site would be an extension of Higham Way and would skirt the western side of the site (next to the railway) for most of its length. It is designed to provide a through route from north to south to provide the possibility of onward connection to the land allocated for commercial development in the Cherwell Local Plan to the south, and possibly through to a south eastern perimeter road at some time in the future.
- 2.3. Due to the noise levels on the site, from the adjacent railway and newly opened railway depot, the site will need currently unspecified noise mitigation measure on the western boundary.

3. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
01/01030/OCC	Building to house a material recovery facility	Objections
15/00069/SO	SCREENING OPINION - Proposed residential development	Screening Opinion not requesting EIA

4. PRE-APPLICATION DISCUSSIONS

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

<u>Application Ref.</u>	<u>Proposal</u>
14/00190/PREAPP	Preapplication Advice - Proposed residential redevelopment
15/00161/PREAPP	Follow-up Pre-App enquiry - Proposed residential development

5. RESPONSE TO PUBLICITY

- 5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 10.10.2018, although comments received after this date and before finalising this report have also been taken into account.

The comments raised by third parties are summarised as follows

Banbury Civic Society's most recent comments are that they are surprised and dismayed that no notice appears to have been taken of the Society's earlier comments. The Society therefore wishes to restate its **objection** to the current application.

It is the Society's view that, if Cherwell Street is to be relieved of traffic for the benefit of the economic health of both the town and residents, then additional east / west 'cross valley' infrastructure will have to be provided. At the moment the only viable option on the table is a South-to-East Link Road from the A361 to Chalker Way (and thence to the M40) via the Bodicote Flyover, and we believe the County Council has accepted this idea in principle, subject, of course, to further study and, possibly, alternative routes - which have not been forthcoming to date.

The Society's outline proposals envisage a link from the S-to-E route to Higham Way in order to provide essential connectivity to the Grimsbury area in general and the railway (east-side) car park in particular, thereby relieving the Merton Street junction and providing a more acceptable access to the car-park from the south and west of the town.

It is perverse, therefore, not to keep this future use of Higham Way in mind when considering any future use and layout of the 'Grundon' site particularly in relation to the alignment and width requirements that the possible extension of Higham Way southwards to junction with any S-to-E road that will be necessary for the predicted traffic load. If such future opportunities are not kept in mind at this stage, then options will be closed that could be to the detriment of the town in the future.

As a second comment, and in the light of recent complaints regarding noise from railway operations, the Society wishes to re-iterate its previous view that the 'Grundon' site would be better utilised for the relocation of businesses displaced from Canalside than for residential purposes, that is unless extensive noise suppression measures are incorporated on the western boundary treatment.

In their original comments the Civic Society also noted that whilst not objecting to housing in this location per se, they wish consideration to be given to the facts that the site is (a) in close proximity to a 24 hr. working railway and (b) is not far from the 24 / 7 rolling stock maintenance depot now under construction. Have noise, light pollution and vibration predictions for this site been supplied?

Two Letters have been received from residents of Marshall Road and Alma Road. Concerns are raised about

- overdevelopment of the site,
- potential to increase peak time congestion on Higham Way, Merton Street, Middleton Road, and Bridge Street
- Parking on residential streets
- Impact on air quality
- Concerns about increased flooding risks
- Noise from increased accessing traffic

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

6. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

BANBURY TOWN COUNCIL: would like to object to this application. We believe the development does not comply with policy BSC 3 as the details of the affordable housing within the scheme are unclear or absent. Members also expressed concern over the feasibility and practicality of the new access road between Higham Way and Chalker Way which has been proposed. This leads us to believe that the proposal does not comply with policy SLE 4 "development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported". Members also had some environmental concerns with this development, particularly relating to policy ESD 7 as there does not appear to be a SuDS scheme attached to the proposal.

The scheme is not in line with policy Banbury 19 – Land at Higham Way. Paragraph C.217 states "in principle the site offers a suitable location for development, and would contribute to the creation of sustainable and mixed communities". We do not believe a development consisting totally of one and two bedroom flats in this circumstance could contribute towards creating "sustainable and mixed communities". Policy Banbury 19 also clearly states that a Travel Plan and transport assessment should be submitted with any proposals for the policy area, neither has been submitted by the applicant. Banbury 19 states that the site is fit for approximately 150 units comprising of 70% houses and 30% flats, we do not believe the applicants reasons for submitting a proposal for 200 flats and ignoring this recommendation are strong enough. Lastly, a wholly flatted development such as this is unlikely to provide "an age friendly neighbourhood

with extra care housing and housing for wheel chair users and those with specialist supported housing needs” as stated in policy Banbury 19.

STATUTORY CONSULTEES

- 6.3 ENVIRONMENT AGENCY’s latest comments are that in their response to this application dated 6 August 2018, they objected to this proposal and recommended refusal of planning permission because of the absence of an acceptable Flood Risk Assessment (FRA). In particular, the submitted FRA failed to provide detailed information on the proposed croft parking and underfloor voids regarding losses and gains in floodplain storage, and clarify whether there would be any loss in flood plain storage proposed from the under crofts.

Since that response, they have received additional information. They are pleased to see the clarification that there will be 576.4m³ of flood plain storage gained on this site. They are however concerned, that the proposed undercroft parking drawing prepared by JSA Architects, reference PL-127, has not confirmed whether the proposed undercroft void would be set above the 1 in 100 year flood level with an appropriate allowance for climate change. As no height for this void has been specified on this drawing, it has not been demonstrated whether flood flows would be impeded and if flooding would occur elsewhere. They therefore **maintain their objection** to this proposal as submitted. An update on this Issue will be given in an update to Committee if available.

- 6.4 OXFORDSHIRE COUNTY COUNCIL initially responded in November 2016 raising objections on transport grounds due to the lack of traffic modelling and on drainage grounds. They indicated that there were no objections on education issues subject to the securing infrastructure contributions for secondary, SEN and early years provision. They also sought contributions for library and adult care provision. They further commented that the current waste management facility is being relocated to a nearby site at Thorpe Mead, where planning permission was granted in 2011 for the redevelopment and extension of an existing waste transfer and recycling facility also operated by Grundon. There would therefore be no loss of waste management capacity as a result of the proposed development of the Merton Street site, and the proposed development would not be contrary to policy W11 of the emerging new Minerals and Waste Local Plan: Part 1 – Core Strategy.

Since then there has been detailed negotiation on traffic and transport matters including the provision for the access road to be to adoptable standard and to be built to the southern limit of the site in such a form that it could act as a through road to the BAN 6 site and a potential link road between Chalker Way and Bodicote.

More recently the County Council stressed that the scheme should only be approved if the applicants committed to the delivery of an estate road through the site allowing a future link to the planned Banbury SE link road. In Jan 2018 the County Council withdrew its objection to the scheme on drainage grounds subject to the imposition of a suitable drainage condition.

By October 2018 they indicated that a revised indicative layout plan, PL111G, had been provided, showing a road linking the site access with the southern boundary. The county council welcomed the inclusion of this link road. However, they still had the following comments on the layout and alignment:

- The link road appears sufficiently wide for two-way traffic, but vehicle swept path analysis should be provided to demonstrate this.
- A turning head will need to be provided at the southern end of the road.

- Near block J the edge of the carriageway is very close to the site boundary. There will need to be adequate space for a verge of no less than 1m.
- It is undesirable for the play area to be on the opposite side of the road to the majority of the housing. The crossing points are close to the bend, and sufficient visibility will need to be demonstrated.
- Traffic calming measures will need to be introduced. These could be short narrowings, but this detail can be conditioned.
- There is no footway shown on the railway side of the site. This is acceptable in principle except at the southern end of the site, where there are residential units on both sides of the road. 2m footways would be required on both sides along this section of road, with a suitable crossing point for continuity.
- It is noted that there are no off-carriageway cycle facilities on the road. The application mentions a green pedestrian/cycle route through the heart of the site, but the layout does not show a clear route that would be sufficiently wide, and the route appears to use the road at the northern and southern end of the site. There should be a continuous shared use pedestrian/cycle route 3m wide through the site.
- There are two areas of perpendicular parking proposed along the link road, one of which comprises nine spaces, and the other is close to a bend and blocks visibility from the adjacent access. This is unsuitable for this type of road, due to the risk of reversing vehicles. With adjacent spaces occupied, there would be insufficient pedestrian visibility splay to the back of the footway, and traffic flow would be adversely affected. The county council would not adopt perpendicular parking and would require an 800mm maintenance strip between the back of the spaces and the adopted footway.
- It is recommended further work is done on the road alignment to address the above issues, so that a corridor can be defined and specified in the S106 agreement. It is recommended that, if the development comes forward in phases, the detail of the link road is included in the first reserved matters application, and that no reserved matters layouts are approved at the site that does not include the road.
- Although the layout is indicative, I also note that the side roads do not have turning heads. I am not confident that refuse vehicles and other delivery vehicles could turn in the layout provided, so additional space (potentially taking up parking spaces) may need to be provided for turning. There is then a question as to whether the site could provide sufficient parking for residents.
- I also note that the Proposed Site Plan PL111G is inconsistent with the proposed site access plan, PL-103, which showed a narrower access road. While this is an application for outline planning permission with all matters reserved, the ability of the site to provide safe and suitable access for all road users, should be considered at this stage. The carriageway and footway must tie in with existing facilities on Higham Way. In particular, as the footway at the end of Highway Way is not adjacent to the carriageway (i.e. not as shown in the site layout plan) some highway works will be required to tie the proposed footway within the site, into the footway on Higham Way.

Since then further amended plans have been received and all of the above issues appear to have been satisfactorily dealt with bearing in mind that the layout and access are reserved matters which will be determined later in the planning process.

- 6.5 NETWORK RAIL In their original response in 2016 they commented that the scheme is just to the south-east of Banbury Railway Station, and the proposal also includes works both during construction and as a permanent arrangement in relation to the layout and design of the site that will be undertaken next to the existing operational railway. Having reviewed the documentation as submitted by

the developer Network Rail had a whole series of detailed comments on the then proposed earth bunding and fencing (specifically its stability). They said that acoustic fencing / close boarded fencing that is proposed to be installed along the boundary with Network Rail is a cause for concern. Therefore the acoustic fence and its foundation design would be subject to the Network Rail Asset Protection Engineer review. Any acoustic fencing should be set back from the railway boundary such that the fence and its foundations can be constructed and maintained wholly within the applicant's land ownership footprint. They also had comments about the drainage of the site, likely noised impact of rail operations upon the residents, and congestion of the road network around the station.

In their most recent comments they indicate that all these concerns remain.

6.6 THAMES WATER comment as follows

Waste Comments

With the information provided Thames Water, has been unable to determine the waste water infrastructure needs of this application. Should the Local Planning Authority look to approve the application ahead of further information being provided, we request that the following 'Grampian Style' condition be applied - "Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed". Reason - The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.

Surface Water Drainage

With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

Water Comments

Thames Water recommends the following informative be attached to this planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx. 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

Supplementary Comments

Thames Water advises that a drainage strategy should be provided with the details of the points of connection to the public sewerage system as well as the anticipated flows (including flow calculation method) into the proposed connection points. This data can then be used to determine the impact of the proposed development on the existing sewer system.

NON-STATUTORY CONSULTEES

6.2. CDC POLICY raise no objection in principle and comment

The adopted Cherwell Local Plan states that, in principle, the site offers a suitable location for development, and would contribute to the creation of sustainable and mixed communities. Policy Banbury 19 provides greater detail on the Council's site specific requirements. In particular it states that this is an appropriate location for higher density housing to include a mix of dwelling styles and types. Taking advantage of the accessibility of the site to the town centre, development should create an age friendly neighbourhood with extra care housing and housing for wheel chair users and those with specialist supported housing needs. It also states there is potential for live/work units.

Future detailed reserved matters will need to include, inter alia, the following elements to meet the requirements of Policy Banbury 19:

- a) Approximately 70% houses, 30% flats
- b) 30% Affordable Housing
- c) The provision of extra-care housing and the opportunity for community self-build affordable housing.
- d) Open space as outlined in Policy BSC 11 (NB 200 dwellings will meet the threshold for providing NEAPS, LEAPS/LAPS and outdoor sports provision on site)
- e) Developer contributions towards primary school and secondary education provision.

These specific requirements, and the others required to meet Local Plan policies, may limit the number of dwellings able to be accommodated satisfactorily on the site.

6.3 CDC LANDSCAPE ARCHITECT initially commented that they had concerns in respect of future ownership and maintenance responsibility of the sound attenuation wall. This matter will be clarified with the 106 agreement. We at Landscape Services would appreciate being involved in the drafting of the 106 in respect of the sound attenuation wall and the play area and public open space.

I look forward to the submission detailed hard and soft landscape proposals:

All plants are to be supplied in accordance with Horticultural Trade Association's National Plant Specification and from a HTA certified nursery. All plants are to be planted in accordance with BS3936. Trees are to be supplied, planted and maintained in accordance with BS8545. Delivery and backfilling of all plant material to be in accordance with BS4428/JCLI/CPSE Code of Practice for 'Handling and Establishing Landscape Plants, Parts I, II and III.

All excavated areas to be backfilled with either topsoil from site or imported to be BS3882 –General purpose grade. All topsoiled areas to be clear of rocks and rubble larger than 50mm diameter and any other debris that may interfere with the establishment of plants.

6.4 CDC STRATEGIC HOUSING comments that we have no objection to the proposed residential development and there is a 30% affordable housing requirement to be made on site. There should be a mix of tenure within that affordable housing provision of 70/30 rented and shared ownership which should be agreed with the Council.

As stated, our preference would be for some affordable houses to be designed into the scheme. If this is not possible we would need to have some discussions regarding the best use of the affordable housing on this site in terms of client groups and tenure mix.

We would expect to see a mix of houses and flats making up the affordable housing provision, which should include 1,2, and 3 bed units with the majority being 1 and 2 beds.

However, there is still no indication as to how the affordable housing will be provided. The design appears to consist of large blocks of flats over undercroft

parking which may cause issues with the clustering of the affordable units and potential mixed tenure blocks. In general we do not like to have 2 bed flats for rent above first floor level.

The affordable units should be delivered in clusters of no more than 10-15 units although this can be discussed further at reserved matters stage, should this be awarded outline permission.

All of the affordable housing units are to be built to the government's Nationally Described Space Standard (Technical Housing Standards), and we would expect that 50% of the affordable rented units meet the Building Regulations Requirement M4(2) Category 2: Accessible and Adaptable Dwellings requirement..

The parking provision does not seem adequate, we would expect that for the affordable units the 1 bedroom properties should have a minimum of 1 parking space per unit – and the 2 and 3 bedroom properties should have a minimum of 2 parking spaces per unit.

There may be scope for some form of specialised housing provision on the site due to its town centre location, which may present a more concentrated affordable housing provision, however this will need to be considered further should the scheme progress.

The Registered Provider taking on the affordable housing units would need to be agreed with the council.

6.5 CDC RECREATION AND LEISURE raises no objections subject to a legal agreement securing necessary infrastructure for the site in the following manner

On-site outdoor sports facilities (as per the 2018 SPD)

:

Off-site contribution towards the development of on-site outdoor sports facilities. Based on 1.13ha per 1000 people. 1 dwelling = 2.49 persons. 200no dwellings x 2.49 = 498 x 0.00113ha = 0.56ha requested

Off-site indoor sports facilities (as per the 2018 SPD):

Off-site contribution towards the expansion and/or enhancement of existing indoor sports facilities within the vicinity of Banbury (more specific information to be provided as the new district sports studies emerge). Based on £335.32 per person. 200 dwellings x 2.49 x £335.32 = £166,989.36

Community Hall Facilities (as per the 2018 SPD):

In accordance with the recommendation of the 2017 CCDS Study a required community hall facility standard of 0.185m² per person will be applied for applications of 10 dwellings or more. The minimum onsite facility size is 345m² (approx. 750 dwellings). For applications smaller than this, a financial contribution towards existing facilities within the vicinity of the development will be requested. Based on the cost of existing facilities, £298.88 per 1m² will be expected. 200 x 2.49 persons x 0.185m² x £298.88 = £27,535.81

Public Art Provision:

Financial contributions will be sought for public realm and public art projects listen in the Council's IDP which is updated on an annual basis. Community Services Arts officers to be consulted on a case by case basis for guidance on what projects to request funding towards.

6.6 CDC ENVIRONMENTAL PROTECTION comment

Air Quality

The Air Quality Assessment referenced 3382/AQ/001 submitted by Accon UK does not include damage cost calculations, which was previously advised would be required.

Noise

The Noise Assessment initially submitted is limited to a desk study of noise break-in only and does not include an assessment of the impact of the LRMD and sidings as previously requested.

With regard to the LRMD reference has just been made to a previous report prepared by Spectrum Acoustics indicating that average operational noise levels from the depot would be approximately 45-50dB(A). It also goes on to state the Spectrum Acoustics report does not discuss maximum levels from the LRMD and therefore these could not be assessed. The LRMD wasn't built in accordance with the application for which the Spectrum Acoustics report was submitted. The noise from the sidings is intermittent with the frequent stopping and starting of engines and the release of air brakes. The assessment therefore needs to be in accordance with the requirements of BS4142 and include corrections for the character of the noise. Quoting an indicative average level from a previous report is not sufficient.

Data for the number of train movements has just been taken from the Rupert Taylor report as 'likely to be 22 passenger trains and 36 freight trains', there is also no data for the number of night-time movements. The assessment needs to be based on current movements.

Further uncertainties with this assessment are detailed in section 3.5 of the report, the last paragraph of which mentions that these would be reduced with a detailed acoustic survey and modelling.

With regard to source height the last paragraph in section 4.1.2 mentions that this cannot be determined without a more detailed site survey. In section 4.2 'Proposed mitigation measures' the last sentence states 'However, we do not have sufficient information to accurately assess this', and in section 4.4 the last sentence states 'Again, we would need more detailed survey information to assess this'.

The submitted report is insufficient and does not address the issues previously raised. As previously advised a detailed noise impact assessment is required to include an assessment of all potential noise sources that might impact on the proposed development site

Since these comments a further noise report has been submitted. At the time of writing this report the further comments of the EPO were awaited. They are expected to be received before the Committee and will be included in the written update.

- 6.7 CDC WASTE AND RECYCLING comment that the Developer will have to satisfy the local authority that they have adequate provision for waste and recycling storage, before the application is agreed. Bin stores for flats need to be 1.4 sq.m. and households need space of 1.8 sq.m. If the developer needs any more advice please refer to: Waste and Recycling guidance which can be found on the Cherwell District Council website. Section 106 contribution of £106.00 per property will also be required.

6.8 CDC ECOLOGY

Regarding the above outline application, generally the conclusions of the ecological assessment report are considered to be sound. Since the original habitat survey was undertaken in January 2015, over two years have passed and it is possible that the habitats have become more developed over this time as such updated surveys would be recommended prior to commencement of development. The existing trees should be retained where possible, and all retained trees should be protected in line with the British Standards. Although no evidence of bats was found in the buildings and they are sub-optimal construction for bats, an updated inspection of the buildings should be undertaken prior to demolition works due to the time that has passed since the survey in January 2015. The site comprises large areas of suitable habitat for nesting birds, including the buildings and scrub/trees, as such works should be timed to avoid the nesting bird season (approx. March to August).

The reptile survey was undertaken during April - June 2015, at an appropriate time of year and largely during appropriate weather conditions, although I do note that the temperature during the first visit was cool (6 degrees C) as such no reptiles were likely to have been found. No reptiles were recorded during the survey. As highlighted in the report, a small population of common lizard has been recorded to the north of the site. In addition, a medium population has been recorded to the south of the site (14/01621/F). Given the suitability of the existing habitat within the site from aerial photography and the description (rubble piles), and known records and time since the survey was undertaken, an updated reptile survey should be undertaken prior to any site clearance works commencing, during appropriate weather conditions and at the appropriate time of year (optimal periods are April - June or September-October). I recommend a condition for an updated reptile survey below. The results of which would then inform appropriate mitigation measures should common lizard be present, which should be provided as part of an overarching Construction Environmental Management Plan (CEMP) of the site.

There are no known records of GCN in the local area which appears to have been well surveyed. However as a precaution, great crested newts will need to be considered within the CEMP given the ephemeral pool which is present within the site and ditches present, and an updated assessment of these habitats will be required to inform the CEMP. The site must be cleared sensitively, with ecological supervision of clearance of suitable habitat. Should any GCN be found during works, all works must stop immediately whilst Natural England is contacted for advice and a licence is likely to be required.

From the indicative landscape proposals, I can see that areas of native trees and shrubs are proposed along the north-east boundary of the site and extensive tree planting within the site, including along part of the south-west boundary. The proposed sound bund to the railway line is also a good opportunity to provide biodiversity enhancements within the detailed landscaping. The tree and shrub planting should comprise of a variety of different native species, as these are far more beneficial to biodiversity than non-native species. The detailed landscaping plans should include a suitable buffer to the proposed hedgerows/linear scrub boundaries such as rough grassland/wildflower grassland margins, and be managed for wildlife to ensure these are protected as functioning wildlife corridors. Although the rough grassland, disturbed ground and scrub habitats will be lost to development, given the large areas of existing hardstanding, it is considered likely that a biodiversity gain will be achievable within any detailed plans provided that biodiversity enhancements are considered at the detail design stage, e.g. through the creation of wildflower grasslands within the proposed landscaping areas,

SuDs/swales, and provision of log piles, invertebrate boxes, reptile and amphibian hibernacula in suitable locations along the boundaries of the site. Provision of integrated bat and bird boxes in suitable locations within the proposed buildings are also strongly recommended due to the opportunities within the built environment, e.g. sparrow terraces, bat tubes/boxes etc. Given the swift records in the local area, at least 10 swift bricks should also be incorporated into the walls of the buildings in suitable locations to be advised by an ecologist. Further information can also be provided by the swift conservation officer for Cherwell. In line with the report, the design of the lighting scheme should also consider the use of the site by foraging and commuting bats. A detailed landscape and ecological management plan (LEMP) of the site should include all details of appropriate habitat creation and long term management across all phases of the development.

I therefore have no objections subject to the conditions below:

K9 Reptile Survey

K12 Nesting Birds: No Works Between March and August Unless Agreed

K18 Habitat Boxes

K20 Landscape and Ecological Management Plan (LEMP)

K21 Construction Environmental Management Plans (CEMP) for Biodiversity

K23 Use of Native Species

6.9 CDC FINANCE

It is estimated that this development has the potential to attract New Homes Bonus of £858,800 over 4 years under current arrangements for the Council. This estimate includes a sum payable per affordable home.

6.10 THAMES VALLEY POLICE

I do not wish to object to the proposals. However, I consider some aspects the design and layout to be problematic in crime prevention design terms and therefore feel that the development may not meet the requirements of:

- The National Planning Policy Framework 2018, Section 12 'Achieving well-designed places', point 127 (part f), which states that; 'Planning policies and decisions should ensure that developments... create places that are safe, inclusive and accessible... and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience'.
- HMCLG's Planning Practice Guidance on 'Design', which states that; 'Although design is only part of the planning process it can affect a range of objectives... Planning policies and decisions should seek to ensure the physical environment supports these objectives. The following issues should be considered: safe, connected and efficient streets... crime prevention... security measures... cohesive & vibrant neighbourhoods.'

In addition, the Design and Access Statement (DAS) does not adequately address crime and disorder as required by CABE's 'Design & Access Statements- How to write read and use them'. This states that DAS' should; 'Demonstrate how development can create accessible and safe environments, including addressing crime and disorder and fear of crime'. I suggest the omission of a section on crime and disorder prevention is addressed at reserved matters.

In addition, I offer the following advice in the hope that it will assist the authority and applicants in creating a safer and more sustainable development, should outline approval be granted:

- I am concerned about the provision of undercroft parking. These features can attract antisocial behaviour (ASB) and make vehicles and people vulnerable. This design also creates a development with little or no active frontage to the street at ground level, which can have a negative effect on community interaction. I would prefer to see designs amended to omit the undercrofts or convert them to secure garages. If they must remain, they should be made secure, have appropriate lighting and be overlooked by active rooms of dwellings.
- Blocks A and G have vehicle routes under/through the block. This design can cause the same issues as the above and should be omitted. Again, if they must remain, they should have appropriate lighting and be overlooked by active rooms of dwellings.
- It is unclear from the plans supplied if any of the flat blocks have rooms of dwellings on the ground floor. Regardless, but especially if this is the case, there should be defensible space provided for each of the blocks. An area of at least 1m in depth should be provided to afford the occupants ownership of their private space and provide definition from public areas.
- I note that some flats have balconies. There should be no easily climbable access to these as this will make the blocks more vulnerable to burglary etc.
- The landscaping scheme should ensure that natural surveillance throughout the development and to/from dwellings is not compromised. I am also concerned that some trees and other features may impinge upon street lighting in future. Tree positions and final growth height/spread should be considered to avoid this. A holistic approach should be taken in relation to landscape and lighting and the police's Secured by Design (SBD) scheme guidance on both should be followed.
- The landscaping scheme and maintenance plan must ensure that areas of ambiguous ownership are not created. Measures to prevent vehicle intrusion onto any segregated pedestrian routes and public open spaces must also be provided.
- The design of play areas etc. require careful consideration in relation to proximity to housing, equipment selection (to define user group age etc.), boundary treatment, lighting and landscaping etc. The designs should promote ownership and enjoyment for all users as well as child safety, but they should also deter ASB. Locations must not isolate users and natural surveillance must be maintained.
- I feel there are too many pedestrian routes from the proposed development to the adjacent recreation ground. I believe two would be sufficient and designs of the bridges and an appropriate lighting plan for these routes should be provided prior to submission of a reserved matters application.
- I note that the south facing gable end elevations of the blocks appear to have no windows. Although I am sure the views of the rail lines are not very desirable, there should be oversight of the access road and open spaces at the southern edge of the development from active rooms of the dwellings. Active rooms include living rooms, kitchens and hall ways. Studies, bedrooms, bathrooms/toilets etc. are not considered active.
- Finally, I will have much to advise on at reserved matters in relation to the security of the blocks themselves. Physical security, access control, internal layout, delivery provision, refuse and cycle storage etc. all needs careful consideration. I am of course available to advise the applicants on these aspects should outline approval be granted.
- I would also like to remind the applicants that Building Regulations Part Q requires them to install doors and windows that 'Resist unauthorised access to... new dwellings'. Advice on how to achieve this can be found in Building Regulations Approved Document Q and in SBD's New Homes

Guide. The authority may wish to condition that the development incorporates the physical security principles/standards of SBD as this would ensure Part Q is also achieved

The comments above are made on behalf of Thames Valley Police and relate to crime prevention design only. You may receive additional comments from TVP on other Policing issues regarding infrastructure etc. (CDC officers note – no further comments received)

7. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

- Policy PSD 1: Presumption in Favour of Sustainable Development
- Policy SLE4 Improved Transport and Connections
- Policy BSC 1: District Wide Housing Distribution
- Policy BSC 2: The Effective and Efficient Use of Land
- Policy BSC 3: Affordable Housing
- Policy BSC 4: Housing Mix
- Policy BSC 11 : Local Standards for Outdoor Recreation
- Policy ESD 1: Mitigating and Adapting to Climate Change
- Policy ESD 2: Energy Hierarchy and Allowable Solutions
- Policy ESD 3: Sustainable Construction
- Policy ESD 4: Decentralised Energy systems
- Policy ESD 5: Renewable Energy
- Policy ESD 7: Sustainable Drainage Systems (SuDs)
- Policy ESD 10: biodiversity
- Policy ESD 15: The Character of the Built and Historic Environment
- Policy Banbury 19: Land at Higham Way

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- Policy C28: Layout, Design and External Appearance of New Development.
- Policy C30: Design Control
- Policy ENV12: Development on Contaminated Land

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Relevant Policies of the Non-Statutory Cherwell Local Plan 2011
 - Policy EN 8: Development sensitive to rail traffic
 - Policy EN 14: Development and Flood Risk
 - Policy EN 15: Surface water run-off and flooding
 - Policy EN 17: Development on contaminated land
- Oxfordshire Minerals and Waste Local Plan: Part 1
 - Core Strategy (2015) policy W11

8. APPRAISAL

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

- Principle of development
- Access and transport impacts
- Car parking
- Flood risk and drainage
- Design, and impact on the character of the area
- Housing mix and affordable housing
- Ecology and biodiversity
- Noise impact assessment
- Climate change mitigation
- Open space and outdoor recreation
- Minerals and waste matters
- Contaminated land
- Planning obligations

Policy Context

- 8.2. 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. Section 70 (2) of the Town and Country Planning Act 1990 also provides that in dealing with applications for planning permission that the local planning authority shall have regards to the provisions of the development plan so far as is material to the application and to any material considerations. The Development Plan for Cherwell District comprises the adopted Cherwell Local Plan 2011-2031 and the saved policies of the adopted Cherwell local Plan 1996.
- 8.3. The National Planning Policy Framework (NPPF) states 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. Paragraph 7 of the NPPF sets out what is sustainable development, the three strands being economic, social and environmental. 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.

- 8.4. The NPPF does not change the status of the development plan as the starting point for decision making. Proposed development that conflicts with the development plan should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan that was adopted following Examination in July 2015 and can demonstrate a 5 year housing land supply.
- 8.5. Policy PSD1 of the Cherwell local Plan 2011-2031 accords with the NPPFs requirement for 'sustainable development' and that planning applications that accord with the policies in the statutory Development Plan will be approved without delay unless material considerations indicate otherwise.
- 8.6. 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 Bicester and Banbury and a small number of strategic sites outside these towns.
- 8.7. The application site is identified as a strategic residential development site under Cherwell Local Plan Policy Banbury 19. This policy is therefore fundamental to the consideration of the application as the site is an allocated and identified site. The policy sets out a number of parameters which need to be considered and addressed as part of any application. The site allocation description is '*a redevelopment that would bring about environmental benefits in terms of using previously developed and vacant land within the town*'. The policy further specifies that the dwelling mix shall 30% affordable housing with a dwelling mix of 70% houses and 30% flats with opportunities for extra-care housing and self-build.
- 8.8. The Plan also includes a number of other relevant policies to this application, including those related to sustainable development, transport, flood risk, ecology, environment and design. These policies are all considered in more detail in the appraisal below.
- 8.9. The adopted Cherwell Local Plan 1996 includes a number of policies saved by the adopted Cherwell Local Plan 2011-2031, most of which relate to detailed matters such as layout and design. The policies of the adopted Cherwell Local Plan 1996 are also considered in more detail below.

Assessment

- 8.10. The Council's current position on housing land supply is published in the 2018 AMR which shows that the district has a 5.0 year housing land supply for the period 2018-2023 and a 5.2 year supply for the next year period (2019-2024). Cherwell District Council can therefore demonstrate a five year housing land supply. 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 only 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 where a 3 year supply of deliverable sites cannot be demonstrated.
- 8.11. Given the proposed development is allocated for residential development under Policy Banbury 19, the principle of developing the site for residential purposes is established. Whilst the proposed allocation refers to approximately 150 dwellings, this application seeks consent for up to 200 dwellings and is therefore technically a departure from the Development Plan. Policy BSC2 of the Cherwell Local Plan

seeks to ensure the effective and efficient use of land and it is considered that the increase in housing numbers may be acceptable provided it can be shown that the site can be delivered without causing undue harm and subject to complying with other policies in the plan and other material considerations.

Access and transport impacts

- 8.12. Access for vehicles, cyclists and pedestrians is proposed by means of a 5.5m wide road with one footway connecting into Higham Way. Higham Way itself is adopted highway although comparing the original site plan and the highway records suggested that there is a gap between the adopted road and the planning application site boundary. This has now been corrected. As noted at para 6.4 above the traffic and transport implications of this proposal have been analysed and the subject of discussion over the time period that this application has been processed.
- 8.13. Following initial concerns, due to the lack of adequate modelling, about the possible impact upon the Merton Street/Bridge Street junction, further assessment work was undertaken. The County Council, as local highway authority, are now content that the addition of the traffic produced by the development would not cause severe harm to this part of the local highway network.
- 8.14 The County Council also initially expressed the view that the development provided the opportunity to provide a road linkage southwards across this site and into the BAN 6 policy area allowing a future connection through to the South East Link road identified in the OCC Local Transport Plan 4. A road through this development linking into the adjoining Banbury 6 site would help to mitigate the impact of this site and wider Cherwell Local Plan growth in Banbury. A South East Link Road has been identified in the county council's LTP4 linking Chalker Way to Bankside. The benefits of this road will be greatly enhanced if a vehicular link through to this development site (Banbury 19) is made. At present only two roads cross the railway in Banbury (Bridge Street and Hennef Way). Providing a route from Grimsbury into the proposed South East Link Road via Higham Way and the proposed development site will provide greater connectivity and access from the Grimsbury area to southern Banbury, the eastern employment areas, and the motorway/strategic road network beyond. Without the link from Higham Way to the South East Link Road, the existing connectivity and access issues at Grimsbury will be exacerbated. The road link between this development site and Banbury 6 should be secured through a S106 agreement. In order for the road link to safely accommodate cars and buses it should be at least 6.5m wide.
- 8.15 The illustrative plan for the scheme has now been amended to show the ability to construct a road of appropriate alignment and construction from Higham Way to the boundary of the site.
- 8.16 The County Council have commented that over and above what is required to mitigate the direct impacts of a development in this location, development that is likely to create general demand for new transport infrastructure, or overload the existing off-site transport infrastructure and/or traffic management arrangements, will be expected to contribute to future measures (to be undertaken by public authorities) designed to mitigate the impact. They calculate that an appropriate contribution (based on all flats being two-bedroomed) would be £145,464. The basis of this calculation seems reasonable and can be justified.

- 8.17 Policy Banbury 19 in the Cherwell Local Plan sets out how this development should encourage walking and cycling, particularly in the local area. One of the policy's key site specific design and place shaping principles is:

"A layout that maximises the potential for walkable neighbourhoods and enables a high degree of integration and connectivity between new and existing communities. New footpaths and cycleways should be provided that link to existing networks "

As such it is welcome that potential links are shown on the illustrative proposed site plan that lead to the open space to the north east of the site. These connections will need to be secured by means of the S106 agreement. The connections must then lead to Padbury Drive so that onward journeys can be made to Thorpe Way which will give access to the employment area there. The illustrative plans thereby indicate that compliance with that element of Banbury 19 can be achieved.

- 8.18 With regards to public transport this site is located some 800 metres from bus services passing along Middleton Road and Bridge Street to Banbury Town Centre. In the opposite direction, buses extend beyond Grimsbury to Brackley (service 200); to Daventry (service 500) and to the Gateway Retail Park (service B6). The Banbury bus strategy includes a proposal to develop a cross-town route between the Gateway Retail Park, from employment areas to the north-east of Banbury, through Grimsbury and the Town Centre towards Bretch Hill in the western suburbs. This service would provide direct links between residential and employment areas on opposite sides of the town, that currently do not exist. The County Council suggest that the developers of this site should be required to contribute £1,000 per dwelling towards the delivery of the new east-west public transport corridor through Banbury. Residents of the Higham Way development would then have access to a frequent bus service to the Banbury Cross area and to the various facilities such as educational and medical facilities in this area. This contribution is matched by an equivalent per-dwelling contribution from a development site in Bretch Hill and will be matched by requests to other developers along this corridor.

- 8.19 Whilst there are no public rights of way that actually cross the site, there are a number that are close and which will see increased usage if the development is permitted. The routes potentially provide a useful route for pedestrians to get access to the Chalker Way industrial/employment area. In their current state they are not suitable for increased pedestrian usage. The County Council therefore seeks the developer to pay a contribution of £30,000 towards an upgrade of the route – specifically improvements to the surfacing. This would help provide a suitable route to this employment area from the development, showing that the applicant has considered all opportunities for sustainable transport modes in line with the NPPF.

Car parking

- 8.20 Car parking is proposed at just over 1 space per dwelling allowing a limited number of visitor spaces. This is considered acceptable given the proximity of railway station, the funding to improvements of the public transport system, and the proximity of the town centre and schools. In their original comments OCC expressed the view that more car parking as required, but more latterly has not made any further comment on this, and has few remaining concerns.

Flood risk and drainage

8.21 Policies ESD6 and ESD7 of the adopted Cherwell Local Plan relate to Sustainable Flood Risk management and Sustainable Drainage Systems. Policy ESD6 requires that developments are assessed according to the sequential approach and where necessary the exceptions test as set out in the NPPF and NPPG. Policy ESD7 Sustainable Drainage Systems (SuDS) requires that all development will be required to use SuDS for the management of surface water run-off. This policy also requires ground water quality to be protected, flood risk to be reduced where possible, reduce pollution and provide landscape and wildlife benefits.

8.22 A Flood Risk Assessment was originally submitted with the application, and following initial objections from the Environment Agency and OCC as lead local flood authority a revised document was submitted. The Environment Agency (EA) Flood Zone map shows the site lies partly within Flood Zone 3 'High Probability' area for the River Cherwell, defined as follows:

Flood Zone 3 'High Probability' (greater than 1 in 100 (1.0%) annual probability of river flooding or greater than 1 in 200 (0.5%) annual probability of sea flooding)

The Flood Zone classification ignores the presence of flood defences. However, the detailed EA flood data confirms that the site is offered up to a 1 in 200 year (0.5% annual probability) standard of protection from the Banbury Flood Alleviation Scheme (Banbury FAS), which opened in 2012.

8.23 In their latest response the EA comment that

"In our response to this application dated 6 August 2018, we objected to this proposal and recommended refusal of planning permission because of the absence of an acceptable Flood Risk Assessment (FRA). In particular, the submitted FRA failed to provide detailed information on the proposed undercroft parking and underfloor voids regarding losses and gains in floodplain storage, and clarify whether there would be any loss in flood plain storage proposed from the under crofts.

Since our response, we have received additional information. We are pleased to see the clarification that there will be increased flood plain storage gained on this site. We are however concerned, that the proposed undercroft parking drawing ..., has not confirmed whether the proposed undercroft void would be set above the 1 in 100 year flood level with an appropriate allowance for climate change. As no height for this void has been specified on this drawing, it has not been demonstrated whether flood flows would be impeded and if flooding would occur elsewhere. We therefore maintain our objection to this proposal as submitted".

Your officers are awaiting confirmation that this issue has been satisfactorily resolved.

Design and impact upon the character of the area

8.24 The illustrative plans and asymmetric views of the proposed development show the 200 units being provided in 12 blocks of 3-5 storey flats. These blocks are orientated to be set at an angle to the railway line to minimise noise nuisance and to maximise sunlight to the dual aspect flats and the intervening courtyards. It is proposed that a large percentage of the car parking would be under the flat blocks in under crofts. This will produce a distinctively different form of development, albeit that there are other forms of flat development to the north and east of the application site in Marshall Road and Vernay Road.

8.25 The site is long narrow and not regularly shaped, and consequently it is difficult, if not impossible, to envisage a layout in a traditional street format. Given the need to

accommodate over 150 units (see later in the report for the justification of the number of units proposed) the scheme, of necessity, requires an approach using multiple flat blocks to be used. High density schemes were envisaged in Policy Banbury 19. The illustrative material shows an innovative layout and potential design for the blocks which deals with the competing pressures of parking, the provision of open space, the need to provide the through route, and providing the best possible living conditions for future residents of the development.

- 8.26 The use, in part, of four and five storey blocks of flats has been assessed both in terms of its impacts upon wider views and from the immediate vicinity of nearby residential property and the railway. The southern end of the site is potential visible in the wider views from Bankside and the canal and from closer views from the roadway leading from the station to Banbury United FC. The illustrative layout plans show a reduction in building height at the southern end of the site. In your officers opinion this impact would be acceptable and not overly intrusive.
- 8.27 The northern end of the site tucks into the corner created by existing development of Marshall Road and Vernay Road which is predominantly four and three storey developments respectively. This relationship and the character of the existing and proposed development are considered to be compatible.

Housing mix and affordable housing

- 8.28 Policy Banbury 19 requires that 30% of the new dwellings provided on the site shall be affordable in the interests of supporting the creation of mixed and balanced communities in accordance with both local and national planning policy objectives. Policy BSC3 is also material and specifies that the council seeks at least 70% of the affordable homes to be affordable rented units with the remainder intermediate housing (such as shared ownership). In the original application the applicant has indicated a commitment to provide such affordable housing but an issue has arisen with regard to the viability of the site. See section below on the planning obligation. Any affordable housing will need to be secured through a section 106 agreement.
- 8.29 Policy Banbury 19 also indicates that the dwelling mix aimed for on this site should be 70% houses and 30% flats. The submitted scheme deviates from that dramatically as it is proposed to be made up entirely of flats, and with an additional 50 units over and above the 150 proposed in the allocation. Policy BSC4 relating to housing mix aims to encourage a mix of housing to suit the needs of the population and enable movement through the market from one house type to another as the needs of households change. The Oxfordshire Strategic Housing Market assessment provides conclusions on a strategic mix of housing for Oxfordshire to 2031. The development economics of this site (influenced significantly by the high cost of remediation of the site) have led the applicant to promote the site for a denser development than envisaged in the Local Plan policy to make the site feasible for development. In your officers opinion the provision of either 150 units (as proposed in BAN 19), or the 200 proposed in this application, would results in the need to produce a scheme made up of all flats given the shape of the site, the need to accommodate car parking, the through route for the road, and the provision of necessary open space and play space.
- 8.30 In the Strategic Housing Officers comments they raise no objections but then confusingly refer to seeking a mixture of houses and flats and indicating that they try not to agree 2-bed flats above first floor level. Whilst this may be desirable, as Development Management officers we do not consider that anything other than a scheme of all flats is feasible and deliverable on this site, and that therefore this exclusion of houses should be agreed.

Ecology and Biodiversity

- 8.31 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.
- 8.32 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.
- 8.33 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.
- 8.34 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.
- 8.35 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.
- 8.36 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.
- 8.37 The application is supported by an Ecological Assessment that concludes that subject to appropriate mitigation, on the basis of current evidence, there are not considered to be any overriding ecological reasons why the site could not be developed. The Council's Ecology Officer has commented that generally the conclusions of the assessment are considered sound and raises no objections subject to conditions covering issues such as the need for a further reptile survey; protection of nesting birds; provision of nesting boxes; the need for Management Plans for landscape and ecological management and construction management. This issue is therefore considered acceptably dealt with by the imposition of conditions.

Noise impact

- 8.38 A revised noise impact report was received on 16 May 2019. The significant noise sources affecting the site are:

- Diesel locomotives on the rail line on the site's southern boundary;
- Activities taking place at Chiltern Railway's Light Maintenance Depot close to the site's south-eastern boundary;
- Road traffic on the M40 approximately 950m east of the site;
- Noise from the industrial estate approximately 300m north-east of the site.

8.39 The conclusions of that report are that due to the relatively high noise levels across the site the dwellings cannot be ventilated by openable windows and meet the internal noise criteria set out by the Council. It is proposed to install a noise barrier along the south-west boundary of the site. They recommend that the proposed barrier should be a total of 6 metres high and can be a combination of earth bund topped with a fence if achieving this height is difficult with either bund or fence alone. Fencing should have no holes or gaps and be made of an appropriate dense material. It is also proposed that the flats shall be fitted with various grades of acoustic double glazing depending on whether the windows are facing the railway or other directions. With the proposed mitigation measure and the facade treatments in place, internal noise levels should comply with the noise criteria set out by the Council. External amenity areas across most of the site meet the recommended levels set out in BS8233. They have assessed the noise from the Light Maintenance Depot to the south west of the site according to BS4142:2014. The proposed dwellings will require noise control measures to avoid significant adverse impacts at night.

8.40 It will be noted that one element of the noise mitigation is the installation of tall fencing and/or bunding. Comments on the visual impact of such mitigation measures is referred to at para 8.45 below.

8.41 At the time of writing this report the further comments of the EPO had not been received. These will be reported to Committee in the written update

Climate Change mitigation

8.42 The applicant has submitted an energy statement. The applicants indicate that they intend to follow a fabric-first policy and propose the installation of triple glazing to improve acoustics and heat loss; solar pv on all south facing roof slopes; mini wind turbines per block; and communal heating systems consisting of air source heat pumps, ground source heat pumps and biomass boilers. The proposal will therefore be able to comply with the ESD policies of the Local Plan and with the relevant bullet point in Policy Banbury19 . This exemplary approach will be secured by condition

Open space and recreation

8.43 The submitted illustrative layout indicates that the areas between the multiple blocks will be separated by communal soft landscaping areas. It is intended that there will be either on-site play provision or the possibility of enhancing nearby spaces. The applicants indicate that the distribution of open space has evolved by taking into account the need to link into existing neighbourhood spaces. Residential areas will be characterised by street trees, landscaped verges, with the inclusion of a green link running through the heart of the site interrupting the building pattern and softening the street scenes.

8.44 At para 6.5 above the views of the Council's Recreation and Leisure team are reported. It will be seen that they seek contributions towards indoor sports facilities, and the provision of on-site outdoor facilities. No such facilities are proposed, and there is not sufficient land available to provide them. Policy

Banbury 19 does not require on-site provision, albeit that Policy BSC11 indicates that new development should contribute to the provision of open space, sports and recreation. This on-site shortfall would therefore need to be overcome by a further contribution via the legal agreement that secures other infrastructure contributions.

- 8.45 Due to the noise climate on the site it will be necessary to place a continuous noise bund/fence combination along the railway boundary. Careful attention will be needed to the appearance of this, especially on the site side of that structure, which otherwise could have a dominant appearance. Along approximately half of its length there will be good opportunities for screen planting, but at other points, because of the alignment of the internal access road such opportunities are more limited. It will be necessary to carefully consider the form of the noise mitigation structure at reserved matters stage.

Minerals and waste matters

- 8.46 The proposed development site includes a waste transfer station operated by Grundon. This site is proposed to be safeguarded for waste management use in the submitted Oxfordshire Minerals and Waste Local Plan: Part 1 – Core Strategy (2015) (policy W11 and Appendix 2).

This waste management facility is being relocated to a nearby site at Thorpe Mead, where planning permission was granted in 2011 for the redevelopment and extension of an existing waste transfer and recycling facility also operated by Grundon. There would therefore be no loss of waste management capacity as a result of the proposed development of the Merton Street site, and the proposed development would not be contrary to policy W11 of the emerging new Minerals and Waste Local Plan: Part 1 – Core Strategy, and consequently OCC do not object to the proposal.

Contaminated land

- 8.47 The site was initially developed as a gasworks in the late 1880s and was further expanded in the 1930s and 40s with a railway line that was present in the central and western parts of the site. The site was decommissioned between 1955 and 1978, however, some historical structures remained.

Historical decommissioning of Gasworks generally comprised the levelling of a site with the retention of in ground structures. Previous site investigation has identified the remnants of below ground structures including the gasworks house, tar and liquor wells, retort house, carburetted water gas (CWG) plant and purifier and below ground storage tanks. Following the decommissioning of the site as a gasworks the site was used for scrap metal storage, a steel fabricators and more recently a waste collection depot.

- 8.48 The site was the subject of previous intensive site investigation. Significant soil contamination has been identified, mainly associated with the former gasworks (particularly the tar wells) and former structures in the northwest of the site up to a depth of 5m below ground level. Additional contamination has been recorded in the south of the site including asbestos contaminated ground and fly-tipped rubbish. The primary soil contaminants of concern have been identified to be Total Petroleum Hydrocarbons (TPH), Polycyclic Aromatic Hydrocarbons (PAHs), Ammonia, Cyanide, Heavy Metals, Phenols, asbestos and BTEX compounds

- 8.49 As a result of the findings above the site will require extensive remediation. The Council's Environmental Protection Manager has commented that if planning consent were to be granted he would recommend the standard contaminated land conditions be applied to any consent. The submitted reports meet the

requirements of conditions concerning a desk study/site walk over and for an intrusive investigation.

Planning Obligations

- 8.50 Policy INF1 of the Cherwell Local Plan 2011-2031 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*. Contributions can be secured via a section 106 agreement provided they meet the tests of Regulation 122 of the Community Infrastructure Regulations 2010.
- 8.51 Having regard to the above, in the event that Members were to resolve to grant planning permission, the following matters 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 its adverse impacts:

In summary the overall heads of terms sought by OCC and CDC amount to

Cherwell District Council

- 30% affordable housing
- Provision of on-site public open space and future maintenance arrangements – potentially this would be dealt with by a management company
- Financial contribution towards the provision of off-site outdoor sports pitches, and financial contribution for future maintenance arrangements
- Financial contribution towards community hall facilities
- Financial contribution to indoor sports improvements at Spiceball
- Provision of on-site children's play provision and financial contribution for future maintenance (again potentially by management company); or contribution to improvement of nearby play provision
- Provision of on-site SuDS drainage and financial contribution for its future maintenance
- Public art provision on site
- Financial contribution towards police infrastructure

Oxfordshire County Council

- Strategic transport contribution
- Vehicular/pedestrian/cycle connection to Banbury 6 Site
- Pedestrian/cycle connections to north-east – including improvements to public rights of way
- Public transport – bus services contribution

- Travel plan monitoring contribution
- Section 278 highway works – to connect to Higham Way
- Early years education contribution
- Secondary education contribution
- Special Education Needs contribution
- Financial contribution towards Libraries and adult day care

- 8.52 It is recognised that the need for the remediation of the contamination of this site adds significantly to the cost of developing the site and has a significant impact upon the viability of the site. The applicant has submitted a confidential detailed site viability assessment and the Council have had that document independently reviewed. As part of that external review detailed examination was given to the applicants costs and a revised conclusion was agreed. In simple terms the conclusion is that due to the exceptional costs of site restoration the development of the site is not viable if both the normal affordable housing requirement is met and full Section 106 payments are made. The latter amount to in excess of £2.1 million for the District and County Council contributions.
- 8.53 Your officers have been working on the assumption that the Council will wish to seek to ensure that this site provides at least some affordable housing. In the light of the above it will be necessary to seek the overall extent of financial payments to be reduced. As a guide the applicants have indicated that if the infrastructure contributions were reduced to £1.1 million then it should be possible to provide in the region of 9% affordable housing. Clearly there is the need for complex three-way negotiations between the applicants and both Councils to conclude a level of contributions and affordable housing that are acceptable. Difficult decisions about foregoing elements of essential infrastructure are necessary if this scheme is to be approved. Whilst these discussions are on-going they will not be concluded by the date of Committee. It is therefore recommended that the Committee indicate their general agreement to this scheme subject to achieving a satisfactory resolution of the planning obligation issues. Any views expressed by the Committee can of course be taken into account in the negotiations.
- 8.54 Some of the shortfall in either affordable housing or infrastructure contributions may be eligible to be enhanced by seeking Growth Deal money. This possibility will be pursued separately.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. This site is allocated under Policy Banbury 19 for residential development. However it is a difficult site to develop because of its shape, the need to provide a through route from Higham Way to the south to connect to the Policy Banbury 6 site and hence to the proposed South East Link Road, the cost of remediation of the contaminated land, and the high noise levels on the site. The applicants are proposing that in order to meet these demanding requirements that the density of development is increased to make the site feasible/viable to develop at all.
- 9.2. In your officers opinion this increase in density is necessary. Given the size and shape of the site this increase is only possible if the scheme becomes all flats. Whilst this is contrary to Policy Banbury 19, not agreeing to such an increase in

density and the consequent omission of houses may result in the land not coming forward for residential development with the consequent impact upon housing delivery. Any reduction in density and hence housing unit numbers will only worsen the viability of the site.

- 9.3. The design of the layout of the proposal has been revised to ensure that a through route can be provided across the site so that a future link from Merton Street to the proposed South East Link Road can be safeguarded. Other aspects of Policy Banbury 19 and other relevant policies are met.
- 9.4. Clearly the issue of noise levels on the site, and the need for extensive mitigation to create an acceptable residential amenity level are important. It is hoped that this matter can be dealt with by conditions. The final views of the EPO are awaited.
- 9.5. Due to the lack of viability of the scheme, driven by the high remediation costs, it is necessary to strike a balance between affordable housing and other infrastructure contributions. It is recommended that provided Members find other aspects of the proposal acceptable that the recommendation set out below is accepted allowing negotiations to proceed with confidence that if an acceptable conclusion is reached then planning permission will be forthcoming. Failure to reach agreement would of course result in the application returning to Committee.

10. RECOMMENDATION

That permission is granted, subject to (i) the satisfactory resolution of the outstanding drainage and noise issues; (ii) the following conditions (with delegated authority given to the Senior Manager Development Management to add to or amend conditions as deemed necessary) and (iii) subject to the applicants entering into a legal agreement in the terms set out in para 8.51 above as amended by on-going negotiations with regards to affordable housing and the overall infrastructure costs

1. No development shall commence until full details of the layout, scale, appearance, access and landscaping (hereafter referred to as reserved matters) of the hereby approved development 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, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended). 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.

2. 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.

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, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

3. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and documents: Application forms , Design and Access Statement, Energy Statement, and drawings numbered:

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

4. Prior to the commencement of development hereby approved, a phasing plan covering the entire application site 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 phasing plan and each reserved matters application shall only be submitted in accordance with the terms of the approved phasing plan and refer to the phase (or phases) it relates to as set out in the approved phasing plan.

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

5. All reserved matters submissions within an approved phase (where buildings are proposed) shall be accompanied by details of the proposed finished floor levels of all proposed buildings in relation to existing surrounding ground levels for that phase shall be submitted as part of the reserved matters application. Where the floor level details are approved as part of the reserved matters approval, the development in that phase shall be undertaken in accordance with the approved levels.

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

6. Prior to the commencement of the development hereby approved, the buildings and structures on the site at the date of this permission shall be demolished and the debris and materials removed from the site.

Reason - In order to achieve a satisfactory form of development, to ensure that the site is not overdeveloped 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.

7. No more than 200 dwellings shall be accommodated on the site.

Reason - In order to achieve a satisfactory form of development, to ensure that the site is not overdeveloped 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.

8. Prior to the commencement of the development hereby approved, full details of the means of access between the land and Higham Way, 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 and to comply with Government guidance contained within the National Planning Policy Framework.

9. Prior to the first occupation of any of the dwellings hereby approved, all of the estate roads and footpaths (except for the final surfacing thereof) shall be laid out, constructed, lit and drained in accordance with Oxfordshire County Council's 'Conditions and Specifications for the Construction of Roads' and its subsequent amendments.

Reason - In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Government guidance contained within the National Planning Policy Framework.

10. Prior to the first occupation of any dwelling hereby approved the main access road shall be completed in accordance with condition 10 above to a point on the south-east boundary to be first agreed with the Local Planning Authority

Reason - In order to secure the proper planning of the area and the development of adjoining land and to safeguard the opportunity to provide a link to the proposed South East Link Road

11. Prior to the commencement of the development hereby approved, a detailed drainage strategy for the surface water and foul sewage drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, and prior to the commencement of any building works on a phase of the development a detailed surface water and foul water drainage scheme shall be carried out and prior to the first occupation of any building to which the scheme relates the approved foul sewage drainage scheme shall be implemented. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".

The strategy shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development. The phases shall subsequently be implemented in accordance with the approved details before the development is completed. The schemes shall also include:

- Discharge Rates
- Discharge Volumes
- Maintenance and management of SUDS features (this may be secured by a Section 106 Agreement)
- Sizing of features – attenuation volume
- Infiltration tests to be undertaken in accordance with BRE365
- Detailed drainage layout with pipe numbers
- SUDS (list the suds features mentioned within the FRA to ensure they are carried forward into the detailed drainage strategy)
- Network drainage calculations
- Phasing plans
- Flood Risk Assessment

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.

12. Prior to the commencement of the development hereby approved, full details of a scheme for acoustically insulating all habitable rooms within the dwelling(s) such

that internal noise levels do not exceed the criteria specified in Table 4 of the British Standard BS 8233:2014, 'Guidance on sound insulation and noise reduction for buildings', shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the dwelling(s) affected by this condition, the dwelling(s) shall be insulated and maintained in accordance with the approved details.

Reason - To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

To be reviewed once EPO comments received

13. Prior to the first occupation of any dwelling a noise barrier to perform in accordance with the requirements of the submitted noise report shall be installed and thereafter retained in situ

Reason - To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

To be reviewed once EPO comments received

14. 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.

15. If remedial works have been identified in condition 14 above the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 15. 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.

16. 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.

17. Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance or the translocation of any reptile, a reptile survey (which shall be in accordance with best practice guidelines) shall be carried out, and the findings, including a mitigation strategy if required, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works of mitigation shall be carried out in accordance with the approved details.

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

18. No removal of hedgerows, trees or shrubs nor works to, or demolition of buildings or structures that may be used by breeding birds, shall take place between the 1st March and 31st August inclusive, unless the Local Planning Authority has confirmed in writing that such works can proceed, based on health and safety reasons in the case of a dangerous tree, or the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site.

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 the National Planning Policy Framework.

19. Prior to the commencement of any phase of the development hereby approved, full details of a scheme for the location of bat, bird, owl and invertebrate boxes on that phase of development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of any building on that phase of the development, the bat, bird, owl and invertebrate boxes shall be installed on the site in accordance with the approved details.

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

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

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

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

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of 'Biodiversity Protection Zones';
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- h) Use of protective fences, exclusion barriers and warning signs

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

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

22. Reserved matters applications made for any phase as defined in the approved phasing plan shall be in general accordance with the submitted Energy Strategy and shall be the subject of a further energy statement that demonstrates how the development in that phase will take the opportunities available to improve energy efficiency and incorporate low carbon technology to minimise environmental impact. No dwelling shall be occupied until it has been constructed to meet the energy performance standard in accordance with the approved details.

Reason - To ensure sustainable construction and reduce carbon emissions in accordance with Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework. Details are required at pre-commencement stage to ensure that from the outset each dwelling is designed and constructed to achieve a high level of fabric efficiency in the interests of environmental sustainability.

23. Prior to the commencement of each successive phase of the development hereby approved, full details of the location, method of storage and disposal of all means for the disposal of domestic waste from the flats shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out and maintained in accordance with the approved details.

Reason – To ensure that proper arrangements are made for the disposal of manure/slurry/waste, to ensure the creation of an environment free from intrusive levels of odour/flies/vermin/smoke/litter and to prevent the pollution of adjacent ditches and watercourses, in accordance with Policies AG5 and ENV1 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

24. Prior to occupation of any phase of the development a residential travel plan shall be submitted to and approved by the local planning authority in consultation with the local highway authority. The plan shall incorporate details of the means of regulating the use of private cars at the development in favour of other modes of transport and the means of implementation and methods of monitoring.

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

25. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan 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.

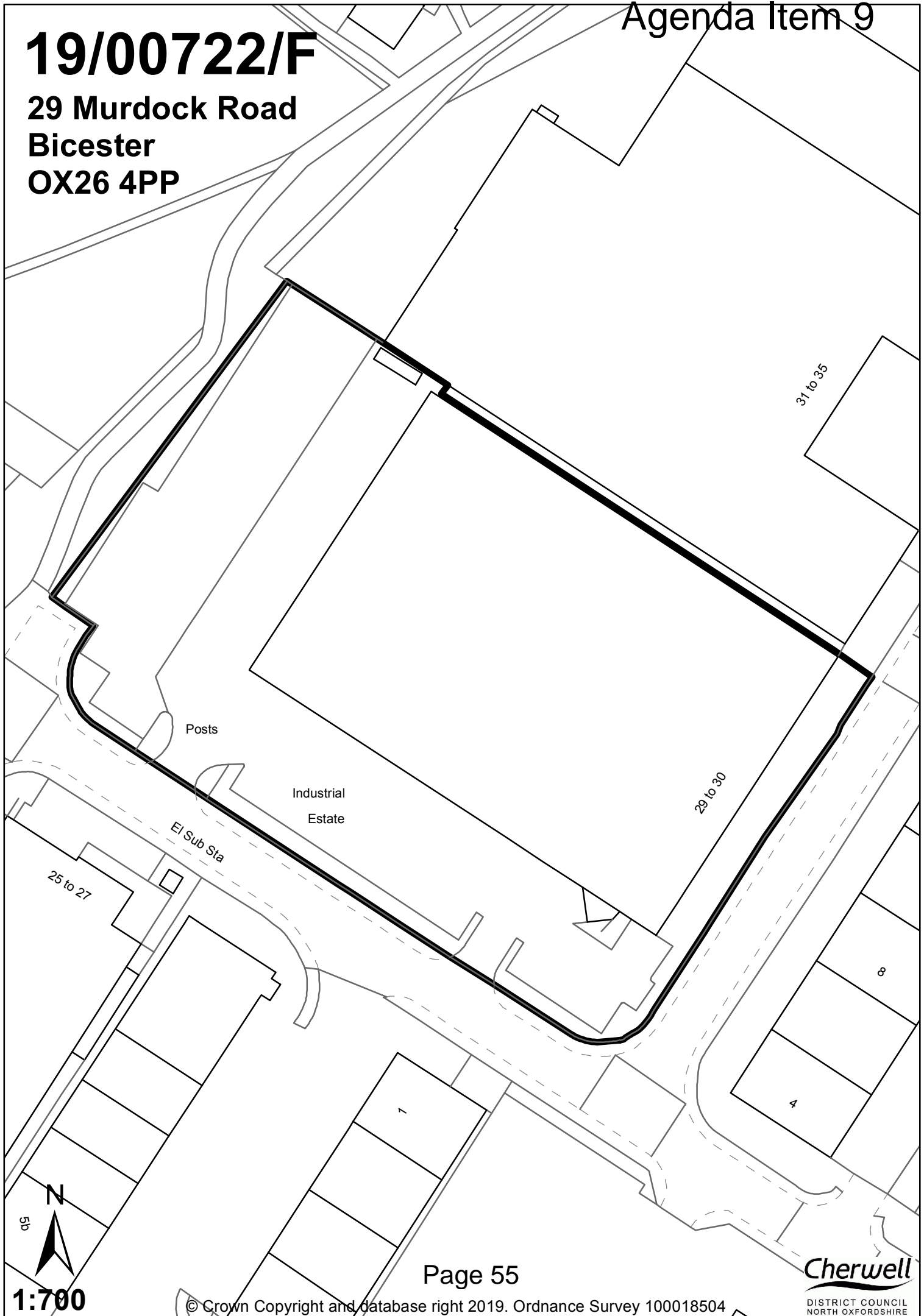
Reason - In the interests of highway safety and the residential amenities of neighbouring occupiers.

CASE OFFICER: Bob Duxbury

TEL: 01295 221821

19/00722/F

**29 Murdock Road
Bicester
OX26 4PP**



19/00722/F

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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Case Officer: Sarah Greenall

Applicant: Go Karting For Fun Limited (trading As TeamSport)

Proposal: Change of Use to provide for an indoor go-karting facility (sui generis use), minor external alterations

Ward: Bicester East

Councillors: Cllr Sean Gaul
Cllr Richard Mould
Cllr Tom Wallis

Reason for Referral: Local interest

Expiry Date: 13 June 2019

Committee Date: 18 July 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

Planning permission is sought to change the use of the building from an industrial unit (use class B8) to provide an indoor go-karting facility (sui generis) along with minor external alterations to the building. The alterations to the building include removing the existing door and window on the south west elevation (Elevations A), creating a bigger opening and inserting glazed customer automatic entrance doors. The proposals confuse the application for planning permission and advertisement consent which should be dealt with separately. As such, the proposed advertisements and associated lighting will be dealt with in the advertisement consent and not discussed as part of this application.

Consultations

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

- OCC Highways, CDC Building Control, CDC Environmental Health

19 letters of objection have been received and 3 letters of support have been received.

Planning Policy and Constraints

The site lies within an existing strategic employment site. It is also located on 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
- Highway 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. 29 Murdock Road forms part of a wider industrial area that has a mixture of uses including B1, B2, B8 and D2. The unit has a floor space of approximately 2,389 square metres and comprises of a two storey commercial warehouse unit, with an area of designated parking to the front and side of the unit. The site is accessed via Murdock Road which forms the wider industrial estate, which itself is accessed off Launton Road. The north east, south east and south west of the site is bound by other industrial units, with the north east of the site being bound by a footpath, with residential properties and an area of open green space beyond.
- 1.2. The footpath to the north west of the site provides access to Bicester town centre which is approximately 0.7 kilometres from the site. Also in close proximity are a number of bus stops located on Churchill Road, the closest of which is approximately 350 metres to the north east of the site and Bicester North train station less than a 1 kilometre walk to the west of the site.

2. CONSTRAINTS

- 2.1. The application site is located on an existing strategic employment site. The site is also located an area of potentially contaminated land likely due to the industrial nature of the area and the close proximity to the railway. However this is not relevant to this application given that there is no excavation involved with this proposal. There is a public footpath to the north west of the site however this is unlikely to be impacted by the proposed development. There are records of protected and notable species within a 250 metre buffer of the site. There are no other site constraints directly relevant to this application.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. Planning permission is sought to change to use of the unit to provide for an indoor go-karting facility (*sui generis* use) with minor external alterations to the building.

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>
NE.456/72	Erection of warehouses of varying size including access road, car parking and lorry loading areas	Application Permitted
CHS.59/79X	Alterations to warehouse and provision of	Application

	office accommodation	Permitted
CHS.247/79X	Extension to form store disaster unit	Application Permitted
CHS.210/88	Erection of 6 no. Portakabins for additional office and w.c. accommodation	Application Permitted
11/00662/F	Change of use of existing industrial unit from B8 to B1 and B2 use	Application Permitted
12/00315/F	Alterations to front and side elevations, increase in number of parking spaces. Increase in B1 office floor space	Application Permitted
16/00843/F	Installation of boundary fencing with secure gate positions	Application Withdrawn
17/00952/F	Proposed boundary fencing with secure gate positions, inclusion of soft landscaping details	Application Permitted
19/00723/ADV	Installation of TeamSport signage - 3 No externally illuminated fascia signs	Pending Consideration

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, 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 06.06.2019, 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:

- Objections were made on the grounds that the development would cause unacceptable amount of noise pollution through the go karts themselves, and people and cars arriving and leaving the venue. Specific concern was raised about the site's close proximity to elderly and vulnerable people in this regard and the fact Murdock Road is designated for light industrial use.
- An objection was made over concerns of the impact of noise and vibrations on the offices at number 30 Murdock Road.
- Objections were made on the grounds the development would cause further traffic issues in the area as it would encourage further parking in residential areas and the opening times coincide with school drop offs which could cause a fatal incident. Concerns were also raised due to the site not being

served by public transport, and the increased traffic would make it difficult for lorries using the industrial estate.

- Objections were made on the grounds that the development would cause unacceptable pollution, from both emissions and additional lighting, which would be detrimental to the health and well-being of the surroundings residents and primary school, as well as fauna and flora in the area. It was also stated it would go against Bicester's Garden Town status.
- Objections were made on the grounds that the increased footfall would cause an increase in anti-social behaviour, including littering, and from people entering and leaving the site. There were also concerns raised about the inclusion of a licensed bar.
- Comments also noted that there could be more appropriate sites to locate this, and it was also suggested a number of conditions should be included if the application is permitted including soundproofing of the building, opening time restrictions and double yellow lines and parking permits provided in Hertford Close.
- Comments in support of the scheme were made on the grounds it would be beneficial to the community to expand leisure activities, it would reduce the need to travel to other facilities, and the fact the site is already used for industrial purposes and HGV activity would be reduced. It was also noted the building no longer conforms to the demands of previous uses and although electric karts should be considered it was good to see the provision of electric charging points in the site.

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. BICESTET TOWN COUNCIL: **object** on the grounds of the impact on noise to surrounding residents and late night activity, as well as pollution caused by the activities. It was also noted if the application were to be approved BTC would seek a reduction in operating hours. It was also noted that there were concerns over the sale of alcohol and that the application would be welcomed in a different location.

CONSULTEES

7.3. OCC HIGHWAYS: **no objections** with regards to this application and stated that the application would be unlikely to have any adverse impact upon the local highway network.

7.4. CDC BUILDING CONTROL: **no objections** subject to the means of escape being in accordance with Approved Document B volume 2 sections 3 and 4.

7.5. CDC ECONOMIC DEVELOPMENT: **no comments** received at the time of writing this report.

- 7.6. CDC ENVIRONMENTAL HEALTH: **no objections** subject to controlling additional external lighting. Comments were also made that consideration should be made to replacing the existing fence with a wooden acoustic fence to reduce the impact of noise when people are leaving the facility late at night.
- 7.7. CDC PLANNING POLICY: **no comments** received at the time of writing this report.

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)

- SLE 1 - Employment Development
- SLE2 - Securing Dynamic Town Centres
- SLE4 - Improved Transport Connections
- ESD15 - The Character of the Built and Historic Environment
- Bicester 5 - Strengthening Bicester Town Centre
- BSC 12: Indoor Sport, Recreation and Community Facilities
- Bicester Masterplan

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
- ENV12 – Development on contaminated land

- 8.3. Other Material Planning Considerations
- National Planning Policy Framework (NPPF)
 - Planning Practice Guidance (PPG)

8.4. Council Corporate Priorities

Cherwell District Council’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

Principle of Development

Policy Context

9.2. The application site is an existing employment site as identified on the Key Policies map for Bicester in the CLP 2031 Part 1. Policy SLE1 of the CLP 2031 Part 1 seeks to retain existing employment land unless the criteria set out in the policy are met. This includes a requirement for marketing of the site and consideration of whether it has been vacant in the long term.

9.3. Policy SLE2 of the CLP 2031 Part 1 requires main town centre uses to be directed towards the existing town centres of Banbury, Bicester and Kidlington. Local Plan Policy Bicester 5 relates to strengthening Bicester town centre and states that town centre uses will be supported within Bicester town centre.

9.4. All proposals complying with SLE2 should also accord with Policy SLE4 of the CLP 2031 Part 1. Policy SLE4 aims to support sustainable locations for employment growth. This policy states “*all development where reasonable to do so, should facilitate the use of public transport, walking and cycling*”.

9.5. Policy BSC 12 which governs the provision of community sporting and recreational facilities states ‘*Ensuring that development proposals contribute towards the provision of new or improved facilities where the development would generate a need for sport, recreation and community facilities which cannot be met by existing provision.*’

Assessment

9.6. Policy SLE1 of the Local Plan seeks to retain existing employment land unless the criteria set out in the policy are met. This includes a requirement for marketing of the site and consideration of whether it has been vacant in the long term. The site appears to have been vacant since October 2017. The property has been marketed since this period and interest was limited to an engineering company who rejected the unit in summer 2018, and an electronics company who rejected the unit in December 2018 due to the cost of necessary upgrades needed to use the space for their particular purposes. It has therefore been satisfactorily demonstrated that there is not a market to use the building for approved business purpose. Supporting information was also submitted that highlight the attempt to look for other units

within the area, and while the units were suitable for the needs of the proposed development, they were able to attract B-use class users. Further to this, the proposal indicates that there would be provision of 10 full time employees and 30 part time employees on the site.

- 9.7. Policy SLE2 of the CLP 2031 Part 1 requires main town centre uses, such as the proposed leisure use, to be directed towards the existing town centres of Banbury, Bicester and Kidlington. Policy Bicester 5 of the CLP 2031 Part 1 relates to strengthening Bicester town centre and states that town centre uses will be supported within Bicester town centre. The site is outside the town centre and therefore inconsistent with local planning policy in terms of the strategy for accommodating town centre uses and supporting the growth, vitality and viability of central Bicester.
- 9.8. The NPPF and CLP 2031 Part 1 Policy SLE2 require a sequential test. While intensive sport and recreation uses are regarded as town centre uses, it is noted that indoor go karting centres are a specialised facility that require specific environments to be able to suitably function. While other units were considered within the area, it is noted that none were of a town centre location. Considering the specific needs required for the company to operate, including a size range of circa 2,300-3,300 square metres and a minimum internal height of 5.5m, it is accepted that this particular leisure use would be better suited to an industrial unit of dimensions that are almost certainly not going to be found within the town centre.
- 9.9. All proposals complying with SLE2 should also accord with Policy SLE4 of the CLP 2031 Part 1. Policy SLE4 aims to support sustainable locations for employment growth. This policy states “all development where reasonable to do so, should facilitate the use of public transport, walking and cycling”. The application site is within an easily accessible location, with a number of bus stops located on Churchill Road approximately 350m to the north east of the site. Bicester North train station is less than 1 km walking distance to the west of the site. It is therefore considered that the site has good sustainable transport links and the proposal is therefore considered to comply with Policy SLE4.
- 9.10. Policy BSC12 of the CLP 2031 Part 1 governs the provision of community sporting and recreational facilities. As the proposal would be bringing indoor sports and recreational facilities to the area it is therefore considered to support this policy.

Conclusion

- 9.11. Subject to compliance with the considerations set out below, the principle of the development is therefore not considered to be in conflict with any of the aforementioned policies set out in the CLP 2031 Part 1.

Design and impact on the character of the area

Policy Context

- 9.12. Policy ESD15 of the CLP 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.*’ Saved Policy C28 of the CLP 1996 reinforces this stating that new development should be *sympathetic to the character of the urban or rural context of that development.*

Assessment

- 9.13. The external alterations of the proposal are limited to the removal of the existing door and window on the south west front elevation of the building to be replaced with a larger glazed automatic door to create a new customer entrance. This entrance is typical to venues such as this, and it is noted that there is a large amount of glazing already instated at the entrance of the attached 30 Murdock Road. As this is the case, the design of the external alterations is considered to be in keeping with the surrounding area.
- 9.14. The advertisements and associated lighting will be dealt with in the Advertisement Consent application, and as such have not been considered as part of this application.

Conclusion

- 9.15. For the above reasons it is therefore considered that the design of the external alterations are in keeping with the character of the surrounding, and the proposal is considered to accord with Policy ESD15 of the CLP 2031 Part 1.

Residential amenity

Policy Context

- 9.16. Policy ENV1 of the CLP 1996 states that *'The Council will seek to ensure that the amenities of the environment, and in particular the amenities of residential properties, are not unduly affected which may cause environmental pollution'*. This includes *'noise, vibration, smell, smoke, fumes or other types of environmental pollution'*.

Assessment

- 9.17. A number of objections have been made on the grounds that the go karts would create an unacceptable level of noise which would be detrimental to the adjacent neighbouring residents to the north and west of the site. The application does however include a detailed noise assessment including a mitigation strategy to sound proof the building which concludes that the harm to the neighbouring residents would be negligible. There were also concerns with regards to the noise and vibration impact on the neighbouring office building at 30 Murdock Road, the report and proposed mitigation also addresses these concerns. The Council's Environmental Health Officer concurred with the conclusions reached by the acoustic consultants and that the proposal was acceptable in this respect.
- 9.18. Aside from concern raised in respect of the noise generated by the go karts residents also expressed anxiety about the potential for noise disturbance from patrons leaving the site after the scheduled closure at 11pm with potential disturbances from talking, the opening and closing of car doors and vehicles leaving the site. Objections have also been received over possible anti-social behaviour caused by people visiting the site late at night.
- 9.19. The Environmental Health Officer suggested that consideration should be made to replacing the existing open metal boundary fence with a wooden acoustic fence along with signage asking customers to respect neighbours and leave quickly and quietly. While the applicant has agreed to install signage and CCTV to identify any repeat offenders, they did not feel it was necessary to install additional acoustic fences. Although the addition of acoustic fencing would be preferable, the

Environmental Health Officer ultimately concluded that it was not necessary to make the development acceptable. It is also noted that the company have adopted a management plan to try to reduce the potential of these issues arising, and although officers are happy with what is proposed action against any anti-social behaviour or unacceptable levels of noise arise.

- 9.20. Bicester Town Council suggested that a condition should be attached to the permission that restricts the opening times to require a closing time earlier than the currently applied for 11pm. Again given that the Environmental Protection Officer hasn't raised an objection, it would be difficult to justify an earlier closing time, particularly given that evenings will be among the busiest times for the facility.
- 9.21. Objections have also been raised on the grounds that the development would increase pollution that would be detrimental to the surrounding residential neighbours, primary school and flora and fauna. It is likely however that the pollution created by the use here would be similar to the amount of pollution produced by industrial uses all of which have to meet the requisite environmental standards.
- 9.22. There were also objections to the light pollution caused by the site, and while the lighting being installed in connection with the proposed signage will be dealt with in the advertisement consent a condition is recommended to restrict any additional lighting at the site without prior express consent of the Local Planning Authority as suggested by Environmental Health Officer.

Conclusion

- 9.23. For the above reasons the proposal is therefore not considered to cause materially detrimental levels of noise, vibration, smell, smoke, fumes or other types of environmental pollution, and thus according with Policy ENV1 of the CLP 1996.

Highway Safety

Policy Context

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

Assessment

- 9.25. A number of objections have been received to the application on the grounds that the development would cause further traffic issues in the area as it would encourage further parking in residential areas. The applicant has however submitted a transport assessment to accompany the application which concludes, based on data collected from other sites, that there will be only 6 customer vehicles parked on site at any one time. As there would be a maximum of 12 staff members if every staff member drove to work individually, this would result in a maximum total of 18 vehicles at the site. Given that there have been 40 parking spaces provided at the site, even if sessions overlapped through groups decided to take advantage of the hospitality area, more than adequate parking provision has been provided.
- 9.26. As it is therefore unlikely that patrons will park beyond the confines of the site, the Local Highways Authority has offered no objection to the application subject to the submission of a travel statement.

Conclusion

- 9.27. For these reasons, it is therefore considered that the development proposal would be acceptable in terms of highway safety and parking provision, thus complying with Government guidance contained within the NPPF and Policy ESD15 of the CLP 2031 Part 1.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. Planning applications are required to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development and need to achieve the economic, social and environmental objectives in mutually supportive ways.
- 10.2. In this case, whilst it is acknowledged there could be some limited harm to residential amenity this has to be weighed up against the fact that the proposal would provide significant economic benefits by providing additional job opportunities in the district. Whilst it would have been preferable that this form of development would not be located close to residential dwellings, the applicant has established that there are not any more suitable or viable sites and that the remedial works to be undertaken will satisfactorily address any adverse impacts to the neighbouring residents. The site is located within close proximity to a number of sustainable transport options, and there would also be further social benefits by providing additional sport and recreational facilities within the district.
- 10.3. On balance, the economic benefits of the scheme are considered to outweigh the harm identified. It is therefore considered to represent a sustainable form of development and it is recommended that planning permission 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 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: Transport Statement, Noise Assessment dates 22 March 2019, Town Planning Statement (including Design and Access Statement), TeamSport Operation and Management Statement, 13531-PL-002 D, 13531-PL-007 A and 13531-PL-004 A.

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.

Details of Signage

3. Prior to the first use of the building for the development hereby approved,, full details of the signage asking customers to respect neighbours and leave quietly shall be submitted to and approved by in writing by the Local Planning Authority. Thereafter the signage shall be installed and retained on site in accordance with the approved details prior to the first use of the building for the development hereby approved

Reason - To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with saved Policy ENV1 of the adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Details of CCTV

4. Prior to the first use of the building for the development hereby approved, full details of the CCTV to be installed covering the north-west parking area shall be submitted to and approved by in writing by the Local Planning Authority. Thereafter the CCTV shall be installed and retained on site in accordance with the approved details, prior to the first use of the building for the development hereby approved.

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.

Noise

5. Prior to the first use of the building for the development hereby approved, the acoustic design features to mitigate the noise impact of the development shall be installed in accordance with the submitted Noise Assessment produced by Hann Tucker associates dated 22 March 2019. Thereafter the acoustic design features shall be retained in perpetuity.

Reason - To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with saved Policy ENV1 of the adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Details of EV Charging Points

6. Prior to the first use of the building for the development hereby approved, full details of the two Electric Vehicle charging points shall be submitted to and approved by in writing by the Local Planning Authority. Thereafter the EV charging points shall be installed and retained on site in accordance with the approved details.

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.

Travel Plan Statement

7. Prior to the first use of the building for the development hereby approved, a Travel Plan Statement, prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans" and its subsequent amendments, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Travel Plan Statement shall be implemented and operated in accordance with the approved details.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Policies SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

External Lighting

8. No external lights/floodlights shall be erected on the land without the prior express consent of the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the amenities of the occupants of the adjoining dwellings in accordance with saved Policy C28 of the adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Hours of Opening

9. The hours of opening of the premises shall be restricted to 09:00 – 23:00 seven days a week.

Reason - In order to safeguard the amenities of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Sarah Greenall

TEL: 01295 221558

19/00617/F

**Land To The East Of The Warriner School
Bloxham Grove Road
Bloxham
Oxfordshire**

119.4m

BLOXHAM GROVE ROAD

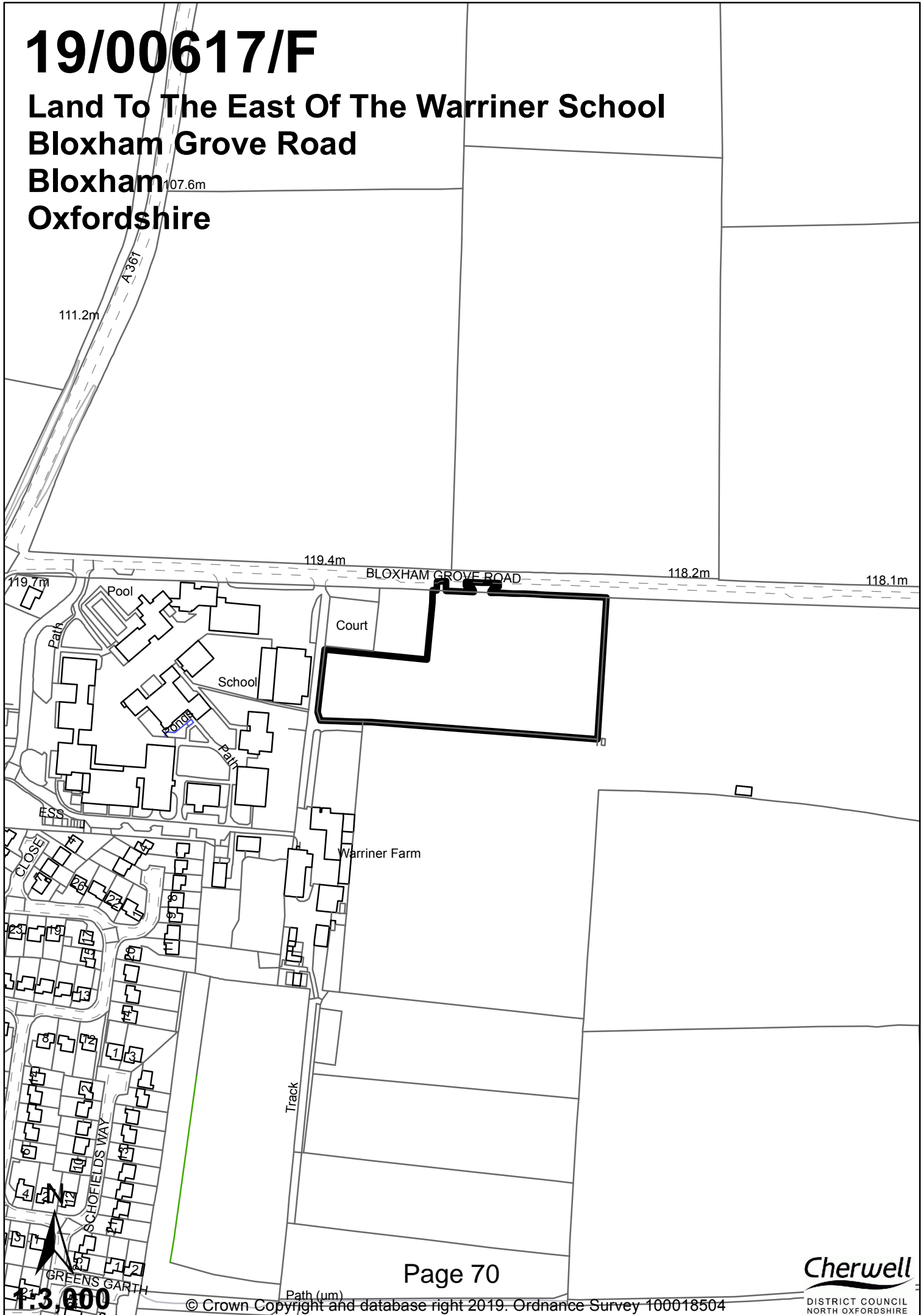
Games
Court

Warriner Farm



19/00617/F

Land To The East Of The Warriner School
Bloxham Grove Road
Bloxham
Oxfordshire



Land To The East Of The Warriner School
Bloxham Grove Road
Bloxham
Oxfordshire
Case Officer: James Kirkham

19/00617/F

Applicant: Department For Education

Proposal: Part 2-storey, part 1-storey Special Education Needs (SEN) school with new access from Bloxham Grove Road, associated outdoor play areas, multi-use games area, staff parking, pupil drop-off and landscaping

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 AND A S106 LEGAL AGREEMENT

Proposal

The current application seeks consent for a new Special Education Needs and Disabilities school (SEND) at the site. This would accommodate up to 100 pupils. It would be a predominately 2 storey building constructed of a mix of ironstone and render.

Consultations

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

- Bloxham Parish Council, Councillor Mallon

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

- OCC Highways, OCC Archaeology, OCC Drainage, CDC Ecology, CDC Environmental Protection, Crime Prevention, Thames Water

The following consultees are **in support** of the application:

- OCC Education

3 letters of objection have been received.

Planning Policy and Constraints

The application site is within located within the Bloxham Neighbourhood Plan development area. It is also situated within a minerals consultation area, an area of high radon gas and is noted to be Grade 3 agricultural 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
- Highways
- Design, and impact on the character of the area

- Heritage impact
- Residential amenity
- Ecology impact
- 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 on the northern edge of Bloxham and is accessed via Bloxham Grove Road which runs to the north of the site and is single carriageway in parts.
- 1.2. It is approximately 1.3 ha in size and the site is relatively level but falls slightly to the south east corner. Hedgerows and trees exist around the northern, southern and western boundary of the site. The site is currently used as an agricultural field for grazing associated with Warriner School farm. The main buildings associated with the Warriner School are located to the west of the site along with a new flood light multi-use games areas (MUGA). Playing fields associated with the existing Warriner School bound the site to the south and west.

2. CONSTRAINTS

- 2.1. The application site is located within the Bloxham Neighbourhood Plan development area. It is also situated within a minerals consultation area, an area of high radon gas and is noted to be Grade 3 agricultural land.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The current application seeks consent for a new Special Education Needs and Disabilities school (SEND) at the site. The proposal would accommodate 100 students (from 7 years old – 18 years old) with complex special educational needs and disabilities and 60 members of staff. It would be operated by The Gallery Trust which also operates the Iffley Academy, a special academy for a similar age group with complex needs in Oxford and is judged as outstanding by Ofsted.
- 3.2. The current application seeks permission to erect a predominantly two-storey building on the site. This building would be arranged in an L shape and would be located relatively central to the site. The building would have a contemporary appearance made up of a series of flat roofs. The forward projecting element of the building (accommodating the sport and dining hall) would be clad in ironstone as would the remainder of the ground floor element of the building. The upper floors of the main teaching block would be finished in timber cladding. A small single storey building accommodating a construction skills room for student would be located to the west of the site. This would be constructed of ironstone.

- 3.3. A car park accommodating 65 car parking spaces would be located to the front of the building and series of outdoor amenity including a new MUGA (with 3 metre high fence) would be located around the building.
- 3.4. As part of the proposal works would also be undertaken to Bloxham Grove Road. This would include widening the road, formalising the parking layby and providing a new footway from the entrance to the Warriner School to the entrance of the proposed school.
- 3.5. During the course of the application amended plans have also been submitted showing works to the staggered crossroad between the A361, Bloxham Grove Road and Ells Lane. This includes the widening of the road and the creation of new right turning lanes on the A361 into Bloxham Grove Road and Ells Lane.
- 3.6. *Timescales for Delivery:* The applicant/agent has advised that, in the event that planning permission is granted, they anticipate commencing on site as soon as possible with the school opening in December 2020.

4. RELEVANT PLANNING HISTORY

- 4.1. There is no planning history directly relevant for the current site. However, the following planning history is considered relevant to the current proposal:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
19/01094/OCC	Section 73 application to continue the development for the erection of a two-storey teaching building, extension of existing games court with floodlighting (replacement of District Council permission 15/00734/F) and associated external works (permitted by permission 18/01243/OCC (R3.0037/18)), without complying with condition 1 (approved plans and documents) and to vary condition 4 (tree protection), condition 7 (planting scheme) and 11 (protected species) in order to vary the approved plans and documents to allow for the i) introduction of mullions, ii) regularise the agreed provision for protected species; iii) remove two trees and provide replacement planting	Pending
18/01840/F	The renewal of consent and continued use of relocatable building units. These are already on site T4 and T5 (PR34 and PR35) for a further period of five years	Application permitted
18/01243/OCC	Erection of a two-storey teaching building, extension of existing games court with floodlighting (replacement of District Council permission 15/00734/F) and associated external works	Permission granted by the County Council

This permission enables to the school to increase for a 8 form of entry to a 10 form of entry. Pupil numbers are projected to increase to 1420 by 2024 with a further 160 in the sixth form.

18/00852/OCC	Installation of a relocatable building, comprising four classrooms, for a period of two years. Construction of a parking area for 20 cars (OCC ref. R3.0030/18)	Application Permitted by the County Council
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This indicated the school would have 20 additional parking spaces once the temporary building is removed leaving 20 additional permanent spaces. This is to help alleviate some of the on –street parking

17/01149/F	Extending the existing teaching block for new classrooms
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17/00873/OCC	Construction of a 76 space car park for a period of four years. The car park to be surrounded by weld mesh fence with control gates, and to include surface water drainage into a new petrol interceptor, and lighting. Also the construction of permanent lighting along the school roadway - ref: R3.0033/17	Application Permitted by the County Council
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This allowed for a temporary car park to serve the school whilst building works were being undertaken and the existing car parks may not be available. The consent expires on 21st July 2021.

15/00734/F	Extend existing games court with floodlighting	Application Permitted
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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>
17/00215/PREAPP	Proposed Special Educational Needs (SEN) school for 100 pupils (7-18 year olds)
18/00097/PREAPP	Proposed SEN School (D1 use, as defined in the UCO, 1987, as amended), parking, access, soft and hard sports and play space and ancillary works

5.2. Concerns were raised regarding the location of the site in a village in terms of sustainability and the applicant was advised that strong justification would be required for this. It was considered that the highway impacts of the development would need very careful consideration given the existing issues in the locality and that discussion would need to be had with the highway authority. It was considered that if the location of the school could be justified and the highway impacts of the development resolved then a 2 storey building may be capable of being accommodated on the site.

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 (amend as appropriate). The final date for comments was 30.05.2019, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. Three letters have been received by the public. The comments raised by third parties are summarised as follows:
- Access is not safe or suitable for development alongside the expansion of Warriner School.
 - Junction with A361 and Bloxham Grove Road is at capacity.
 - Insufficient parking to serve the needs of the school will lead to further issues along Bloxham Grove Road.
 - Loss of parking to Bloxham Grove Road.
 - The school should be located in Banbury.
- 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.

COUNCILLOR COMMENTS

- 7.2. COUNCILLOR K MALLON: **Objects.** Agree with Bloxham Parish Council and Milcombe Parish Council for the planning reasons they lay out in accordance with the Bloxham Parish Plan and the CDC Local Plan.
- 7.3. As the Highway Authority Oxfordshire County Council MUST take into account the fact that the A361 is recognized nationally and regionally as having a very poor safety record. This proposal is on one of the major junctions (Bloxham Grove-A361-Ells Lane) that both the Dept. of Transport and Oxfordshire County Council recognize as having current safety issues without the addition of this proposal or the extra traffic movements and parking this proposal will generate.

PARISH COUNCILS

- 7.4. BLOXHAM PARISH COUNCIL: **Objects.** The primary reason for the objection is that the location selected on Bloxham Grove Road is completely unsuitable. The proposal is not plan led and as such is contrary to the NPPF (2019). The NPPF states that schools promoters, delivery partners and statutory bodies should identify and resolve key planning issues before applications are considered and that transport issues should be considered at the earliest stages of plan-making to ensure potential impacts can be addressed and opportunities to promote walking, cycling and public transport use are identified and pursued. The current proposal

brings up serious issues around traffic and parking volumes to and from Bloxham Grove Road and the A361, while at the same time compromising a popular cycling and walking route

7.5. The proposal contravenes CDC Local Plan Part 1:

- The proposal is to build the new school in open countryside which is contrary to B.144, and ESD 13.
- The proposal is not plan led and is not allocated in either in the making of the CDC Local Plan part 1 or the Bloxham Neighbourhood Development Plan (BNDP)
- The proposal contravenes TR7 of Local Plan 1997 retained Policy because it will bring large numbers of cars onto what is clearly an unsuitable minor road often used for walking and cycling

7.6. The proposal specifically contravenes the BNDP:

BL2 – The proposal is outside the built limit for the village

BL 5 – The proposal will reduce the existing parking on Bloxham Grove Road used in particular for the Warriner School

BL 9 (c) – The proposal will increase the traffic and air pollution on a junction already at capacity

BL 11 – The proposal does not contribute to the rural character of the village, it will be built on green open space, building over a ridge and furrow field leading to the loss of a non-designated historic asset

BL 12 – The proposal will result in the loss of open space and agricultural land

BL 14 – The proposal will severely affect the local road network and as such will materially harm the living conditions of Bloxham residents

7.7. The proposal does not cover the issue of Air Quality at all. In Cherwell DC's Air Quality report (2017), p 16 states that Bloxham is treated as an area of concern

7.8. Traffic and parking around the junction of Bloxham Grove Road and A361 is already an issue for residents and parents/carers of children attending the Warriner School.

7.9. The proposal removes existing parking spaces while adding insufficient parking spaces to cover new staff needs. The increased demands of the proposal are likely to result in increased frustration and probability of accidents, illegal and inconsiderate parking and a greatly increased likelihood of incidents of public disorder, such as road rage. As such it would impact the safety and well-being of all users of the village.

7.10. There is also anecdotal evidence that residents who live near to the Warriner School have cars parked in their streets on a daily basis and are on occasions unable to access their own driveway. This is due to the current insufficient parking arrangements which will only be exasperated with more vehicle movements and requirements for parking spaces.

7.11. In addition, this proposal appears: to have been approved by Oxfordshire County Council Councillors, without any consultation with Bloxham Parish Council; and considered favourably by Cherwell District Planning Officers despite it not forming

part of the Cherwell District Council Local Part 1 adopted in July 2015, following a Hearing held in December 2014.

- 7.12. During that hearing, Oxfordshire County Council Education Officers put forward recommendations for additional school places, this was not amongst those. Also, during the consultation period for Bloxham Neighbourhood Development Plan “made” in December 2016, following pre-consultation periods during which Oxfordshire County Council made several representatives, but did not put forward this proposal.
- 7.13. If the Planning Committee is minded to approve the application, the Parish Council would expect the necessary funds to be allocated, via a Section 106 agreement, to enable highway works to be completed on both the A361 and Bloxham Grove Road and at the junction where these two roads meet.
- 7.14. In addition to the above, there should also be highways funds available that are not restrictive which enables them to be spent in other areas of the village, where there are unforeseen traffic impacts on the village and these need to be addressed at a later date.
- 7.15. ADDENDUM following the alteration to include right-turn-only lanes on the A361 for turning into Bloxham Park Road and Ells Lane.
- The addition of the right-turn-only lanes does not address the major part of the traffic issues and does nothing to alleviate the parking issues.
 - The right-turn-only lane will make the junction more dangerous for cars turning right out of Bloxham Grove Road and Ells Lane because the right-turn-only line can conceal traffic that is going straight across the junction on the A361
- 7.16. This issue of concealing the through traffic is worse for pedestrians such as kids whose parents have parked in Ells Lane
- 7.17. MILCOMBE PARISH COUNCIL: **Observations.** No objections to the school building but raise concerns regarding construction traffic and operational traffic using the surrounding roads and the A361 junction and suggest works are required to this junction. Also request good pedestrian access and adequate parking for staff and visitors. Disable spaces and good wheelchair access.

CONSULTEES

- 7.18. OCC HIGHWAYS: Originally objected due to the proposed development having a detrimental impact on the existing highway which had not been adequately mitigated. This focused around the junction capacity and safety issues of the staggered crossroads on the A361 given the results of the existing modelling and data on accidents in the area.
- 7.19. Following receipt of amended plans showing the widening of the A361 and the provision of right turn lanes, an amended Transport Assessment with revised modelling based on the new road layout and a Road Safety Audit based on the new road layout raise **No objections** subject to conditions on access, protection of footway, installation of pedestrian crossing facilities on the A361, the submission of a travel plan and a Construction Traffic Management Plan. Also request a legal agreement to secure contributions towards Traffic Regulation Order to move 30mph limit, a monitoring travel plan fee and an objection to enter into a S278 Agreement to secure access and improvement to Bloxham Grove Road and the works to the A361.

- 7.20. The works to widen Bloxham Grove Road, move the 30mph limit to the east of the new access, provide a footway to the south and formalise the parking are aimed at improving both safety and passage of both vehicles and pedestrians are considered to be acceptable.
- 7.21. Consideration has been given to the data on accidents for a period between 2013 and October 2018 covering the adjacent highway. Although their severity is slight, data shows that four personal injury collisions have occurred at A361 junction during this period. Two of the reported collisions involved a vehicle colliding with another one slowing to turn right into Bloxham Grove Road. Another recorded accident is similar but the collision is to the rear of another vehicle stopped to turn right into Ell's Lane. All of these collisions were outside of the school peak periods. Nevertheless, increasing turning movements at this junction need to be considered. This has resulted in the creation of the revised right hand turn lanes.
- 7.22. Following some clarification the traffic generation in the peak hour is considered to be reasonable and the level of parking is acceptable.
- 7.23. The revised proposed highway improvement scheme has agreed to include the recommendations of the Road Safety Audit. It has been identified that, with the widened A361 Banbury Road, there shall be a need to provide safe crossing facilities on both the northern and southern sides of the junction. These have not been included in the proposed junction improvement scheme and their requirement is not questionable, to tie in with the existing pedestrian facilities. Although a signalised crossing currently exists across the A361 Banbury Road, this is observed to be over 130 metres from the junction, and is not a pedestrian desire line for pupils emerging from the north and around Ell's Lane.
- 7.24. The junction has been assessed for performance using industry software with the proposed new layout and modelling results show improvements in all areas visa-vis queues, delays and RFC values. This shows that the proposed right turn arrangement improves the junction performance which will operate within capacity which OCC finds acceptable.
- 7.25. Requests condition that ensures there is physical separation between the parking spaces and the footway at the access to the new car park,
- 7.26. Also requests that a revised Travel Plan be submitted to encourage sustainable forms of travel.
- 7.27. OCC EDUCATION: **Support.** See text in main report.
- 7.28. OCC DRAINAGE: **No objection.** Requires conditions to be attached to require a full detailed design for approval and provision.
- 7.29. OCC ARCHEOLOGY: **No objection** subject to conditions requiring a staged programme of archaeological investigation. The site is located in an area of archaeological potential 250m east of the site of an Iron Age settlement. The site also contains the remains of medieval ridge and furrow which would be destroyed by this development. The assessment highlights that the site has archaeological potential related to prehistoric, medieval and post medieval archaeological remains. The assessment recommends that an archaeological evaluation would need to be undertaken to assess the impacts on previously unidentified archaeological deposits. This development would impact on any surviving archaeological deposits and a staged programme of archaeological investigation will need to be undertaken ahead of any development on the site.

- 7.30. CDC LANDSCAPE: Originally requested additional trees to car park and boundary. Amended plans have been submitted and comments are awaited.
- 7.31. CDC ECOLOGY: **No objection.** The submitted ecological survey is acceptable. There are no particular protected pieces issues on site with the exception of consideration needed for nesting birds, the potential for bats to be roosting in some of the mature trees on site and wildlife using the hedgerows (including commuting bats). The revised plans are much improved and could lead to a gain for biodiversity and certainly avoid a net loss with the additional planting on site and enhancements included on buildings also. Requests the submission a Landscape and Ecological Management Plan should be conditioned to include other features such as integrated bird boxes within the buildings, bat boxes on mature trees, additional hedgehog boxes or log piles at the boundaries etc. Also raises concerns regarding the lighting scheme which appears to be excessive.
- 7.32. A CEMP for biodiversity would be needed to include measures for the protection of nesting birds, surveys for bats if relevant trees need removing and protection of all hedgerows and trees during construction.
- 7.33. CDC TREE OFFICER: Details of the tree protection plans and new tree planting should be provided.
- 7.34. CDC ENVIRONMENTAL PROTECTION OFFICER: **No objection.** The construction traffic management plan is acceptable. No objections regarding noise, air quality, contaminated land, odour and light.
- 7.35. CRIME PREVENTION DESIGN ADVISOR: **No objection.** Originally raise queries regarding the fencing, position of cycle shelter, security of bin store, use of CCTV and internal layout. Following clarification raises no objection.
- 7.36. THAMES WATER: **No objection** subject to conditions. There is an inability of the existing foul network infrastructure to accommodate the needs of the proposal. Recommend a pre-occupation condition in this respect. Surface water will not be discharged to the public network. Advises that water network and water treatment infrastructure has capacity for the proposal.
- 7.37. OCC MINERALS AND WASTE: **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)

- PSD1 – Presumption in Favour of Sustainable Development
- SLE4 – Improved Transport and Connections
- BSC7 – Meeting Education Needs

- ESD1 – Mitigating Impacts of Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD4 – Decentralised Energy Systems
- ESD5 – Renewable Energy
- ESD7 – Sustainable Drainage Systems
- ESD10 – Protection of Natural Environment
- ESD13 – Local Landscape Protection and Environment
- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- TR7 – Development Attracting Traffic on Minor Roads
- C8 – Sporadic development in the open countryside
- 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:

- BL3 – Policy on connectivity
- BL7 – Flood risk
- BL9 – Amenity of existing residents
- BL11 – Contributing to the rural character of the village
- BL12 – The importance of space and key street scenes

8.4. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Policy Statement – Planning for schools development (2014)
- 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. The key issues for consideration in this case are:

- Principle of development
- Highways
- Design, and impact on the character of the area
- Heritage impact
- Residential amenity
- Ecology impact
- Other matters

Principle of Development

Policy Context

9.2. Policy ESD1 of the Cherwell Local Plan Part 1 (CLP 2031) seeks to distribute growth to the most sustainable locations and reduces the need to travel. Policy BSC7 of the CLP 2031 states that: *'The Council will work with partners to ensure the provision of pre-school, school, community learning and other facilities which provide for education and the development of skills. New schools buildings should be located in sustainable locations'*.

9.3. The NPPF advises that it is important that sufficient choice of school places is available to meet the needs of existing and new communities and that local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. In doing this they should:

a) give great weight to the need to create, expand or alter schools through decisions on applications; and

b) work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.

9.4. 'Planning for schools development: Policy statement' (2011) is also a relevant material consideration. This emphasises the government's commitment to meeting demand and providing choice and opportunity and raising standards in state-funded education (including Academies and free schools). It states the creation and development of state-funded schools is strongly in the national interest and that planning decision-makers should support that objective. It states that there should be a presumption in favour of the development of state-funded schools, as expressed in the National Planning Policy Framework and that full and thorough consideration to the importance of enabling the development of schools should be given. It notes that any refusal of any application for a state-funded school will have to be clearly justified.

Assessment

- 9.5. As outlined above there is very strong policy support for the creation of new state funded schools and this issue carries significant weight in favour of the current application. In this case an educational need for a new SEN school has been identified in North Oxfordshire by Oxfordshire County Council. Currently there is no provision in North Oxfordshire for students with a SEN profile of social emotional and mental health needs, Autistic Spectrum Disorder and/or cognition and learning and children are currently transported to Oxford, which incurs significant travel time and expense. With the growth in the district at Banbury and Bicester the need for places in the district is likely to increase over the coming years.
- 9.6. The Director of Children and Adult Services for Oxfordshire County Council has written in support of the application. Below is an extract from the letter explaining the need for the school:

In 2018 Oxfordshire County Council conducted an analysis of the sufficiency of places for children and young people with special educational needs and disabilities. This resulted in a Special Educational Needs and Disabilities Sufficiency of Places Strategy, which was adopted by the County Council Cabinet in December 2018.

This strategy identifies that Oxfordshire's school age population is growing, both because of the rise in births experienced between 2002-2011 and due to the large-scale housing growth planned for the county. In turn, the growth in demand for special school and resource base provision has increased rapidly, exacerbated by changes brought in by Children's and Families Act 2014. There has also been a specific rise in demand in children being identified as having social and emotional mental health (SEMH needs, and/or a diagnosis of Autism Spectrum Disorder (ASD).

The consequence of these changes is that Oxfordshire now has a severe shortage of special school places, particularly for children with SEMH/ASD needs. This is particularly affecting children in the north and the south of the county, as all provision for these needs is currently concentrated in and around Oxford.

The impact of children and families is that pupils are having to wait longer to be allocated a suitable special school place, and they have to travel further to attend a special school. This is inevitably causing distress for these very vulnerable children. Children living in the Banbury area are travelling into and out of Oxford daily to attend a suitable school. To supplement the county's special school provision, increasing numbers of places are being commissioned from the independent sector, at very high cost, which then reduces the funding available to support other children.

The County Council's strategy to address sufficiency of special education provision includes supporting mainstream schools to be more inclusive; making more and better use of resource bases within mainstream schools; and expanding existing schools. However, these approaches will not be sufficient to meet the scale of growth required. It is essential to open at least two new special schools: the one covered by this application to serve the north of the county, and another which is planned in Didcot to serve the south of the county.

The urgent need for this new school is already evidenced by the long distances being travelled by children living in the north of the county to attend special school and the rapid increase in the county's dependence on high cost independent sector school places. The need will continue to grow rapidly as a result of the housing growth included in Cherwell's Local Plan.

The Department for Education has accepted Oxfordshire's urgent need for additional special school places, as shown by its approval, and substantial capital funding commitments, for the new schools in Bloxham and Didcot.

- 9.7. A copy of the full Special Educational Needs and Disabilities Sufficiency of Places Strategy is available on the Council's website.
- 9.8. Overall, therefore, it is considered there is a strong and immediate need for such school places and there are significant benefits to residents of the district in terms of widening the educational offer. These matters carry significant weight in determining the application.
- 9.9. As part of the pre-application discussion with the applicant, officers raised concerns over the site's geographical sustainability given its location in a village and suggested that the site would be better located within the urban areas of Banbury or Bicester where access to public transport and services would be stronger. One of the requirements of Policy BSC7 is that new educational facilities are sustainably located. In this regard the applicant has undertaken a site search which has been based on sites which are being marketed or which have been promoted by land agents. These have been assessed taking into account the schools intention of open in 2020 and the following criteria:
- Suitability – took into account size, shape, and sustainable settlement location, access to transport, environment and planning policy constraints
 - Availability – considered whether landowner was agreeable to sell and any time constraint to the sale.
 - Achievability – considered delivery issues of the site, costs, contamination, etc.
- 9.10. The search focused on quiet, rural or semi-rural settings which benefited from good transport links. Given the profile of the children who attend the school the proposed operators of the site have indicated a series of benefits for being located in such as location. These include:
- Rural location outside of town can help by transporting students from their local community where students would be less likely to try and leave the site due to the surroundings being unfamiliar. This also increases the feeling of safety provided by the school.
 - Many students would live in the urban areas such as Banbury and have negative prior and current experiences of interacting with their local community. By educating them outside of their home setting, the school would provide a fresh perspective on how to behave.
 - The quiet rural location includes less distractions and provides a more conducive learning environment for students
 - A central Banbury location was considered unlikely by the school to be able to offer a suitable outside play space and the instances of distraction would be increased, which would be disruptive to the pupils attending the school particularly in light of their needs.
 - Benefits of having a school farm adjacent to the site to support opportunities for land based studies with students.

- 9.11. Many of the sites the applicant has looked at are in rural areas and are less geographically sustainable than the current site being in isolated locations. The Council does not have any allocated sites for new specialist schools in the Local Plan, and the sites within the built limits of the towns the applicant has explored are limited and less preferable to the school given the requirements of the school. Furthermore they face potential viability issues with landowners expecting higher alternative use values. The report concludes that the proposed site is the most suitable for the proposed development and officers are not aware of other sites that are available which may be more preferable to the current site in broad terms.
- 9.12. A further site has been explored in Bloxham. However, this is located within the Conservation Area and is not likely to be viable for the application. It also has access constraints (previously explored in an application for residential development by Taylor Wimpey, application refs. 15/00369/OUT and 15/01528/OUT). The applicant was also requested to look at existing school sites to understand whether these could be used. However, given the relatively large size requirement to accommodate a new school, and taking into account the growth in the district, it has been concluded by the County Council that any surplus land on existing school sites is likely to be required to expand existing schools. Furthermore many existing school sites would not offer the semi-rural or rural location that the operator of the school wishes to pursue to benefit the children. Furthermore it is noted that development of existing school fields is likely to raise other planning constraints such as conflict with the policy which seeks to protect existing playing fields.
- 9.13. The nature and operation of the school should also be considered. The proposed development is for a specialist school and therefore does not operate on a traditional catchment of pupils and pupils are likely to arrive by organised transport wherever the site is located given the larger area it serves. Therefore the opportunities for children to cycle or walk to the facility is more limited. The opportunities to encourage sustainable means of travel more exists around staff and visitors to the site. Bloxham is a Category A village with an approximately hourly bus service to Banbury and the applicant is proposing to create a new footpath link between the proposed access to the site and the existing footpath network along the A361. Therefore there is some opportunity for staff or visitors particularly from Banbury to access the site by means other than private car.

Conclusion

- 9.14. The proposed development would provide significant benefits from the provision of new specialist school places for which there is an identified and urgent need in the northern part of the County. The requirements of the operator of the school are based on providing pupils with the most appropriate environment to learn in their expert opinion and these favour a more rural location given the challenges the school faces. Other sites have been explored by the applicant. However, these have been discounted and Bloxham is the largest village in the north of the district with some availability of public transport for staff and visitors. Whilst it is acknowledged that provision of the school is not ideal in this village, given the strong policy support for the development alongside the need for the provision and benefits that come along with this, the principle of development in this location is considered to be acceptable subject to other material considerations.

Highways

Policy Context

- 9.15. Policy SLE4 of the Cherwell Local Plan Part 1 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 and that new development should facilitate the use of sustainable modes of transport such as public transport, walking and cycling. It also requires that new development provide financial and/or in-kind contributions to mitigate the transport impacts of development. Saved Policy TR7 states that development that would attract large numbers of cars onto unsuitable minor roads will not normally be permitted. This policy is more aged and therefore needs to be considered in the context of the policy in the NPPF which is outlined below.

- 9.16. Policy BL3 of the BNP states all development should provide and improve existing pedestrian paths and cycle routes. Policy BL9 states that all development should ensure that the impacts of any additional traffic likely to be generated by the development has been satisfactorily mitigated and will not adversely affect the highway network.
- 9.17. The NPPF has similar themes requiring opportunities to promote walking, cycling and public transport to be identified and pursued and ensuring that patterns of movement are integral to the design of schemes. 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 an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Assessment

- 9.18. The application site is proposed to be accessed from Bloxham Grove Road which currently serves the Warriner School and the farms to the east of the site. It is a minor road which varies in width from approximately 4.2m to 3.5m meaning it is single width carriageway in many areas. A layby has been constructed to the south of Bloxham Grove Road in recent years, along the frontage of the existing school, which is approximately 100 metre long. This has not been constructed to standard parking dimension and in practice cars are parking perpendicular to the road which result in many vehicles encroaching on to the carriageway and further reduces the width of the road and obstructs to the flow of traffic. The existing footway along Bloxham Grove Road which links to the A361 currently terminates at the most western entrance of Warriner School and does not extend to the position of the new school.
- 9.19. Vehicle access to the site would include the use of the staggered crossroad between the A361/Ells Land and Bloxham Grove Road. This junction is already impacted upon at school times by the existing Warriner School and is a significant concern from the parish council regarding the capacity of this junction.
- 9.20. The current application proposed to undertake a number of works to Bloxham Grove Road. This includes the widening of the carriageway to 4.8m wide from the western entrance of the Warriner School to the proposed entrance of the new school. It is also proposed to introduce a new 1.5m wide footway to the south of Bloxham Grove Road so a footpath would exist all the way between the A361 and the access to the proposed school. This would include reducing the depth of the existing layby (which is currently used for perpendicular parking) to 2.5 metres and formalise the parking adjacent to Bloxham Grove Road in a parallel arrangement. It is also proposed to extend the 30mph speed limit to the east of the new school access so the new school access falls within that speed restriction.
- 9.21. During the course of the application and further to an objection being received by the Local Highway Authority (LHA) on the impact on this junction, it is also now proposed to make alterations to the staggered crossroad on the A361. This would

include the widening of the carriageway and the introduction of right hand turn lanes into Ells Lane and Bloxham Grove Road from the A361.

- 9.22. The application is accompanied by a Transport Assessment, which includes an assessment of the traffic impacts of the development and a capacity assessment of the junction of Bloxham Grove Road, Ells Lane and the A361 using relevant industry software. This assesses the junction for the peak hours for the recorded 2019 flows and future 2020 and 2025 flows, both without and with the proposed development. This includes consideration of committed development in the area including the expansion of Warriner School to a 10 form of entry (which has been permitted by the County Council - from 1,320 to 1,600 pupils by 2024).
- 9.23. In order to assess the existing traffic conditions and to capture all vehicular movements at the A361/ Bloxham Grove / Ells Lane junction traffic surveys have been undertaken at the site. This included a manual classified count between 07:00-10:00 and 14:00-17:30 and a seven-day automatic traffic count (ATC). The ATC identified that the peak hours on the A361 was 08:00-09:00 and 15:00-16:00, which coincides with the Warriner School start and finish times. The manual count identified specific peaks within these hours between 08:00-08:30 and 15:00-15:15 where the arrivals and departures on Bloxham Grove Road were at the highest.
- 9.24. Accident data has been obtained from OCC for a period between 2013 and October 2018 and notes that whilst the severity is slight, 4 personal injury collisions occurred at this junction during this period. Two of the collisions involved a vehicle colliding with another one slowing to turn right into Bloxham Grove Road. Whilst these accidents occurred outside of school peak times the highway engineer has noted that increasing turning movements at this junction may increase the risk of such accidents occurring.
- 9.25. The proposed development would accommodate 60 members of staff who would arrive from 0700 onwards. It would also accommodate 100 students who, given the specialist nature of the school and wider catchment, would arrive by a mix of school operated vehicles with the remainder using either private vehicles or organised transport by the Oxfordshire Integrated Transport Team. Taking into account the operation of the school the development is predicted to generate 62 vehicles in the AM peak (08:00 – 09:00) and 39 vehicles in the PM Peak (15:00-16:00).
- 9.26. It is proposed to stagger the start and finish times with the adjacent Warriner School to help reduce the peak congestion impact. Warriner School starts at 08:35 and finishes at 15:00. It is proposed the Bloxham Grove Academy would start at 08:45 and finish at 14:45. The school would also provide a Breakfast club (30min before school start) and an afterschool club (45-60min after school finish) and they have estimated approximately half the pupils would attend these which would further reduce the peak traffic impact; however to ensure the traffic generation is robust the TA does not consider this.
- 9.27. The LHA originally objected to the application as the development traffic would have an impact in the AM peak that would take it the A361 junction over its theoretical capacity and, when reviewing the forecast 2025 scenarios, both queuing and delays would go up be threefold and the proposal would result in the potential for increase in accidents from turning vehicles.
- 9.28. Further to this the applicant has revised the application to include the widening of the A361 around the junction and the introduction of right hand turning lanes to Bloxham Grove Road and Ells Lane from the A361.

- 9.29. This revised layout with the right turn lane has been modelled and demonstrates that the junction would operate within capacity for all scenarios and the queue lengths are reduced. A Road Safety Audit of the junction has also been undertaken the recommendations of which would be incorporated in the final design of the junction which would be subject to a legal agreement. The LHA now considers the traffic impacts of the development have been adequately mitigated so as to make the development acceptable in terms of traffic impact. In considering this members should note that the NPPF states that development should only be refused on highways grounds where the residual cumulative impacts on the road network would be severe.
- 9.30. In addition to the above it must be noted that the peak traffic associated with the school is for a relatively short period of time in the morning and afternoon and is limited to school term time, which further reduces any impact associated with the development.
- 9.31. The Highway Engineer has also stated that given the road widening to the A361 safe crossing facilities should be provided to the side of the junction to allow pedestrians to cross the road and has requested a condition for this. Discussions are ongoing with the LHA regarding this and an update on the matter will be reported to Planning Committee.
- 9.32. In terms of construction traffic this is generally given less weight in planning decisions given the temporary nature of the impact. However, the Construction Traffic Management Plan (CTMP) suggested there would be no construction vehicles and deliveries at peak school times. Whilst generally satisfied with the CTMP the County Council has raised some concerns regarding the measures to prevent mud on the highway and requested that a revised CTMP through a condition. Officers agree that it could be satisfactorily amended by condition.
- 9.33. The proposed widening of Bloxham Grove Road to accommodate 2 way traffic and provision of a footway is required to ensure the development operates safely and does not detrimentally impact on highway safety. As noted above it also links to the development to the existing footways into the village and provides safer opportunities for walking and public transport. The works would also provide a safer walking environment for existing users of Bloxham Grove Road, which is noted to be a popular walking route and cycle route.
- 9.34. However, the proposal would mean that the informal parking area which currently exists to the south of Bloxham Grove Road would be lost. This area is currently used informally as perpendicular parking spaces to the road; however, the depth of this area is insufficient for many vehicles which overhang the carriageway reducing its width. This area would be altered to formalised parallel parking spaces. The LHA has raised no objection to this and it is questionable whether vehicles should be using the parking in the perpendicular fashion. There whilst it is acknowledged that there would be some loss of this informal parking the existing arrangement is far from ideal and from site visits appears to result in safety issues during peak times given the lack of footpath and narrowing of the carriageway.
- 9.35. In regard to parking provision for the proposed school, this shows the provision of 65 parking spaces including 46 specific staff bays, 5 disabled bays, 12 visitor bays, 2 bays for the schools MPVs and 2 school mini-bus bays. The TA notes that the parking has been based on the operational needs of the school to reduce the risk of off-site parking associated with the school. This has also been based on the model share of staff travelling to the site using the 2011 census data for the area where the application site is located which takes account of walking, car sharing and other means of arrival. As part of the proposal a School Travel Plan would be required by

condition, a draft of which has been submitted, which particularly focuses on reducing the number of single occupancy car trips made by staff to the proposed site and reducing congestion at and near the school. 10 cycle parking spaces are also provided on the site to encourage the use of cycling. Furthermore the public footpath, which is being provided along Bloxham Grove Road, would provide safe and convenient access to the bus stop on the A361 for any staff using the local bus service or walking to the site from the village. Overall the LHA is satisfied with this level of parking; officers have no reason to disagree; and it is therefore considered to be acceptable.

Conclusion

- 9.36. The NPPF advises that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The proposed development provides a number of highway improvements to local highway network including the junction to the A361 and Bloxham Grove Road which would all need to be secured through a legal agreement. These have been modelled and demonstrate the junction would operate within capacity and are considered to mitigate the traffic impacts of the proposed development. The proposal provides new pedestrian access to the village and improves some of the safety issues on Bloxham Grove Road and the level of parking is considered to be appropriate to serve the needs to the development. Overall, therefore, the highway impacts of the development are considered to be acceptable.

Impact on character and appearance of area

Policy Context

- 9.37. The NPPF advises that the creation of high quality places is fundamental to what planning should achieve. It goes on to state that planning decisions should ensure development will function well and add to the overall quality of an area, be visually attractive as a result of good architecture, layout and landscaping; be sympathetic to local character including the building and landscape setting; establish a strong sense of place; and creating safe, inclusive and accessible development. These aims are also echoed and expanded upon within Policy ESD15 of the CLP 2031 and Policies BL11 and BL12 of the BNP 2031, which look 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 and protect the setting of the village.
- 9.38. Policy ESD 13 of the CLP 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. Furthermore development that causes undue harm or visual intrusion into the open countryside will not be supported. Saved Policy C8 seeks to resist sporadic development in the open countryside.
- 9.39. 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.

Assessment

- 9.40. The proposed development would be located on Bloxham Grove Road which currently maintains a strong rural character and appearance beyond the extent of the buildings which consist of the Warriner School. The site itself is relatively flat as

are the immediate surrounding fields. Further to the north the land falls into the valley associated with the Sor Brook.

- 9.41. The proposed development would lead to the loss of a grazed field, which includes some ridge and furrow and positively contributes to the rural character and appearance of the area and the setting of the village. That said, the site is surrounded by the playing fields associated with the existing school, which does alter the character of the area by having a more formalised appearance and provision of sporting paraphernalia. It is also located in proximity to the existing school building and new MUGA serving the Warriner School.
- 9.42. With the exception of the location of the access the applicant proposes to retain the existing field boundaries. During the course of the application further enhancement to the screening of the site including the provision of additional planting and trees has been provided by the applicant, which would aid with the screening and filtering they would provide of the proposed development. This is particularly important to the northern, southern and eastern boundaries where views are more sensitive. Furthermore details of the tree protection plan for construction works would need to be conditioned to ensure the existing hedgerows and trees are adequately protected during construction. The works proposed to Bloxham Grove Road in relation to the widening and provision of a footway would also impact on the rural character of the area; however, this would be quite localised to the existing frontage of the Warriner School.
- 9.43. The proposed building would be located relatively central to the main part of the site and would be two-storey in height. During pre-application discussion it was advised that officers did not consider the proposed building needed to follow the form and appearance of the buildings at the Warriner School site which are of little architectural merit. The proposed building would be designed with a contemporary appearance with a series of flat roof elements at different heights to attempt to break up the mass and bulk of the building to some extent. The L shape arrangement of the building also means the building are relatively well grouped and set away from the boundaries of the site to allow the retention of screening. Officers have raised some concerns over the overall height of the building and requested it be reduced in height. However, the applicant states that the parapet wall is required for safety purposes and would have the additional benefit of screening the plant equipment and solar panels which would be located on the roof of the building. On balance this is considered to be acceptable.
- 9.44. The building would present an active frontage to the car park with the exception of the forward projecting element which accommodates the hall, kitchen and dining area and this part of the building would be clad in iron stone to provide a locally distinctive material. During the course of the application the applicant has also revised the plans so that the ground floor element of the building would also be constructed of ironstone with timber cladding above. The wider use of natural ironstone is considered to be positive as it helps root the building in the context of Bloxham where ironstone is used widely. The use of timber cladding has been introduced during the course of the application, as the originally proposed use of grey render which was not considered to be sympathetic to the rural context, and timber cladding was considered to give a softer more rural appearance to the site and is a material which is used in large agricultural buildings in rural settings.
- 9.45. Overall whilst it is acknowledged that the proposed development would have some adverse landscape and visual impact given the rural character of the site, it is considered that there would be moderated by the fact that the site is surrounded by existing playing fields and the school buildings to the west of the site. Furthermore the existing and proposed planting would help screen and filter the proposal and the

proposal would appear as an extension to the existing Warriner School site. The design of the building is contemporary and the use of local materials help in providing for a more locally distinctive appearance to the development.

Flood risk and drainage

Policy Context

- 9.46. 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.
- 9.47. 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. Policy BL7 of the BNP echoes this.

Assessment

- 9.48. The site is located within Flood Zone 1 which is lowest risk of flooding. Infiltration tests have been carried out which indicate that the infiltration methods for surface water would not be feasible on the site.
- 9.49. The Lead Local Flood Authority (LLFA) originally objected to the scheme. Following this the drainage strategy has been revised. The proposed surface water drainage for the site has been designed so there will be no increase in flood risk on or off the site. This includes the use of a porous tanked sub base to the entire car park and the MUGA and hard play areas would be constructed of permeable Asphalt over a tanked porous sub base. These would discharge into a cellular tank which would discharge via a flow control chamber into an existing ditch. The drainage system has been designed to include all flood events up to and including the 100 year + 40% climate change. The LLFA raises no objection to this subject to condition.
- 9.50. In regard to foul water Thames Water have advised that there appears to be inadequate capacity in the existing foul network infrastructure to accommodate the needs of the development. Therefore it requests a condition is imposed on any grant of planning consent to require an appropriate scheme to be provided prior to the first occupation of the building. This is recommended as a condition.

Heritage Impact

Legislative and policy context

- 9.51. The site is not within and does not affect the setting of a Conservation Area. However the site is located in a field which includes ridge and furrow which is considered to be a non-designated heritage asset. Policy ESD15 states that new development proposals should include information where archaeological potential is identified to allow an assessment of significance. Paragraph 189 of the NPPF echoes this advice.

Assessment

- 9.52. The site is identified as having archaeological potential and includes ridge and furrow. The application has been accompanied by a desk based archaeological assessment, which concludes that based on their finding the site has low to moderate potential for prehistoric activity with any material likely to be of low

archaeological significance. The ridge and furrow demonstrate a high potential for later Medieval and early post medieval remains however any activity of this period would be likely to be of low significance.

- 9.53. The development would impact negatively on the ridge and furrow that currently exists at the site; however, this is only considered to be limited given the size and position of the site. The County Archaeologist has raised no objection to the application subject to a staged programme of archaeological investigation which can be controlled through a condition. Officers see no reason to disagree with this assessment or conclusion.

Sustainable Construction

- 9.54. Policy ESD3 of the CLP Part 1 states that all new non-residential development will be expected to meet at least BREEAM 'Very good'. Policy ESD4 requires that a feasibility assessment of the use of decentralised energy systems, providing either heating or heating and power for all non-domestic development above 1000sqm metres. Policy ESD5 requires a feasibility assessment in regard to on site renewable energy.

Assessment

- 9.55. A Feasibility Report for BREEAM has been submitted with the application. This indicates the use of solar photovoltaic roof panels on the building would be feasible for the site and details of this can be controlled through condition. The achievement of the BREEAM 'Very good' standard is also a requirement of Policy ESD3 and could be controlled by condition.

Ecology Impact

Legislative context

- 9.56. 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.
- 9.57. 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.
- 9.58. 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.

Policy Context

- 9.59. 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.
- 9.60. 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.
- 9.61. 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.
- 9.62. 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.
- 9.63. 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

- 9.64. 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
- 9.65. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site is undeveloped and there are a number of mature trees and hedgerows within and adjacent the site, and therefore has the potential to be suitable habitat.
- 9.66. 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.
- 9.67. In respect of planning applications and the Council’s 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.
- 9.68. The application is supported by a detailed Ecological Survey. The main ecological constraint that this identifies is the fact a number of the trees on the boundary have low to medium potential for roosting bats and the hedgerows around the site offers opportunities for nesting birds and foraging bats. These trees are shown to be retained in the submitted layout. The Council’s Ecologist (CE) is generally satisfied with the finding of the survey and notes that a Construction Environmental Management Plan should be conditioned including measures to protect nesting birds and bats.
- 9.69. Amended plans have been received which show additional new planting and enhancements on the site and the CE considers a net gain in biodiversity could be achieved with the additional planting and enhancements on the building. The CE requests that a Landscape and Ecological Management Plan (LEMP), which can show an overall net gain for biodiversity should be required by condition and should include plans for other features on site – integrated bird boxes within the buildings, bat boxes on mature trees, hedgehog boxes or log piles at the boundaries.
- 9.70. Concerns have been raised by the CE that the lighting for the site appears rather excessive and the applicant has agreed that full details of the lighting could be controlled through planning conditions to ensure it was appropriate for its rural context, and also did not adversely impact on ecology, particularly the boundaries of the site.
- 9.71. Officers are satisfied, on the basis of the CE’s advice and the absence of any objection from Natural England, and subject to conditions, that notwithstanding the proposed development the welfare of any European Protected Species found to be present at the site and surrounding land would continue and would be safeguarded, 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

- 9.72. 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. Policy BL9 seeks to ensure that the living conditions of neighbouring residents are not materially harmed by development proposals. The proposed development is some distance from the nearest residential property and is not considered to result in a significant amenity issues.
- 9.73. The Parish Council has made extensive comments on the application but some of their comments refer to policies in the Neighbourhood Plan which are not relevant to the proposal. For example Policy BL2 of the BNP relates to housing as does Policy BL5. Policy BL14 relates to start up and small business expansion which is also not considered relevant to the proposal.
- 9.74. The Parish Council has also raised concerns that the proposed development is not plan-led as it is not allocated within the Development Plan. However, Policy BSC7 does allow for the provision of new schools in sustainable locations and the supporting text to this policy notes; *'New school buildings should be located in sustainable locations on the edge or within the built up limits of settlements. New schools in the Green Belt and open countryside will be resisted'* (para B.144). In this context the site is considered to be located at the edge of an existing settlement and needs to be assessed in this context. This is discussed in detail above.
- 9.75. The Parish Council has also raised concerns regarding air quality as previously air monitoring in Bloxham has provided concerns regarding nitrogen dioxide (NO₂) levels. However, the Council's Environmental Protection Officer has raised no objections in this regard and has noted that the all three monitoring locations in the village are below the annual mean objective level, and the general trend has been downwards

10. PLANNING BALANCE AND CONCLUSION

- 10.1. Planning applications are required to be determined in accordance with the Development Plan unless material considerations indicate earlier. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development and need to achieve the economic, social and environmental objectives in mutually supportive ways.
- 10.2. In this case the proposals would provide significant social benefits in providing additional specialist educational provision for which there is an urgent need for in the district. Whilst ideally the site would be located within or adjacent to the larger settlements of Banbury or Bicester the applicant has undertaken a site search and has not found any more suitable or viable sites. Notwithstanding this, the students who attend the school are unlikely to walk or cycle to the site as they would come from a wider catchment and arrive by organised transport. The site is located at the edge of one of the larger Category A villages in the district and some opportunities for walking and use of public transport exist for staff and visitors. It also has benefits in terms of the educational offer and environment the operators wish to provide.
- 10.3. There would be some harm to the rural character and appearance of Bloxham Grove Road; however, this would be moderated by the relationship of the site with the Warriner School and the landscaping proposals submitted with this application. The building uses a palette of materials that reflects the locality and the rural context.

- 10.4. The proposal seeks to provide improvement to Bloxham Grove Road and the junction with the A361 which are considered to mitigate the impacts of the development on the local highway network.
- 10.5. Overall, when considered as a whole, the social benefits of the scheme are considered to outweigh the modest harm to the character and appearance of the area. It is therefore considered to represent a sustainable form of development and it is recommended that planning permission 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) Contribution of £2,700 (index linked) towards administrative costs of Traffic Regulation Order to move 30mph
- b) £1,240 towards monitoring and review of Travel Plan
- c) An obligation to enter into a Section 278 Agreement to secure highway works:
 - The provision of a bell-mouth access with minimum radii of 5m within the highway boundary on Bloxham Grove Road to enable access to the development and to tie into the existing carriageway and footway on this road.
 - Improvement of highway works to upgrade Bloxham Grove Road as illustrated by PBA's proposed Bloxham Grove Road access Option 2 (under Drwg No. 45479/5501/004 Rev A), appended to the TA. These must include:
 - Widening Bloxham Grove Road to 4.8m from Warriner School entrance to the proposed site access to allow a 2-way movement along this section.
 - Provide a 1.5m wide footway along the southern front of the carriageway up into the site with suitable tactile paving at crossing points
 - To formalise the existing parking layby along Bloxham Grove Road which is currently echelon into parallel parking marked out bays.
 - Relocation of the 30/60mph speed limit markers further east of the site access, subject to a TRO consultation process.
 - Highway improvements on the A361 Banbury Road/ Bloxham Grove Road/ Ell's Lane junction to include:
 - Widening of the A361 to accommodate right turning lanes into both Bloxham Grove Road and Ell's Lane as illustrated by Drawing No. 45479/5501/006 Rev A.
 - In addition to details of Drawing No. 45479/5501/006 Rev A the design should include crossing facilities on either end of the right turn lanes on the A361 Banbury Road.

CONDITIONS/REASONS FOR REFUSAL

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.

Accesses: Full Details

3. Prior to the commencement of the development hereby approved, details of the means of access between the land and the highway on Bloxham Grove Road, including position, layout and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the occupation of the development hereby approved, 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.

Tree Protection

4. Prior to the commencement of any development an Arboricultural Impact Assessment, Tree Protection plan and Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in strict accordance with the approved details.

Reason - To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Construction Traffic Management Plan

5. Prior to the 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 development shall proceed strictly in accordance with the details contained in the approved CTMP.

Reason: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and local residents, particularly at morning and afternoon peak traffic times, to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Archaeology

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

Reason - To safeguard the recording of archaeological matters within the site in accordance with Government guidance contained within the National Planning Policy Framework (2019).

7. Following the approval of the Written Scheme of Investigation referred to in condition 6, and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

Reason – To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with Government guidance contained within the National Planning Policy Framework (2019).

SuDS

8. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. The development shall not be implemented other than in strict accordance with the approved details and shall be fully implemented prior to the use of the building commencing.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal in accordance with ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Completion and Maintenance of Sustainable Drainage – Shown on Approved Plans

9. No building or use hereby permitted shall be occupied or the use commenced until the sustainable drainage scheme for this site has been completed in accordance with the submitted details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and maintained thereafter in accordance with ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Landscape and Ecological Management Plan

10. Prior to the commencement of the development hereby approved, a Landscape

and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. This shall demonstrate a net gain in biodiversity and shall include the provision of integrated swift nest bricks and a range of bat and bird boxes. It shall also include details of protection of retained features and ecology during construction. Thereafter, the development shall not be carried out other than in accordance with the approved LEMP including the provision of the enhancements prior to the first occupation of any dwelling.

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 the National Planning Policy Framework.

Landscaping

11. Prior to the commencement of the development hereby approved, 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 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 pavements, pedestrian areas, reduced-dig areas, crossing points and steps.

Thereafter, the development shall be carried out in strict accordance with the approved landscaping scheme. The approved scheme shall be implemented prior to the first occupation of the development and shall be retained as such thereafter.

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.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy 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

12. Notwithstanding the details shown on the approved plans, further details of the architectural detailing of the exterior of the development hereby approved including details of the parapet, window details (including colour and recesses), junction between timber and stone, and details of any coping or other detailing 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.

Stone Sample Panel

13. No development shall commence above slab level until a stone sample panel (minimum 1 metre squared in size) has been constructed on site and has been inspected and approved in writing by the Local Planning Authority. 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. The stone elements of the external walls of the building, as shown in the drawings referred to in Condition 2 of this permission, shall not be constructed other than in strict accordance with the approved stone sample panel, including in type, colour, texture, coursing and pointing, 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.

Timber boarding

14. No development shall commence above slab level until a sample panel of timber boarding has been constructed on site and has been inspected and approved in writing by the Local Planning Authority. The sample panel shall show the type, finish and arrangement in which the timber boarding will be placed on the building. Details shall also be submitted in relation to the durability and weathering of the timber boarding. The sample panel shall be constructed on site to be inspected and approved in writing by the Local Planning Authority. The sample panel 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. The timber elements of the external walls of the building, as shown in the drawings referred to in Condition 2 of this permission, shall not be constructed other than in strict accordance with the approved sample panel, 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.

Renewable Energy

15. Prior to any works above slab level, full details of the siting, design and amount of renewable energy to be provided on the site 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 - To ensure that the feasibility of significant on-site renewable energy is considered in accordance with the requirements of Policy ESD5 of the Cherwell Local Plan 2011-2031 Part 1.

Protection of Pedestrian Footway

16. Prior to the any works above slab level details of the measures to physically protect the section of walkway running between the car parking spaces shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the footpath(s) shall remain protected and available for use throughout the development in accordance with the approved details.

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

External Lighting and Management Plan

17. Notwithstanding the details on the submitted plan and prior to the installation of any external lighting, full details of the external lighting and a management plan to control the lighting shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the lighting shall be installed and managed in accordance with the approved details and shall be retained as such thereafter.

Reason - To ensure the satisfactory appearance of the completed development, protect amenity of the local area, protect biodiversity and to comply with Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Installation of pedestrian crossing facilities along the A361 Banbury Road

18. Prior to the first occupation of the building, full details of the highway works to Bloxham Grove Road and the junction of the A361/Bloxham Grove Road/Ells Lane as outlined in the submitted Transport Statement and Addendum, to also include a pedestrian crossing point(s) on the A361, 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.

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

Parking and Manoeuvring

19. Prior to the first occupation of the development the parking and manoeuvring areas shall be constructed, laid out, surfaced, and completed in accordance with the plans hereby approved, and shall thereafter be retained unobstructed at all times except for the parking and manoeuvring of vehicles in connection with the development.

Reason: In the interests of highway safety in accordance with Policies SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance

contained within the National Planning Policy Framework.

Wastewater network

20. The development hereby permitted shall not be occupied until details and confirmation of one of the following has been submitted and approved in writing by the local planning authority:

- all wastewater network upgrades required to accommodate the additional flows from the development have been completed; or
- an infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied. Where an infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed infrastructure phasing plan.

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

BREEAM

21. The building hereby granted planning permission shall be constructed to achieve BREEAM 'Very Good' standard based on the BREEAM criteria applicable at the time of this decision for a proposed building use of this type.

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

Travel Plan

22. Within 3 months of the first use of the development hereby permitted a revised travel plan shall be submitted and approved in writing by the Local Planning Authority. Thereafter, the approved Travel Plan shall be implemented and operated in accordance with the approved details.

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

CASE OFFICER: James Kirkham

TEL: 01295 221896

Agenda Item 11
19/00777/F

**Land To Rear Of No. 23 To 29
Crouch Street
Banbury**



19/00777/F

Land To Rear Of No. 23 To 29
Crouch Street
Banbury



Case Officer: James Kirkham

Applicant: Jane Sands

Proposal: Erection of three new dwellings

Ward: Banbury Cross And Neithrop

Councillors: Cllr Hannah Banfield
Cllr Surinder Dhesi
Cllr Cassi Perry

Reason for Referral: Called in by Councillor Woodcock for the following reasons: Highways and heritage grounds

Expiry Date: 24 June 2019

Committee Date: 18 July 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

The current application seeks permission to erect 3 dwellings on the site. The dwellings would be accessed via Cork Lane which is a service lane to the rear of the properties on Crouch Street.

Consultations

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

- Banbury Town Council, Councillor Woodcock

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

- CDC Conservation, OCC Highways, CDC Ecology, OCC Archaeology, CDC Tree Officer, CDC Environmental Protection

14 letters of objection have been received.

Planning Policy and Constraints

The application site is located within the Banbury Conservation Area and also within the setting of a number of listed buildings, including those to the south of the site on Crouch Street. This includes 21 and 22 Crouch Street which are both Grade II listed. A large pine tree exists on the opposite site of Cork Lane to the application site which is protected by a tree preservation order.

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
- Highways
- Residential amenity
- Ecology impact
- 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 relates to a parcel of garden land located to the south of Cork Lane which is a small service lane to the rear of the properties in Crouch Street (to the south and West Bar Street (to the north) with access from Beargarden Road. This is a private road and serves a number of car parks principally to the uses on West Bar West.
- 1.2. A brick wall encloses the northern boundary for much of its length with Cork Lane which also includes one double prefabricated garage and 1 single prefabricated garage. A large pine tree exists on the opposite site of Cork Lane which is protected by a tree preservation order. The site falls in a north easterly direction by approximately 2 metres.

2. CONSTRAINTS

- 2.1. The application site is located within the designated Banbury Conservation Area and also within the setting of a number of listed buildings, including those to the south of the site on Crouch Street. This includes 21 and 22 Crouch Street which are both Grade II listed. A large pine tree exists on the opposite site of Cork Lane to the application site which is protected by a tree preservation order.
- 2.2. There are records of swifts and Common Pipistrelle bats within 250m of the site. The site also lies within an area of elevation radon gas.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The current application seeks permission to erection 3 dwellings on the site each of which would have 2 bedrooms. Each plot would have 1 parking space. Plot 1, which would be situated to the south west of the site and would be single storey, with plots 2 and 3 being low 2 storey building. They would be constructed of brick under slate roofs with timber detailing and have been designed to take visual cues from ancillary outbuildings. The majority of the existing brick wall along Cork Lane would be retained with the existing pre-fabricated garages removed to provide access points to the dwellings.
- 3.2. *Timescales for Delivery:* The applicant has not given an indication of timescales for delivery.

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>
18/00036/F	Erection of 9 dwellings (7 no. 2 - beds and 2 no. 1 - beds) and all associated works	Application Withdrawn

4.2. This was withdrawn following concerns being raised regarding the access and heritage impacts.

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>
16/00345/PREAPP	Pre-Application Enquiry - A new development of 8 No 3 storey town houses with garden areas and parking and additional parking for 23 to 29 Crouch Street. Access is to be gained through the existing garages off Cork Lane or by removal of no 29 Crouch Street to give access from Crouch Street

18/00231/PREAPP Construct five new dwellings

Concerns were raised regarding the intensification of the use of Cork Lane and the use the junction between Beargarden Road/Cork Lane. Concerns were raised over the design, form and scale of the dwellings and the impact on the Conservation Area. Concerns were also raised regard the relationship with the protected tree and impact on residential amenity.

18/00295/PREAPP Three new dwellings

The Highway Authority advised that, on balance and given the removal of the existing 3 garages on the site which could be used as parking spaces, 3 dwellings was considered to be acceptable by the highway authority. Some concerns were also raised over the arrangement and form of the building. Concerns were also raised over the relationship with the neighbouring properties. It was considered that officer were likely to support 3 dwellings on the site.

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 (amend as appropriate). The final date for comments was 13.06.2019, although comments received after this date and before finalising this report have also been taken into account.

6.2. 14 letters of objection have been received. The comments raised by third parties are summarised as follows:

- Residential frontages on Cork Lane are out of character with the historic street pattern.
- The layout, position, scale, depth and appearance of the buildings are not in keeping with the more narrow plan form and simple detail of the other outbuildings. The number of roof lights is excessive
- The two storey scale of the buildings is not subservient or appropriate for the lane. Any dwellings should be single storey.
- The proposal would cause harm to the character and appearance of the Conservation Area
- Detrimental impact on trees including pine tree covered by the TPO.
- The site appears to be previously been associated with part of the estate of Cambrian House (21 and 22 Crouch Street) which is a Grade II listed building. The proposal would be harmful to the setting of this and lead to the loss of some of its former ground.
- Insufficient details on materials etc. of the proposal.
- The proposal should make enhancements to Cork Lane.
- Overdevelopment of the site.
- Loss of important green space and trees.
- Access is inappropriate for the development being single lane and narrow in many places. It is already used by the surrounding car parks causing conflict. The proposal will make this situation worse.
- The existing garages are not used.
- Visibility at the access with Beargarden Road is substandard.
- Insufficient parking and servicing for the dwellings.
- Waste collection facilities are inadequate.
- Detrimental impact on ecology given loss of garden. This use accommodates bee hives and lots of wildlife
- Increase in pollution.
- Loss of privacy and overlooking to neighbouring properties.
- Impacts of construction on access, traffic and residential amenity.
- Detrimental impact to neighbouring businesses through disturbance during construction.
- No need for further housing.
- Concern over extent of redline not including access to the highway (this has now been amended).

- The red line includes land not in applicants control such as land to the rear of 5-7 West Bar Street. This make Cork Lane appear wider than it is.
- The application is not valid given some of the information is out of date. It contains lots of inconsistent information.
- Development of the site would be against the title deeds on the land

6.3. The above is a summary of the comments. Full details copies of 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.

COUNCILLORS

7.2. COUNCILLOR WOODCOCK: **Objects**. As indicated by local residents, Cork Lane is a private carriageway, that even now is very difficult to access by car for visitors to the local veterinary hospitals. Adding 3 dwellings, and the extra vehicles that this would entail (let alone construction traffic), would make this even worse and unbearable for users of this road. Furthermore, this is a conservation area and I do not feel that adequate attention has been paid to the impact on the local listed buildings by this application. The Planning Committee of Banbury Town Council, which has a record of being generally supportive to reasonable applications for development in the centre of Banbury, has already indicated its objection to the development, and so I ask that the committee take this feedback into account in making their decision.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.3. BANBURY TOWN COUNCIL: **Objects** due to narrow access with poor visibility and unacceptable traffic generation.

CONSULTEES

7.4. OCC HIGHWAYS: **No objections** subject to conditions on car parking provision, construction traffic management plan and cycle parking provision. Given the centrally located position of the dwellings the level of parking provision is considered acceptable. Given the reduction in the number of dwellings from the earlier scheme, the intensification of Cork Lane is now marginal and considered acceptable. A CTMP condition is proposed given the restrictions and limitations of the site and surroundings adopted highway network. This is to prevent any construction traffic from blocking Cork Lane, and parking on Beargarden Road.

7.5. CDC CONSERVATION: **No objection**. The area is predominately residential with the properties mostly dating to the mid-19th Century, with larger villas to the north on West Bar Street and three storey terraced houses to the South on Crouch Street. Also located on Crouch Street to the south of the application site is a pair of semidetached Villas which can be dated to 1840 and are Grade II Listed. The lane onto which the application site faces is a service lane which would have historically housed outbuildings and the boundary walls associated with the properties backing onto it.

- 7.6. The significance of the area lies in its character as a 19th century suburb. Although within the setting the application site is not considered to be within the curtilage of the Listed Buildings. The lane has its own character as a service lane with ancillary outbuildings.
- 7.7. There was a previous scheme proposed for this site which consisted of 9 dwellings; this was considered to be detrimental to the character of the area and to result in unacceptable harm to the conservation area and setting of the nearby Listed Buildings. This scheme proposes three dwellings and is considered to be more appropriate for the site as it better addresses the constraints in terms of the impact upon the heritage assets. The buildings broadly take on the form of outbuildings to the rear of the properties that face onto Crouch Street. This design and form of buildings is considered to complement the historic outbuildings that remain on Cork Lane. The existing wall that also runs along Cork Lane is proposed to be largely retained or rebuilt and this is welcomed.
- 7.8. The design and appearance of the buildings is considered not to result in harm to the setting of the nearby Listed Buildings or the character of the conservation area in this location. However, the materials used would be key to the success of the development. The materials used should match the neighbouring buildings and the brickwork in particular should match in terms of colour, texture, face bond, size, jointing, pointing and mortar mix. The window and door openings contained within the new buildings should also be carefully detailed and the joinery should be traditional. Overall it is considered that the proposal for three dwellings would result in a development that would preserve the character and appearance of the Conservation Area.
- 7.9. OCC ARCHEOLOGY: **No objections.**
- 7.10. CDC TREE OFFICER: **No objection** subject to condition requiring a full tree survey, protection of retained trees and arboriculture method statement.
- 7.11. CDC ENVIRONMENTAL PROTECTION: **No objections** subject a Construction Environmental Management Plan condition to protect amenity of neighbouring properties, ground investigation conditions and provision of ducting for EV charging points.

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
- SLE4 – Improving Transport and Connections
- BSC2 – The Effective and Efficient Use of Land – Brownfield Land and Housing Density

- ESD1 – Mitigating and Adapting to Climate Change
- 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

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
- ENV12 – Contaminated Land
- TR7 – Minor Roads

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)
- Cherwell Residential Design Guide 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

- Highways
- Residential amenity
- Ecology impact
- Other matters

Principle of Development

- 9.2. Policy ESD1 of the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1) states that measures will be taken to mitigate the impact of development within the District on climate change. This includes development which seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars.
- 9.3. The application site lies within the built up limits of Banbury in proximity to the town centre. Paragraph B.88 of the CLP 2031 Part 1 sets out the principle of residential development in Banbury and states that housing growth will be focused in and around Banbury to ensure housing development within the District needs only take place in the locations that are most sustainable and most be capable of absorbing this new growth. Therefore it is considered that subject to other material considerations discussed below, the principle of developing the site is acceptable as it is situated in a geographically sustainable location with good access to services and facilities and close proximity to the town centre.

Heritage Impact

Legislative and policy context

- 9.4. The site is located within Banbury Conservation Area and is also within the setting of a number of Grade II listed building to the south of the site on Crouch Street. There are also a number of locally listed buildings in the vicinity of the site.
- 9.5. 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.*
- 9.6. 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.
- 9.7. 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.
- 9.8. 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 and use appropriate detailing and materials.. Saved Policy C23 of the CLP 1996 states there will be a presumption in favour of retaining

buildings, walls and trees and other features which make a positive contribution to the Conservation Area. 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.

Assessment

- 9.9. The site lies within the Banbury Conservation Area and is situated within the West Bar Character Area within the Conservation Area Appraisal (CAA). The CAA notes in this area there are a number of rear service lanes serving larger properties and these include Cork Lane where the application site is located. These add to the richness of the area and relate to the historic layout and evolution of the Conservation Area. It goes on to state that: *'The removal of the boundary walls and coach houses on the rear service lane (Cork Lane) to West Bar Street south for car parking has significantly and unnecessarily reduced the level of enclosure.'* The CAA also notes the loss of such features as a threat to the Conservation Area. The application site retains a brick wall for much of its length to Cork Lane that positively contributes to the area and these elements are largely being retained in the current proposal. The access points to the parking provision have been largely located in the areas of the existing garages to reduce the extent of the removal of the walls and the provision of small pedestrian gates in this wall is not considered to harm the significance of the structure.
- 9.10. The CAA also identifies a positive vista looking from Cork Lane towards the town centre adjacent to the site which is a further constraint of the site. It also notes that the tall evergreen hedge and trees visible from Crouch Street (to the side of 22 Crouch Street) contribute significant relief to the tightly grained urban area in Crouch Street and are positive features of the area.
- 9.11. Whilst rather degraded in a number of places, mainly given the loss of rear boundary treatments, the character of Cork Lane is effectively a historic rear service lane serving the properties to the north and south and is viewed as a lower order street in the hierarchy of spaces in the Conservation Area. Officers consider it is important that any development proposals respect this hierarchy of streets. The western end of Cork Lane and the land immediately to the east of the site accommodates a number of outbuildings which appear as ancillary structures and reinforce this character.
- 9.12. The scheme has been developed with the character and arrangement akin to outbuildings and coach houses to reinterpret this type of development, which is considered to be appropriate for this context and was encouraged at pre-app. Plot 1 is set back in the plot behind the taller element of the wall with Cork Lane and is designed with an L shaped plan form and is single storey. The form of the building is relatively simple with pitched roof form. The elevations have an informal arrangement to provide a contemporary take in an informal arrangement of outbuildings and full details of the materials and detailing can be controlled through condition. It is also noted that many public views of this being would be screened by the existing wall. The arrangement also allows for the retention of the higher part of the boundary wall and provides some separation from the protected tree.
- 9.13. Plots 2 and 3 would be arranged in linear arrangement closer to Cork Lane, which would reflect the simple layout and form of traditional outbuildings and coach houses, which generally have a functional form and close relationship to the lane. They would be situated slightly behind the existing walls, to allow the retention of the existing walls which currently encloses Cork Lane which are considered to positively contribute to the character and appearance of the Conservation Area. They would

be low 2 storey building (approx. 6.9m to ridge, 4.1 to eaves) at the tallest point and would have their overall bulk and scale broken up through changes to the ridge and eaves height with smaller elements of the building to the side. Whilst ideally they would have been slightly lower in height and have a shallower plan form, on balance this is considered to be acceptable. They would step down Cork Lane having regard to the fall in the land across the site and full details of levels could be controlled through condition. The elevations would be constructed of brick and have slate roofs which would reflect the materials used traditionally in the location. The arrangement of windows, doors and detailing on the buildings would also echo former outbuildings such as the use of boarded openings and informal and more organic fenestration. The Conservation Officer has raised no objection to the scheme and overall it is considered that the proposed development provides for a contemporary interpretation of former outbuildings and coach houses, which would be in character with the other buildings in Cork Lane and reflect the lower order of this lane in the Conservation Area.

- 9.14. Concerns have been raised that the proposal would result in the enclosure of Cork Lane and would also result in the loss of the green space. Whilst it is noted that the application site is currently undeveloped as garden land, the Conservation Officer has not raised any objection to the loss of this space in principle. The site is in an urban location and, while in such locations residual open spaces can make a positive contribution to the character of the area, through provision of amenity space or providing a setting to dense built form, in this instance the open nature of the site is not considered to be a significant contributor to the character and appearance or significance of this part of the Conservation Area. In fact it is noted in the Conservation Area Appraisal that one of the key threats in this area is the loss of enclosure to this street through the removal of boundary walls and coach houses. The proposed development is considered to be beneficial in this respect, i.e. allowing opportunity for the majority of the wall to remain and for its retention to be required long-term, and officers consider it strikes an appropriate balance between providing enclosure and providing a sufficiently broken up form and layout to ensure it does not appear out of scale with the other buildings.
- 9.15. Objections have been made regarding the loss of the green space and there being a deficiency within the locality. However, this area of land is not a public green space and is private garden. It is not designated green space and has no public access. Therefore this issue is not considered to carry significant weight in determining the application and the main issue is whether the loss of the space would be acceptable in terms of the impact on the character and appearance of the area which is not considered to be harmful.
- 9.16. Concerns have been raised that part of the application site appears to have been historically connected to Cambrian House, which is a Grade II listed building, situated on Crouch Street. However, there is no certainty over this and this land is now clearly separate from the house being separated into a number of plots which has occurred over a number of years and has already resulted in the erosion of the connections between this property and the application site. The Conservation Officer is of the view that the site is not within the curtilage of this property and does not consider the proposal would adversely impact on the significance or setting of this listed property which is already experienced in an urban context.
- 9.17. A number of trees also exist within the proximity of the site which are considered to be important to the Conservation Area. These include a Pine tree which is protected by a Tree Preservation Order and exists on the opposite site of Cork Lane to the north of the site. There are also 2 Category B trees (Yew and Cypress) which exist towards the south west corner of the site in the garden of 22 Crouch Street. All these trees would be retained as part of the development and the Council's Arborist

has raised no objection to the scheme subject to conditions. Consideration has been given to the design and position of the dwellings to help to reduce potential future conflict between the properties and trees and on balance this is now considered to be acceptable.

- 9.18. Overall, on balance, the proposal is considered to preserve the character and appearance of the Conservation Area and the setting of the nearby listed building. The proposal would relate to the existing character and context of Cork Lane and would echo the form and appearance of ancillary outbuildings. The proposal is therefore considered to be acceptable in this regard.

Highways

Policy Context

- 9.19. Policy SLE4 of the Cherwell Local Plan Part 1 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 and that new development should facilitate the use of sustainable modes of transport such as public transport, walking and cycling. It also requires that new development provide financial and/or in-kind contributions to mitigate the transport impacts of development. Saved Policy TR7 states that development that would attract large numbers of cars onto unsuitable minor roads will not normally be permitted. This policy is more aged and therefore needs to be considered in the context of the policy in the NPPF which is outlined below.
- 9.20. The NPPF has similar themes requiring opportunities to promote walking, cycling and public transport to be identified and pursued and ensuring that patterns of movement are integral to the design of schemes. It also requires that safe and suitable access to the site can be achieved for all users and that development would only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Assessment

- 9.21. The proposed development would utilise Cork Lane to access the parking spaces for the dwellings from Beargarden Road. Each dwelling would have 1 parking space which given the size of the dwellings (2 bed) and the location of the site within close proximity of the town centre is considered to be acceptable.
- 9.22. In the earlier application for 8 dwellings on the site the Local Highway Authority (LHA) objected to the scheme given the intensification of the use of the junction between Cork Lane and Beargarden Road which has sub-standard visibility in the northerly direction and also the intensification of the use of Cork Lane. The current application now proposes a substantially reduced scheme with 3 dwellings on the site and this includes the removal of 1 single garage and 1 double garage, which could all be used for parking at the current time.
- 9.23. Cork Lane is approximately 4.6 metres wide for the first 40 metres from Beargarden Road which is sufficient for two cars to pass at slow speeds albeit most drivers would wait. Further along Cork Lane it reduces in width which means 2 vehicles are less able to pass and in practice term vehicles pull into the side and allow other vehicles to pass given there is relatively good forward visibility. Cork Lane is already used to access a number of sizable parking areas which serve the both residential and commercial properties on West Bar Street and a veterinary surgery that exists at the end of Cork Lane.

- 9.24. The application is accompanied by Transport Statement which undertook a traffic count of the existing use of Cork Lane which noted 77 vehicle movements (57 in, 20 out) in the a.m. peak hour. The proposed development is likely to generate 2 vehicle movements in the AM peak and 2 in the PM peak. This is considered to have a negligible impact on the use of the junction with Beargarden Road or the operation of Cork Lane. Furthermore the loss of the 3 garages which currently exist on the site also need to be taken into account as these could already generate a similar level of traffic. Therefore whilst it is accepted that the access and junction is not ideal, given the above factors the proposed development is considered to be acceptable from a highways perspective and there is no objection to the current application from the LHA given the reduced number of dwellings.
- 9.25. Concerns have also been raised by objector regarding waste collection. Discussion have been undertaken with the Council's waste collection team who have advised that the Council's Waste Collection Team already reverse along Cork Lane to collect rubbish and this arrangement would continue. A bin collection point is provided at the western end of the development (closest to Beargarden Road) for residents to use on bin collection day which is considered to be an acceptable arrangement.
- 9.26. Concerns have also been raised over the impacts of construction traffic. The impacts of construction traffic are for a limited period of time and are therefore generally given less weight in planning decisions given their temporary nature. However, given the tight nature of the access in this case the Highway Engineer has requested a Construction Traffic Management Plan which can be controlled through planning condition.
- 9.27. Cork Lane is a private road and some concerns have been raised over the applicant's right of access over this. The applicant has stated that she does have rights over Cork Lane and notice has been served on the relevant owners as the access is included in the application site. The existing garages which exist on the site would appear to support the applicant's statement. Furthermore a condition is proposed to ensure the vehicular access to the site is provided and parking laid out prior to the first occupation of the development. If the applicant did not have legal rights over this land she would not be able to comply with this and the planning permission would not override legal rights.

Conclusion

- 9.28. The proposed development is not considered to result in a significant impact on the use of Cork Lane or Beargarden Road given the scale of the scheme, the existing traffic flows and the loss of the existing garages. Therefore the development is not considered to result in a severe impact on highway safety.

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 dwellings will face over the rear areas of the properties to the north of Cork Lane however given the distance to the habitable areas of these properties and the scale of the proposals there is not considered to result in a significant impact on their residential amenity in terms of loss of privacy, light or outlook.
- 9.31. The back to back two storey separation distance between plots 2 and 3 and the existing 3 storey properties to the north of the site on Crouch Street (number 23-29) would comply with the Councils guidance on separation distance for 2 storey properties and is therefore not considered to result in a significant loss of privacy or overlooking between these properties.
- 9.32. The proposed development on Plot 1 would be single storey and as such is not considered to result in any significant level of overlooking to the neighbouring properties including those on Crouch Street. The rear element of this property would be relatively overlooked by the neighbouring properties. However, given the off-set relationship of the property with 23-29 Crouch Street and the different orientation of 22 Crouch Street and presence of trees this is not considered to be to such a significant level to justify refusal.
- 9.33. In terms of the amenity of the future residents, care has been taken with the design and siting of the dwelling to ensure the existing operation of Cork Lane would not have a significant impact on their amenity and the dwellings provide sufficient inside and outdoors space to provide a good standard of amenity.

Ecology Impact

Legislative context

- 9.34. 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.
- 9.35. 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.
- 9.36. 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.

Policy Context

- 9.37. 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.
- 9.38. 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.
- 9.39. 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.
- 9.40. 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.
- 9.41. 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

- 9.42. 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

- 9.43. The earlier application on the site was (in 2018) was supported by a detailed Ecological Survey. The existing site comprises of a mixture of typical garden habitats, including scrub, trees, amenity grass and a number of outbuildings. The habitats on site are widespread and no rare species are present; however, the site does provide suitable habitat for foraging for birds and bats, nesting birds and habitats for invertebrates. The Council's Ecologist (CE) considers the survey to be appropriate and has raised no objection to the scheme subject to the works being carried out in accordance with the mitigation measure outlined in the report. The CE has, however, stated that the proposal should include further landscaping and enhancement and this should be secured through conditions on the provision of swift brick/boxes in the dwellings and the submission of a Landscape and Ecological Management Plan (LEMP)
- 9.44. Officers are satisfied, on the basis of the advice from the CE 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 site is located within a 50m buffer of potentially contaminated land and therefore the Environmental Protection Officer has requested planning conditions on ground investigation and remediation, if necessary, to ensure the site is suitable for residential accommodation.
- 9.46. During the course of the application the red line of the application site has been amended to include the access to the highway. The applicant has stated that she has served the correct ownership certificates on the relevant land owners, although it is noted that some of the third parties have contested this. This has been raised with the applicant who has reiterated all owners have been served notice. It should be noted that land ownership in itself is not a material planning consideration and the duty remains on the applicant to serve the correct ownership certificates and comply with other legal requirements falling outside of the planning remit.
- 9.47. The application does contain a number of references to the previously submitted scheme for 8 dwellings on the site; however, officers have considered that application on the basis of the submitted plans for 3 dwellings, and therefore these errors have not impacted on the officers' judgements.

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. The site would provide additional housing in a geographically sustainable location and will provide social and economic benefits in respect of providing new housing stock in a sustainable location. The proposal is considered to preserve the character and appearance of the Conservation Area and not cause harm to the setting of the nearby listed buildings. The use of the access would not be ideal. However, given the existing situation this is not considered to lead to any significant level of harm and there is no objection to the scheme from the highway authority. Overall, when viewed as a whole, the scheme is considered to be sustainable development, and it is recommended that planning permission 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/REASONS FOR REFUSAL

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 and drawing numbers 001 E, 002 E, 201 E, 212 D, 220 D, 210 D, 221 D, 222 Rev D and 226

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 of the building and finished levels of the site in relation to existing site levels and levels of adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall not be constructed other than in strict 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 not be carried out other than in accordance with the approved details.

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

Access

5. Prior to the commencement of the development hereby approved, details of the means of access between the land and the adopted highway, including position, layout and vision splays shall be submitted to and approved in writing by the

Local Planning Authority. Thereafter, and prior to the occupation of the development hereby approved, the means of access shall be constructed to the satisfaction of the local planning authority and shall be retained thereafter 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

Parking provision

6. The proposed parking and 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.

Land Contamination Desk Study / Site Walkover

7. 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

8. If a potential risk from contamination is identified as a result of the work carried out under condition 7, 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

9. If contamination is found by undertaking the work carried out under condition 8, 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

10. If remedial works have been identified in condition 9, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 9. 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.

Landscape and Ecological Management Plan

11. Prior to the commencement of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. This shall demonstrate a net gain in biodiversity and shall include the provision of integrated swift nest bricks and a range of bat and bird boxes. Thereafter, the development shall not be carried out other than in accordance with the approved LEMP including the provision of the enhancements prior to the first occupation of any dwelling.

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 the National Planning Policy Framework.

Ecological Survey Compliance

12. The development hereby approved shall be carried out in accordance with the recommendations set out in Section 5 of the Ecological Impact Assessment carried out by Swift Ecology on 6th December 2017.

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 the National Planning Policy Framework.

Retained Trees

13. No retained tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works. If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority. In this condition a “retained tree” is an existing tree which shall be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) shall have effect until the expiration of five years from the date of the occupation of the first dwelling.

Reason: To protect the existing trees on and adjacent to the site in accordance with Policies BSC10 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Tree Survey

14. Prior to the commencement of the development and notwithstanding the submitted details, an arboricultural survey, undertaken in accordance with BS:5837:2012 (and all subsequent amendments and revisions) and a tree protection plan shall be submitted to and approved in writing by the Local Planning Authority. Therefore the development shall not be carried out other than in strict accordance with the approved tree protection measures.

Reason: To protect the existing trees on and adjacent to the site in accordance with Policies BSC10 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Arboricultural Method Statement (AMS)

15. Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions to include a tree protection plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall not be carried out other than in strict accordance with the approved AMS.

Reason: To protect the existing trees on and adjacent to the site in accordance with Policies BSC10 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Hard landscaping

16. 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 soft and hard landscaping including planting, 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

17. Prior to the first occupation of the dwellings, the bin collection store as shown on the approved plans to the front of Plot 1 shall be provided for the use for all residents of the development hereby permitted. It shall thereafter be permanently retained as ancillary to development and used for no other purpose.

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

18. Notwithstanding the details shown on the approved plans, further details of the architectural detailing of the exterior of the development, including eaves and verge details/treatment and details of the timber boarding details 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.

Brick Sample Panel

19. 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

Sample of roof materials

20. 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

21. 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

22. Notwithstanding the details on the approved plan 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.

Roof lights

23. 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.

Cycle Parking Provision

24. 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.

Rainwater goods

25. All rainwater goods, including all rainwater gutters and downpipes, 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

PD withdrawal

26. Notwithstanding the provisions of Classes A-E of Part 1, 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 extension, alteration or outbuilding shall be provided without the grant of further specific planning permission from the Local Planning Authority.

Reason: The protect the character and appearance of the Conservation 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 12
18/01259/F

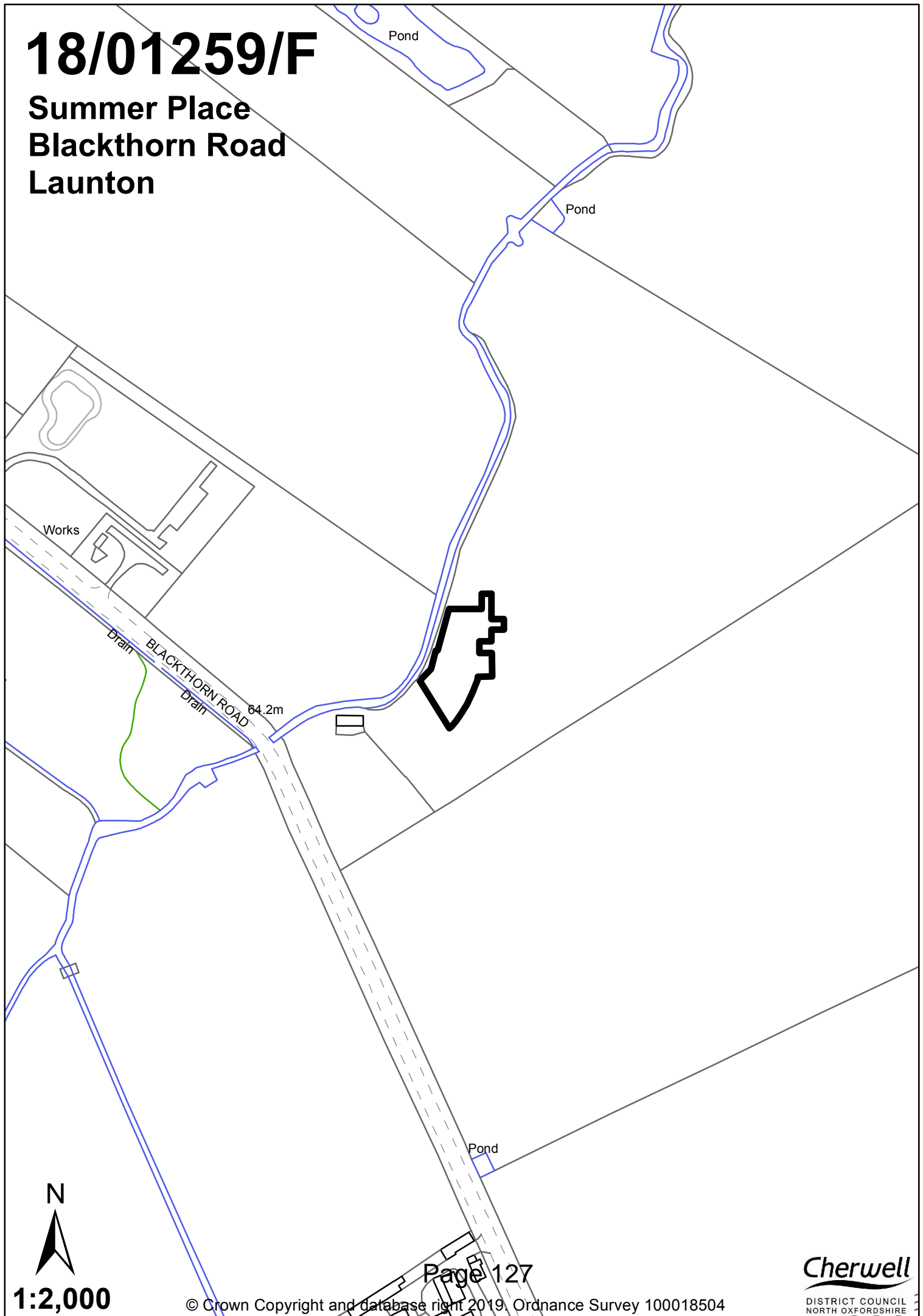
**Summer Place
Blackthorn Road
Launton**



1:250

18/01259/F

**Summer Place
Blackthorn Road
Launton**



1:2,000

Applicant: Mr Jerry Connors

Proposal: Use of land for the stationing of caravans for residential purposes

Ward: Launton And Otmoor

Councillors: Cllr Tim Hallchurch
Cllr Simon Holland
Cllr David Hughes

Reason for Referral: Called in by Ward Member – Councillor Hughes

Expiry Date: 24 September 2018 **Committee Date:** 18 July 2019

Recommendation: Approve

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

Proposal

Planning permission is sought for the change of use of the site so as to extend the existing gypsy and traveller caravan site at Summer Place further to the north east and provide 4 additional pitches. Each pitch would contain a mobile home, amenity room and touring caravan.

Consultations

The following statutory consultee has raised objections to the application:

- Launton Parish Council

1 Letter of objection has been received.

Planning Policy

The site lies adjacent to the Launton Brook which is classified as a 'main river'. The site itself is not within Flood Zone 2 and 3, but it is bordered by these higher probability flooding zones on the south and east boundaries. The site has some ecological potential as legally protected species have been recorded within the vicinity of the site. The site is also within the Ray Conservation Target Area.

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

Conclusion

The key issues arising from the amended application details are:

- Principle of the Development;
- Gypsy and Traveller Pitch Provision and 5 Year Supply Position;
- Visual Impact and Effect on Landscape Character;
- Residential Amenity;
- Access and Highways Safety;
- Flooding Risk, Drainage and Pollution; and

- Ecological Impact.

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

RECOMMENDATION - GRANT PERMISSION 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 the open countryside, some 150 metres to the south east of the village of Launton. The site is located on the north east side of Blackthorn Road and in between the site and this highway is an existing traveller site with permission for 4 pitches. The site comprises an area of grass land which is in agricultural use. The site is accessed off Blackthorn Road and this access also serves the current traveller site.
- 1.2. The site is not within a conservation area and there are not any listed buildings within close proximity to the site. The site itself is not within a Flood Zone 2 and 3, but it is bordered by these higher probability flooding zones on the south and east boundaries. The site has some ecological potential as legally protected species have been recorded within the vicinity of the site including the Kestrel, Eurasian Badger and Common Frog and the site is within 20 metres of a 'main river', which runs adjacent to the north west boundary of the site. The site is also within the Ray Conservation Target Area.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. Planning permission is sought for the change of use of the land from agriculture to the stationing of caravans for residential purposes. This is to extend the existing gypsy and traveller caravan site further to the north east. The site is proposed to accommodate four pitches, with each pitch containing a mobile home, amenity room and touring caravan. A package treatment plant is proposed to deal with the foul waste from the pitches. No alterations are proposed to the current access off Blackthorn Road. Loose bound permeable hard standing is proposed on the site.

3. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
13/00279/F	Change of Use of land to a private gypsy and traveller caravan site comprising of 2 No pitches; 1 No dayroom and associated hardstanding; retention of stables and	Application Approved

septic tank

- 3.2. This application related to land to the west of the site and it was adjacent to the highway boundary. Consent was granted for each pitch to include 1 No. mobile home, 1 No. touring caravan and a dayroom. A number of conditions were attached to this consent, including a number of pre-commencement conditions (5, 8, 10 and 11) and these were discharged on 14th February 2014 (ref: 13/00172/DISC).

16/00034/F Place two further static mobile homes on Withdrawn
the site. Enlarge the two day rooms to
accommodate the increase in use

16/01719/F Addition of two further static mobile homes Withdrawn
and enlarge the two day rooms and relocate
one, to accommodate the increased use -
Resubmission of 16/00034/F

- 3.3. Officers raised concerns with these applications due to the lack of justification for the proposal and the inaccuracies within the plans therefore these applications were withdrawn.

17/00031/F Addition of two further static mobile homes APPROVED
and enlarge the two day rooms and relocate
one, to accommodate the increased use -
Resubmission of 16/00034/F

- 3.4. The site related to land between the site subject of this current application before Members and the site of the approved application referred to above (13/00279/F). Planning permission was granted for 2no additional traveller pitches, each comprising 1no mobile home, 1no touring caravan and 1no day room. A number of conditions were attached to this consent, including:

- Condition 5 of the previous consent at the site stated: *“Within 6 months of the date of this permission, and prior to the occupation of the additional pitches hereby approved, a detailed scheme for the surface water and foul sewage drainage of the development incorporating sustainable drainage systems where practicable shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, and within 12 months of the date of this permission, and prior to the occupation of the additional pitches hereby approved, the approved drainage scheme shall be carried out and maintained as such thereafter.”* This condition has not been complied with as no such information has been submitted. Thus, Planning Enforcement has been made aware.
- Condition 7, which stated that: *“The 8 metre landscape buffer adjacent to Launton Brook, as shown on Drawing Number 1311-PL-01f received from the applicant's agent by e-mail on 23rd May 2017, shall be kept free of development at all times and no development or storage of goods, vehicles or materials shall take place at any time whatsoever”.* However, having visited the site, officers hold the view that it is likely that this plan has not been complied with. Fencing appears to have been installed within the buffer zone. Planning Enforcement has been notified.

- 3.5. This application was first considered at the November Planning Committee. It was deferred “to allow the applicant time to address issues related to vision splays at

access and foul drainage and compliance with previous conditions imposed on the site". The reason this was important was that the Planning Committee needed to have confidence that the applicant would comply with conditions that may be imposed on any permission given *if* the Committee decided to approve the current application.

4. PRE-APPLICATION DISCUSSIONS

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

5. RESPONSE TO PUBLICITY

- 5.1. This application has been publicised by way of a site notice displayed near the site. The final date for comments was 05.09.2018, although comments received after this date and before finalising this report have also been taken into account.
- 5.2. One letter of objection has been received. The comments raised by this third party are summarised as follows:
- Water is taken from other land and there is no mains water supply;
 - The existing traveller site is not in compliance with the permissions at the site;
 - There is not proper treatment of foul sewage;
 - The access is unsafe.

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

6. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 6.2. LAUNTON PARISH COUNCIL: **Objects** to the application on the following grounds:
- The site bears little resemblance to the plans submitted;
 - Overdevelopment of the site and limited justification for this;
 - Access is unsafe;
 - No meaningful means of disposal of sewage and effluent;
 - No legal provision for water.

STATUTORY CONSULTEES

- 6.3. ENVIRONMENT AGENCY: A buffer of 8 metres from the watercourse (Launton Brook) is required.
- 6.4. OCC DRAINAGE: **No objections** subject to a drainage scheme
- 6.5. OCC HIGHWAYS: **No objections** subject to conditions
- 6.6. THAMES WATER: **No comments received.**

NON-STATUTORY CONSULTEES

- 6.7. CDC ECOLOGY: **No comments received.**
- 6.8. CDC ENVIRONMENTAL PROTECTION: **No objections** subject to Electric Vehicle charging infrastructure on site.
- 6.9. CDC LICENSING: **No objections**, but a caravan site license will be required.
- 6.10. CDC WASTE & RECYCLING: **No comments received.**

7. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

- PSD1: Presumption in Favour of Sustainable Development
- SLE4: Improved Transport and Connections
- BSC6: Travelling communities
- ESD1: Mitigating and Adapting to Climate Change
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD11: Conservation Target Areas
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment
- Villages 1: Village Categorisation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8: Sporadic development in the countryside
- C28: Layout, design and external appearance of new development
- ENV1: Development likely to cause detrimental levels of pollution

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Planning Policy for Traveller Sites (August 2015) (PPTS). This document sets out the Government’s planning policy specifically for traveller sites and should be read in conjunction with the NPPF
- Designing Gypsy & Traveller Sites (2008) (although this document was withdrawn by the Government on 1st September 2015, it remains a useful starting point for considering the design and layout of proposed travellers sites)

- Gypsies and Travellers: Planning Provisions – Briefing Paper January 2016. Provides useful background information and summarises changes to the updated PPTS. It should be noted, however, that as this is only a Briefing Paper, it carries very limited weight and should not be relied upon as a substitute for specific advice
- CDC Annual Monitoring Report 2017 (AMR) (December 2017)
- CDC Annual Monitoring Report 2018 (AMR) (December 2018)
- Cherwell, West Oxfordshire and South Northamptonshire Gypsy and Traveller Needs Assessment (2012/2013) (GTAA)
- Cherwell, Oxford City, South Oxfordshire and Vale of White Horse Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (2017) (GTAA 2017)
- European Convention on Human Rights (ECHR) Articles 8 and Article 14 of Protocol 1
- Housing Act (2004)
- The Equality Act (2010)
- Cherwell District Council Statement of Community Involvement (July 2016)

8. APPRAISAL

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

- Principle of the Development;
- Gypsy and Traveller Pitch Provision and 5 Year Supply Position
- Visual Impact and Effect on Landscape Character;
- Residential Amenity;
- Access and Highways Safety;
- Flooding Risk, Drainage and Pollution;
- Ecological Impact;
- Other Matters.

Principle of the Development

8.2. Policy PSD1 of the Cherwell Local Plan (2011-2031) Part 1 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. The Council's development plan consists of the Policies in the Cherwell Local Plan (2011-2031) Part 1 and the Saved policies of the Cherwell Local Plan (1996).

8.3. Policy ESD1 of the Cherwell Local Plan (2011-2031) Part 1 states that to mitigate the impact of development on climate change, growth will be delivered in the most sustainable locations (as defined in the local plan) and reducing the need to travel. Policy BSC 6 of the Cherwell Local Plan (2011-2031) Part 1 builds on this to meet the identified need for new traveller pitches in the District and in order to provide and maintain a five year supply of deliverable traveller sites. This states that allocations will be made in Local Plan Part 2 and planning permissions will be granted for suitable traveller sites. Policy BSC6 also goes on to state that locations outside the AONB and Green Belt will be considered and: *"In identifying suitable sites with reasonable accessibility to services and facilities the following sequential approach will be applied:*

- *Within 3km road distance of the built-up limits of Banbury, Bicester or a Category A village.*

- *Within 3km road distance of a Category B village and within reasonable walking distance of a regular bus service to Banbury or Bicester or to a Category A village.”*

8.4. Under Policy Villages 1 of the Cherwell Local Plan, Launton is identified as a Category A village. Category A villages are considered the most sustainable settlements in the District’s rural areas. The site is approximately 200 metres by road from Launton. Therefore the proposal meets the first criteria relating to the sequential test for the location of sites. It is worth noting that the site is also approximately 1.6km from the town of Bicester by road.

8.5. However, this does not mean the proposal is *de facto* acceptable in principle as Policy BSC6 also requires the assessment of the suitability of sites against the criteria below:

“The following criteria will also be considered in assessing the suitability of sites:

- *Access to GP and other health services;*
- *Access to schools*
- *Avoiding areas at risk of flooding;*
- *Access to the highway network;*
- *The potential for noise and other disturbance;*
- *The potential for harm to the historic and natural environment;*
- *The ability to provide a satisfactory living environment;*
- *The need to make efficient and effective use of land;*
- *Deliverability, including whether utilities can be provided;*
- *The existing level of local provision;*
- *The availability of alternatives to applicants.”*

8.6. To begin with, it is worth noting that the land to the south west of the site has permission as a traveller site. Furthermore, the site is within 3km of a shop (within Launton), primary school (within Launton), public houses (within Launton), as well as within 3km of the town of Bicester which contains GP and health services, schools, shops, recreational facilities, a library and many other service. There is also a regular bus service between Launton and Bicester.

8.7. In relation to the national planning policy context for the provision of traveller sites, this is contained within the August 2015 ‘Planning Policy for Traveller Sites’ (PPTS) and should be read in conjunction with the NPPF. The Government’s overarching aim is to ensure fair and equal treatment for travellers in a way that facilitates the traditional and nomadic way of life that they have whilst at the same time respecting the amenity and appearance of the settled community.

8.8. Policy H of the Government PPTS states that LPAs should consider the following matters when considering proposals for gypsies and travellers:

- a) the existing level of local provision and need for sites;
- b) the availability (or lack) of alternative accommodation for the applicants;
- c) other personal circumstances of the applicant;
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites;
- e) that they should determine applications for sites from any travellers and not just those with local connections.

- 8.9. Policy H goes on to advise that LPAs should strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas allocated in the development plan. Whilst the site is located outside of any settlement, it would be located adjacent to an existing traveller site and would only be approximately 200 metres away from the Category A village of Launton and approximately 1.6km from Bicester. Given this, it is not considered that the proposal can be said to be 'away from the nearest existing settlements' and so would not conflict with national policy in that respect
- 8.10. Policy H then notes that when considering applications LPAs should attach weight to the following matters:
- a) effective use of previously developed (brownfield), untidy or derelict land;
 - b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;
 - c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children;
 - d) not enclosing sites with excessive hard landscaping, high walls or fences that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.
- 8.11. Given the location of the site, the number of pitches proposed even when viewed together with the existing traveller site, and the size of Launton, it is not considered that the proposal would dominate the nearest settled community. The site is a greenfield site which is not previously developed. The other matters are discussed further below.
- 8.12. Overall, it is considered that the location of the site is within a relatively sustainable location for a new gypsy and traveller site in general sustainability terms. This weighs in favour of the application.

Gypsy and Traveller Pitch Provision and 5 Year Supply Position

- 8.13. The Local Planning Authority is required to make an assessment of the needs for gypsy and traveller sites within the district and identify and update annually a 5 year supply of specific deliverable sites. Paragraph 27 of the PPTS states that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission.
- 8.14. Policy BSC6 of the Local Plan states that the Council will provide 19 (net) additional pitches to meet the needs of Gypsy and Travellers from 2012 to 2031. Like the 2017 AMR reported to Planning Committee in November 2018, the most recent Annual Monitoring Report (AMR) 2018 (December 2018) displays two different assessments of the Council's five year supply position for gypsies and travellers as discussed below.
- 8.15. The first assessment is based on figures within the Development Plan. This outlines that at 31st March 2018 the total number of authorised pitches in Cherwell for Gypsies and Travellers was 52 (down from 57 in March 2017) and the requirement within the period 2017-2031 is for 37 pitches (as there has been a net loss of pitches since the figures in the local plan were formulated) (up from 31 in March 2017). It states that the District currently has a 0.0 year land supply for gypsies and travellers for the period 2018-2023 (29 pitch shortfall) and a 0.0 year land supply for the period of 2019-2024 (30 pitch shortfall). (At March 2017 that land supply was 1.1 years (2017-22) and 0.9 years (2018-23), the shortfall having increased by 11 pitches.

Thus, based on the requirements of the Local Plan Part 1, the Council cannot demonstrate a 5 year supply of sites and has a significant shortfall, and its supply decreased between 31.03.2017 and 31.03.2018.

- 8.16. However, since the Cherwell Local Plan Part 1 was adopted the Planning Policy for Traveller Sites (August 2015) has been published. This included a change to the definition of “gypsies and travellers” for planning related purposes so that it now excludes those who have permanently ceased from travelling. The definition of Gypsies and Travellers reads as follows: *“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependant’s education or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show people or circus people travelling together as such.”*
- 8.17. In light of this and in order to provide an evidence base for the preparation of the Local Plan Part 2, the Council commissioned a new Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA 2017) with a number of neighbouring authorities which was published in June 2017. This takes into account the new definition of gypsies and travellers unlike the Local Plan figure which is based on the old definition. The GTAA 2017 identified a significantly lower need for pitches. It concludes there is a need for 7 additional pitches that meet the new planning definition over the next 15 years (2017-2031/2). It also identified a need for up to 20 additional pitches for unknown households in the district over the same period. Unknown households are households that may meet the new definition of gypsy and traveller. However, interviews during the research were either refused or not possible. It was therefore not possible to establish whether they met the new planning definition. It is noted that the authors of the assessment state that if their national average is applied to the unknown households then the need stemming from the unknown households may be as low as 2 additional pitches.
- 8.18. The AMR therefore includes a second assessment of the Council’s 5 year land supply based on the known need within the GTAA 2017. However, the second assessment within the AMR 2017 states that the requirement for pitches within the period 2017-2032 is a need for 15 pitches, rather than 7 identified. This is because the second assessment within the AMR includes the potential need for 8 pitches arising from the closure of the Newlands Caravan Site. Based on this second assessment, it is stated that the District currently has a 0.0 year land supply for gypsies and travellers for the period 2017-2022 (11 pitch shortfall) and a 0.0 year land supply for the period of 2018-2023 (12 pitch shortfall, the shortfall having increased by 11 pitches).
- 8.19. Some doubt may be reasonably cast over the figures in the Development Plan as these figures were based on the previous definition of gypsies and travellers, which included residents which had permanently ceased travelling. However, whilst the figures in the new GTAA 2017 are a material consideration they need to be treated with caution as the methodology and results have not been subject to the rigour of public examination like the Development Plan figures and it is noted that there are a high number of unknown households (i.e. those who may meet the new definition). Furthermore, in considering this matter the primacy of the development plan for decision making needs to be taken into account.
- 8.20. Thus there are weaknesses in both sets of figures with the development plan figures being based on an old definition and the methodology and figures in the new GTAA 2017 having not been subject to independent scrutiny or examination.
- 8.21. However, while there is a fundamental conflict between the two calculations, the outcome at this time is the same – that because of a lack of permissions for gypsy

traveller sites in recent times there is a 0.0 year supply irrespective of the methodology used.

- 8.22. The Council does not have any allocations for additional sites and there is a lack of alternative provision in the district with applications being assessed on a case by case basis. As outlined above there is considered to be a significant need for additional sites in the area to meet a general need. These matters, alongside the Council's inability to demonstrate a 5 year land supply on the figures set out in Policy BSC6, are considered to carry significant weight in the determination of the application and the provision of new pitches is a significant benefit.
- 8.23. The application site is proposed to be used as a settled base for members of the travelling community, which would have benefits relating to healthcare and education. In order to ensure that the site was only occupied by households meeting the revised definition of gypsy/traveller a planning condition can be used in line with Government guidance. Officers are therefore satisfied that the application is for a site that would be used by gypsies/travellers.
- 8.24. The European Convention of Human Rights is still in force to date. Under Article 8 there is a positive obligation to facilitate the gypsy way of life (paragraph 96 of *Chapman v UK* (2001)) as gypsies and travellers are identified as a specialist group. The proposal is for a residential caravan site for gypsies and travellers and the proposed development therefore provides new accommodation for the gypsy and traveller community within the Cherwell District. Thus, the contribution the site makes to facilitating the gypsy way of life weighs in favour of the proposal.

Visual Impact and Effect on Landscape Character

- 8.25. The NPPF recognising the intrinsic character and beauty of the open countryside. ESD13 of the Cherwell Local (2011-2031) Plan Part 1 notes that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to the local landscape character cannot be avoided. Policy ESD13 also states that proposals will not be permitted if they would cause undue visual intrusion into the open countryside or be inconsistent with local character.
- 8.26. 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."*
- 8.27. Saved Policy C28 of the Cherwell Local Plan 1996 reflects Government guidance in relation to the design of new development by seeking to ensure that such development is in harmony with the general character of its surroundings and is sympathetic to the environmental context of the site and its surroundings. Saved Policy C8 of the Cherwell Local Plan 1996 seeks to protect the character of the open countryside from sporadic development.
- 8.28. The application site comprises part of an agricultural field, with the Launton Brook running along the north-west boundary of the site and the existing traveller site to the south west. The site is relatively flat and relatively well screened from Blackthorn Road by a mature hedge along the highway boundary. Surrounding hedging also contributes in screening the site from this road. The site is mostly visible from Blackthorn Road through to the access into the site, but the proposal would be viewed amongst the existing traveller site which is adjacent to the highway boundary. Partial views would be achievable from the Public Right of Way (272/2/10) to the north east of the site in the winter months, although the site would

be relatively well screened from this footpath by an intervening hedgerow and this Public Right of Way is approximately 300 metres away from site.

- 8.29. The proposed hardstanding to the site would undoubtedly further urbanise the locality and the addition of static caravans, cars, dayrooms and domestic paraphernalia would only add to this harm. The proposed development would therefore cause harm to the rural character and appearance of the landscape. That said, the proposal would not result in any wider landscape impacts and the harm would be localised.
- 8.30. Further details of the means of enclosure proposed are required and this can be required by condition of any permission given. Officers are concerned with the use of close board fencing as displayed on the block plan and are not convinced that this would be appropriate within this sensitive rural locality. As the site extends further east into the countryside than the previous consents for the traveller site and introduces additional pitches, any permission given would need to be subject of a condition to restrict permitted development rights for the erection of any new fences, walls and means of enclosure along the boundaries of the site in order to protect the character of the area.

Residential Amenity

- 8.31. The NPPF requires new development provide a high standard of amenity for existing and future occupants.
- 8.32. 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.
- 8.33. Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 states that: *"Development should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space."*
- 8.34. The site is not within close proximity to any residential properties. Therefore it is considered that other residential properties would not be directly affected by the proposal.
- 8.35. In relation to their scale, the proposed pitches would not be very private from each other, and the relationship would appear to be more compact to the approved situation at the existing traveller site between the pitches. However, officers consider that the site is of a sufficient size for four pitches so as to avoid the overcrowding of this site, and achieve a satisfactory living environment for future occupiers.
- 8.36. In relation to noise, the Council's Environmental Protection Officer has raised no objections to the proposal. However, on the matter of odour, the site is located within close proximity to a sewage works and the Environmental Protection Officer has noted that it is advisable to consult Thames Water. Whilst Thames Water has been consulted, no comments have been received from this consultee. Furthermore, there is an existing traveller site adjacent to the site and the Environmental Protection Officer has noted that there does not appear to be any complaints regarding this sewage works. It is therefore considered that the proposed occupiers would not be adversely affected by noise or odour.

Highway Safety

- 8.37. Policy SLE4 of the Cherwell Local Plan 2015 states that development is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported. Paragraph 108 of the NPPF states that in assessing planning applications it should be ensured that safe and suitable access can be achieved for all users and that development will be refused there is an unacceptable impact on highway safety.
- 8.38. Whilst it is acknowledged that third parties have raised concerns with the established access to the site off Blackthorn Road, the Local Highway Authority (LHA) has raised no objections to the proposal. The LHA comments that the access is suitable for a touring caravan to access/egress from the site. The LHA therefore concludes that, subject to conditions including full specification details of the parking and manoeuvring areas, the proposals would not adversely affect the local highway network from a traffic and safety point of view. Officers see no reason to disagree with this assessment.
- 8.39. It is noted that one of the reasons Planning Committee deferred the application at its November meeting related to the lack of provision of vision splays at the site access. Since that time officers have repeatedly invited the applicant to address this issue. It is very unfortunate that the applicant has not taken up that invitation, and that no progress has been made. Officers confirm that the vision splays required by Condition 9 of 13/00279/F have not been provided. That condition required:

That the proposed vision splays shall be formed, laid out and constructed in accordance with submitted plan, Visibility Diagram Drawing Number: Figure 1 Drawn By: JPH prior to the first occupation of the site and that the land and vegetation within the splays shall not be raised or allowed to grow above a maximum height of 0.6m above carriageway level.

Reason - In the interests of highway safety to ensure a satisfactory standard of construction for the development and to comply with the National Planning Policy Framework.

- 8.40. Nevertheless, officers would recommend that the best way to deal with the breach of Condition 9 is through enforcement action and, if it becomes necessary, that the same method is used with regard to conditions imposed on any permission given for this current application.

Flooding Risk, Drainage and Pollution

- 8.41. Whilst the site is surrounded by land within Flood Zones 2 and 3 on its north east and south east boundaries (higher risk flood zones), the site itself is identified as being within Flood Zone 1, which is land that has a less than 1 in 1,000 annual probability of river flooding (low risk of flooding). Policy ESD6 of the Cherwell Local Plan (2011-2031) Part 1 and the Framework state that a Flood Risk Assessment (FRA) is required for proposals of 1 hectare or more in in Flood Zone 1. The site is below this threshold therefore an FRA is not required and one has not been submitted.
- 8.42. Nonetheless the Environment Agency (EA) has been consulted but, as the site is within Flood Zone 1, the EA has not raised any objections in relation to flooding risk.
- 8.43. 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 all with the aim to manage and reduce flood risk in the Cherwell District.

- 8.44. Regarding foul waste, it is currently proposed to install a sewage treatment plant for the proposed pitches. The proposed treatment plant can serve up to 3 houses or up to 12 bedrooms. It is also proposed to clear the sludge from the tank approximately every 6 to 7 months. On the matter of discharging the water, limited information has been provided of how this is to be regulated. Whilst the EA would prefer connection to the mains where possible for foul drainage, it has raised no objections to this. The EA reaffirms that it does not comment on the matter of foul drainage at the planning application stage and that this is dealt with through the Environmental Permit process.
- 8.45. The application contains very limited information in relation to drainage. The application proposes to use permeable surfacing for the site and OCC Drainage comments that this could potentially allow surface water to be managed by draining to and infiltrating to the ground below, depending on adequate infiltration potential and conditions of the underlying geology. OCC Drainage states that a more formalised drainage system would be required to ensure satisfactory drainage of the site for the residents and ensure adequate control of flood risk if infiltration rate potential is inadequate at the site.
- 8.46. Thus, in the absence of objections from the relevant statutory bodies, it is considered that the proposal could be made acceptable in drainage terms, but that a drainage scheme is required, which can be conditioned.
- 8.47. It is noted that one of the reasons Planning Committee deferred the application at its November meeting related to foul drainage. Since that time officers have repeatedly invited the applicant to address this issue. It is very unfortunate that the applicant has not taken up that invitation, and that no progress has been made. Officers confirm that details of a foul sewage strategy have still not been submitted in respect of Condition 5 of planning permission ref/ 17/00031/F for the existing site. Given this lack of condition compliance, your officers have advised those acting for the applicant that it is reasonable for a decision maker to have little confidence, that it was any more likely the matter would be addressed in relation to the current application.
- 8.48. That said, officers would recommend that the best way to deal with the breach of Condition 5 is through enforcement action and, if it becomes necessary, that the same method is used with regard to conditions imposed on any permission given for this current application.

Ecological Impact

- 8.49. Section 40 of the Natural Environment and Rural Communities Act 2006 (as amended) places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making. Paragraph 99 of Circular 06/2005: Biodiversity and Geological Conservation states that: *"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."*
- 8.50. Paragraph 170 of the NPPF states that: *"The planning system should contribute to and enhance the natural and local environment by...minimising impacts on and providing net gains for biodiversity."*

- 8.51. Policy ESD10 of the Cherwell Local Plan Part 1 reflects the requirements of the Framework to ensure protection and enhancement of biodiversity. The Authority also has a legal duty set out in the Natural Environment and Rural Communities Act 2006 (NERC 2006) which states that: *“Every public authority must in exercising its functions, must have regard... to the purpose of conserving (including restoring / enhancing) biodiversity.”*
- 8.52. The Council's Ecologist has not raised comments within the consultation period. That said, the Environment Agency has requested an 8 metre buffer along the Launton Brook. An amended block plan was submitted displaying an 8 metre buffer, but this shows fence within the buffer therefore a condition will be attached requesting an amended buffer area without any development within it. Whilst it is acknowledged that such a buffer for the existing traveller site has not been implemented despite this being conditioned, this does not relate to this current application before members and the Planning Enforcement team has been made aware of this matter.
- 8.53. The site comprises agricultural grassland and the proposal would not result in the removal trees or hedging. Thus, subject to a condition relating to the buffer zone, it is considered that the proposal would not cause demonstrable harm to any protected species nor would it adversely affect the aims of the Conservation Target Area.

Other Matters

- 8.54. It is acknowledged that no method for dealing with foul waste has been supplied for the existing traveller site despite planning permission 17/00031/F conditioning such information. Furthermore, concerns have been raised that this previous permission has not been complied with as the number of pitches can exceed the approved number. However, this does not directly relate to the current application and Planning Enforcement has been made aware of these issues.
- 8.55. Third parties have noted that currently, water is taken from neighbouring land without the land owner's consent. However, the applicant's agent has stated that the water is taken by mains with an approved water meter. A water bill from Thames Water for the site has also been provided to Officers.
- 8.56. The Environmental Protection Officer has requested environmental charging infrastructure is installed on the site. Given the nature of the proposal, this is not considered necessary to make the development acceptable or reasonable to request.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 9.2. Paragraph 12 of the NPPF states that: *“The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Local Planning Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.”* Furthermore, Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that: *“If regard is to be had to the development plan for the purpose*

of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

- 9.3. The proposal seeks permission for the change of use of existing agricultural land to a residential traveller caravan site comprising 4no pitches, adjacent to an existing traveller site. For the reasons set out in this report the proposal can be considered under Policy BSC6 of the Cherwell Local Plan (2011-2031) Part 1.
- 9.4. In assessing the sustainability and suitability of the site the criteria set out within Local Plan Policy BSC6 is relevant in determining the most suitable locations for gypsy and traveller sites.
- 9.5. Criteria (a) and (b) consider access to GP and health services as well as access to schools. Launton, which is approximately 200 metres away from the site, has a primary school and Bicester, which is approximately 1.6km away and accessible by a regular bus from Launton, has a number of schools, GP and health services and a number of other services and facilities. This weighs in favour of the proposal when assessed against the sustainability and suitability criteria.
- 9.6. Criterion (c) seeks to avoid areas at risk of flooding. Whilst Flood Zones 2 and 3 (higher risk flood zones) lie adjacent to part of the boundary of the site, the site itself is within Flood Zone 1, which is land which has a less than 1 in 1,000 annual probability of river flooding (low risk of flooding). The Environment Agency has therefore not objected to the proposal on the ground of flooding risk. Whilst limited information has been provided in relation to drainage, OCC considers that this matter can be sufficiently managed by means of a condition and Officers see no reason to disagree with this. The proposal is therefore considered acceptable in this regard.
- 9.7. Criterion (d) considers the suitability of the site in relation to access to the existing highway network; in this respect the proposal is considered to be appropriately located without undue harm caused to highway safety.
- 9.8. Criterion (e) considers the potential for noise and disturbance. The site is considered acceptable in regard to the impact on neighbouring uses, as well as the impact upon the amenities of the proposed occupiers of the site.
- 9.9. Criterion (f) seeks to ensure harm to the historic and natural environment is limited. The proposal would not cause harm to any heritage assets given its siting. Furthermore, subject to the ecological buffer of 8 metres being implemented and maintained, it is considered that the proposal would not cause demonstrable harm to protected species. However, there would be some harm to the rural character and appearance of the site and locality in the immediate vicinity of the site given that the development is proposed on a greenfield site. That said, this site would be adjacent to an existing traveller site and would be read in this context from where visible. Thus, whilst weighing against the development, the weight given is relatively limited.
- 9.10. Criterion (g) seeks to ensure that proposals provide for a satisfactory living environment. In the case of the noise and odour environment of the site, this is considered adequate. It is also considered that there would be adequate space provided on the site for the future occupiers so as to provide an ideal standard of amenity.
- 9.11. Criterion (h) seeks to ensure that efficient and effective use of land is made. In this case, the current proposal would result in the development of a greenfield site.

However, the agricultural land is not of high quality (grade 4) and the proposal would not result in a significant loss of agricultural land.

- 9.12. Criterion (i) considers the likely deliverability of the proposal, including whether utilities can be provided on the site. In this case, a water bill from Thames Water has been provided to demonstrate that the site has mains water supply. Whilst a treatment plant is proposed to deal with foul waste, there are no objections from OCC Drainage and the Environment Agency in relation to this arrangement. Furthermore, an Environmental Permit is likely to be required for the operation of this treatment plant.
- 9.13. Criterion (j) looks at the existing level of local provision for gypsy and travellers across the Cherwell District. Officers acknowledge that the issue of general need is unclear based on the new definition of traveller/gypsy. Whilst there is conflict in the figures outlined in the Annual Monitoring Report, whether one relies upon the AMR methodology or that set out in the GTAA 2017 there is 0.0 years supply and therefore a very significant shortfall in pitches across the district, the shortfall being either 30 pitches under the AMR 2018 or 12 pitches under the GTAA 2017.
- 9.14. In this context, the benefits of the proposal in providing additional pitches to meet a general unmet need therefore carry significant weight in favour of granting permission.
- 9.15. Criterion (k) considers the availability of alternative sites for the applicant. In this case no alternative sites are allocated in the Local Plan and little progress has been made in this regard. Whilst it is noted by the applicant's agent that the pitches would serve the extended family of the current occupants of the existing pitches at Summer Place, it is not specified that there is need to do so (i.e. limited personal circumstances have been put forward). However, there is an identified need for pitches which this application goes some way towards addressing and weight must be attached to this.
- 9.16. In conclusion, the site is accessible, and services and facilities are located nearby and could be accessed by means of walking, cycling or public transport. Whilst the proposal would lead to harm to the rural character and appearance of the countryside, this is considered to be localised and relatively limited. The external noise and odour environment is considered acceptable. The proposal is not considered to dominate the nearest settled community and Officers consider that there is a very significant unmet need for gypsy and traveller pitches in Cherwell which should carry substantial weight in support of the application. The lack of alternative provision is also a matter that weighs heavily in support of the proposal and there is limited progress in respect of addressing the need through new allocations.
- 9.17. Overall when assessing the development as a whole, the benefits of the scheme, particularly in meeting a significant unmet need, are considered to convincingly outweigh the relatively limited harm resulting from the scheme. It is therefore considered that the proposal is in compliance with Policy BSC6 of the Cherwell Local Plan (2011-2031) Part 1 and it is recommended that planning permission be granted subject to conditions.
- 9.18. Further it is recommended that lack of compliance with conditions of previous permissions is a matter appropriately handled by way of enforcement action and that it would not be appropriate to refuse the current application on the grounds of lack of compliance with conditions of previous permissions.

10. **RECOMMENDATION**

Delegate to the Assistant Director of Planning Policy and Development to grant planning permission, subject to the conditions detailed below (the exact conditions and the wording of those conditions to be delegated to the Assistant Director for Planning Policy and Development).

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.

Approved Plans

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

- Application form submitted with the application;
- Cover letter dated 12th July 2018 by GreePlanningStudio submitted with the application;
- Drawing Numbers 17_912_001 Revision A and 17_912_005 Revision A submitted with the application;
- Drawing Number 17_912_003 Revision D received from the applicant's agent by e-mail on 24th September 2018;
- Kingspace Klargest specification received from the applicant's agent by e-mail on 24th September 2018 and e-mails received from the applicant's agent 18th September 2018, 24th September 2018 and 28th September 2018 specifying which treatment plant is to be used

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.

Surface Water Drainage

3. Notwithstanding the submitted details, no development shall take place 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 development shall not be occupied or used unless and until the approved scheme has been implemented to the satisfaction of the local planning authority. The scheme shall also include:

- Discharge Rates
- Discharge Volumes
- SuDS (Permeable Paving, Porous Sub-base)
- Maintenance and management of SUDS features
- Infiltration in accordance with BRE365 (To include infiltration testing)
- Detailed drainage layout with pipe numbers
- Network drainage calculations

Reason: To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property, in the interests of road safety and to comply with Policy ESD6 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Parking

4. No development shall take place until full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas has been submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

Reason: In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

Ecological Buffer

5. Notwithstanding the 8 metre ecological buffer adjacent to Launton Brook which includes a fence within it as displayed on Drawing Number 17_912_003 Revision D received from the applicant's agent by e-mail on 24th September 2018, no development shall take place until a plan displaying an 8 metre ecological buffer adjacent to Launton Brook has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the 8 metre buffer shall be kept free of development at all times and no development or storage of goods, vehicles or materials shall take place at any time whatsoever.

Reason: In the interests of ecology and to support the aims of the Conservation Target Area, and to comply with Policies ESD10 and ESD11 of the Cherwell Local Plan (2011-2031) Part 1, and Government guidance contained within the National Planning Policy Framework.

Means of Enclosure

6. Notwithstanding the means of enclosure as displayed within Drawing Number 17_912_003 Revision D received from the applicant's agent by e-mail on 24th September 2018, prior to the first occupation of the site full details of the means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved means of enclosure shall be erected in accordance with the approved details, prior to the first occupation of those dwellings, and shall be retained as such thereafter.

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy 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.

Number of Caravans

7. No more than 12 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than

8 shall be static caravans or mobiles homes), shall be stationed on the site at any one time and these shall be sited within the pitches as displayed on the drawing titled 'Site Layout Plan' at 1:500 Scale on A4 paper submitted with the application.

Reason: This consent is only granted in view of the very special circumstances, which are sufficient to justify overriding normal planning policy considerations which would normally lead to a refusal of planning consent and to limit the visual impact of development in accordance with Policies ESD13 and 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.

Access

8. Subject to the requirements of Condition 9 of planning permission 13/00279/F, the access and driveway to the site leading from Blackthorn Road shall be kept free of obstructions at all times and used only for the specified purpose.

Reason: In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

Commercial Vehicles and Activities

9. No more than one commercial vehicle per pitch shall be kept on the land. Each vehicle shall not exceed 3.5 tonnes in unloaded weight and shall not be stationed, parked or stored on the site except within the relevant pitch and shall not be used other than by occupiers of that pitch. No other commercial vehicles shall be kept on the land.

Reason: In order to safeguard the amenities of the area in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and the National Planning Policy Framework.

10. No commercial activities, including the storage of materials, shall take place on the land other than the storage of materials in vehicles authorised to be parked on the site.

Reason: In order to safeguard the amenities of the area in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and the National Planning Policy Framework.

Occupation restricted to Gypsies and Travellers

11. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of 'Planning policy for traveller sites' August 2015:

"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."

Reason: To ensure the proposed development makes provision for gypsy and traveller pitches and in accordance with Policy BSC6 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework and Planning Policy for Travellers Sites.

Removal of Permitted Development Rights

12. Notwithstanding the provisions of Class A, Part 2, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), no gates, fences, walls or other means of enclosure shall be erected on the site without the grant of further specific planning permission from the Local Planning Authority.

Reason: In order to safeguard the amenities of the area and in the interest of highway safety in accordance with Policies ESD13 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and the National Planning Policy Framework.

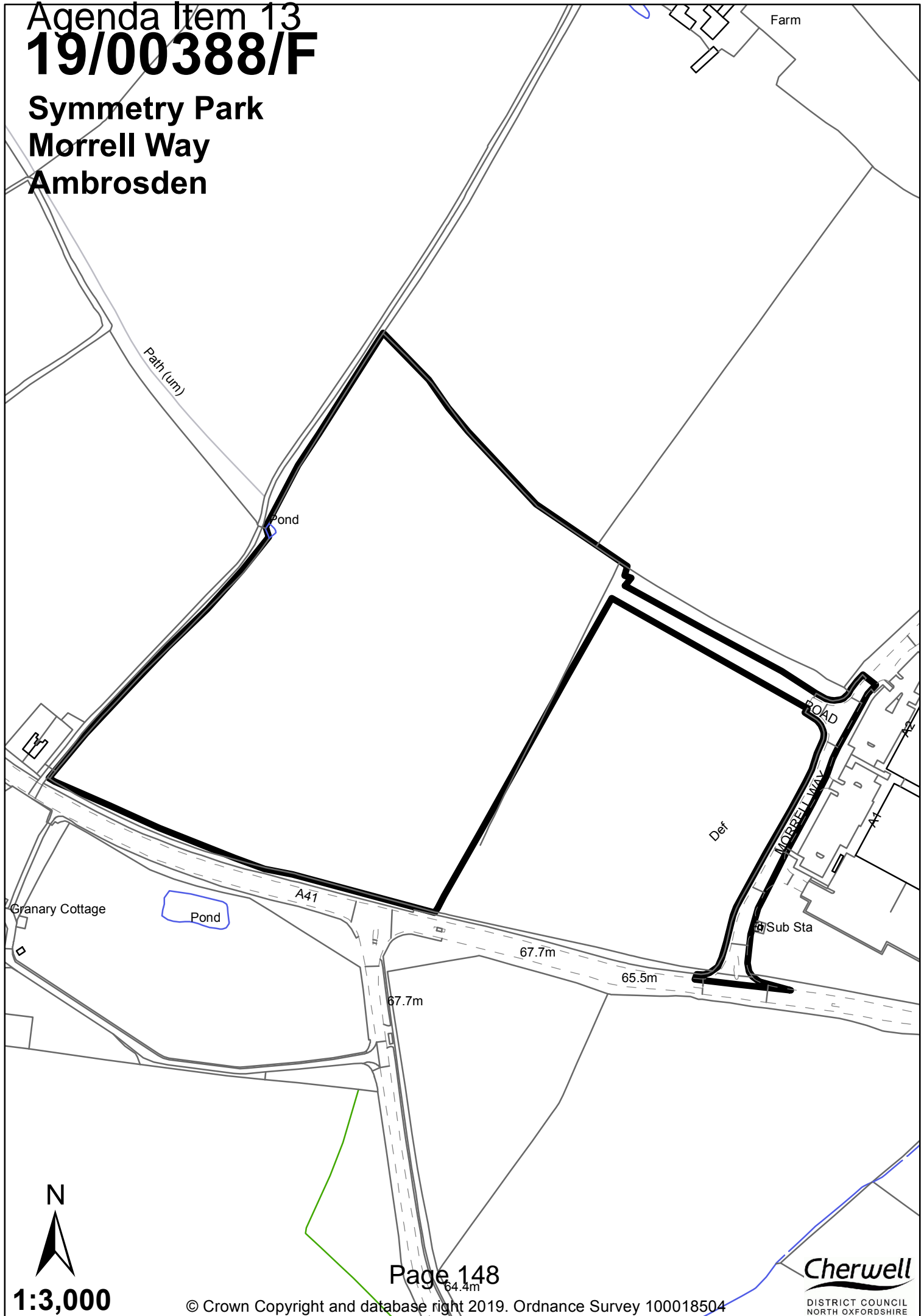
PLANNING NOTES

1. Under the Caravan Sites and Control of Development Act, 1960, the site owner will need to apply for a caravan site licence and in order for the licence to be granted the site owner must comply with the licence conditions. For further advice and guidance, please contact Public Protection at Cherwell District Council by email: public.protection@cherwell-dc.gov.uk or tel: 01295 227990.
2. It should be noted that there are public sewers crossing or close to the development. In order to protect public sewers and to ensure that Thames Water can gain access to those sewers for future repair and maintenance, approval should be sought from Thames Water where the erection of a building or an extension to a building or underpinning work would be over the line of, or would come within 3 metres of a public sewer. Thames Water will usually refuse such approval in respect of construction of new buildings, but approval may be granted in some cases for extensions to existing buildings. The applicant is advised to contact Thames Water Developer Services on 0845 850 2777 to discuss the options available at this site.
3. 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.

CASE OFFICER: Stuart Howden / Nathanael TEL: 01295 221815 / 221886
Stock

Agenda Item 13 19/00388/F

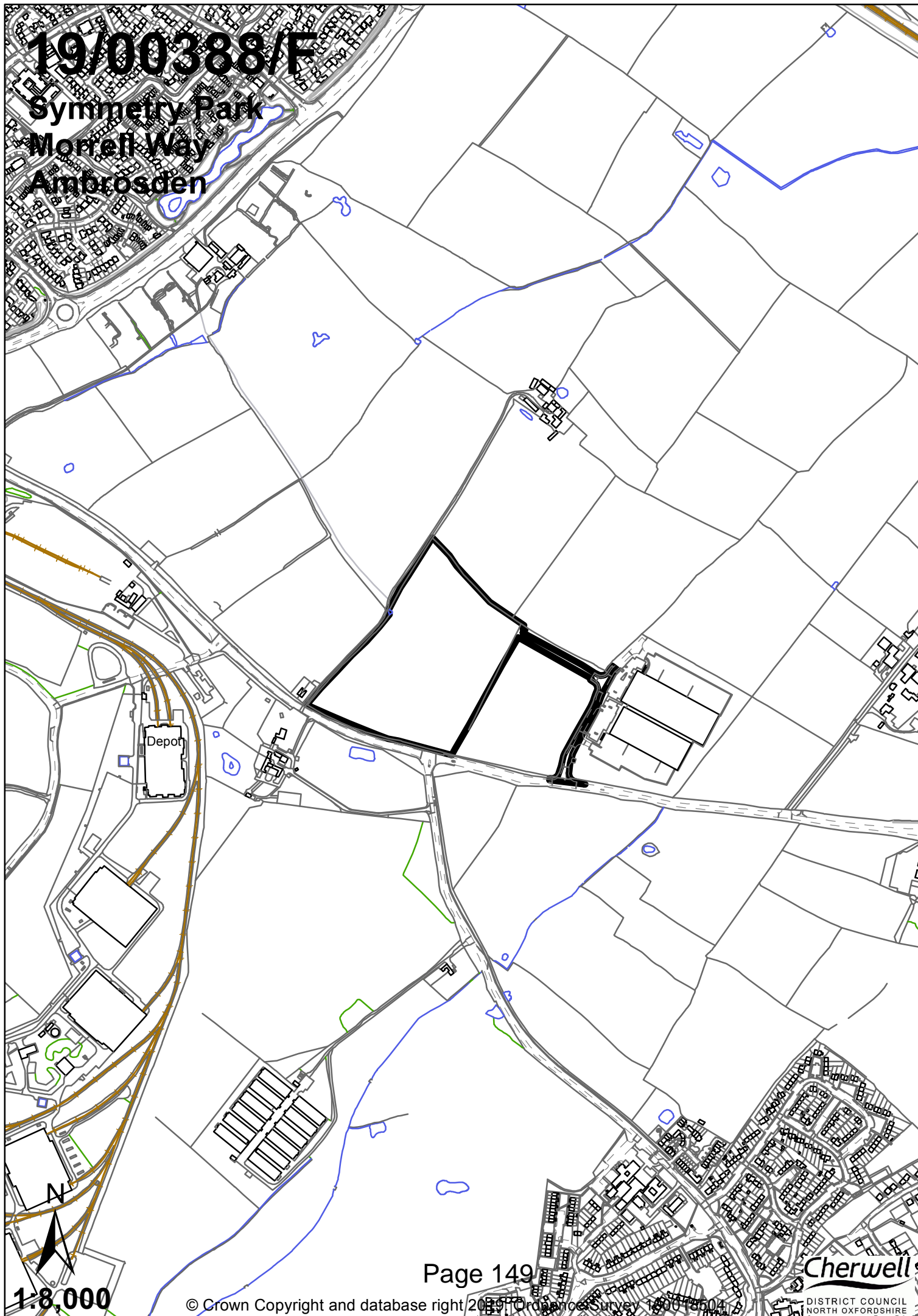
Symmetry Park
Morrell Way
Ambrosden



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19/00388/F

Symmetry Park
Morrell Way
Ambrosden



Case Officer: Linda Griffiths

Applicant: DB Symmetry (Bicester Reid) Ltd

Proposal: Full Planning Permission for 29,350 sqm of logistics floor space, within class B8 of the Town and Country Planning Use Classes Order 1987, including ancillary class B1 (a) offices (1,688 sqm), erection of security gatehouse (26 sqm), security fence, sprinkler tank and pump house, accessed from the existing Symmetry Park estate road, associated site infrastructure including external service yard, lorry parking, landscaping, amenity open space including 10m green corridor with 3m foot path and cycle link to wider Bicester 12 and storm water drainage infrastructure and private sewage treatment plant.

Ward: Bicester South And Ambrosden

Councillors: Cllr Nick Cotter
Cllr Dan Sames
Cllr Lucinda Wing

Reason for Referral: Major development

Expiry Date: 2 July 2019

Committee Date: 18 July 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

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

Proposal

This application seeks full planning permission for the erection of a single B8 building of 31,038 square metres on the last parcel of land at Bicester 12 being brought forward by DB Symmetry. The land already benefits from planning permission for commercial development but the application proposal falls outside the agreed parameters relating to 16/00861/HYBRID in terms of its floorspace and height and therefore cannot be considered as a reserved matter. Vehicular access will be via the newly created junction to the A41 serving the recently erected units adjacent. The design and materials of construction of the building will be similar to Units A1, A2 and B adjacent.

Consultations

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

- Ambrosden Parish Council

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

- OCC Highways, Thames Water, CDC Environmental Protection Officer, OCC Drainage (initially objected but this has since been withdrawn)

3 letters of objection from third parties have also been received.

Planning Policy and Constraints

The site is allocated for residential and employment development under Policy Bicester 12

of the adopted Cherwell Local Plan 2011-2031. The site is within 2km of Arcott Meadows SSSI and Gavray Drive and Blackthorn Meadows Local Wildlife sites lie just to the north. There are records of protected and notable species within 250m of the site. A public right of way runs adjacent to the western boundary. The deserted Wretchwick Medieval Settlement is located outside the application site but within the Bicester 12 allocation to the west.

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:

- Relevant planning history
- Environmental statement
- Planning policy and principle of development
- Transport, access and highway safety
- Employment
- Landscape and public rights of way
- Archaeological and historic environment
- Design, layout and appearance
- Ecology
- Flood risk and drainage
- Residential impact
- Sustainability
- Planning obligation

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 approximately 3.2km to the south east of Bicester town centre and 0.5km north of the village of Ambrosden and sits immediately adjacent to the A41 and forms part of the wider Bicester 12 allocation. The site currently stands in open countryside but will become part of the wider South East Bicester strategic allocation when this is finally built out. Immediately adjacent to the site to the east are the newly constructed B8 buildings, A1 and A2, occupied by Bentley Designs and Medline and a currently vacant unit B.
- 1.2. The application site extends to 7.01 ha excluding the existing estate road and has frontage to the A41 for the whole of its southern boundary. Immediately to the west is a pair of two storey semi-detached cottages known as Wretchwick Farm Cottages, and approximately 400m to the north of the site is Little Wretchwick Farm and associated farm buildings. Open agricultural land currently lies to the north and west of the site although this will eventually come forward for development as part of the strategic allocation under Policy Bicester 12. To the south of the site on the

opposite side of the A41 are two Grade II Listed buildings and Graven Hill is situated to the south west of the site.

2. CONSTRAINTS

- 2.1. The application site lies within 2 kilometres of Arncott Bridge Meadows SSSI and Gavray Drive and Blackthorn Meadows Local Wildlife Sites are situated just to the north of the site. There are a number of protected and notable species, including Great Crested Newt which have been identified within a 250m buffer of the site. There is a public right of way which runs outside the site along the western boundary. The deserted Wretchwick Medieval Settlement, a Scheduled Ancient Monument is located outside the application site but within the wider Bicester 12 strategic allocation.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. In November 2016 outline planning permission was granted for the erection of B8 buildings on the whole site as part of a hybrid application which also gave detailed planning permission for the erection of two smaller B8 units (A1 and A2) on part of the site which are now completed and occupied (16/00861/HYBRID refers). This application seeks full planning permission for the erection of a single B8 building on the last parcel consisting of 31,038 square metres of logistics floorspace with ancillary B1(a) offices. The application cannot be submitted as a reserved matter because the proposed building falls outside the approved parameter plans agreed at outline stage. The proposed building measures 140m by 210m and is proposed to be orientated side on to the A41 with the servicing to the east of the building and car parking to the northern elevation away from the A41. The design and materials of construction of the building will be similar to those already erected on the site.
- 3.2. Vehicular access is proposed via the newly created access to the A41, just to the east of the Ambrosden turn, which also serves the adjacent units. The offices are indicated to the front of the building overlooking the car park. The landscape buffer and mound to the A41 and western boundaries will be retained.
- 3.3. The unit is proposed to be constructed speculatively to promote the best prospect of securing early occupation.

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>
15/02316/OUT	Outline - Proposed development of up to 69,677sqm (750,000 sq feet) of logistics floorspace, within Class B8 of the Town and Country Planning use classes order of 1987, with ancillary Class B1(A) Offices, together with associated site infrastructure including lorry parking, landscaping and sustainable drainage with details of means of access included for approval.	Appeal against non-determination. Appeal subsequently withdrawn
16/00861/HYBRID	Full planning permission for 18,394 SQM (198,000 SQ FT) of logistics floor space, within class B8 of the town and country	Application Permitted

planning use classes order 1987, with ancillary class B1 (A) offices, together with access from A41 Aylesbury Road, associated site infrastructure including lorry parking, landscaping, amenity open space and sustainable drainage and private sewage treatment plant.

Outline planning permission for up to 44,314 SQM (477,000 SQ FT) of logistics floor space, within class B8 of the town and country planning use classes order 1987, with ancillary class B1 (A) offices, together with associated site infrastructure including lorry parking, landscaping, amenity open space, sustainable drainage and private sewage treatment plant. Details of means of access from Aylesbury Road are included for approval.

17/00051/NMA	Non-material amendment to 16/00861/HYBRID - Amendment to the external appearance of units A1 and A2	Application Permitted
17/00124/NMA	Non-material amendment to 16/00861/HYBRID - Amendment to the external appearance of Unit A2	Application Permitted
17/02369/F	Erection of sprinkler tank and pump house	Application Permitted
18/00091/F	14,200 sq m of logistics floor space, within class B8, including ancillary class B1 (a) offices (929 sq m), erection of security gatehouse, security fence, sprinkler tank and pump house, with an access road and associated site infrastructure including external service yard, lorry parking, landscaping, amenity open space including 10m green corridor with 3m foot path and cycle link to wider Bicester 12 and storm water drainage infrastructure and private sewage treatment plant	Application Permitted
18/01096/ADV	(Retrospective) 2 Non illuminated letters on surface of roof, 1 Non illuminated letters on North West elevation, 2 Non illuminated letters on North East elevation and South West elevation, 1 Internally illuminated freestanding estate name entrance sign and 4 Internally illuminated freestanding unit	Application Permitted

occupier name and goods vehicle and car
park entrance signs

19/00512/ADV	Erection of 3 No. hoardings	Split Decision
19/00034/NMA	Amendment to application 18/00091/F - Application Amendment to condition 4 to allow a Permitted change in timeframe for the landscape planting to the rear slope of the A41 bund adjacent to Unit C.	
19/00038/NMA	Non Material Amendment to application Application 18/00091/F - An amendment is sought to Permitted the roof plan for the relocation of Photovoltaic panels	

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 18.04.2019, 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:

- Object to more huge warehousing round Bicester which bring in HGV's, polluting the atmosphere and creating noise
- Already traffic jams along A41 which tail back to Tesco and Langford Village roundabouts
- These buildings are ugly and have no provision for generation of their own electricity through solar panels
- Block off wildlife corridors and provide an ugly background to the Wretchwick Green estate

CPRE Oxfordshire object as summarised below:

- Size and scale of the building which is approximately twice the size area of other buildings on Symmetry Park
- Landscape and setting, planting of trees on the bund will not block the view even when matured
- Energy statement is not good enough, plan shows only 25% of a small area of the roof above the offices with solar panels. Request a condition that PV panels should be installed on a larger area. There is a requirement to reduce carbon emissions to zero by 2050, rather than the 20% being proposed here.

Boyer on behalf of Redrow/Wates object as summarised below:

- The development will bring a large single warehouse building of considerable size and scale close to the Wretchwick Green development. The information submitted does not address residential amenity and the ES also fails to consider future residents in the revised cumulative assessment.
- Landscaping to the western boundary is insufficient to provide adequate screening and the emergent tree species referenced in the Landscape Management Plan are inappropriate for screening planting.
- Connectivity with Wretchwick Green is reduced as the connection point no longer aligns with the existing public right of way contrary to Policy Bicester 12. Neither are the proposed A41/Ploughley Road signals incorporated into the drawings.
- Not clear why the foul drainage does not discharge straight into the foul sewer network.
- A new S106 should be sought to comply with the recently adopted SPD

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. AMBROSDEN PARISH COUNCIL: **object** on the grounds of visual impact, the green corridor should be omitted so that the building can be moved closer to unit B, should be no illumination on the west elevation and no floodlighting to the NE car park, proposed bunding should be higher, glazing to the NW elevation will cause light pollution, development should not be permitted until the bus stops are completed and the Travel Plan refers to bus services that no longer exist.

7.3. BICESTER TOWN COUNCIL: **no comments** received

7.4. BLACKTHORN PARISH COUNCIL: **no comments** received

CONSULTEES

7.5. OCC HIGHWAYS: **no objections** subject to standard conditions in respect of a Travel Plan and construction traffic. The section 106 Agreement from the approved Symmetry Park development (ref 16/00861/HYBRID and as varied by 18/00091/F) must be linked to the current application.

7.6. OCC DRAINAGE: (initial response) **objection** on the grounds that the drainage strategy is not providing a sustainable drainage solution in line with current local and national standards. The proposal to deal with surface water is a piped system to a deep attenuation tank which is not in accordance with the 'Local Standards and Guidance for Surface Water Drainage on Major development in Oxfordshire' which sets out standards in line with National legislation and guidance. It is not providing the correct climate change allowance which is now 40%.

Update: **Objection removed** following the receipt of a technical note from Hydrock on behalf of the applicant and the provision of a swale to the north of the car park.

- 7.7. THAMES WATER: **no objection**. Foul waters will not be discharged to the public network although if this was to change, a revised application would be necessary. With regard to surface water drainage, the developer should follow the sequential approach. Following investigations Thames Water has identified an inability of the existing water network infrastructure to accommodate the needs of the development and therefore recommend a condition accordingly.
- 7.8. CDC PLANNING POLICY: **no comments** received.
- 7.9. CDC ECOLOGY OFFICER: **no comments** received.
- 7.10. CDC ENVIRONMENTAL PROTECTION OFFICER: **No objection**. Noise, contaminated land and odour have already been dealt with under 16/00861/HYBRID and no further comments are made. Air quality has also previously been dealt with although we would like to see provision for EV charge points. The lighting scheme is acceptable.
- 7.11. CDC ARBORICULTURAL OFFICER: The design and access statement suggests the retention of trees and hedgerows to be incorporated into the proposed landscape plan. An Arboricultural report is recommended including Report Impact Assessment and Method Statement to BS5837.
- 7.12. THAMES VALLEY POLICE: advises that in order to meet the requirements of the NPPF and HMCLG's Planning Practice Guidance on design that a condition be imposed requiring the development to incorporate 'secured by design' into the detailed design.

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
- BSC2 – Effective and efficient use of land
- ESD1 – Mitigating and adapting to climate change
- ESD2 – Energy hierarchy and allowable solutions
- ESD3 – Sustainable construction
- ESD4 – Decentralised energy systems
- ESD5 – Renewable energy
- ESD6 – Sustainable flood risk management
- ESD7 – Sustainable drainage systems

- ESD8 – Water resources
- ESD10 – Biodiversity and the natural environment
- ESD13 – Local landscape protection and enhancement
- ESD15 – Character of the built environment
- ESD17 – Green infrastructure
- Bicester 12 – South East Bicester
- INF1 - Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- C31 – Compatibility of proposals
- TR10 – Heavy goods vehicles
- ENV1 – Development likely to cause detrimental levels of pollution

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 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)
- Bicester One Shared Vision
- CDC Planning obligations SPD (February 2018)
- Design and Layout of Employment Sites – A Guide SPG 1996
- Cherwell Economic Development Strategy 2011-2016
- Cherwell Annual Monitoring Report

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:

- Relevant planning history
- Environmental Statement
- Planning policy and principle of development
- Transport, access and highway safety
- Employment
- Landscape and public rights of way
- Archaeological and historic environment
- Design, layout and appearance
- Ecology
- Flood risk and drainage
- Residential impact
- Sustainability
- Planning Obligation

Relevant planning history

9.2. This application is part of a wider strategic allocation in the adopted Cherwell Local Plan 2011-2031 for mixed use development (Policy Bicester 12). This part of the site has been brought forward separately and in advance of the remainder of the allocation. An initial outline application submitted for B8 on this area of the site was submitted in December 2015 by the same applicant (15/02316/OUT refers). Following officer concern regarding the quantum of development proposed and the height and scale of the buildings proposed, an appeal was lodged against non-determination. This appeal was subsequently withdrawn following the issuing of consent relating to a subsequent hybrid application (16/00861/HYBRID refers).

9.3. The hybrid application sought to overcome the concerns raised in respect of the original outline application summarised as follows:

- An overall reduction in the quantum of development
- Increase in the provision of additional landscaping along boundaries
- Reduction in the maximum height of units from 18m to 15.5m and unit A1 restricted to a maximum of 14.6m to ridge
- Reduced neighbour impact by reduced height and increased distance of buildings from them
- Three clear development parcels
- Identification of footpath/cycle links to the wider Bicester 12 development
- Provision of integrated green infrastructure corridors and enhanced on-site ecological benefits as a result of additional perimeter planting
- Revisions to the access to A41 following discussions with OCC

- Unit A1 flipped to allow optimum solution in landscape terms
 - Drainage issues resolved
 - Commitment to provide mature planting along A41 landscape bund
- 9.4. Permission was granted in November 2016. The first two units to which the detailed element referred are now completed and occupied. A subsequent detailed application was submitted in 2018 for unit B adjacent (18/00091/F) refers. This application was submitted in full rather than reserved matters, as it also sought to raise the height of the building to 18m in addition to a small increase to the building footprint. Consent was issued in November 2018.
- 9.5. An outline application is currently under consideration for the vast majority of the remainder of the Policy Bicester 12 allocation by Redrow Homes and Wates developments (16/01268/OUT). It was considered by members in November 2018 and resolved to approve subject to conditions and finalising the Section 106.

Environmental Statement

- 9.6. The application is accompanied by an Environmental Statement (ES). The proposed development falls within Schedule 2 of the EIA Regulations, being an industrial estate development project likely to have significant effects on the environment by virtue of factors such as its nature, size and location. The ES identifies any significant impacts of the development on the environment and the locality and the mitigation considered necessary to make the development acceptable.
- 9.7. The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 Regulation 3 requires that local planning authorities should not grant planning permission or subsequent consent pursuant to an application to which this regulation applies unless an EIA has been carried out in respect of that development.
- 9.8. The information in the ES and consultation responses received has been taken into account in considering this application and preparing this report. The ES has concluded that there will be no significant environmental effects that arise from the proposed development when assessed against the baseline established by planning permission (16/00861/HYBRID). Noting the detailed assessment that follows in this report and the existing planning permission which was itself subject to EIA, Officers concur with this conclusion.

Planning Policy and Principle of Development

Policy Context

- 9.9. The Development Plan for Cherwell District comprises the saved policies in the adopted Cherwell Local Plan 1996 and Cherwell Local Plan Part 1 2011-2031. Section 70 (2) of the Town and Country Planning Act 1990 provides that in dealing with applications for planning permission, the local planning authority shall have regard to the provisions of the development plan so far as is material to the application and to any other material considerations. Section 38 of the Planning and Compulsory Purchase Act 2004 also requires that regard is to be had to the development plan for the purpose of any determination to be made under the plan unless material considerations indicate otherwise. This is also reflected in the National Planning Policy Framework (NPPF) at paragraph 11 which makes it clear that the starting point for decision making is the development plan. Cherwell District Council has an up to date Local Plan.

- 9.10. The adopted Cherwell Local Plan 2011-2031 includes strategic allocation Policy Bicester 12 (SE Bicester) which consists of 155 hectares of agricultural land. It identifies SE Bicester as a mixed use site for employment and residential development of up to 1500 new homes and supporting infrastructure. This policy specifies that approximately 40 ha of that land shall be for employment use. The policy is comprehensive in its requirements and the consideration of this proposal against the requirements of Policy Bicester 12 will be carried through the assessment of this application.
- 9.11. Policy PSD1 of the Cherwell Local Plan 2011-2031 accords with the NPPFs requirement for 'sustainable development' and that planning applications that accord with the policies in the statutory development plan will be approved without delay unless material considerations indicate otherwise.
- 9.12. The Development Plan also includes a number of other relevant policies to this application, including those related to sustainable development, flood risk and sustainable drainage, transport, sustainable construction, ecology, landscape and visual impact, environment and design. These policies are all considered in more detail within the appraisal below.
- 9.13. The purpose of the planning system is to contribute to the achievement of sustainable development. The National Planning Policy Framework (NPPF) sets out the economic, social and environmental roles of planning in seeking to achieve sustainable development; contributing to building a strong, responsive and competitive economy; supporting strong, vibrant and healthy communities; and contributing to protecting and enhancing our natural, built and historic environment (paragraph 8).
- 9.14. In relation to the economic role, this development is likely to encourage new businesses into the District, to provide jobs locally during the construction phase; and in the longer term will deliver and secure the provision of new jobs within Bicester and seek to help address the issues of the significant out-commuting in Bicester at present. The provision of new businesses will also help improve the local economy through business rates and local expenditure within the town centre.
- 9.15. The social role of planning relating to sustainable development is to support strong, vibrant and healthy communities by providing a supply of housing and employment opportunities to meet the needs of present and future generations. A high quality built environment and accessibility to local services, housing and the town centre for employees is required as part of this function. This application proposal will provide local jobs and potentially attract new businesses to Bicester and the development will provide new footpath/cycle links to the boundary of the development site for connection into the remainder of Bicester 12 and then onwards to the town centre.
- 9.16. In terms of the environmental role, the development must contribute to the protection and enhancement of the natural, built and historic environment. Objections have been received from third parties regarding the visual impact of the development and the effect on wildlife and biodiversity. These impacts are considered in greater detail below, but the development does provide landscaping belts to the perimeter of the site and green infrastructure corridors to link with the wider Bicester 12 development, thereby according with this role.

Assessment

- 9.17. Given the proposed development is allocated for mixed use development under Policy Bicester 12 and the fact that an extant outline planning permission has already been granted for B8 use on this site, the principle of developing the site for a large B8 building is established.

Conclusion

- 9.18. The proposed site is allocated for residential and employment purposes. It is not considered that the proposal will result in any significant harm for reasons expanded on later in this report, and is therefore considered acceptable and compliant with Policy PSD1 relating to the presumption in favour of sustainable development and the requirements of Policy Bicester 12.

Transport Access and Highway Safety

- 9.19. Strategic Objective 13 of the adopted Cherwell Local Plan 2011-2031 aims to reduce the dependency on the private car as a mode of travel and increase opportunities for travelling by other modes. Policy ESD1 sets out an aim to mitigate the impact of development on climate change by delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport. Policy SLE4 has similar objectives relating to improved public transport and connections and a modal shift away from an over reliance on the car to less energy intensive forms of transport including walking and cycling. It also states that development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported. This is also reflected in Section 9 of the NPPF – Promoting sustainable transport.
- 9.20. The Environmental Statement approved under the original hybrid application (16/00861/HYBRID) assessed the traffic impacts of the development during the construction and operational phases of the development of the whole site, including this site for unit C. The Transport Assessment for the original hybrid application has been submitted with this current proposal alongside a 'Transport Assessment Technical Note' produced by Hydrock which identifies the differences between the current application and the approved, and concludes that the increase in floor area will not result in severe residual transportation impacts. The original TA based the traffic generation figures on the worst case scenario and the higher quantum of development that was submitted in respect of the first withdrawn outline application.
- 9.21. The proposed development exceeds the agreed parameter plan of the previously permitted scheme by 1,905m². The additional transport impacts have been assessed by OCC as highway authority who has concluded that the additional area of B8 warehouse use is not likely to generate a significant increase in traffic movements above that of the permitted scheme (around 3 two-way movements in the AM peak and around 2 two-way movements in the PM peak). The total floor area for Symmetry Park, with the proposed development, would remain within the scope of that traffic impact assessment.
- 9.22. Policy Bicester 12 requires that 'the development is well integrated with improved, sustainable connections between the existing development and new development on this site' and also that 'new footpaths and cycle-ways should be provided for that link to existing networks in the wider area'. The planning obligation linked to the extant permission for the site includes an obligation to provide 3m wide shared use pedestrian and cycle paths, to link to the wider Bicester 12 site, at the point of occupation of any unit in the Zone 2 area of the hybrid application site (in which the current application is located). The location of these paths was agreed through the planning obligation.

- 9.23. As a consequence of proposing a single building, the 3m wide footpath/cycle path that runs east to west between Symmetry Park and the wider Bicester 12 site, which was secured through the Section 106 Agreement attached to the hybrid application will need to be relocated to the north in order to accommodate the proposed development. It should be noted however, that the footpath/cycle path will still connect to the existing public right of way and the County Council therefore raises no objections to the proposed realignment of this link.
- 9.24. A Deed of Variation to the existing Section 106 Agreement will be required since the location of the footpath/cycle path is to be amended from that set out in the Section 106 and in order to secure the ongoing maintenance of this footpath/cycle path.
- 9.25. Within the site, in addition to the dedicated pedestrian and cycle links, footways are to be provided along the main access road. At Unit C, the footway runs along the northern side of the access road/parking area on the opposite side of the proposed building, and a zebra style crossing is proposed at the main entrance to the building to provide safe pedestrian and cycle access.
- 9.26. The existing access onto the A41 which was approved and assessed within the original Transport Assessment as part of the hybrid application and has now been constructed is to be utilised for the proposed development. For the quantum of development now proposed, it has been shown to operate well within capacity during peak network hours and is therefore acceptable.
- 9.27. In terms of vehicle and cycle parking provision, this is in line with Oxfordshire County Council standards. The plans show a total of 203 standard car parking spaces plus 12 disabled spaces located to the north of the building. 12 of these car parking spaces are proposed to have electric charging points. The servicing area is located to the eastern side of the building. Cycle parking is located adjacent to the disabled parking close to the main office entrance into the building which accords with the County Council's standards in terms of being located conveniently close to the main pedestrian entrance of the building.
- 9.28. Swept path analysis have been submitted which demonstrate that cars will be able to safely and easily manoeuvre within the car park and that HGVs can safely enter, turn and exit within the service yard, while passing another HGV at the service yard access.
- 9.29. A Framework Travel Plan is in place for the Symmetry Park site, as a requirement of the existing outline permission. The targets and measures set out in this Framework Travel Plan will apply to the proposed development. The B8 floor area for this development is above the threshold for the requirement of a specific travel plan for the development proposed. This overarching travel plan will act as the basis for the individual site-specific travel plan which is required for this development. A condition is recommended accordingly. A Travel Plan monitoring fee will also be necessary which is included within the original Section 106 relating to the hybrid application.
- 9.30. Having regard to the above therefore, the proposal is considered acceptable in highway and transport terms and therefore in accordance with the development plan policies and the NPPF in this respect.

Employment

- 9.31. Section 6 of the NPPF – 'Building a strong competitive economy' states at paragraph 80 that 'Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be

placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development’.

- 9.32. Policy SLE1 of the adopted Cherwell Local Plan 2011-2031 sets out that new development sites have been identified to promote growth and increase the amount of employment land in the district in accordance with the requirements of the NPPF for commerce, engineering and manufacturing. This growth is focussed more at Bicester in order to match the growth in housing and make the town more sustainable. This policy also reflects the urban focus within the plan and to ensure that housing and employment are located in the same place.
- 9.33. Policy SLE1 also refers to the Council’s flexible approach to employment generation with a number of strategic sites allocated for a mix of uses. At Bicester there are 6 strategic sites where strategic employment uses are identified. Policy Bicester 12 is one of those strategic allocations for mixed use development, identifying approximately 40 hectares for employment use within a mix of B1, B2 and B8 uses, although it identifies B8 as the primary employment use. This land has been allocated taking account of the economic evidence base, matching growth in housing and to cater for company demand whilst ensuring a sufficient employment land supply. It emphasises that careful consideration must be given to locating housing and employment in close proximity to avoid harmful impacts upon the residential amenity of neighbouring properties. The identification of sites to meet the anticipated economic needs is in line with guidance within the NPPF.
- 9.34. The Cherwell Local Plan is supported by a suite of evidence, including that relating to economic development and the council has an ‘Economic Development Strategy’. The Economic Analysis Study (August 2012) identifies the existing baseline conditions within the District which shows that the District has high economic activity but low growth with a relatively resilient economy. In terms of growth, the district appears to be underperforming and there is scope to improve economic competitiveness. The document sets aspirations for the type of new development that will be encouraged drawing on the district’s advantages of being very accessible and part of the Oxfordshire economy. The commercial property market in Bicester over the last decade has not effectively operated to satisfy the needs of expanding businesses and inward investors which has delayed the implementation of the Council’s adopted economic development strategy and created a latent demand amongst a range of Bicester businesses. Neither has the construction of commercial premises matched the growth in the number of new homes or the rate of household formation that has occurred and continues to occur in Bicester.
- 9.35. The Council’s most recent annual Monitoring Report (AMR) December 2018 identifies that in 2016/17, Cherwell saw a considerable gain of over 103,000 sqm of employment floor-space completed compared to the previous year. Most of the employment completed was in B8 and mixed B uses in Banbury. In 2017/18 there were fewer gains and completions and they were mainly located within the rural areas, including new employment units at Wroxton.
- 9.36. The total number of employment commitments have increased compared to the last monitoring year. At 31st March 2018 there was outstanding approved employment space to be implemented equating to 498,044 sqm. Bicester contributed to the majority of these commitments (75%). In Bicester there have been net gains across all the different B use classes with a significant commitment predominantly B8. These include sites at North West Bicester, Skimmingdish Lane and adjacent to Oxford Road. In terms of this site, Bicester 12, the first 2 units – A1 and A2 – are now occupied; Unit B is currently vacant and this application relates to the final parcel, Unit C.

- 9.37. The Oxfordshire Local Enterprise Partnership (OxLEP) and partners have agreed, through the City Deal and Strategic Economic Plan, to deliver significant levels of economic growth and to deliver more apprenticeships. Oxfordshire has made progress through programmes including Oxfordshire Business Support, the Oxfordshire Apprentice Programme, Opportunities to Inspire which builds links between employers and education across Oxfordshire in order to inspire the future workforce, and Invest in Oxfordshire. Community Employment Plans (CEPs) provide an opportunity to more closely align the new jobs created from a major development, the local labour market and skills providers. Oxfordshire in general and Cherwell District in particular, are currently experiencing a large increase in construction to provide new homes and jobs in the area. However, there is a shortage of skilled construction workers to support the growth and the trend has generally been that apprenticeships are decreasing. The Cherwell Local Plan 2011-2031 notes that relatively large numbers of people in Cherwell are without qualifications and basic skills and the level of education and training needs improving. The Plan contains five strategic objectives for developing a sustainable economy. Strategic Objective SO3 aims, amongst other things, to support an increase in skills and innovation. Furthermore paragraph B14 of the Plan states that the Council will support proposals to strengthen the skills base of the local economy which will include the promotion of local training providers. A condition is therefore recommended which will require a strategy to be agreed which sets out how apprenticeships and training opportunities will be encouraged, both during construction and subsequent occupation. A similar condition was also included on the extant hybrid permission.
- 9.38. In terms of the type of B use class proposed and the resultant number of jobs created, it should be noted that there is an extant outline planning permission for B8 use on this site which is a material consideration in the determination of this application. It should also be noted that this site forms part of a strategic allocation for B1, B2 and B8 purposes, of which B8 is identified as the predominant use. The proposal is therefore in accordance with planning policy in this respect. A Prologis Technical Note submitted with the hybrid application revealed that, in consequence of the technical and administrative changes in the logistics sector, that whilst the number of warehouse staff has fallen, there has generally been an increase in job opportunities in respect of administrative and support staff, managerial roles and IT, customer service, sales and engineering roles.
- 9.39. It is therefore considered that the application proposal will create a number of flexible and needed jobs in a sustainable location and that it will also be likely to help to boost the local economy generally by attracting new business to the area. This however is a speculative proposal, unlike Phase 1 where Unit A1 had an occupier already lined up at the time of the application.
- 9.40. Having regard to the above, the application proposal is therefore considered to be consistent with the development plan and the principle of Policy Bicester 12 and the site has an important role to play in the delivery of new employment to the area, secure economic growth and to support the growth of housing.

Landscape and Public Right of Way

- 9.41. Policy ESD13 of the adopted Cherwell Local Plan 2011-2031 relates to local landscape protection and enhancement and therefore seeks to conserve and enhance the distinctive and highly valued local character of the entire district. Policy ESD13 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 and topography, be inconsistent with local

character...harm the setting of settlements, buildings, structures or other landmark features, or, harm the historic value of the landscape’.

- 9.42. Policy ESD15 of the Local Plan states that new development proposals, amongst other things should: ‘contribute positively to an area’s character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features, including skylines, valley floors, significant trees, historic boundaries, landmark features or views...and to ensure new development is sensitively designed and integrated in accordance with advice in the NPPF and NPPG’. The Council’s Countryside Design Summary identifies the site as being located within the Clay Vale of Otmoor which is characterised by generally flat low-lying land crossed by the meandering Rivers Ray and Cherwell which drain into the Thames at Oxford.
- 9.43. The Environmental Statement submitted with the hybrid application included a Landscape and Visual Impact assessment which has considered the effects of the proposed development on the landscape character of the area. The site itself is generally flat as is the countryside immediately around, however, just to the east of the application site the land rises quite steeply towards the village of Blackthorn. A number of public rights of way pass immediately adjacent or close to the site. An existing public right of way which passes along Blackthorn Hill offers views down towards the site. A public right of way also runs immediately adjacent to the western boundary of the site and views of the proposed new building will be clearly visible to users of that right of way. The landscape and visual impact from the proposed increase in building height of 2.5m above that approved under the hybrid application, from 15.5m to 18m may give rise to a significant effect and this has therefore been considered by the ES submitted with this application. However the ES concludes that there would be no additional significant visual effects as a result of this development.
- 9.44. During the consideration of the extant hybrid permission, the creation of significant landscape bunding to the A41 boundary and the south west corner of the site were agreed in order to help mitigate the visual impact of the development from residential properties immediately adjacent to the site in addition to the wider landscape impact. That landscape bund is not changed by this application and has already been constructed and landscaped. The landscape buffer from the south eastern edge of the proposed building is 26m at its minimum, widening to 52m at its south western corner and 54m from the closest part of the building to Wretchwick cottages. This landscape bund was agreed to provide greater screening from the A41 and to reduce the visual impact of the development on the occupiers of Wretchwick Cottages. Whilst objections were received from the occupiers of those cottages to the original hybrid application, no comments have been received in respect of this submission.
- 9.45. In terms of views into the site, these are actually relatively contained from the immediate locality and once the remainder of Bicester 12 comes forward for development, the new development will not appear as isolated as it does at present. The building however, even with the proposed planted bund will remain very visible for a number of years when travelling from Ambrosden along the Ploughley Road towards the A41. That said, once the remainder of Bicester 12 is built out, it will be seen against a backdrop of other buildings, including further employment provision to the rear of the site. Furthermore, once the planting and landscaping is established, whilst the building will not be wholly screened from view, its impact will be lessened and softened.
- 9.46. This is a significant building which is approximately double the size of Unit B adjacent in terms of floorspace and greater in height than Units A1 and A2, and

although Unit B has also been constructed to 18m in height, it is quite significantly smaller than the building proposed here. (Consent for the increase in height of unit B to 18m was granted last year; 18/00091/F refers). The applicant was asked to consider reducing the height of this building to 16.6/17m, but responded that the reduction would not be viable and the building would be unlettable in the current market. Officers have no evidence to counter this argument.

- 9.47. The proposed increase in height is considered somewhat regrettable particularly alongside the increase in footprint, and Officers consider there will be some additional adverse impact on landscape and visual amenity. Nevertheless it is considered that, on balance, it would be difficult to defend a refusal on this issue at appeal as the increased height proposed, at 2.5m, would not be so discernible in terms of landscape and visual impact over and above that of the approved development. Furthermore any additional harm caused must be weighed against the benefits of the scheme, noting also that the site is allocated for such development in the Development Plan.
- 9.48. To conclude therefore, having regard to the above, whilst this is a balanced judgement and the development will be visible, and it would not be possible to hide a building of such a scale easily, it is considered that the landscape buffer will over time successfully and acceptably mitigate the visual and landscape impact of the development. The proposal is therefore considered to be in accordance with Policies Bicester 12, ESD13 and ESD15 of the adopted Cherwell Local Plan and Government guidance within the NPPF in this respect.

Heritage Impact

Legislative and policy context

- 9.49. The wider Policy Bicester 12 site contains a Scheduled Ancient Monument (SAM), a deserted medieval village which is located approximately 0.7km to the north west of this site. One of the key site specific design and place shaping principles of Policy Bicester 12 requires that development proposals protect cultural heritage and archaeology, in particular the Grade II listed Wretchwick Farmhouse and the SAM.
- 9.50. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 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.
- 9.51. Conservation Areas, Listed Buildings and Scheduled Ancient Monuments 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 and requires appropriate information and assessments to be included within the application submission to enable an assessment of the potential impact of a development upon them to be made. Saved Policies C18 and C25 of the adopted Cherwell Local Plan 1996 are also relevant in terms of seeking to protect the setting of listed buildings and scheduled ancient monuments.

- 9.52. The site is also located in an area of archaeological potential along the line of a Roman Road from Alchester to Verulanium. Roman settlement has also been recorded 900m south west of the proposed site. Bronze Age barrows have been identified from aerial photographs 1km to the south west and west of the site. Further barrows have been recorded north of the site. The application is accompanied by a Written Scheme of Investigation which was prepared pursuant to the granting of the hybrid planning permission for the site which has been approved by the County Archaeologist. It is as a result of the SAM and the need to protect its setting that this part of the Bicester 12 allocation was considered the most appropriate for employment use.
- 9.53. In terms of the impact of the proposed development on nearby listed buildings, the closest are those on the opposite side of the A41 behind an existing tree screen. It is considered that the increased footprint and height will not have any greater impact on the setting of these buildings than the approved proposal and is therefore considered acceptable in this respect and in accordance with the development plan and Government guidance within the NPPF.

Design, Layout and Appearance

- 9.54. Section 12 of the NPPF – Achieving well designed places, advises that the creation of high quality buildings and places is fundamental to what planning and the development process should achieve. At paragraph 127 it further advises that planning decisions should ensure that ‘developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping’.
- 9.55. Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 advises that design standards for new development, whether housing or commercial development are equally important, and seeks to provide a framework for considering the quality of development.
- 9.56. A Design and Access Statement has been included in the application documentation. The application design proposals for Unit C are very similar to those already constructed on the site. The proposal seeks to increase the floor area of the building as well as increase the height from 15.5m to 18m. The proposed unit will incorporate a barrel-vaulted roof design to reduce the visual massing as far as possible with an associated clear height to haunch of 15m. The materials proposed are similar to those used on the recently constructed units A1, A2 and B adjacent.
- 9.57. The orientation and layout of the building has been designed in order to create minimal visual impact from the A41 and to protect the amenities of the adjacent cottages in terms of noise from any servicing and light pollution. The offices unfortunately are not located to the A41 frontage but are located at the rear of the unit. The provision of offices to the A41 frontage is preferable as it helps to break up the otherwise blank elevations. However, in this case, the proposed landscape bund will eventually screen the majority of the building from the immediate environs of the A41 and therefore the offices to this elevation are not critical to the acceptability of the scheme in this instance.
- 9.58. It is considered that the proposed building as submitted is acceptable in visual and design terms being typical of a building of this nature and consistent with the design of adjacent buildings recently constructed on the site. Furthermore, because of the landscaping proposed to the A41 it will not cause additional significant harm to the locality in the medium to long term, and is therefore in accordance with Policies Bicester 12 and ESD15 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the NPPF.

Ecology Impact

Legislative context

- 9.59. 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.
- 9.60. 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.
- 9.61. 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.
- 9.62. 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.
- 9.63. 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

- 9.64. 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.

- 9.65. 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.
- 9.66. 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.
- 9.67. 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.
- 9.68. 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.
- 9.69. 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.
- 9.70. 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

- 9.71. 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')

9.72. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site is close to the River Ray and has a seasonably wet ditch running adjacent to the western boundary and there are a number of mature trees and hedgerows along the boundaries of the site. The site therefore has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles, great crested newts and invertebrates.

9.73. 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.

9.74. 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.

9.75. The ES submitted with the hybrid application included an ecological assessment of the site which found that the habitats within the site are of generally minimal ecological value reflecting its agricultural use. This application is supported by an updated pre-commencement ecological walkover which concluded that – in the light of the absence of any protected species constraints on the site which have not already been assessed - the development of the site can proceed without harm to any protected species potentially present on the site, subject to the implementation of the submitted Biodiversity Method Statement and Management Plan produced by ADP and dated March 2017.

9.76. Officers are satisfied, 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.

9.77. Policy ESD10 of the adopted Cherwell Local Plan 2011-2031 seeks to achieve biodiversity net gain through development by the protection and enhancement of biodiversity and the natural environment. The supporting text also requires all developments around Bicester to carry out surveys for the brown hairstreak butterfly as well as a consideration of the site's value as a wildlife corridor and the contribution it makes to ecological networks.

9.78. In terms of biodiversity enhancement, the proposed landscape proposals, and buffer planting will provide suitable areas for biodiversity net gain and it is therefore considered that the proposal is in accordance with Policies Bicester 12 and ESD10

of the Cherwell Local Plan and Government advice within the NPPF and is therefore acceptable in this respect.

Flood Risk and Drainage

- 9.79. The application site is located wholly within Flood Zone 1. Section 14 of the NPPF – Meeting the challenge of climate change, flooding and coastal change – advises that ‘major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate’.
- 9.80. Policy ESD6 of the adopted Cherwell Local Plan 2011-2031 requires that flood risk assessments are included with development proposals such as the application site which would assess all sources of flood risk and demonstrate that there will be no increase in flood risk as a result of the development. Policy ESD7 sets out the Council’s approach to Sustainable Drainage Systems (SuDS) to ensure new developments are better adapted to predicted impacts of climate change in the South East which include more intense rainfall events and in order to prevent surface water run-off from increasing flood risk. Policy ESD7 is supported by the Flood and Water Management Act 2010 which presumes that SuDS will be used for all new developments which seek to manage surface water as close to its source as possible. The policy states that ‘all development will be required to use sustainable drainage systems (SuDS) for the management of surface water run-off.
- 9.81. The submission has been assessed by OCC as Lead Flood Authority who originally objected to the proposal on the grounds that the drainage strategy did not provide a sustainable drainage solution in line with current local and national standards. The proposal to deal with surface water through a piped system to a deep attenuation tank is not in line with the ‘Local Standards and Guidance for Surface Water Drainage on major Development in Oxfordshire’ which sets out the standards applied by OCC in assessing surface water drainage proposals to ensure they are in line with national legislation and guidance, as well as local requirements. This guidance expects developments to move away from a pipe and gully system to a site control solution, including a treatment and management train wherever possible. Neither did the proposal provide the correct climate change allowance which is now 40%.
- 9.82. Following the above objection, Hydrock on behalf of the applicant submitted a Technical Design Note dated May 2019 which sought to address the issues and to clarify the surface water drainage system that had been approved for the original hybrid application (16/00861/HYBRID) and the subsequent detailed application for unit B (18/00091/F). The principles behind the drainage strategy for Plot C is as agreed with OCC for Plots A and B in that the surface water drains from the roof and hardstanding to below ground attenuation through a petrol inceptor; the surface water then drains to a proposed swale via a pump and the swale drains by gravity to the existing field ditch. The climate change factor has been amended from 20% to 40% and the calculations updated. The revised results show an increased volume of flooding in 1 in 100 year +40% climate change event and this floodwater will be stored within the car park, yard and docks.
- 9.83. Following the submission of the Technical Note above, OCC were unable to remove their objection on the grounds that it was considered that whilst a pumped solution can be acceptable, other SuDS measures had not been sufficiently investigated that could be implemented to ensure a gravity solution could be achieved.
- 9.84. Following further discussions with OCC, OCC have now been able to remove their objection as the application proposal has been further amended and a swale is now

proposed along the northern edge of the car park. A condition is recommended relating to the detailed design of the SuDS.

Residential Impact

- 9.85. Immediately adjacent, to the west of this site are a pair of cottages, known as Wretchwick Green Cottages, the occupiers of which submitted significant objections to the original hybrid application. That application sought to address the impact of the proposed B8 buildings on those properties by the provision of a landscaped bund to the south eastern corner of the site and adjacent to the A41 boundary. This bund remains in place and has now been constructed and landscaped in accordance with the approved plans, although it is excluded from the application red line site boundary.
- 9.86. Objections have also been submitted in respect of this application from Boyer on behalf of the developers of the remainder of Bicester 12, Redrow and Wates, on the grounds that the proposed screening is inadequate along the western boundary and the scale and massing of the proposed building will adversely impact upon the residential amenities of future residents to the west. It should be noted however that the proposed building will be a minimum of 26m from the boundary of the proposed residential parcels. Whilst future residents will be fully aware of this development which will be visible, it is considered that in any event the impact of the proposed building is not so significant over and above that which has already been approved under the hybrid application such that a refusal on visual amenity grounds and residential amenity could be justified.
- 9.87. The accompanying ES has addressed the impact of the development on these residential properties, both in terms of the construction of the site and its operational use once constructed and concluded that the impacts would not be sufficient to justify refusal of the application. Officers concur with this conclusion.
- 9.88. In terms of potential noise generated by the proposal on the amenities of existing and future residents, it is considered that the proposed larger building with all servicing to the eastern boundary and car parking to the northern part of the site will have less impact than two smaller buildings with servicing between as was indicated on the hybrid parameter plan. The proposal has also been assessed by the Head of Environmental Health who raises no objections but recommends the re-imposition of a condition which was included on the original hybrid application which restricts the noise levels impact on Wretchwick Cottages.
- 9.89. Saved Policy C31 of the adopted Cherwell Local Plan 1996 advises that in existing and proposed residential areas that development which is not compatible with the residential character of an area, or would cause an unacceptable level of nuisance or visual intrusion would not normally be permitted. As expressed above, the proposal by virtue of its scale, form and type would have an impact upon the adjacent residential properties, however, this is an allocated site for mixed use development and the provision of a landscaped bund to the south eastern corner will reduce the visual impact and domination of the development when viewed from these properties to an acceptable level.
- 9.90. Having regard to the above therefore, it is considered that the proposed development would not have such a significant and unacceptable detrimental impact upon the residential amenities of existing and future residents over and above that of the extant permission sufficient to justify refusal of the application proposal on these grounds. The application is therefore considered to be in accordance with the Development Plan and Government guidance within the NPPF in this respect.

Sustainability

- 9.91. All applications for non-residential development are required in paragraph B.185 of the Cherwell Local Plan Part 1 2011-2031 to submit an energy statement demonstrating compliance with Policy ESD2 which will be demonstrated through the application of Policies ESD3, ESD4 and ESD5. Policy ESD3 requires that non-residential developments should demonstrate that they have been designed to meet BREEAM 'very good' standard. Policy ESD4 requires all applications for non-domestic development above 1000 sqm to be accompanied by a feasibility assessment for District Heating/Combined Heat and Power. Policy ESD5 requires that all such development proposals should also be accompanied by a feasibility assessment for on-site renewable energy provision.
- 9.92. The NPPF – 'Meeting the challenge of climate change, flooding and coastal change' advises at paragraph 153 that 'in determining planning applications, local planning authorities should expect new development to comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable and, take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption'
- 9.93. Policy Bicester 12 identifies a number of key site specific design and place shaping principles, those relevant to sustainability are as follows:
- Demonstration of climate change mitigation and adaption measures including exemplary demonstration of compliance with the requirements of Policies ESD1-5
 - The incorporation of SuDS (see Policy ESD7: Sustainable Drainage Systems), taking account of the recommendations of the council's Strategic Flood Risk Assessment. Detailed site specific analysis and ground investigation to determine whether infiltration SuDS techniques are acceptable, due to underlying geology and groundwater vulnerability attenuation techniques are likely to be required
- 9.94. An energy statement was submitted with the original hybrid application and has been re-submitted as part of this proposal. A feasibility assessment for District Heating (DH) and Combined Heat and Power (CHP) was undertaken to assess technical feasibility and commercial viability of DH/CHP networks but it was concluded that it was not commercially viable to deliver this on site. It further advises that the suitability of potential renewable and low carbon energy sources, such as photovoltaic panels (PV), solar water heating and air/ground source heat pumps could be employed at the site and should continue to be reviewed as the detailed design progresses.
- 9.95. This application proposes that the building should be constructed to BREEAM 'very good' standards and that PV panels will be incorporated on 25% of the roof area above the offices. This is in accordance with Unit B adjacent which has already been constructed. Conditions will be imposed accordingly.
- 9.96. Having regard to the above, the application is in accordance with Policies ESD1-5 of the adopted Cherwell Local Plan and Government guidance within the NPPF.

Planning Obligation

- 9.97. The proposal generates a need for infrastructure and other contributions to be secured through a planning obligation, to enable the development to proceed. Policy INF1 of the adopted Cherwell Local Plan states that 'development proposals will be required to demonstrate that infrastructure requirements can be met, including the provision of transport infrastructure and improvements'. Contributions can be secured via a Section 106 agreement provided they meet the tests of Regulation 122 of the Community Infrastructure Regulations 2010.
- 9.98. The original Hybrid application was the subject of a legal agreement to secure highway contributions and the monitoring and implementation of travel plans for each of the units, and a unilateral undertaking relating to the provision of footpath/cycle links through the site and into the remaining Bicester 12 development. This application will need to be the subject of a Deed of Variation to the original agreement that was entered into with the hybrid proposal, to ensure that the development remains tied to the obligations in the original agreement.

Human Rights and Equalities

- 9.99. 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.
- 9.100. 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

- 9.101. 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

- 9.102. 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.
- 9.103. Officers have considered that, in the event that the application is granted planning permission, there will not be any discrimination (or potential discrimination) on neighbours.

- 9.104. 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.
- 9.105. 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 application site is part of the larger Policy Bicester 12 mixed use allocation (including employment use) within the adopted Cherwell Local Plan 2011-2031. The development of this site for B8 purposes has been established through the extant hybrid permission for the whole site (16/00861/HYBRID refers). There is therefore a commitment for B8 on this site which is a material consideration in the determination of this application. The consideration of this application must therefore only consider the increase in size of the building and the increased height and whether these are so significant to justify refusal.
- 10.2. Having regard to the above, the application proposal is considered to be in accordance with Policy Bicester 12 and the associated policies within the adopted Cherwell Local Plan 2011-2031, saved policies as above within the adopted Cherwell local Plan 1996 and Government guidance within the NPPF. Approval of this scheme will therefore play an important part in the early delivery of sites allocated within the Cherwell Local Plan 2011-2031 thereby enabling the delivery of new employment development to support economic growth and to support the growth in new housing.

11. 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 OBLIGATIONS SUMMARISED AT PARAGRAPH 9.98 OF THIS REPORT**

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: FULL LIST TO FOLLOW IN WRITTEN UPDATES

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.

Construction Traffic Management Plan

3. No development shall take place until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall include details of times for construction traffic and delivery vehicles to access the site, which must be outside of peak network hours. Thereafter, the approved Construction management Plan shall be implemented and operated in accordance with the approved details for the duration of the construction phase of the development.

Reason – In the interests of highway safety and residential amenities of neighbouring properties, to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework. This information is required prior to the commencement of the development as it must be implemented from the point the development is commenced.

External Lighting

4. Prior to the first occupation of the building hereby approved, and unless alternative details are first submitted to and approved in writing by the Local Planning Authority, the external lighting shall be installed strictly in accordance with the details shown on drawing number 18/1093/E/11 rev A and the submitted lighting schedule.

Reason – To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2015, saved Policy C28 of the adopted Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework.

Planting Maintenance

5. 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 or on completion of the development, whichever is 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.

Reason – In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance within the National

Re-use of Topsoil

6. All existing topsoil that is disturbed by construction works shall not be removed from the site but shall be carefully removed and stored within the curtilage of the site and thereafter re-used during the preparation of the site and implementation of the approved landscaping scheme.

Reason – To ensure the protection and conservation of the on-site top soil as a viable growing medium for the approved landscaping scheme and in the interests of the visual amenities of the area, to ensure the integration of the development into the existing landscape and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework.

Hedgerow Retention

7. Except to allow the provision of the footpath/cycle link into the adjacent site along the western boundary (as shown on Drawing No: 4036-C02- 001 P10), the existing hedgerows to the northern, southern and western boundaries shall be retained and properly maintained, and if any hedgerow plant dies within five years from the completion of the development, it shall be replaced in the current/next planting season with others of similar size and species and thereafter be properly maintained in accordance with this condition.

Reason – In the interests of the visual amenities of the area, in the interests of biodiversity and to provide an effective screen to the proposed development and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

Travel Plan

8. Prior to the first occupation of the development hereby approved, a Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note 'Using the Planning Process to secure Travel Plans' and its subsequent amendments shall be submitted to and approved in writing by the Local Planning authority. The plan shall incorporate site specific details of the means of sharing and encouraging reduced reliance on the use of private cars related to the development in favour of other modes of transport and means of implementation and methods of monitoring. Thereafter the approved Travel Plan shall be implemented and operated in accordance with the approved details.

Reason – In the interests of sustainability, to ensure a satisfactory form of development and to comply with policies SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

Flood Risk Assessment

9. The development hereby permitted shall be carried out strictly in accordance with the approved Flood Risk Assessment (FRA) dated April 2016/32765-4001-Rev C produced by Peter Brett, the Flood Risk Technical Note C11238-HYD-00-ZZ-TN-C-7000-P2 and C-11238-HYD-00-ZZ-TN-C-7001 Rev P2 dated 2nd May 2019 and the mitigation measures contained therein shall be implemented in accordance with the approved timescales.

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 ESD6 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

Sustainable Drainage

10. PRECISE WORDING AWAITED FROM OCC DRAINAGE AND TO BE REPORTED IN THE WRITTEN UPDATES

Water Network Upgrades

11. The development hereby approved shall not be occupied until confirmation has been provided that all water network upgrades required to accommodate the additional flows from the development have been completed.

Reason – The development may lead to no/low water pressure and network enforcement works are anticipated to be necessary to ensure sufficient capacity is made available to accommodate additional demand anticipated from the new development, in accordance with policy ESD8 of the Cherwell Local Plan 2011-2031 and Government guidance within the NPPF.

Outside Storage Restricted

12. Following the first occupation of the unit hereby approved, no goods, materials, plant or machinery shall be stored, repaired, operated or displayed in the open without the express planning consent of the Local Planning Authority.

Reason – In order to safeguard the visual amenities of the area and residential amenities of nearby residential properties in accordance with saved Policies ENV1 and C28 of the Cherwell Local Plan 1996 and policy ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance within the NPPF.

Noise Management

13. Cumulative noise output from any mechanical ventilation or fixed plant associated with the development shall be noise attenuated or mitigated so that it achieves the following levels at 1m from the nearest receptors (listed below):

- Daytime (0.700-23.00) Wretchwick Farm Cottages and Wretchwick Farm: 43dB LAeq; Little Wretchwick Farm: 34dB LAeq
- Night time (23.00-0.700) Wretchwick Farm Cottages and Wretchwick Farm: 31dB LAeq; Little Wretchwick Farm: 28dB LAeq

Reason – To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework.

Unexpected Contamination

14. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until 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 the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risk to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and government guidance within the National Planning policy Framework.

Ecology Checks

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

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

Apprenticeship Strategy

16. No development shall take place until a strategy has been submitted to and agreed in writing by the Local Planning Authority which sets out how Apprenticeships and Training Opportunities will be encouraged to be provided during the construction phase and by the occupiers of the unit. The strategy shall include details of the number of apprenticeships and training posts, over what period of time they will be employed, where the apprentices may be placed within the company and where apprentices will be taken from. The strategy shall be implemented in accordance with the approved details.

Reason – In the interests of ensuring appropriate and adequate apprenticeships are made available in accordance with policy BSC7 of the Cherwell Local Plan 2011-2031, the Council's SPD on Developer Contributions (2018) and Government guidance within the National Planning Policy Framework.

BREAM Very Good

17. The building hereby approved shall be constructed to at least BREEAM 'Very Good' standard.

Reason – To ensure sustainable construction and reduce carbon emissions in accordance with Policies ESD1-5 of the Cherwell Local Plan and Government guidance within the national Planning Policy Framework.

Electric Vehicle Charging

18. Prior to the first occupation of the building hereby approved, the electricity charging points for vehicles shall be provided in accordance with the details shown on the approved plans.

Reason – In the interests of sustainability and to comply with Policies SLE4 and ESD1-5 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

Solar PV Panels

19. Prior to the first occupation of the building hereby approved, Photovoltaic (PV) cells shall be installed on at least 25% of the roof coverage on the first floor offices in accordance with the approved roof plan (Drawing number 4036-C02-008 P03) and the PV report (CPW ref CPW-ME-181093-P01 dated February 2019). The PV cells shall thereafter be retained and maintained in accordance with the approved details.

Reason – In the interests of sustainable development, and to comply with Policies ESD1-5 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

Use Restricted to B8

20. The premises shall be used only for purposes falling within Class B8 specified in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that class in any statutory instrument revoking, amending or re-enacting that order and for no other purpose(s) whatsoever.

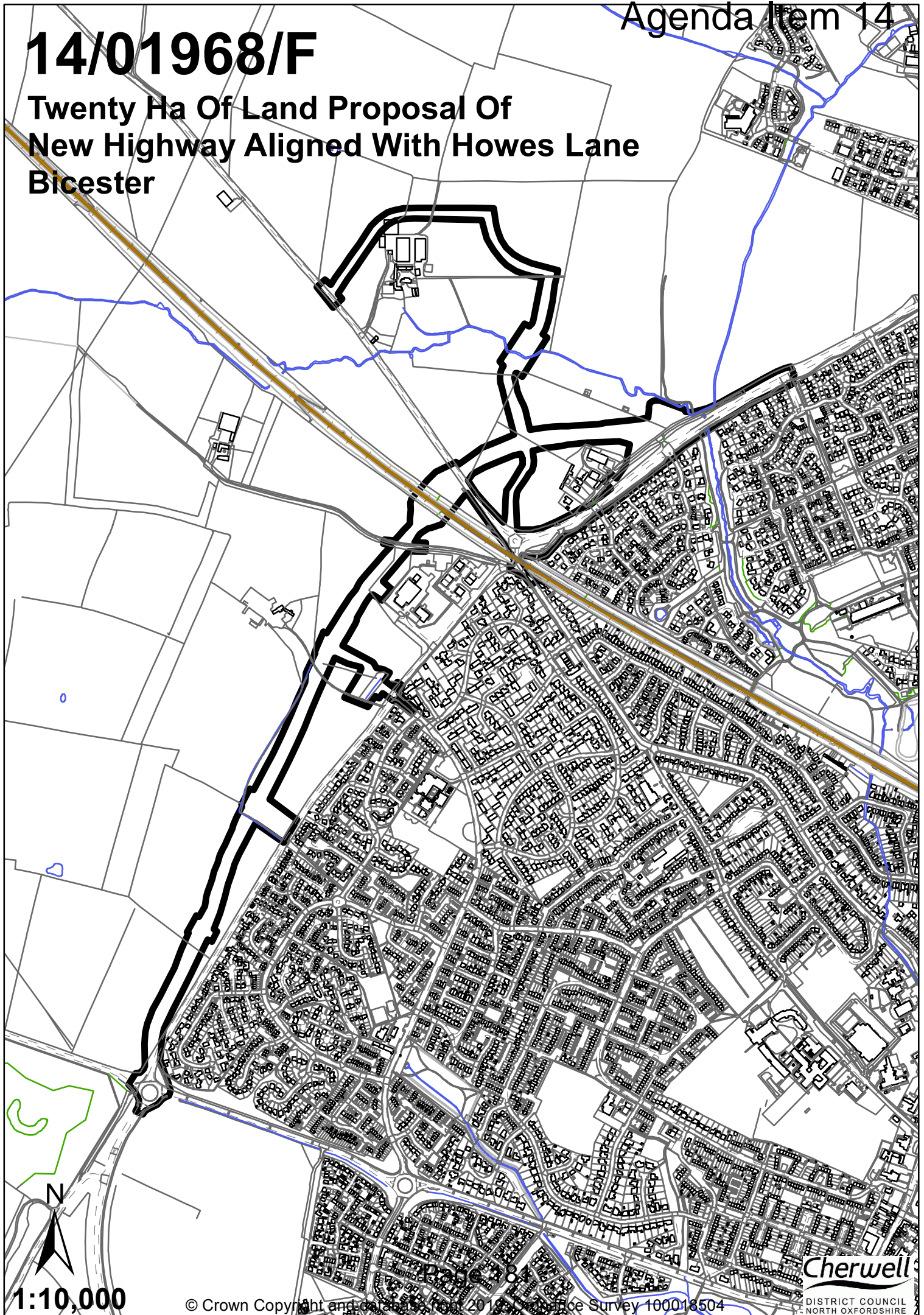
Reason : To protect the amenities of nearby residents, in the interests of highway safety, and to safeguard the provision of strategic employment land, in accordance with Policies SLE1, SLE4, ESD15 and Bicester 12 of the Cherwell Local Plan 2011 – 2031 Part 1.

CASE OFFICER: Linda Griffiths

TEL: 01295 227998

14/01968/F

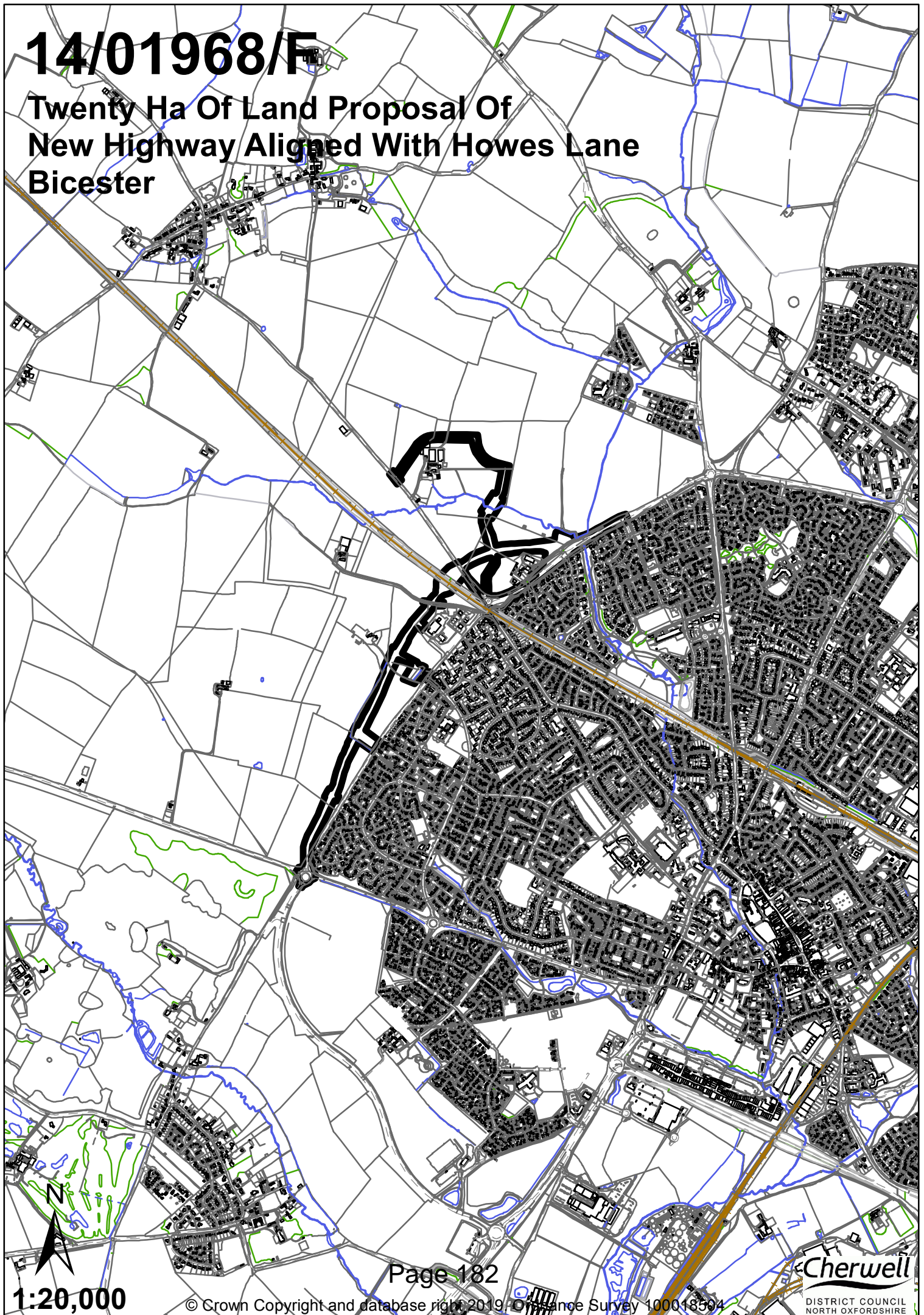
**Twenty Ha Of Land Proposal Of
New Highway Aligned With Howes Lane
Bicester**



1:10,000

14/01968/F

**Twenty Ha Of Land Proposal Of
New Highway Aligned With Howes Lane
Bicester**



Case Officer: Caroline Ford

Applicant: A2 Dominion South Ltd

Proposal: Construction of new road from Middleton Stoney Road roundabout to join Lord's Lane, east of Purslane Drive, to include the construction of a new crossing under the existing railway line north of the existing Avonbury Business Park, a bus only link east of the railway line, a new road around Hawkwell Farm to join Bucknell Road, retention of part of Old Howes Lane and Lord's Lane to provide access to and from existing residential areas and Bucknell Road to the south and associated infrastructure.

Ward: Bicester North and Caversfield (part Bicester West)

Councillors: Cllr Nicholas Mawer Cllr John Broad
Cllr Lynn Pratt Cllr Les Sibley
Cllr Jason Slaymaker Cllr Fraser Webster

Reason for Referral: Major Development being reported back to Planning Committee following material changes to the proposed development since the Committee resolution to approve of the 18 February 2016

Expiry Date: 07 August 2019

Committee Date: 18 July 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

The proposal is for the construction of new road infrastructure in accordance with the description of development above. In summary, the proposal is to realign Howes Lane with associated amendments to the existing road network and to provide a new tunnel under the railway. The proposal is to provide enhanced capacity to meet the transport generated by the planned growth of Bicester and to mitigate for the current constrained junction at the Howes Lane/ Bucknell Road/ Lords Lane junction.

Consultations

Through a re-consultation, the following consultees have raised **objections** to the application:

- OCC Drainage

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

- OCC Highways, CDC Environmental Protection, OCC Archaeology and Highways England

At the time of writing this report no additional letters of objection have been received but the consultation process is still open.

Planning Policy and Constraints

The application site sits on the land allocated by Policy Bicester 1 for a zero carbon residential led development. The proposal is on predominately agricultural land intersected by the mainline London to Birmingham railway, which runs on an embankment

to the north west of Bicester where the tunnel would be provided. Part of the land is within flood zones 2 and 3 (associated with the River Bure) and a bridge is proposed to cross the watercourse. A public right of way runs east to west from the town out into the countryside and the road would cross this. There are a number of trees protected by preservation orders and there is also some ecological potential on the site.

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 covered in the committee report presented to Planning Committee in February 2016 but this report provides an update and considers the following matters:

- Principle of development
- The amended design of the bridge and its impact
- EIA
- Ecology
- Other matters
- Planning conditions and obligations

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 site covers 18.2ha and lies to the west of the existing Howes Lane and the town of Bicester. The land extends from the B4030 Middleton Stoney Road Roundabout to the A4095 Lords Lane, crossing the Bucknell Road and passing to the east of Aldershot Farm. The land it crosses is agricultural land and some areas of adopted highway. The site also includes a section of land beneath the railway line to the north of the Avonbury Business Park. The land surrounding the site to the north and west is largely agricultural land but within the site allocated by Policy Bicester 1, and to the east is the existing town of Bicester. There are a number of farms located within proximity to the application site and the River Bure runs through the eastern part of the site on a north-south axis and the railway line also cuts through the application site. There are a number of trees and hedgerows across the site, primarily forming the boundary of agricultural fields and/ or located adjacent to the watercourses.

2. CONSTRAINTS

- 2.1. In terms of recorded site constraints, a public right of way runs on an east – west axis from the Bucknell Road junction, south of the railway line along a track leading to Aldershot Farm and beyond. A SSSI is within proximity and the site has the potential for archaeological interest, to be contaminated, and part of the site is within flood zones 2 and 3. There are a number of trees protected by a Preservation Order to the south of the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The proposal is for new road infrastructure as described in the description of the development and is required to address existing deficiencies in the current railway crossing and the road infrastructure and to provide enhanced capacity to meet the transport generated by the planned growth of Bicester. The proposed road would incorporate footways/cycleways along its length as well as SUDs features, trees and lighting. The proposal has been amended through the application processing.
- 3.2. The planning application for the development already benefits from a resolution for approval made by Planning Committee in February 2016. The resolution was subject to a set of planning conditions and a legal agreement.
- 3.3. Since Planning Committee first considered the application, negotiations have been ongoing with the applicant A2 Dominion linked to discussions on their planning applications made for larger scale development at NW Bicester. S106 agreements have not yet been completed on those developments and A2 Dominion has made the decision to no longer take the lead on the provision of the major infrastructure. In order to maintain progress, Oxfordshire County Council has stepped in to take the application forward and now act as agent for the application. As well as discussions regarding S106 matters, technical discussions with Network Rail (NR) in regard to the road tunnel crossing have also continued. This has been positive and the scheme has progressed through their technical GRIP process. This process has resulted in changes to the design of the tunnel to meet NR requirements.
- 3.4. The application is therefore reported back to Planning Committee principally due to the change to the design of the railway crossing, but also on the basis of the time that has elapsed since the application was last considered by the Committee. The rest of the road infrastructure remains as per the design and layout as was last considered. For ease of reference, the original committee report from 2016 is appended to this report.
- 3.5. In terms of timescales for delivery, ongoing discussions are taking place with Network Rail with a view to achieving a 100 hour track possession at Easter 2021 during which time the tunnel would be constructed. This will enable the road to be constructed at the appropriate time, once the necessary funding is secured. Network Rail have provided a programme with key milestones to reach this target, which includes design work, construction and the completion of various required legal agreements.

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>
14/00007/SCOP	Scoping Opinion for development to provide strategic infrastructure, namely a new road to replace Howes Lane with new crossing under the railway to enable reconnection to Lords.	Scoping Opinion Issued

- 4.2. The wider site at NW Bicester has been the subject of a number of planning applications for large scale residential and commercial development. Some of these are still pending consideration, others benefit from a resolution to approve pending the completion of a legal agreement, and others are approved.

5. PRE-APPLICATION DISCUSSIONS

- 5.1. Although no formal pre-application discussions have taken place, Officers have been involved in the evolution of the design of the road tunnel and with Network Rail through their technical approval process.

6. RESPONSE TO PUBLICITY

- 6.1. This application has been re-publicised by way of a site notice displayed near the site, by advertisement in the local newspaper and by neighbour notification letter. The final date for comments is the 03.08.2019, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. No additional comments have been raised by third parties at the time of writing this report.

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. BICESTER TOWN COUNCIL: No comments received
- 7.3. CHESTERTON PARISH COUNCIL: **Observations** – “initially no supporting documentation was received and it was not possible to access through the planning portal. The plan was forwarded but the drawing detail is so small and referred only to the bridge. Nothing received regarding the new road and layout so the information is vague. The Parish Council is dissatisfied due to the lack of supporting information”.

Officer comment: the Parish Council was re-consulted in respect of the amended details relating to the tunnel/bridge only. The full set of plans submitted with the application remain available to view on the Council's online planning register. This has been clarified with the Parish Council.

CONSULTEES

- 7.4. OCC HIGHWAYS: **No objection** to the amendment. The application includes a plan and cross sections of the rail overbridge which were not previously included in the application. The widths of the carriageway and footway/ cycleway are acceptable as is the headroom, which complies with current standards. The application does not include any amendments to the design of the proposed strategic link road beyond the overbridge and immediate approaches. Previous responses should be referred to regarding the design of the strategic link road.
- 7.5. OCC DRAINAGE: **Objection** the drainage information is out of date and not in line with local and national standards.
- 7.6. OCC ARCHAEOLOGY: **Comments** the submitted amendments do not alter the original comments made.
- 7.7. ENVIRONMENTAL PROTECTION: **no further comments** based on the new plan submitted regarding the railway bridge.

- 7.8. ENVIRONMENT AGENCY: the application is for development that the EA does not wish to be consulted on.
- 7.9. NATURAL ENGLAND: The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.
- 7.10. HIGHWAYS ENGLAND: **No objection**

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)

Sustainable communities

- PSD1: Presumption in Favour of Sustainable Development
- SLE1: Employment Development
- SLE4: Improved Transport and Connections
- BSC1: District wide housing distribution
- BSC2: Effective and efficient use of land
- BSC3: Affordable housing
- BSC4: Housing mix
- BSC7: Meeting education needs
- BSC8: Securing health and well being
- BSC9: Public services and utilities
- BSC10: Open space, sport and recreation provision
- BSC11: Local standards of provision – outdoor recreation
- BSC12: Indoor sport, recreation and community facilities

Sustainable development

- ESD1: Mitigating and adapting to climate change
- ESD2: Energy Hierarchy and Allowable solutions
- ESD3: Sustainable construction
- ESD4: Decentralised Energy Systems
- ESD5: Renewable Energy
- ESD6: Sustainable flood risk management
- ESD7: Sustainable drainage systems
- ESD8: Water resources
- ESD10: Biodiversity and the natural environment
- ESD13: Local landscape protection and enhancement
- ESD15: Character of the built environment
- ESD17: Green Infrastructure

Strategic Development

- Policy Bicester 1 North West Bicester Eco Town
- Policy Bicester 7 Open Space

Policy Bicester 9 Burial Ground

Infrastructure Delivery
INF1: Infrastructure

CHERWELL LOCAL PLAN 1996 (SAVED POLICIES)

TR1: Transportation funding
TR10: Heavy Goods Vehicles
C8: Sporadic development in the open countryside
C28: Layout, design and external appearance of new development
C30: Design Control

8.3. Other Material Planning Considerations

- North West Bicester Supplementary Planning Document (February 2016)
- Planning Policy Statement 1 supplement: Eco Towns
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Oxfordshire Local Transport Plan 4 (2015-2031)
- 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
- The amended design of the bridge and its impact
- EIA
- Ecology
- Other matters
- Planning conditions and obligations

Principle of Development

- 9.2. The previous committee report for this application, considered in February 2016 sets out the key policy considerations, the strategic need for the road and comments on the detailed design and walking and cycling connections. The change to the design of the road tunnel/railway bridge does not change the way the scheme complies with the planning policy requirements as set out in that report and the strategic need for the road has not changed. The design of the road has not changed either and so the same benefits as summarised within the earlier report (the improved design, the provision of walking and cycling infrastructure and the benefit of moving the road away from the rear boundary of the existing dwellings) remain.
- 9.3. Since the previous report, the NPPF has been replaced by a new version. The changes are not considered to be material for the purpose of this application. It still provides for the presumption in favour of sustainable development and it still requires the promotion of sustainable transport including the mitigation of significant impacts on highway safety resulting from new development, and to take opportunities to promote sustainable transport modes.
- 9.4. The principle of changing the design of the tunnel/bridge is acceptable. The design provided through the planning application process differed from that which has progressed through the Network Rail technical approval process and so it was inevitable that the planning design would be reviewed in response to that process. The changed design will be discussed below.
- 9.5. As the road and tunnel continue to meet a strategic need for improved highway infrastructure in this part of Bicester, which provides benefits to the wider strategic network as well as the development at NW Bicester, it is considered that the scheme remains acceptable in principle and will support sustainable development.

The amended design of the bridge and its impact

- 9.6. The main changes to the bridge design are with respect to the highway cross sectional geometry (to facilitate minor reductions in span and headroom) and the addition of brick facing to the abutments and wingwalls (primarily to simplify provision of an acceptable finish and to better discourage graffiti than plain concrete). The finish of the bridge itself has also been confirmed as a weathering steel finish. The geometry of the bridge has been considered by Network Rail through the first two stages of the technical GRIP process with the bridge having been signed off for those stages. The technical approval process continues as does further technical detailed design and this is currently being worked on.
- 9.7. The change to the design of the bridge is considered to be acceptable. The design has evolved taking into account the requirements of Network Rail, which is necessary given the nature of the project being part of the railway infrastructure and therefore the need to obtain their approval to construct the development. Given the

above, the proposal is considered to continue to comply with the relevant policies of the Development Plan including Policy Bicester 1 and ESD15.

EIA

- 9.8. The application is EIA development and the application is accompanied by an Environmental Statement. The main EIA was compiled in November 2014, with an addendum provided to accompany the amended scheme in November 2015. Given the time that has elapsed without a decision being issued, it is necessary to consider whether the EIA is up to date and therefore sufficient to consider the environmental impacts of the development.
- 9.9. The EIA covered the following main topics – landscape and visual impact, ecology, flood risk and hydrology, air quality, noise and vibration, cultural heritage, contaminated land, agriculture and land use, human health, socio-economics and community, waste and cumulative impacts. A separate transport assessment was submitted. The EIA identifies significant impacts of the development and mitigation to make the development acceptable.
- 9.10. The baseline conditions considered through the EIA in the majority of topic areas are unlikely to have significantly changed over and above the position reported in the EIA. There have been no changes to the physical context of the site to change the baseline landscape and visual position, there have been no changes to water courses or the provision of new water features to change the flood risk and hydrology baseline position, no new heritage features over and above those previously recorded to affect the cultural heritage baseline and no changes in the baseline for the following topics – contaminated land, agriculture and land use, human health, socio-economics and community and waste. In respect to the environmental topics relating to air quality and noise and vibration, these topics relate to the transport position which, whilst this has not been updated and transport issues may have increased, the nature of the proposal is such that these impacts would be mitigated for.
- 9.11. In respect to cumulative matters, the position may have moved on from that considered, with development proposals having progressed. However, the proposed development is to mitigate for wider transport constraints than just North West Bicester and has been planned taking into account town wide (and the allocated sites) growth. In these circumstances, the EIA is considered to be sufficient in terms of considering cumulative matters.
- 9.12. The EIA is therefore generally considered to remain sufficient in principle in order to assess the impacts of the development and the identified mitigation must be the subject of planning conditions. The one area that requires further consideration is that of ecology and this is considered in detail below.

Ecology Impact

Legislative context

- 9.13. 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.

- 9.14. 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.
- 9.15. 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.
- 9.16. 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.
- 9.17. 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

- 9.18. 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.
- 9.19. 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.

- 9.20. 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.
- 9.21. 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.
- 9.22. 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.
- 9.23. 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.
- 9.24. 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

- 9.25. 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')

- 9.26. The previous application identified the ecological surveys undertaken and the potential species that could be affected. The surveys have not been updated so they are dated as it stands. However, the existing baseline conditions are unlikely to have significantly changed as the land remains predominantly arable fields and improved grasslands with hedgerows forming the boundary of the fields as well as the water course remaining the same as it was when the surveys were completed. The ES identified that the development has been designed to reduce impacts on wildlife and

habitats as far as possible and to produce a design that incorporates measures to ensure that the development will result in a net gain in biodiversity as part of the wider masterplan.

- 9.27. In the circumstances, it is considered acceptable to require that up-to-date ecological checks are carried out prior to development commencing as a condition of the planning permission and for conditions to be used to ensure protection of the environment and biodiversity to be established through construction management plans and for the mitigation measures identified in the ES to be secured via condition.
- 9.28. 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 protected species 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.
- 9.29. 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.
- 9.30. In this case, if protected species were to be identified that have not been before and a licence required due to them being affected, it is considered that it is likely a compelling case would be made to justify the grant of the licence given the public benefits of this proposal and that there is no suitable alternative (the rest of the embankment is likely to be similarly affected in the same way as this site).
- 9.31. In the circumstances, the proposal is therefore considered to comply with Policy ESD10 of the CLP 2031 Part 1, advice contained in the PPG and Natural England's Standing Advice, and section 15 of the National Planning Policy Framework.

Other matters

- 9.32. The previous report considered the relevant eco town standards and noise and amenity impact on nearby residents, and the assessment of these matters has not changed between now and the time the previous report was written.
- 9.33. The previous committee report (appendix A) addressed the matter of flood risk and drainage and concluded that providing the Drainage Authority were content, it was likely that conditions could be used to require a detailed drainage design and strategy building on the information thus far. The OCC response provided as a written update to the previous committee report (appendix B) raised some concerns but also recommended a planning condition to seek a drainage strategy to seek the full surface water design. The OCC Drainage comments received in respect of the amended bridge/tunnel design object, but the reason for this objection is unclear. It is currently being clarified whether this matter can be sufficiently dealt with via planning condition (as was previously agreed).

Planning Conditions and Obligations

- 9.34. A set of planning conditions was presented to and agreed by Planning Committee in February 2016 and these are in the process of being reviewed to ensure that all

relevant conditions are present and up-to-date. In addition, a review of the timescales for the compliance of conditions is also being considered as the project may need to be delivered in two phases – one phase comprising the bridge and another phase comprising the road. Given the timescales for the delivery of the bridge, it is reasonable to ensure that conditions relating to that infrastructure are limited to those absolutely necessary, without necessarily being held up by conditions relating to the wider road (as this could come later). Conversely, conditions relating to the road are worded such that they relate to that infrastructure only for similar reasons.

- 9.35. The previous resolution was subject to the completion of a S106 agreement to secure the provision of apprenticeships, some traffic matters in terms of the closure of Howes Lane and a TRO (Traffic Regulation Order) to reduce the speed of the remaining part of Howes Lane and to secure the partial closure of the Bucknell Road, and relating to the securing of a financial contribution towards mitigating the impact on offsite farmland birds.
- 9.36. Due to the timescales to secure the delivery of the tunnel/bridge, it will be difficult to complete a S106 agreement in time. However given the nature as to what was to be secured through the S106, it is considered that in this instance, noting the critical role the delivery of the tunnel/bridge plays in facilitating the planned growth at Bicester, planning conditions can be used. A condition can be used to secure a training and employment management plan to secure apprenticeships and a condition can be used to secure a scheme to offset the impact of the development upon farmland birds (which could be a physical scheme or a financial contribution). OCC have been contacted regarding how to secure the highway matters and whether conditions can be used to secure this.

Human Rights and Equalities

- 9.37. 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.
- 9.38. 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

- 9.39. 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. 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

- 9.40. 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

- 9.41. 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.
- 9.42. 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. The application proposal is identified as a key infrastructure requirement for the NW Bicester development site but it also brings wider benefits in terms of resolving a key transport constraint on the edge of Bicester. The proposal results in a number of benefits including providing the required capacity on the strategic highway network, moving the road away from existing residents, making it a part of the Bicester 1 development site and providing significant improvements for walking and cycling along its length. 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 NO NEW MATERIAL PLANNING CONSIDERATIONS BEING RAISED BEFORE THE EXPIRY OF THE CONSULTATION PERIOD AND SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)

CONDITIONS

As summarised below, with full condition wording to follow in the written updates:

1. Time limit – development to commence within 3 years
2. Plans for approval
3. Requirement for a phasing plan
4. Necessary highway conditions
5. Details of the final surface treatment of the infrastructure
6. Details and positions of bus stops including the need to provide Real Time Information
7. Detailed surface water drainage scheme
8. Design details of any ponds
9. Provision of a Construction Environment Management Plan

10. Post construction noise survey
11. Unexpected contamination
12. Soil resources Plan
13. Existing and proposed levels for the road infrastructure
14. Details of tree pits
15. Landscaping scheme
16. Retention of the landscaping scheme
17. Protection of retained trees and hedgerows
18. Details of service runs
19. Archaeology – agreement of a written scheme of investigation and then archaeological evaluation and investigation
20. Updated ecology checks
21. Requirement for a biodiversity construction management plan
22. Requirement of a scheme to mitigate for farmland birds
23. Removal of vegetation outside of the bird nesting activity period
24. Landscape and Ecology Management Plan
25. Other mitigation to offset the environmental impacts of the development as identified in the EIA
26. Construction waste management plan
27. Development to meet CEEQUAL Standard 'Excellent'
28. Requirement for a Training and Employment Management Plan to commit to apprenticeship starts

PLANNING NOTE

1. Before granting this planning permission the Council has taken into account the environmental information relating to the development (within the meaning of the Town and Country Planning (Environmental Assessment) (Regulations) 2017 (as Amended).
2. Advice note regarding potential future access points to the road to aid pedestrian and cycle movements.
3. Advice note regarding the requirement to not obstruct or dissuade users from using the public right of way/ bridleway other than when the road is provided which crosses the route.

CASE OFFICER: Caroline Ford

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APPENDIX A

Twenty Ha Of Land Proposal Of New Highway Aligned With Howes Lane Bicester

14/01968/F

Case Officer: Caroline Ford **Ward(s):** Bicester West

Applicant: A2 Dominion South Ltd

Ward Member(s): Cllr Bolster, Cllr Hurle, Cllr Sibley

Proposal: Construction of new road from Middleton Stoney Road roundabout to join Lord's Lane, east of Purslane Drive, to include the construction of a new crossing under the existing railway line north of the existing Avonbury Business Park, a bus only link east of the railway line, a new road around Hawkwell Farm to join Bucknell Road, retention of part of Old Howes Lane and Lord's Lane to provide access to and from existing residential areas and Bucknell Road to the south and a one way route northbound from Shakespeare Drive where it joins with the existing Howes Lane with priority junction and associated infrastructure.

Committee Date: 18.02.2016

Recommendation: Application Permitted

Committee Referral: Major

1. Site Description and Proposed Development

- 1.1 The site covers 18.2ha and lies to the west of the existing Howes Lane and the town of Bicester. The land extends from the B4030 Middleton Stoney Road Roundabout to the A4095, Lords Lane, Hawkwell Farm and Bucknell Road, and a parcel of land east of Aldershot Farm. The land is currently predominantly agricultural land and also includes some areas of adopted highway. The site also includes a section of land beneath the railway line immediately north of the Avonbury Business Park. The land surrounding the site to the north and west is largely agricultural land but within the site allocated by Policy Bicester 1 and to the east is the existing town of Bicester. There are a number of farms located within proximity to the application site. The River Bure runs through the Eastern part of the site on a north-south axis and the railway line also cuts through the application site. There are a number of trees and hedgerows across the site, primarily forming the boundary of agricultural fields and/ or located adjacent to the watercourses.
- 1.2 In terms of recorded site constraints, a public right of way runs on an east – west axis from the Bucknell Road junction, along a track leading to Aldershot Farm and beyond. A SSSI is within proximity and the site has the potential for archaeological interest, to be contaminated and part of the site is within flood zones 2 and 3. There are a number of trees protected by a Preservation Order, to the south of the site.
- 1.3 The proposals seek to provide a new road in the form described above to address existing deficiencies in the railway crossing and provide enhanced capacity to meet the transport generated by the planned growth of Bicester. The proposed road would incorporate footways/ cycleways along its length as well as SUDs features, trees and lighting. The proposal has been amended through the processing of the application in order to address comments provided through the first round of consultation.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment will be the 18th February 2016.

4 letters have been received. The following points were raised:

- Concerns over the volume of traffic and hence noise the new road will create and the relationship with their property.
- Concern regarding the proposals flooding reports which suggest that this proposal makes residential areas "more vulnerable" to flooding but add that "no specific flood protection or mitigation measures will be necessary". Assurances that adequate drainage mechanisms are both put in place and well maintained, to ensure we will not fall victim to flooding as a direct result of the new road layout are sought.
- One comment received to keep the direct access from Bicester through to Bucknell along the Bucknell Road rather than routing it on a tortuous route through the new development which would not be pleasant for residents there.
- Strong support for the proposal due to the following summarised responses/reasons:
 - Additional traffic that the new development would bring would be set back into the new development and away from homes whose gardens back onto the existing Howes Lane,
 - The proposed road would be contained within the new development,
 - The new road would be fit for purpose as Howes Lane is not as it has never been upgraded from a lane,
 - Howes Lane could not cope with additional traffic and residents would be subject to increased traffic noise, vibration and pollution,
 - There are no barriers to the adjoined rear gardens for protection, noise or pollution and these problems are currently experienced.
 - Closing Howes Lane to make walkways and cycleways joining the Ecotown with the existing estate would comply with the Ecotown principles.

3. Consultations

- 3.1 **Bicester Town Council:** have the following concerns on this application, detailed below:

- The one-way section out of Shakespeare Drive will cause traffic wishing to return to Greenwood area to take short cuts through the Kingsmeadow Estate and potentially Highfield. These roads were not built for such a high ratio of traffic. Shakespeare Drive is a main artery and will be diminished by the building of a 3 metre wide cyclepath taking up a significant area of roadway and seems unnecessary especially as there will be a cycleway along the new Howes Lane.

- 3.2 **Middleton Stoney Parish Council:** object to this application as the application fails to provide the strategic link road which is required to bypass Bicester to the West, further reasoning summarised as follows:

- The concept of a 30mph road enforced by a series of traffic calming measures is fundamentally flawed. The road proposed will be virtually useless for traffic wishing to bypass Bicester to the West, especially the significant amount of HGV

traffic which currently uses Howes Lane/Lords Lane.

- There seems little point in motorists using the new Vendee Drive only to face a slow and tortuous route through the development after crossing the Middleton Stoney Road junction. The result will be traffic chaos.
- What is required is a semi-fast perimeter or orbital road with a speed limit of 40/50 mph. Alternatively, rather than re-aligning Howes Lane, serious consideration should be given to widening it.
- It is noted that robust conditions should be in place for developers to build roads to the appropriate highway standard and this applies particularly to the Howes Lane realignment.

3.3 Chesterton Parish Council: object to this application on the following planning grounds:

- The proposed road does not address future capacity issues. The A4095 through Chesterton will see an inevitable increase in vehicular traffic due to the proposals.
- The downgrading from 50mph to 30mph will create further hold-ups and is a backward step since this road will be used by many drivers as a 'northern ring road'.
- The new road will have adjoining retail outlets, education facilities and businesses which will add to usage and further slow movements.
- It is noted that a northern ring road is desperately needed and should be part of this proposal.
- A point of clarification is made with regard to the correctness of a plan submitted.

3.4 Bucknell Parish Council: made comments regarding this application and two other outline applications. The following issues are raised relating to this application, summarised as follows:

- The residents of Bucknell still require access to Bicester and the proposed road structure needs to support this.
- The proposed reduction of the speed limit on Howes Lane will result in an increase in through-traffic to Bucknell. It is suggested to keep the 50 mph limit but introduce service roads similar to those in Kidlington, which would stop traffic detouring on minor roads, both in Bucknell and Bicester.
- It is suggested that the Ardley to Bicester road become a 40mph limit and the village as a whole become a 20mph zone.
- As the proposed development is within 300 metres of Bucknell and the village's direct access to Bicester is to be restricted by it, it is considered reasonable that any bus route serving the development be extended to include the village. This will reduce car journeys through the development.

Cherwell District Council Consultees

3.5 Arboricultural Officer: No specific issues.

- The majority of selected trees are acceptable along with proposed locations and planting distances. The only amendment sought would be to the proposed line of Sorbus Aria (shown on drawing ref. 3005 5 of 5). To improve diversity, it is recommended that this line is mixed with a low percentage (10%) of Prunus Padus 'Albertii' which would provide greater diversity as well as an interesting visual feature by breaking up the uniform tree line of the Sorbus Aria.
- It is good to see the proximity of street lighting columns, however there are no details regarding above or below ground service routes which may have an influence upon the positioning of trees.
- T2 of TPO 13/2001 is identified as being retained adjacent to junction 1 and should therefore be included within an AMS to ensure that it is afforded appropriate protective measures.

- To reduce the risk of direct damage, it will be necessary to install root barriers between built features such as footpaths/ cycleways, below ground services, boundary walls etc and any tree located within a 2m distance.
- Once the details of the landscaping scheme have been agreed, in order to reduce the risks of 'unforeseen conflicts' during the construction phase, it would be advisable for combined drawings showing both the landscape features (including root barriers) and engineering features such as service routes and utility lines to be provided.

3.6 **Landscape Officer:**

With consideration of the above application in respect of the tree/landscape proposals.

1. Trees are to be planted in accordance with *BS 8545:2014 Trees: from nursery to independence in the landscape – Recommendations*.
2. Landscaping operations and aftercare and to be in accordance with *BS 4428: 1989 Code of practice for general landscape operations (excluding hard surfaces)*
3. The tree pit areas/trenches abut kerbs to footway, etc, resulting in large areas of tree soil displacement due to extensive concrete haunching. Can the tree alignments be further away from the kerb to maximise the amount of tree soil and prevent future structural damage to kerb/paving.
4. Each tree will require 10 cubic metres of 'Amsterdam', or equivalent tree soil to establish a healthy rootball in what will be a heavily compacted clay soil due to constructor traffic (consider the tree failures to the Oak avenue, SW Bicester!). All clay spoil from tree pit excavations to be removed off site.
5. The compacted clay soil must be de-compacted before planting operations (de-compaction method to be indicated).
6. The tree pit detailed drawings do not appear to indicate sufficient width of tree pit to accommodate tree soil – developer to clarify/confirm.
7. The tree pit detailed drawings must indicate the scarification of smeared sides of tree pits before tree planted to facilitate aeration and root development.
8. The nursery-supplied tree sizes are to be indicated in a tree schedule – not available on Iclipse.
9. Root flare to be indicated on drawing with instructions to landscape contractor to ensure finished tree soil levels cover entire rootball (as per soil level at nursery) but root flare to remain above finished soil level.
10. In consideration of General Arrangement drawing 5 of 5 in order to enhance visual diversity and amenity light the dense canopies with 10% *Prunus padus* 'Albertii'

- 3.7 **Anti Social Behaviour Officer:** The applicant's have demonstrated through their EIA submission that the proposed development will have a range of adverse noise effects on existing properties during the construction phase of the project. In their submission it is indicated that these effects can be mitigated by the preparation and implementation of a Code of Construction Practice. This approach is an accepted solution to the problems of noise presented by major projects and the submission, approval and implementation of the measures contained in such a document should be conditional to any planning approval granted. Suggestions as to what sections this document should contain are given. The EIA concludes that there should be no long term adverse noise effects from the road once in operation. Any planning approval given must contain a condition requiring the developers to undertake a post completion survey to confirm this premise and should any dwelling or business be found to be adversely effected by noise following this survey, remediation must be carried out.

Second response received agreed with the comments already made and did not add anything further.

3.8

Strategic Comments:

OCC support the principles of the North West Bicester site which has been the subject of on-going joint working between OCC, CDC and the Eco Bicester Strategic Delivery Board. OCC has no objection in principle to this application but further information is required to confirm the technical details as set out in the transport response. Notwithstanding this, there are concerns from Local Members and it should be noted that there would be an impact on local traffic movements from the redesigned road and increased trips from the development.

The Main benefits of the proposal are as follows:

- The proposals aim to balance the integration of the site with existing Bicester and the needs for access for through traffic.
- The road is designed to accommodate a significant volume of traffic to enable it to continue to perform a strategic function as identified within the area transport strategy
- A new tunnel under the railway line which is a key scheme identified by OCC prior to the North West Bicester development proposals
- The road is expected to be deliverable and adoptable
- Improved conditions for existing residents that back on to Howes Lane
- Provision of an environment that encourages sustainable travel for new and existing residents in the future, for example new bus routes, footpaths and cycle ways.

OCC Local Members have the following concerns:

- The proposed speed limit of 30mph is too slow for a key peripheral through route
- All options need to be kept open in respect of decisions on the status of this vital link/ perimeter road
- Dissatisfaction with the proposed 'urbanisation' of a strategic rural route
- Possible limiting of Bicester wide route options - if there are issues with the eastern routes in the town as a result of traffic accidents etc there be no viable western route alternative
- Perceived change in direction for the Bicester Strategy approach for the development of strategic routes
- Proposals for cycle paths along Shakespeare Drive will result in reduced carriage widths and push traffic onto even more unsuitable roads. Cycle paths would be more appropriate along Middleton Stoney Road
- The Bucknell Road loop/ realignment will prevent residents of Bucknell and surrounding villages using their preferred route into Bicester
- People living within the Shakespeare Drive area of the town will use side streets to access northwards rather than Howes Lane and Lords Lane.
- Difficulties in establishing an effective bus priority route into the town centre
- The temporary use of the existing Howes Lane by HGV traffic serving the Albion Land employment site unacceptable and should be prevented by a routing agreement.
- Environmental impacts such as noise, light pollution, flood risk, increased vehicle emissions caused by additional junctions.

The following represents summarised detailed Officer advice:

3.9

Transport: Recommendation is that further detail is required.

The current Howes Lane is substandard and would need redesigning as part of the development. Increasing capacity at the Howes Lane/ Bucknell Road junction and its approaches is a policy within the current Local Transport Plan Area Strategy. A new tunnel under the railway to provide additional capacity compared with the current skewed bridge at Howes Lane/ Bucknell Road/ Lords Lane is required to be delivered

by the North West Bicester Masterplan developments and is triggered by the 900th dwelling (including the Exemplar site).

The submitted Transport Assessment provides a fair appraisal of the various options for the improvement of Howes Lane. Junctions along the proposed link road have been analysed robustly and would operate within theoretical capacity.

The submission provides limited detail in terms of phasing and treatment of Howes Lane as the new route becomes available. This should be provided.

The submission also does not show the accesses into the school or the local centre, which need to be considered at this stage. Likewise, no laybys associated with the school are shown.

The proposals provide pedestrian and cycle connectivity across the road at formal crossing points and junctions. Between these points, crossing opportunities would be limited due to the swale and grass verge. There are some identified crossing movements that the design does not address well. Proposals to address these movements for the safety and convenience of non-motorised users will be required.

The proposals are considered to be acceptable in principle subject to considerations of the detailed comments made the detailed design will be required prior to any development commencing on site. A list of items where detailed design is required is set out.

3.10 Structures:

Full outline details of any proposed highway structures (including retaining walls, culverts, bridges and footbridges) must be submitted to the County Bridges Team to determine the extent of approvals required. Guidance is provided where any structures are proposed for adoption and the technical approvals that will be required.

3.11 Drainage: A full surface water drainage design with full calculations must be submitted and approved by the Lead Flood Authority (OCC) prior to the development commencing on site. There is history of flooding to properties to the south east of Howes Lane and therefore it is essential that the development does not increase the flow to the existing culverts under Howes Lane going towards the existing housing estate.

3.12 CTMP - Construction will see a significant level of activity and therefore appropriate measures will need to be in place for routing, access, servicing and parking, which would be subject to an approved Construction Traffic Management Plan.

3.13 Transport Strategy:

The tunnel under the railway is required by the County Council and to get an optimum design for this, Lords Lane needs realigning at its Western end and Howes Lane needs realigning at its eastern end. However, the complete realignment of Howes Lane is not required for transport reasons.

County Council policy within the Local Transport Plan (LTP3) Area Strategy is to 'seek opportunities to improve access and connections between key employment and residential sites and the strategic transport system' and one of the schemes identified to achieve this is 'increasing capacity at the Howes Lane/ Bucknell Road junction and approaches'. This is part of the overall strategy to maximise the use of the peripheral routes around the town by cars so that within the central areas of the town, the balance is in favour of sustainable modes whilst not excluding the car.

The proposed design for the realigned road link would deliver an appropriate standard single carriageway and the junctions at both ends and the tunnel under the railway would play a significant part in maximising the use of the corridor. However, the modelling does suggest that the combination of the lower speed, an increase in the number of junctions and the vehicular trips generated by the 6000 houses, employment and other uses on the NW Bicester site, would make the route less attractive to some of the people who currently drive along it. The modelling particularly suggests that people

that live within Shakespeare Drive would use side streets and the Banbury or Buckingham Roads to access northwards rather than Howes Lane and Lords Lane. The proposed one way access is aimed at addressing this issue.

The current Howes Lane would be sub standard as a strategic link with increased traffic along it. Before the NW Bicester development was approved, the County Council was considering whether to realign the road slightly westwards or simply widen the existing route as part of plans to deliver a new tunnel under the railway close to its current position.

The TA shows how the current road arrangements on the western side of the town would not cope with the increased traffic impact as a result of the proposed development growth within Bicester even without NW Bicester development and the realigned road proposals in place. It also demonstrates that the design of the proposed road would deliver a good standard single carriageway with adequate capacity, such that even if the road flows did get back to the flows shown in the 'Do Minimum' model, the road would be able to cope with these. The TA also sets out how the North West Strategic link road is expected to operate under capacity with the future year traffic including North West Bicester development traffic, although this is in part due to the fact that local vehicles that currently use the Howes Lane/ Lords Land corridor find alternative connections. Nevertheless, where possible and appropriate, the detailed design should give due consideration to future proofing to allow for the possible future requirement to increase capacity at the junctions.

In summary, the provision of the tunnel under the railway is crucial for Bicester's transport strategy and whilst the realignment of Howes Lane is led by planning reasons, the proposed design would provide the capacity required to keep this as a strategic link road. However, the impact of the development is such that some trips that currently use Howes Lane and Lord's Lane are likely to divert and impact on Banbury and Buckingham Roads. The developments that make up the NW Bicester masterplan area need to contribute proportionately towards the transport strategy that aims to improve the northern and eastern peripheral routes and schemes to improve the function of the central corridor.

3.14 **Public Transport:**

The proposed carriageway width of 7.3m is adequate for the function of the realigned Howes Lane, however localised widening will be required at bus stops. The proposed width of 6.75m on the Bucknell Road link road appears to be adequate and again, localised widening may be required at bus stops. Bus stopping places need to be clearly defined and should be adjacent to the main pedestrian routes into the main development area to minimise walking distances. The proposed swale arrangement between the main highway and the footpath/ cyclepath causes some concern for the provision of bus stops and pedestrian crossing arrangements and this emphasises the urgent requirement to agree bus stop locations early. The developer will be required to provide an effective design solution for the bus only section of Bucknell Road. Some concern is raised in relation to the proposed narrow section of Bucknell Road to the north as it is necessary to provide a reasonably congestion free route for buses. Advice is provided as to the number of stops and the location as well as the infrastructure required to facilitate the currently proposed bus services as well as other commercial bus services that may well be attracted to NW Bicester. The developer needs to consider options for the ongoing maintenance of bus shelters.

3.15 **Public Rights of Way:**

The application needs to provide a Pegasus or similar user controlled signalised crossing point where the new road crosses the bridleway to Aldershot Farm. This is a key connecting link and ease of passage/ NMU priority is necessary to encourage modal shift. The railway underpass near Aldershot Farm needs to provide for walkers, cyclists and possibly equestrians. The junction of Howes Lane, A4095, Lords Lane and

Bucknell Road needs to include provision for walkers, cyclists and equestrians so that they can safely travel to wider urban and rural networks.

3.16 Archaeology:

No objection subject to conditions. The site is located in an area of archaeological interest as identified by a desk based assessment, a geophysical survey and a trenched evaluation. A further programme of archaeological investigation and mitigation will need to be undertaken ahead of any development. This can be secured through a condition on any resultant planning permission.

3.17 Ecology:

- The applicant has used a recognised biodiversity metric which demonstrates how the combined development over the whole NW Bicester Eco Town Masterplan site should deliver a net gain in biodiversity.
- However, in order to achieve a net gain in biodiversity, this application and the other applications at NW Bicester rely on the delivery of the Nature Reserve and other biodiverse green spaces proposed in the masterplan, which have not yet been included in other planning applications. This is acceptable providing there is certainty that the nature reserve and other biodiverse green spaces will be delivered.
- Provided that the nature reserve and other biodiverse green spaces are delivered as proposed in the masterplan, then the appropriate management and monitoring of the whole NW Bicester site could be crucial to whether the proposed development would be able to deliver a net gain in biodiversity. The applicant proposes that a Landscape and Habitat Management Plan would be produced for each reserved matters application. These would contain both management and monitoring proposals. Details in relation to this have been provided in comments to other applications on the wider NW site.
- The principle of offsite mitigation for farmland birds is supported, however some comments and suggestions on the details of the method of achieving this have been provided in comments related to other recent applications on the wider NW site.

3.18 Road Agreements Team:

General advice provided in relation to the information required to go through the adoptions process by the Road Agreements Team and the technical standards that would be required.

Other Consultees

3.19 Environment Agency: Object to this proposal as it has not been demonstrated that the development as proposed will not increase flood risk on and off site. This is a requirement of the NPPF and Policy ET18 of PPS1. The submitted FRA is not acceptable as it fails to demonstrate:

- Why development of the A4095 Strategic Link Road is unavoidable in Flood Zones 2 and 3 near the confluence of the Langford Brook and River Bure.
- If development in Flood Zones 2 and 3 is unavoidable, there has been no assessment of the volume of floodplain that will be lost, how much floodplain compensation is needed and whether delivery of the required compensation is achievable. It is therefore not clear if flood risk will be increased.
- That the surface water drainage system has sufficient capacity to convey and attenuate run off from both the proposed hardstanding and green areas.

The objection can be overcome by submitting an FRA that covers the deficiencies highlighted above and demonstrates that the development will not increase flood risk elsewhere and where possible reduces flood risk overall.

Further advice:

- The importance of the maintenance of the surface water drainage features on site to ensure their long term functionality is highlighted.
- Erection of flow control structures or any culverting or the ordinary watercourses on site require consent from OCC as the Lead Local Flood Authority.
- OCC should be satisfied with the approach suggested to dealing with the potential risk to the site from groundwater flooding.
- Should the objection be overcome, it is likely a number of conditions covering a number of environmental constraints would be recommended.

3.20 **Thames Water:** The application does not affect Thames Water and as such they have no comments to make.

Second response provided the same advice.

3.21 **Highways Agency:** No objections

3.22 **Network Rail:** make comments on future discussions and agreements, summarised as follows:

- The proposal includes a proposed new road underbridge and pedestrian/cycle underpass which will affect Network Rail's operational railway line between Bicester North and Banbury.
- Further discussions will be necessary over the design and implementation of the proposed two new underbridges as they will have a material impact on Network Rail's operational railway.
- In addition there will be the need for completion of a Works Agreement relating to the construction and future maintenance of the underbridge and the adoption of the roadway there under.

Second response provided the same advice.

3.23 **Berkshire, Buckinghamshire, Oxfordshire Wildlife Trust (BBOWT):**

- The submission of various documents are welcomed including significant detail of wildflower species for the swales and of tree planting. These proposed habitats will contribute to the net gain requirement for the Masterplan and therefore in the event of the approval of the application, it is important that the following are ensured by the use of planning conditions:
 - The use of a wildflower species rich mix in the swales and combined verge/ swales as indicated and that swale management is then carried out so as to encourage the wildflowers to flourish.
 - It is not clear if it is proposed for the verges to be planted with wildflower seed mix but it is suggested that they should be as part of the overall contribution of this application to net gain for the entire masterplan. Wildflower rich verges and swales should be included in a Landscape and Habitats Management Plan which could be ensured by condition.
 - The provision of a range of tree species including native species.
 - Appropriate management and monitoring of the site.
- Net Gain in Biodiversity - the applicant has used a recognised biodiversity metric in the Biodiversity Strategy document which demonstrates how the combination of developments across the entire masterplan site, with offsite compensation for farmland birds in addition, should deliver a net gain in biodiversity. There is no individual calculation of net gain for this individual application and therefore it is not clear if this application relies on the delivery of other areas of GI across the wider site (such as the nature reserve). Bearing in mind that this application may not, in itself may not be providing a net biodiversity gain in biodiversity, then some form of guarantee needs to be provided that the nature reserve and the other significant biodiversity rich green space indicated in the southern half of the masterplan will be taken forward before 14/01968/F can be approved.
- Off site farmland bird compensation - Welcome the submission of the proposal

and the recognition that off site mitigation for farmland birds will be needed. Progress has been made, particularly in the assessment of the mitigation required, however there are a number of areas of concern with what is proposed to achieve the compensation and alternative approaches are therefore suggested.

3.24 **Natural England:**

- It is noted that detailed SUDs techniques in line with the Masterplan Surface Water Drainage Strategy have been incorporated into the application for the onsite management of surface water. These measures are necessary for appropriate drainage management, particularly in relation to potential effects on downstream SSSIs.
- The proposed development is within an area that Natural England considers could benefit from enhanced Green Infrastructure provision. The incorporation of GI into this project would be encouraged.
- Natural England have not assessed this application and associated documents for impacts on protected species and their Standing Advice should be used to assess this application.
- If the proposal is on or adjacent to a local wildlife site, the Authority should ensure that it has sufficient information to fully understand the impact of the proposal.
- The application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes.
- Support to the measures outlined by BBOWT in their response to the application is given.
- The application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment, use natural resources more sustainably and bring benefits for the local community, for example through green space provision and access to and contact with nature.

3.25 **Bioregional:**

Bioregional are a charitable organisation who work to promote sustainability to ensure that we live within the natural limits of our one planet. Bioregional are supporting Cherwell District Council in the NW Bicester project as well as A2 Dominion in its role as a major housing provider on the site.

- The application is consistent with A2 Dominions earlier outline application and with the submitted NW Bicester Masterplan. It provides the key road infrastructure for the entire development and addresses a number of key issues:
 - It meets OCC Policy to increase capacity of the Howes Lane/ Lords Lane junction
 - Realises the strategic importance of this corridor for movement across the town
 - Integrate the NW Bicester development into the existing town without the new road acting as a barrier to permeability for pedestrians and cyclists
 - Address the constraints on the existing Howes/ Lords Lane corridor, in particular the rural nature of Howes Lane and the complicated and dangerous underpass of the railway with junctions on either site.
- Supportive of the application but has some observations that ought to be resolved before this scheme is given approval to move forward, particularly as this is a full application:
 - There is a current connection onto Howes Lane from Wansbeck Drive - will this route be retained and enhanced to the new boulevard?
 - Junction 1 in the application connects to the bus only link through the proposed business park (to the north) but it is unclear where this connects to the south?
 - Junction 2 on the new boulevard joins with the green link from Dryden

Avenue. It is unclear how these old and new routes will connect. This will become an important route into the existing town as NW Bicester builds out.

- How will the one way link to Shakespeare Drive from the realigned Howes Lane be enforced?
- Detailed designs of the new railway underpass should be sought. Particular interest is how pedestrians and cyclists will be incorporated into these designs.
- Limited information in relation to how new homes to the north of Lords Lane would connect to the Bure Park local nature reserve.
- The application proposes to close part of Bucknell Road to vehicles and create a cycle path from the existing Howes Lane and Lords Lane junction. This path will cross the new boulevard and then re-join with new road infrastructure a few hundred metres north west into the development. Further information should be sought

3.26 **Thames Valley Police:**

- Concern that there would be less direct access from the TVP premises such that this could affect emergency response times
- Concern regarding site security for the TVP premises that are currently away from the public domain.

4. Relevant National and Local Policy and Guidance

4.1 **Development Plan Policies**

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:

4.2 Cherwell Local Plan 2011 - 2031 Part 1

Sustainable communities

- PSD1: Presumption in Favour of Sustainable Development
- SLE1: Employment Development
- SLE4: Improved Transport and Connections
- BSC1: District wide housing distribution
- BSC2: Effective and efficient use of land
- BSC3: Affordable housing
- BSC4: Housing mix
- BSC7: Meeting education needs
- BSC8: Securing health and well being
- BSC9: Public services and utilities
- BSC10: Open space, sport and recreation provision
- BSC11: Local standards of provision – outdoor recreation
- BSC12: Indoor sport, recreation and community facilities

Sustainable development

- ESD1: Mitigating and adapting to climate change
- ESD2: Energy Hierarchy and Allowable solutions
- ESD3: Sustainable construction
- ESD4: Decentralised Energy Systems
- ESD5: Renewable Energy
- ESD6: Sustainable flood risk management
- ESD7: Sustainable drainage systems
- ESD8: Water resources

ESD10: Biodiversity and the natural environment
 ESD13: Local landscape protection and enhancement
 ESD15: Character of the built environment
 ESD17: Green Infrastructure

Strategic Development

Policy Bicester 1 North West Bicester Eco Town
 Policy Bicester 7 Open Space
 Policy Bicester 9 Burial Ground

Infrastructure Delivery

INF1: Infrastructure

4.3 Cherwell Local Plan 1996 (Saved Policies)

TR1: Transportation funding
 TR10: Heavy Goods Vehicles
 C8: Sporadic development in the open countryside
 C28: Layout, design and external appearance of new development
 C30: Design Control

4.4 Other Material Policy and Guidance

4.5 **The Non Stat Cherwell Local Plan** proceeded to through the formal stages towards adoption, reaching pre inquiry changes. However due to changes in the planning system the plan was not formally adopted but was approved for development control purposes. The plan contains the following relevant policies;

H19: New Dwellings in the Countryside
 H3: Density
 H4: Types of Housing
 H5: Housing for people with disabilities and older people
 H7: affordable housing
 TR3: A Transport Assessment and Travel Plan must accompany development proposals likely to generate significant levels of traffic
 TR4: Mitigation Measures
 R4: Rights of Way and Access to the Countryside
 EN16: Development of Greenfield, including Best and Most Versatile Agricultural Land
 EN22: Nature Conservation
 EN28: Ecological Value, Biodiversity and Rural Character
 EN30: Sporadic Development Countryside
 EN32: Coalescence of Settlements
 D9: Energy Efficient Design

4.6 **National Planning Policy Framework**

The National Planning Policy Framework (NPPF) was published in March 2012 and sets out the Government's planning policies for England. It contains 12 Core Principles which should under pin planning decisions. These principles are relevant to the consideration of applications and for this application particularly the following;

- Plan led planning system
- Enhancing and Improving the places where people live
- Supporting sustainable economic development
- Securing high quality design
- Protecting the character of the area
- Support for the transition to a low carbon future
- Conserving and enhancing the natural environment
- Promoting mixed use developments
- Managing patterns of growth to make use of sustainable travel
- Take account of local strategies to improve health, social and cultural wellbeing.

4.7 **Eco Towns Supplement to PPS1**

The Eco Towns supplement was published in 2009. The PPS identified NW Bicester as one of 4 locations nationally for an eco-town. The PPS sets 15 standards that eco town development should achieve to create exemplar sustainable development. Other than the policies relating to Bicester the Supplement was been revoked in March 2015.

4.8 **NW Bicester Supplementary Planning Document**

The NW Bicester SPD provides site specific guidance with regard to the development of the site, expanding on the Bicester 1 policy in the emerging Local Plan. The draft SPD is based on the A2Dominion master plan submitted in May 2014 and seeks to embed the principle features of the master plan into the SPD to provide a framework to guide development. The SPD has been reported to the Council's Executive in June 2015 and has been approved for use on an interim basis for Development Management purposes. Following the adoption of the Cherwell Local Plan and further consultation, the document was approved by the Council's Executive and will be reported to Full Council for adoption in March 2016. The document is therefore at an advanced stage but does not yet carry full weight until such time that it is adopted. The SPD is therefore a material consideration.

The SPD sets out minimum standards expected for the development, although developers will be encouraged to exceed these standards and will be expected to apply higher standards that arise during the life of the development that reflect up to date best practice and design principles.

4.9 **One Shared Vision**

The One Shared Vision was approved by the Council, and others, in 2010. The document sets out the following vision for the town;

To create a vibrant Bicester where people choose to live, to work and to spend their leisure time in sustainable ways, achieved by

- Effecting a town wide transition to a low carbon community triggered by the new eco development at North West Bicester;
- Attracting inward investment to provide environmentally friendly jobs and commerce, especially in green technologies, whilst recognising the very important role of existing employers in the town;
- Improving transport, health, education and leisure choices while emphasising zero carbon and energy efficiency; and
- Ensuring green infrastructure and historic landscapes, biodiversity, water, flood and waste issues are managed in an environmentally sustainable way.

4.10 **Draft Bicester Masterplan**

The Bicester masterplan consultation draft was produced in 2012. It identifies the following long term strategic objectives that guide the development of the town, are:

- To deliver sustainable growth for the area through new job opportunities and a growing population;
- Establish a desirable employment location that supports local distinctiveness and economic growth;
- Create a sustainable community with a comprehensive range of social, health, sports and community functions;
- Achieve a vibrant and attractive town centre with a full range of retail, community and leisure facilities;
- To become an exemplar 'eco-town', building upon Eco Bicester – One Shared Vision;
- To conserve and enhance the town's natural environment for its intrinsic value; the services it provides, the well-being and enjoyment of people; and the economic prosperity that it brings;
- A safe and caring community set within attractive landscaped spaces;

- Establish business and community networks to promote the town and the eco development principles; and,
- A continuing destination for international visitors to Bicester Village and other tourist destinations in the area.

The aim is for the masterplan to be adopted as SPD, subject to further consultation being undertaken. The masterplan is at a relatively early stage and as such carries only limited weight.

4.11 **Planning Practice Guidance**

4.12 **Oxfordshire County Council – Connecting Oxfordshire: Local Transport Plan 2015-2031**

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant Planning History
- Principle of the development
- Transport
- Environmental Matters
- Employment
- Healthy lifestyles
- Green Infrastructure
- Landscape and historic environment
- Proposed Landscaping
- Biodiversity
- Flood risk management
- Waste
- Masterplanning
- Transition
- Conditions/ S106

Relevant Planning History

5.2 Land at North West Bicester was identified as one of four locations nationally for an eco-town in the Eco Town Supplement to PPS1.

5.3 Following this, a site to the North East of the current site (North of the Railway line) was the subject of an application for full planning permission for residential development and outline permission for a local centre in 2010 (10/01780/HYBRID). This permission, referred to as the Exemplar, and now being marketed as 'Elmsbrook', was designed as the first phase of the Eco Town and meets the Eco Town Standards. The scheme is currently being built out.

5.4 Four further applications have been received for parts of the NW Bicester site:

14/01384/OUT – OUTLINE - Development comprising redevelopment to provide up to 2600 residential dwellings (Class C3), commercial floorspace (Class A1 – A5, B1 and B2), social and community facilities (Class D1), land to accommodate one energy centre, land to accommodate one new primary school (up to 2FE) (Class D1) and land to accommodate the extension of the primary school permitted pursuant to application [ref 10/01780/HYBRID]. Such development to include provision of strategic landscape, provision of new vehicular, cycle and pedestrian access routes, infrastructure, ancillary engineering and other operations.

This application benefits from a resolution to grant planning permission subject to the completion of a S106 legal agreement. This resolution was made at Planning Committee in March 2015.

14/01641/OUT – Outline Application - To provide up to 900 residential dwellings (Class C3), commercial floor space (Class A1-A5, B1 and B2), leisure facilities (Class D2), social and community facilities (Class D1), land to accommodate one energy centre and land to accommodate one new primary school (up to 2 FE) (Class D1), secondary school up to 8 FE (Class D1). Such development to include provision of strategic landscape, provision of new vehicular, cycle and pedestrian access routes, infrastructure, ancillary engineering and other operations

This application benefits from a resolution to grant planning permission subject to the completion of a S106 legal agreement. This resolution was made at Planning Committee in October 2015.

14/01675/OUT - OUTLINE - Erection of up to 53,000 sqm of floor space to be for B8 and B2 with ancillary B1 (use classes) employment provision within two employment zones covering an area of 9.45ha; parking and service areas to serve the employment zones; a new access off the Middleton Stoney Road (B4030); temporary access of Howes Lane pending the delivery of the realigned Howes Lane; 4.5ha of residential land; internal roads, paths and cycleways; landscaping including strategic green infrastructure (G1); provision of sustainable urban systems (suds) incorporating landscaped areas with balancing ponds and swales. Associated utilities and infrastructure.

14/02121/OUT – OUTLINE - Development to provide up to 1,700 residential dwellings (Class C3), a retirement village (Class C2), flexible commercial floorspace (Classes A1, A2, A3, A4, A5, B1 and C1), social and community facilities (Class D1), land to accommodate one energy centre and land to accommodate one new primary school (up to 2FE) (Class D1). Such development to include provision of strategic landscape, provision of new vehicular, cycle and pedestrian access routes, infrastructure and other operations (including demolition of farm buildings on Middleton Stoney Road).

This application appears elsewhere on the agenda.

- 5.5 Applications 14/01384/OUT and 14/01641/OUT have partially established the principle of the realigned road and application 14/01675/OUT also includes within the red line the rest of the land required for the realignment of the road.

Environmental Statement

- 5.6 The Application is accompanied by an Environmental Statement (ES). It covers landscape and visual impact, ecology, flood risk and hydrology, air quality, noise and vibration, cultural heritage, contaminated land, agriculture and land use, human health, socio economics and community, waste and cumulative impacts. The ES identifies significant impacts of the development and mitigation to make the development acceptable.
- 5.7 The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 Reg 3 requires that Local Authorities shall not grant planning permission or subsequent consent pursuant to an application to which this regulation applies unless they have first taken the environmental information into consideration, and they shall state in their decision that they have done so.
- 5.8 The NPPG advises 'The Local Planning Authority should take into account the information in the Environmental Statement, the responses to consultation and any other relevant information when determining a planning application'. The information in the ES and the consultation responses received have been taken into account in

considering this application and preparing this report.

- 5.9 The ES identifies mitigation and this needs to be secured through conditions and/or legal agreements. The conditions and obligations proposed incorporate the mitigation identified in the ES.

Planning Policy and Principle of the Development

- 5.10 Section 38 of the Planning and Compulsory Purchase Act 2004 advises that;

'If regard is to be had to the Development Plan for the purposes of any determination under the Planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise'.

- 5.11 The Development Plan for the area is the Adopted Cherwell Local Plan 2011-2031, which was adopted in July 2015 and the saved policies of the Adopted Cherwell Local Plan 1996.

Adopted Cherwell Local Plan 2011 – 2031 (ACLP)

- 5.12 The newly Adopted Cherwell Local Plan 2011-2031 includes Strategic Allocation Policy Bicester 1, which identifies land at NW Bicester for a new zero carbon mixed use development including 6,000 homes and a range of supporting infrastructure including employment land. The current application site forms part of the strategic allocation in the local plan. The policy is comprehensive in its requirements and the consideration of this proposal against the requirements of Policy Bicester 1 will be carried out through the assessment of this application.

- 5.13 Specifically in relation to the current proposal, Policy Bicester 1 identifies infrastructure needs, including access and movement - 'proposals to include appropriate crossings of the railway line to provide access and integration across the North West Bicester site. Changes and improvements to Howes Lane and Lords Lane to facilitate integration of new development with the town'.

Adopted Cherwell Local Plan 1996

- 5.14 The Cherwell Local Plan 1996 includes a number of policies saved by the newly adopted Local Plan, most of which relate to detailed matters such as design and local shopping provision. The policies of the adopted Cherwell Local Plan will be considered in further detail below.

- 5.15 The policies within both the Adopted Cherwell Local Plan 2011-2031 and those saved from the adopted Cherwell Local Plan 1996 are considered to be up to date and consistent with the National Planning Policy Framework having been examined very recently.

Non Statutory Cherwell Local Plan

- 5.16 The NSCLP was produced to replace the adopted Local Plan. It progressed through consultation and pre inquiry changes to the plan, but did not proceed to formal adoption due to changes to the planning system. In 2004 the plan was approved as interim planning policy for development control purposes. This plan does not carry the weight of adopted policy but never the less is a material consideration. There are a number of relevant policies as set out, which will be considered in further detail in this assessment.

NW Bicester SPD

- 5.17 The Eco Towns PPS and the ACLP both seek a master plan for the site. A master plan has been produced for NW Bicester by A2Dominion and this has formed the basis of a supplementary planning document for the site. The SPD amplifies the local plan policy and provides guidance on the interpretation of the Eco Towns PPS standards for the NW Bicester site. The SPD was reported to the Council's Executive in June 2015 and approved for use on an interim basis for Development Management purposes.

Following a further round of consultation, the SPD was been reported to the Council's Executive on the 01 February 2016 and has been approved for recommendation to the Full Council that the document be approved. The does not yet carry full weight until such time that it is adopted however it is a material consideration. The SPD and Masterplan identify the realignment of Howes Lane as part of the development of the site.

Eco Towns Supplement to PPS1

- 5.18 The Eco Towns PPS was published in 2009 following the governments call for sites for eco towns. The initial submissions were subject to assessment and reduced to four locations nationally. The PPS identifies land at NW Bicester for an eco-town. The PPS identifies 15 standards that eco towns are to meet including zero carbon development, homes, employment, healthy lifestyles, green infrastructure and net biodiversity gain. These standards are referred to throughout this report. This supplement was cancelled in March 2015 for all areas except NW Bicester.

NPPF

- 5.19 The NPPF is a material consideration in the determination of the planning application. It is stated at paragraph 14, that 'At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking'. For decision taking this means¹ approving development proposals that accord with the Development Plan without delay. The NPPF explains the three dimensions to sustainable development being its economic, social and environmental roles. The NPPF includes a number of Core Planning Principles including that planning should proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the Country needs.

Transport

- 5.20 The Eco Towns PPS sets out that Eco Towns should 'support people's desire for mobility whilst achieving the goal of low carbon living'. The PPS identifies a range of standards around designing to support sustainable travel, travel planning and travel choice, modal shift targets, ensuring key connections do not become congested from the development and ultra low emission vehicles. The PPS seeks homes within 10 mins walk of frequent public transport and local services. The PPS recognises the need for travel planning to achieve the ambitious target of showing how the town's design will enable at least 50 per cent of trips originating in the development to be made by non-car means, with the potential for this to increase over time to at least 60 per cent.

- 5.21 The NPPF has a core principle that planning should; 'actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable;'

The NPPF also advises that the transport system needs to be balanced in favour of sustainable transport giving people a real choice about how they travel (para 29). It is advised that encouragement should be given to solutions that support reductions in greenhouse gas emissions and reduce congestion (para 30). Transport assessments are required (para 32). The ability to balance uses and as part of large scale development have mixed uses that limit the need to travel are identified (para 37 & 38). It also advises that account should be taken of improvements that can be undertaken within the transport network that cost effectively limit the significant impacts of the development and that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe (para 32).

- 5.22 The Adopted Cherwell Local Plan policy SLE4 requires all development to 'facilitate the

¹ Unless material considerations indicate otherwise

use of sustainable transport, make fullest use of public transport, walking and cycling'. Encouragement is given to solutions which support reductions in greenhouse gas emissions and reduce congestion. New development is required to mitigate off site transport impacts.

- 5.23 Policy Bicester 1 relates to the NW Bicester site and requires proposals to include appropriate crossings of the railway line, changes and improvements to Howes Lane and Lords Lane, integration and connectivity between new and existing communities, maximise walkable neighbourhoods, provide a legible hierarchy of routes, have a layout that encourages modal shift, infrastructure to support sustainable modes, accessibility to public transport, provide contributions to improvements to the surrounding road networks, provision of a transport assessment and measures to prevent vehicular traffic adversely affecting surrounding communities.

- 5.24 The NW Bicester SPD includes 'Development Principle 6 - Transport, Movement and Access'. This principle requires movement to be addressed within planning applications with priority to be given to walking and cycling through improvements to infrastructure and ensuring that all new properties sit within a reasonable distance from services and facilities, the need to prioritise bus links and with other highway and transport improvements to the strategic road network.

'Development Principle 6A - Sustainable Transport - Modal Share and Containment', seeks to achieve the overall aim that not less than 50% of trips originating in eco towns should be made by non car means. This includes providing attractive routes and connections through the development, providing connections to on and off site destinations including schools and local facilities, enhanced walking routes, the provision of primary vehicular routes but which do not dominate the layout or design of the area, the provision of bus infrastructure, the use of car sharing and car clubs and with parking requirements sensitively addressed. Applications should demonstrate how these matters can be provided for as well as include travel plans to demonstrate how the design will enable at least 50% of trips originating in the development to be made by non car means.

Development Principle 6B – Electric and low emission vehicles requires proposals to make provision for electric and low emission vehicles through infrastructure and support in travel plans.

Development Principle 6C – Proposed Highways infrastructure – strategic link road and proposed highway realignments considers the benefits of realigning Bucknell Road and Howes Lane to provide strategic highway improvements, whilst creating a well-designed route that will accommodate the volumes of traffic whilst providing an environment that is safe and attractive to pedestrians, cyclists and users of the services and facilities used.

Development Principle 6D – Public Transport requires public transport routes to be provided that include rapid and regular bus services, with street and place designs to give pedestrians and cyclists priority as well as bus priority over other road vehicles. The location of the internal bus stops should be within 400m of homes and located in local centres where possible. Bus stops should be designed to provide Real Time Information infrastructure, shelters and cycle parking.

Strategic need for the road

- 5.25 The A4095 has been a key matter of policy and strategy for the town of Bicester since 2000. The Howes Lane/ Lords Lane/ Bucknell Road junction was confirmed as a pinchpoint in the existing highway network in the Bicester Integrated Transport and Land Use Study from March 2000. Paragraph 2.14 of this report stated this to be 'substantially limiting the potential of the Western perimeter route for through traffic'. The Core Transport Strategy at that time was to remove through traffic from the centre

of Bicester. This was to be achieved by 'selective enhancements to highway (link and junction) capacity on the perimeter routes to carry through traffic away from the town...'. It was concluded that there may be a case for a high quality western distributor route, to include the upgrading of Howes Lane and the junctions at Howes Lane/ Lords Lane/ Bucknell Road. The Transport and Land Use strategy was updated in 2009 and this identified the Howes Lane/ Lords Lane scheme as a strategic scheme due to its impact on the performance on the overall highway network in the town. The strategy stated that the scheme was intended to 'address capacity issues at the junction and improve the journey time reliability of the route'.

- 5.26 The Oxfordshire Local Transport Plan (2015-2031) has a Bicester Area Strategy sitting alongside it which aims to support the Local Plan and the significant growth identified at Bicester. The priority for Bicester is to provide the transport infrastructure which supports the aspirations set out in the Local Plan and the initiatives for their implementation in the forthcoming Bicester Masterplan. This includes tackling the challenges identified in the Bicester Movement Study and the further technical reports completed to support the Main Modifications to the Local Plan. The strategy identifies a series of improvements to support the overall capacity of transport networks and systems within the locality; enabling them to accommodate the additional trips generated by development; to adapt to their cumulative impact and to mitigate the local environmental impact of increased travel. It is also identified that there is a need for a significant increase in the proportion of trips to be made by public transport, cycling and walking. BIC 1 of the Local Transport Plan identifies improved access and connections between key employment and residential sites and the strategic transport system will be supported including 'delivering effective peripheral routes around the town to enable the delivery of the sustainable transport strategy within the central area by providing a local distributor function as well as offering effective connections to strategic corridors for new residential and employment sites'. To the Western peripheral corridor, the following improvements are identified:
- Increasing capacity at the Howes Lane/ Bucknell Road junction and approaches to maintain this as part of the strategic peripheral route corridor and to accommodate the increase in traffic using this route, further enabling development in the area, including the North West Bicester development
 - Realigning A4095 Howes Lane as part of improving the strategic western peripheral route for Bicester.
 - Improvements to the Lords Lane/ B4100 roundabout to enable this junction to cope with future growth at an important radial route into/ out of the town.
- 5.27 In 2014, modelling work prepared for the Local Plan Modifications Examination highlighted the Howes Lane/ Bucknell Road/ Lords Lane junction as one of the principal traffic issues for the town wide transport network.
- 5.28 In terms of timing for delivery of the road and tunnel infrastructure, and given the constraints of the existing junction OCC have advised that there is a limitation on the number of additional traffic movements through the junction before it fails to function adequately. This has been equated to 507 dwellings (900 in total including the 393 dwellings already permitted on the exemplar site) and 40% of the proposed employment on the NW Bicester site. This capacity was identified through work undertaken by Hyder consulting in relation to application 14/01384/OUT.
- 5.29 Howes Lane (A4095) is currently a rural road, 6.1m in width with no footway or cycleway for most of its length and it is located within close proximity to residential properties creating an unpleasant, intrusive environment for existing residents. The Howes Lane/ Bucknell Road junction is a priority junction located in proximity to the roundabout junction for Bucknell Road and Lords Lane. The junctions are linked by a short section of road under a skewed railway bridge. The current highway layout is considered to be a significant constraint to traffic improvements and a barrier to future growth.

- 5.30 This proposal is accompanied by a Transport Assessment, which again confirms that the Howes Lane/ Bucknell Road junction is currently operating near capacity. The TA describes the proposal in that it seeks to address a key constraint in the road network whilst integrating the new development with the existing town, with a reduced speed limit and high quality walking, cycling and public transport routes. The junctions along the road are to be signalised, allowing pedestrians, cyclists and equestrians the ability to cross easily (for equestrians a 'pegasus' crossing is proposed at the junction where the bridleway crosses the road). In terms of capacity, it is confirmed that with NW Bicester and other planned growth in place, the link road and all junctions along it would operate within and provide sufficient capacity for forecast traffic flows. The plans have been amended through the processing of the application and an Addendum Transport Assessment has been submitted, which finds that the overall impact of the amendments would not have a material impact upon the TA with the proposed changes having beneficial impacts overall.
- 5.31 The work identifying that there is a capacity problem at the Howes Lane/ Bucknell Road/ Lords Lane junction led to the incorporation of the requirements for a new junction and road to be instilled within policy and SPD. This recognised the opportunities that arise out of such a scheme including that the road would be moved away from the rear gardens of existing residential properties that back onto Howes Lane, that infrastructure for sustainable modes of transport (including dedicated cycling and walking routes) could be planned in from the start and that the link road could become a fundamental part of the site at North West Bicester recognising its role as a part of the strategic network.
- 5.32 It is therefore considered that there is significant justification for the proposal to realign Howes Lane, the provision of a new tunnel and the work to the Bucknell Road. It has been demonstrated that this scheme will provide the required capacity and this will have significant wider benefits. Officers are content that the principle of this proposal is therefore acceptable.
- 5.33 The existing Howes Lane is proposed to be closed from the south of Shakespeare Drive to the Middleton Stoney Road. However the closure of the road requires the completion of a traffic regulation order and such orders have to be the subject of consultation. The existing road is therefore excluded from the current application however it is considered that through a legal agreement, a mechanism to secure the closure of Howes Lane should be sought.
- Walking and cycling
- 5.34 The PPS requires that Eco Towns should be designed so that access to it and through it gives priority to options such as walking, cycling and public transport and other sustainable options to reduce residents reliance on the private car. There are also ambitious targets with regard to modal shift, including that 50% of trips originating from the eco town should be made by non car means. Similarly, The Bicester One Shared Vision encourages walking and cycling to be the first choice of travel within the town. This approach is further supported within the NW Bicester SPD, encouraging the provision of walking and cycling networks and linking them into the existing network. In relation to the proposed Howes Lane realignment, the SPD specifically states 'the vision is to maintain the strategic route to accommodate the predicted volumes of traffic while providing an environment that is safe and attractive to pedestrians, cyclists and any person that is using the services and facilities proposed'. The SPD confirms that the intention is for off road footways and cycleways and that 'joint footways and cycleways should be at least 4m wide and segregated routes to provide attractive routes for pedestrians and cyclists'. The detailed design of the application will be considered in more detail below, however the proposal takes the opportunities to provide enhanced walking and cycling routes as well as signalised crossings to ensure that pedestrians and cyclists can use the site with some priority.

Detailed design

- 5.35 The Strategic road is proposed to be positioned approximately 80m north of the existing road and is to be a 7.3m carriageway with a shared cycleway/ footway and a combined verge and swale on one side of the road and on the other segregated walking and cycling routes are proposed separated from the carriageway by a swale/ verge. This results in a straight railway crossing. The road would be set to a 30mph speed limit and there would be no frontage access and limited access points. The road would be designed to be a 'boulevard' with trees lining it. The application also includes part of a primary street (the Bucknell Road element of the scheme), which is to be a 6.75m carriageway with a verge/ swale and segregated cycleway and footways on one side and on the other a swale, shared cycleway/ footway and a separate verge. There is also part of a secondary street included within the scheme, which is to be a 6m carriageway, with a shared cycleway/ footway and verge on one side of the road and a swale and footway on the other.
- 5.36 The application includes details of the bridge over the stream, details of the tunnel under the railway, positions of bus stops, landscaping details (including landscaping to the rail cutting) and street furniture (including cycle parking close to bus stops and benches). The application also shows how the site would connect in terms of a link between the site and Bure Park and it demonstrates that different surfacing would be used for footways/ cycleways and the roads. There are a number of junctions along the strategic road, which would be signalised but which have been amended through the consideration of the application to give some priority and make sure that routes for pedestrians and cyclists are clear rather than being too much of an engineered highway layout. This is important given the support for clear and accessible routes for pedestrians and cyclists to enhance the provision for sustainable modes of transport. The junctions have been designed to have some interest within the 'ellipses' which propose a material such that road naming could be included and a concrete feature separating the road and the pedestrian area.
- 5.37 In looking at the transport implications of the site alongside the options for addressing the capacity concerns, the route of the Bucknell Road has also been looked at to reduce the attractiveness of the existing route for through traffic. The scheme therefore proposes a change to the Bucknell Road, which will mean that users of that road would be diverted along the route of the existing Lords Lane before entering the Masterplan site east of the existing Lords Lane, before crossing the boulevard and wrapping round to join the existing Bucknell Road north of Hawkwell Farm. This proposal also gives the opportunity to improve Bucknell Road and address issues of road safety. Part of the existing Bucknell Road would become a bus only link with pedestrian and cycle infrastructure along it to allow a rapid bus link into the town centre.
- 5.38 The amendments to the scheme in terms of layout, include a movement of the road at junction 3 to enable the revised access to the secondary school and results in a straighter road, the change to the access arrangements to create a staggered junction to connect to Shakespeare Drive, the change in position of the bridge over the stream to reduce the impact on the stream corridor and flood attenuation, a change to the alignment of the road through the local centre within application 14/01384/OUT and changes to SUDs.
- 5.39 In the view of Officers, the design of the scheme has progressed from that originally submitted. In terms of the positioning of the road and junctions, these changes have been made to align the scheme with what has evolved through the consideration of the outline applications 14/01384/OUT and 14/01641/OUT. The detailed design itself generally reflects the requirements in terms of road widths for the road hierarchy and the details of footway/ cycleways. The junction design has also positively progressed such that the legibility of them for cyclists/ pedestrians is improved and ensures some priority for them. The updated information demonstrates that these amendments

continue to ensure that the proposal provides the necessary capacity for the strategic network. Notwithstanding this view, advice from the County Council as Highway Authority is still awaited and, should there be further detailed points that require additional consideration, these would need to be addressed given this is a detailed application. In particular, Officers are aware of some concern in relation to the detail of the ellipses, which would result in these features potentially not being adoptable, which would be undesirable and so further work on these may be needed. The support of the Highway Authority to the principle of the proposal as a whole is however noted.

Conclusion on the principle of the development

- 5.40 The site is part of a much larger site identified in the newly adopted Cherwell Local Plan for a mixed use development including 6000 residential dwellings. In this case the benefits of this proposal are far wider than only providing benefits to the development at the NW Bicester site. Providing acceptable highway infrastructure is key to support sustainable development therefore the principle of this proposal is considered to be acceptable. The NPPF advises that development proposals that comply with the Development Plan should be approved without delay. In this case, it is necessary to consider the other Eco Town principles and other detailed considerations.

Environmental Matters

- 5.41 The NPPF at para 109 identifies one of the roles of the planning system is 'preventing new or existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability. The CLP saved policy ENV12 requires adequate measures to deal with any contaminated land whilst the NSCLP Policy EN5 advises that regard will be had to air quality, Policy EN6 seeks to avoid light pollution whilst Policy EN7 looks to avoid sensitive development in locations affected by high levels of road noise and Policy EN17 deals with contaminated land. CDC has identified that Kings End/ Queens Avenue in Bicester should be declared an Air Quality Management Area.

Air Quality

- 5.42 The Environmental statement considers air quality and notes that the development has the potential to cause air quality impacts during the construction phase as a result of dust emissions from earthworks, construction and trackout activities. The Assessment concludes that there is a risk of dust generation during certain activities but that suitable mitigation measures would control emissions, resulting in overall impacts of neutral significance. A number of dust mitigation measures are detailed in the report and it is suggested that these be incorporated into a Construction Environmental Management Plan. In the absence of technical objection to this proposal on the grounds of air quality, Officers are satisfied that subject to mitigation measures during the construction process, the proposal would be acceptable.

Noise and Vibration

- 5.43 The Environmental Statement also considers noise and vibration. It is identified that the noise impacts are mostly related to noise generated during construction and the change in road traffic noise due to the realignment of the road. It is identified that there are likely to be some significantly adverse noise effects during construction upon receptors within 200m of the site based on worst case scenarios. However, a number of mitigation measures are suggested and taking these into account as well as the fact that construction noise impacts are temporary in nature, there are unlikely to be residual impacts. The report also concludes there are unlikely to be vibration impacts. In terms of operational impacts, the ES finds that the realignment of the road is likely to lead to substantial decreases in noise levels at a number of receptor locations, most particularly for those properties directly adjacent to the current Howes Lane. It is recommended that the identified mitigation measures be incorporated into a Construction Code of Practice to ensure that any impacts are kept to a minimum. The assessment does refer to the potential need for potential works to the bridge replacement to be outside of normal working hours and that any such working hours

and the associated noise limits would need to be agreed with the Council. It is suggested that the Construction Code of Practice could include the mechanism for this. The Council's Anti Social Behaviour Manager accepted the conclusions of the assessment and recommends that conditions be used in relation to securing the mitigation measures during construction and to carry out a post construction survey to consider whether any further mitigation is required.

Contaminated Land

- 5.44 The Environmental Statement assesses the likely environmental effects of the development in relation to contamination. The assessment uses a Phase 1 Desk Based Study and laboratory testing results obtained from a follow up preliminary intrusive ground investigation and a further follow up investigation which concentrated on an area of land which has been identified as part of a landfill. In those areas covered by the intrusive investigation, no significant contaminated soil or groundwater was discovered. It is considered that mitigation measures would significantly reduce or completely mitigate any potential effects and no residual effects are identified. Construction impacts will need to be mitigated through the use of appropriate personal protective equipment and site management practices and would need to be covered within a Construction Environment Management Plan. It is therefore considered that the risks arising from this particular development would be low, however appropriate conditions are recommended.

Zero Carbon

- 5.45 The development at North West Bicester is expected to meet very high environmental standards, including that it reaches Zero Carbon Standards. The PPS is clear that the zero carbon standards excludes emissions from transport and but includes all buildings on the site. Given the current proposal seeks permission for the road infrastructure only, it is not necessary to consider this proposal in terms of the need to achieve zero carbon across the site any further.

Climate Change

- 5.46 The requirements around climate change relate to the development being designed to be resilient to the future effects of climate change. A study into the effect of future climate identified the potential for more frequent storm events and the road has been designed to include sustainable drainage to take surface water from the road and pavements and ensure that there is no increase in surface water run off from the site. The crossings of the stream have also been designed to ensure that there is no restriction of the floodplain. These are discussed further below.

Employment

- 5.47 The PPS requirement sets out the need for an economic strategy that should set out facilities to support job creation in the town and as a minimum there should be access to one employment opportunity per new dwelling that is easily reached by walking, cycling and/or public transport. The Masterplan Economic Strategy considers the number of jobs that need to be provided on site and identifies construction jobs as contributing to ensuring the site can meet the PPS standards. There will be job opportunities in the construction of the road which will contribute to this PPS standard being achieved. The Masterplan Economic Strategy also includes an Action Plan which includes ways to support job creation (e.g. through apprenticeship schemes). It has been identified that the construction of the infrastructure proposed under this application could support 6 apprenticeships. This would also be a benefit of this proposal as well as again contributing to the PPS and the SPD standards being met.

Healthy Lifestyles

- 5.48 The Eco Town PPS identifies the importance of the built and natural environment in improving health and advises that eco towns should be designed to support healthy and sustainable environments enabling residents to make healthy choices. The NPPF also identifies the importance of the planning system in creating healthy, inclusive

communities.

- 5.49 Whilst this proposal seeks permission for the strategic road infrastructure only, as explained above, the road is planned to include dedicated footways and cycleways on both sides of the road as well as green infrastructure in the form of SUDs and green verges. This is an enhanced provision compared to the existing layout (particularly along Howes Lane where there is no footway/ cycleway provision). The application would therefore provide enhanced infrastructure allowing this main route to be accessible by sustainable modes of transport including walking and cycling helping to achieve healthy communities. It is considered the proposal would comply with the PPS in this regard.

Green Infrastructure

- 5.50 The PPS requires the provision of forty per cent of the eco-town's total area should be allocated to green space, of which at least half should be public and consist of a network of well-managed, high quality green/open spaces which are linked to the wider countryside. A range of multi-functional green spaces should be provided and particular attention to providing land to allow the local production of food should be given.
- 5.51 The NPPF advises at para 73 that access to high quality spaces and opportunities for sport and recreation can make an important contribution to the health and wellbeing of communities. It also emphasises that Local Planning Authorities should set out a strategic approach in their local plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure (para 114).
- 5.52 Adopted Cherwell Local Plan Policy BSC11 sets out the minimum standards that developments are expected to meet and it sets out standards for general green space, play space, formal sport and allotments. Furthermore, site specific, Policy Bicester 1 requires the provision of 40% of the total gross site area to comprise green space, of which at least half will be publicly accessible and consist of a network of well-managed, high quality green/ open spaces which are linked to the countryside. It specifies that this should include sports pitches, parks and recreation areas, play spaces, allotments, the required burial ground and SUDs.
- 5.53 The NW Bicester SPD includes 'Development Principle 9 – Green Infrastructure and Landscape'. This principle requires green space and green infrastructure to be a distinguishing feature of the site making it an attractive place to live. Planning applications should demonstrate a range of types of green space that should be multi-functional, whilst preserving natural corridors and existing hedgerows as far as possible. Furthermore it emphasises that 40% green space should be demonstrated.
- 5.54 As this application proposes the strategic road infrastructure, the ability to provide Green Infrastructure is limited. However, GI within the proposals for the Link Road comprises street trees, soft landscape swales and verges. These would perform beneficial functions within the road corridor linking into the GI strategy across the rest of the site. Across the site, the Masterplan Green Infrastructure and Landscape Strategy demonstrates how 40% GI will be provided across the site furthermore, each application across the site has been considered as to how GI is provided and how much to ensure it is policy compliant. In this case, Officers are satisfied that this proposal provides as much GI as possible in terms of ensuring that the design of the road incorporates green areas including trees and verges (within the constraints of needing to make sure that the road provides sufficient vision splays and is adoptable). It is therefore considered that the proposal is acceptable in this regard.

Landscape and Historic Environment

- 5.55 The Eco Town PPS advises that planning applications should demonstrate that they have adequately considered the implications for the local landscape and historic

environment to ensure that development compliments and enhances the existing landscape character. Measures should be included to conserve heritage assets and their settings. The NPPF recognises the intrinsic character and beauty of the countryside (para 17). The NPPF advises that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality.

- 5.56 Adopted Cherwell Local Plan Policy Bicester 1 requires 'a well-designed approach to the urban edge which relates development at the periphery to its rural setting' and development that respects the landscape setting and demonstrates enhancement of wildlife corridors. A soil management plan may be required and a staged programme of archaeological investigation. Policy ESD13 advises that development will be expected to respect and enhance the local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided.
- 5.57 The NW Bicester SPD contains 'Development Principle 9A – Tree Planting', requires native trees and shrubs should be planted on the site to reflect the biodiversity strategy. Sufficient space should be allocated for tree planting to integrate with the street scene and adjacent street furniture, highways infrastructure, buildings and any associated services.
- 5.58 The application is accompanied by an LVIA within the Environmental Statement. The assessment finds that the site is not within any landscape designation, however it forms part of the 'Oxfordshire Estate Farmlands' Character area in the Cherwell District Landscape Assessment and the more recent Oxfordshire Wildlife and Landscape Study places the site within the 'Woodland Estatelands' Character area. Specifically for North West Bicester and as part of the landscape impact assessment process, landscape character areas have been identified across the site and are called: Caversfield Valleys and Ridges, Bucknell Ridge, Bucknell Valley Corridor and Himley Farmland slopes. As this application stretches across the site, all of these character areas have been considered further. At the construction stage, best practice would be employed in order to minimise landscape and visual disruption including locating construction compounds sensitively and protecting retained trees and hedgerows. In terms of operational impacts, the scheme has been designed to minimise vegetation removal and incorporate roadside verges including tree planting in order to help integrate the proposals within the wider landscape. In relation to each of the landscape character types across the site, the impact has been assessed to be slight adverse, other than the Caversfield Valleys and Ridges, which is assessed as a neutral impact. In relation to the assessed viewpoints, the significance of visual effect is assessed to be 'slight adverse' other than viewpoint 4 which is assessed to be 'moderate adverse'. The reason for this low impact overall is due to the proposal being a relatively minor alteration to farmland overall and that views would generally be buffered by existing vegetation and landscape structure/ enclosure as well as proposed tree planting. It is further accepted that in time, this proposal would be surrounded by development forming part of the wider Masterplan site. In landscape and visual impact terms, it is considered that the proposal can be accommodated within the landscape.
- 5.59 The proposal involves the removal of a number of trees and hedgerows, however the extent of these has been minimised to ensure the impact is as limited as possible. It is proposed to translocate areas of hedgerow to be removed and the Arboricultural Report proposes the protection of retained trees and hedgerows, which would need to be secured by way of a planning condition. The amended scheme has changed the trees/hedges affected in certain areas of the site and this has positive and negative effects on certain trees where they will be or won't be affected. The tree report notes that the impact would remain acceptable overall.
- 5.60 In relation to the historic environment, the ES finds that there are no listed buildings within the study area. There are however farm buildings at Aldershot Farm and Gowell

Farm, which may experience impacts upon their setting. The ES finds that the historic landscape resource within the study area is primarily the agricultural landscape, which includes the historic field boundaries and field patterns. This has been assessed to be of low value. Design mitigation measures to preserve as many of the historic field boundaries to allow some legibility of the historic landscape to remain has been included. Overall, it is considered that the historic landscape will experience slight adverse impacts. In the context of the development as a whole and taking into account the significant benefits that will arise as a result of this scheme in highway capacity terms, it is considered that the impact upon the historic environment is low and therefore is acceptable.

- 5.61 The site has been assessed for archaeology and these investigations have indicated four areas of archaeological activities within the site. A programme of mitigation measures have been designed for the areas of archaeological activity comprising archaeological excavation and recording. The County Archaeologist has advised that subject to conditions to require additional archaeological work, no objections are raised and the proposal is also considered to be acceptable in this regard.

Proposed Landscaping

- 5.62 The proposal includes landscaping proposals given this is a detailed application. As explained above, the intention is for a 'tree lined boulevard' to be created, which would include trees provided at approximately 30m intervals and taking into account the position of street lighting. These trees would be accommodated in tree pits as well as swales and verges to continue the regular positioning. There would be no trees within proximity to the tunnel under the railway which would interrupt this regular positioning. This is unfortunate but justifiable given the treatment that would need to occur at the railway cutting and there needing to be an offset to the railway to suit Network Rail requirements. The opportunity has however been taken to include a wildflower landscape turf around the railway cutting to ensure that landscaping continues within this area and to soften the approaches to the tunnel. The Council's Landscape Officer has made a number of comments in relation to the proposed landscaping, particularly detailed comments with regard to the proposed tree pits (which Officers consider could be dealt with by condition), however there is also a suggestion with regard to the inclusion of a different tree species to enhance visual diversity and amenity light in the area of the realigned Bucknell Road. This suggested species is used in one area already and this road will expand given the current proposal forms one part of it, therefore Officers are not convinced that this particular concern requires further amendment at this stage.

Biodiversity

- 5.63 The Eco Town PPS requires that net gain in local biodiversity and a strategy for conserving and enhancing local bio diversity is to accompany applications. The NPPF advises the planning system should minimise impacts on bio diversity and providing net gains where possible, contribute to the Government's commitment to prevent the overall decline in bio diversity (para 109) and that opportunities to incorporate bio diversity in and around developments should be encouraged (para 118). The ACLP Policy Bicester 1 identifies the need for sports pitches, parks and recreation areas, play spaces, allotments, burial ground and SUDs and for the formation of wildlife corridors to achieve net bio diversity gain. Policy ESD10 seeks a net gain in bio diversity.
- 5.64 The NW Bicester SPD includes 'Development Principle 9E – Biodiversity', requires the preservation and enhancement of habitats and species on site, particularly protected spaces and habitats and the creation and management of new habitats to achieve an overall net gain in biodiversity. Open space provision requires sensitive management to secure recreation and health benefits as well as biodiversity gains. Proposals should demonstrate inclusion of biodiversity gains and all applications should include a biodiversity strategy.

- 5.65 Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that “every public authority must in exercising its functions, must have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity” and;

Local planning authorities must also have regards to the requirements of the EC Habitats Directive when determining a planning application where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”.

Articles 12 and 16 of the EC Habitats Directive are aimed at the establishment and implementation of a strict protection regime for animal species listed in Annex IV(a) of the Habitats Directive within the whole territory of Member States to prohibit the deterioration or destruction of their breeding sites or resting places.

Under Regulation 41 of Conservation Regulations 2010 it is a criminal offence to damage or destroy a breeding site or resting place, but under Regulation 53 of Conservation Regulations 2010, licenses from Natural England for certain purposes can be granted to allow otherwise unlawful activities to proceed when offences are likely to be committed, but only if 3 strict legal derogation tests are met which include:

- 1) is the development needed for public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature (development).
- 2) Is there any satisfactory alternative?
- 3) Is there adequate mitigation being provided to maintain the favourable conservation status of the population of the species?

Therefore where planning permission is required and protected species are likely to be found to be present at the site or surrounding area, Regulation 53 of the Conservation of Habitats and Species Regulations 2010 provides that local planning authorities must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions and also the derogation requirements (the 3 tests) might be met. Consequently a protected species survey must be undertaken and it is for the applicant to demonstrate to the Local planning authority that the 3 strict derogation tests can be met prior to the determination of the application. Following the consultation with Natural England and the Council’s Ecologist advice given (or using their standing advice) must therefore be duly considered and recommendations followed, prior to the determination of the application.

- 5.66 The application is accompanied by ecology surveys. The existing site contains arable fields and improved grassland habitats with watercourses and hedgerows. It has been found that bats forage over and commute along the watercourse and hedgerows support brown hairstreak butterflies. Small numbers of common lizards and grass snake were recorded and hedgehogs may also use the field boundaries. The fields and hedgerows support nesting and wintering birds. There are ponds close by and it is possible that amphibians may forage and shelter at the bases of the hedgerows and along the watercourses.
- 5.67 The proposal for the strategic infrastructure would mainly affected hedgerows therefore the impact upon the recorded species must be considered. The ES advises that the development has been designed to reduce impacts on wildlife and habitats as far as possible and to produce a design that incorporates measures to ensure that the development will result in a net gain in biodiversity as a part of the wider masterplan. The proposal suggests a number of mitigation measures to reduce impacts during construction, including proposals to translocate hedgerows, careful timing of works and the provision of ecologists to oversee the works. Careful design of the scheme including

the landscape planting, the lighting scheme, the SUDs and the bridge design can ensure that the effects on wildlife are reduced. Only one watercourse crossing is required and this ensures that the natural wildlife crossings are retained. Sensitive lighting would be required on the bridges to ensure that dark corridors are retained and to avoid disturbance to nocturnal species. Biodiversity enhancements in the form of bird nest boxes to be provided on trees are proposed. A Landscape and Habitat Management Plan is also proposed to ensure that the long term management and monitoring occurs.

- 5.68 The PPS requirement is that there should be a net gain in biodiversity and in this case, the proposal for the strategic infrastructure includes proposals for landscaping, swales and verges as well as nesting boxes are proposed. The proposal involves minimising the number of hedgerows to be disturbed by the road and translocating hedgerows where possible. Overall, this proposal would contribute to the achievement of a net gain in biodiversity, particularly when considered alongside the rest of the site and the current outline applications which include greater opportunities within areas of public open space and features such as a nature reserve and country park.
- 5.69 The Masterplan supporting documents identify the impact of the scheme on farmland birds, which cannot be mitigated for onsite. As a result it has been accepted that these species will need to be mitigated off site. An approach has been agreed that would allow either a farm scheme or the funding to be used for the purchase of land to secure mitigation for farmland birds. Officers are currently considering the need to secure a contribution towards this matter via the application for the strategic road infrastructure.
- 5.70 It is considered that subject to securing the protection of habitats and the achievement of net bio diversity gain through conditions or legal agreements the application proposals will achieve a net gain in bio diversity meeting the requirement of the PPS, NPPF and ACLP.

Flood Risk Management

- 5.71 The Eco towns PPS advises that the construction of eco towns should reduce and avoid flood risk wherever practical and that there should be no development in Flood Zone 3. The NPPF advises that inappropriate development in areas of flood risk should be avoided (para 100) and that development should not increase flood risk elsewhere (para 103). The ACLP policy ESD6 identifies that a site specific flood risk assessment is required and that this needs to demonstrate that there will be no increase in surface water discharge during storm events up to 1 in 100 years with an allowance for climate change and that developments will not flood from surface water in a design storm event or surface water flooding beyond the 1 in 30 year storm event. Policy ESD 7 requires the use of SUDs.
- 5.72 The NW Bicester SPD includes 'Development Principle 11 – Flood Risk Management', which requires the impact of development to be minimised by ensuring that the surface water drainage arrangements are such that volumes and peak flow rates leaving the site post development are no greater than those under existing conditions. The aim is to provide a site wide sustainable urban drainage system (SUDs) as part of the approach and SUDs should be integrated into the wider landscape and ecology strategy. Applications should demonstrate that the proposed development will not increase flood risk on and off the site and take into account climate change.
- 5.73 The site is predominantly within Flood Zone 1. However there are areas of Flood Zone 2 and 3 within the site which are predominantly free from development other than one clear span bridge crossing (which would be designed such that the soffit would be 600mm above the modelled 1% AEP plus climate change water level) and green buffers associated within the wider Masterplan as well as the proposed road tie in with Howes Lane near the confluence of Langford Brook and River Bure. The FRA advises that the small amount of impacted floodplain volume will be compensated on a level for

level basis on the right bank of Langford Brook. The Masterplan drainage strategy seeks to minimise the impact of new development on flood risk and the principle across the site is to attenuate any post development runoff to equivalent greenfield rates. A series of SUDs features across the site are proposed and within the extent of this application area, such features include swales and attenuation ponds sized with an allowance for climate change. The FRA also identifies a need for mitigation taking into account existing overland flow routes.

- 5.74 As set out above, the Environment Agency objected to this proposal advising that the FRA does not demonstrate that the development proposed would not increase flood risk on and off site. This includes explaining why development in flood zone 2 and 3 is proposed, what volume of floodplain is lost and therefore what compensation is needed and whether this is achievable. It is also unclear whether the surface water drainage system has sufficient capacity to convey and attenuate run off from both the proposed hardstanding and green areas.
- 5.75 The applicant has submitted an addendum flood risk assessment and surface water drainage strategy. This addendum considers the amendments made to the application since original submission. The document also explores why the development is proposed within part of the flood plain, explaining that it would be impractical from a road geometry perspective to move the affected section of road further downstream because it is not possible to move the road alignment further south of its current position to a point where it is entirely outside of the flood extents. The proposed road is constrained by the tie in to the existing A4095 to the east and the existing River Bure crossing to the south, the proposed rail underbridge crossing alignment to the west allowing for safe visibility and the new side road junction linkages. The FRA therefore considers the exception test and suitable flood mitigation proposals. The proposed strategic link road is concluded to be essential infrastructure and this benefit is weighed against the minor floodplain encroachment. The document considers the volume of floodplain lost and the explains how sufficient floodplain compensation is to be provided therefore satisfying the sequential and exception test requirements of the NPPF. At the time of writing, no further response has been received from Oxfordshire County Council as the Lead Local Flood Authority or the Environment Agency.
- 5.76 It is unfortunate that this proposal includes development within Flood Zones 2 and 3, taking into account the PPS requirement that there should be no development within flood zone 3. This follows the NPPF's Sequential test, which requires that development be directed to areas with the lowest risk of flooding. In this case, the wider NW Bicester site is allocated for development and predominantly sits within flood zone 1 overall which follows the sequential approach. It is not therefore necessary to apply the sequential test in relation to this particular proposal, however as this proposal is essential infrastructure and includes a small area of development within flood zone 3a, it is necessary to apply the exception test. The NPPF at para 102 advises that 'for the exception test to be passed:
- it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk informed by a Strategic Flood Risk Assessment where one has been prepared and;
 - a site specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users without increasing flood risk elsewhere and where possible will reduce flood risk overall'.

In this case, Officers are satisfied that the information provided to date demonstrates that options have been assessed in terms of the position of the junction as to where the proposed tie-in with the A4095 can occur and taking into account the strategic need in relation to highway capacity that this road will contribute to. The addendum to the ES also assesses drainage capacity that firstly would be affected by the slight encroachment into flood zones 2/3 and secondly that sufficient alternative capacity would be provided. SUDs are a key feature of the road by way of the swales provided

along the link and primary roads as well as the use of attenuation/ balancing ponds. Subject to the receipt of comments from the Drainage Authority, it is considered that conditions can be used to require a detailed drainage design and strategy building on the information provided thus far. The proposal therefore is acceptable in flood risk terms and in compliance with policy.

Waste

- 5.77 The Eco Towns PPS advises that applications should include a sustainable waste and resources plan which should set targets for residual waste, recycling and diversion from landfill, how the design achieves the targets, consider locally generated waste as a fuel source and ensure during construction no waste is sent to landfill. The National Waste Policy identifies a waste hierarchy which goes from the prevention of waste at the top of the hierarchy to disposal at the bottom. The National Planning Practice Guidance identifies the following responsibilities for Authorities which are not the waste authority;
- promoting sound management of waste from any proposed development, such as encouraging on-site management of waste where this is appropriate, or including a planning condition to encourage or require the developer to set out how waste arising from the development is to be dealt with
 - including a planning condition promoting sustainable design of any proposed development through the use of recycled products, recovery of on-site material and the provision of facilities for the storage and regular collection of waste
 - ensuring that their collections of household and similar waste are organised so as to help towards achieving the higher levels of the waste hierarchy

- 5.78 The NW Bicester SPD includes 'Development Principle 12 – Waste', which sets out that planning applications should include a sustainable waste and resources plan covering both domestic and non-domestic waste and setting targets for residual waste, recycling and landfill diversion. The SWRP should also achieve zero waste to landfill from construction, demolition and excavation.

- 5.79 In this case, the consideration of waste is only at the construction, demolition and excavation stage. The application is accompanied by a Site Waste Management Plan (SWMP) and Waste is assessed in the Environmental Statement. The SWMP targets sending no waste to landfill with it being identified that what cannot be re-used on site, will be sent to recycling facilities where possible. The ES considers that the design of the road has been considered in order to minimise excavation volumes, allowing flexibility in the landscaped areas to accommodate the changes in soil volumes and careful management and monitoring can ensure that impacts of waste are minimised. It is noted that there may be a slight adverse effect on local waste management infrastructure from construction waste but the SWMP will be further developed to manage, monitor and audit the construction waste generated. It is considered that the proposal is acceptable in this regard. A planning condition can be used to require an updated SWMP to take into account the finalised scheme to ensure that the target to ensure that no construction, demolition and excavation waste is sent to landfill, except for those types of waste where landfill is the least environmentally damaging option can be met.

Master planning

- 5.80 The Eco Towns PPS sets out that 'eco-town planning applications should include an overall master plan and supporting documents to demonstrate how the eco- town standards set out above will be achieved and it is vital to the long term success of eco towns that standards are sustained.' The PPS also advises there should be a presumption in favour of the original, first submitted masterplan, and any subsequent applications that would materially alter and negatively impact on the integrity of the original masterplan should be refused consent.

- 5.81 The ACLP Policy Bicester 1 states 'Planning Permission will only be granted for development at North West Bicester in accordance with a comprehensive masterplan

for the whole site area to be approved by the Council as part of a North West Bicester Supplementary Planning Document.'

5.82 A masterplan and supporting documents have been produced by A2Dominion in consultation with the Council and other stakeholders. This masterplan has been the subject of public consultation. The development at NW Bicester will take place over a number of years and as such it was considered important that the key components of the masterplan are enshrined in planning policy and therefore the Council has produced a draft SPD. The SPD emphasises that in order to ensure a comprehensive development, all planning applications will be required to be in accordance with the framework masterplan for the site. Applications should provide a site specific masterplan to show how that site fits with the overarching masterplan and demonstrate the vision and principles set out in the site wide masterplan and the SPD.

5.83 The NW Bicester site identified in ACLP is large and it is important that development is undertaken in such a way as to deliver a comprehensive development. A masterplan is an important tool in achieving this particularly when there is not a single outline application covering the site as in this case. The current proposal for the road infrastructure complies with the Masterplan in terms of its position and form. It is therefore acceptable in this regard. The infrastructure that this proposal provides is key to the delivery of the wider site and the other applications across the site need to be linked to the timing of the delivery of this to support the masterplan approach to delivery.

Transition

5.84 The Eco Towns PPS advises that planning applications should set out;

- a) the detailed timetable of delivery of neighbourhoods, employment and community facilities and services – such as public transport, schools, health and social care services, community centres, public spaces, parks and green spaces including biodiversity etc
- b) plans for operational delivery of priority core services to underpin the low level of carbon emissions, such as public transport infrastructure and services, for when the first residents move in
- c) progress in and plans for working with Primary Care Trusts and Local Authorities to address the provision of health and social care
- d) how developers will support the initial formation and growth of communities, through investment in community development and third-sector support, which enhance well-being and provide social structures through which issues can be addressed
- e) how developers will provide information and resources to encourage environmentally responsible behaviour, especially as new residents move in
- f) the specific metrics which will be collected and summarised annually to monitor, support and evaluate progress in low carbon living, including those on zero carbon, transport and waste
- g) a governance transition plan from developer to community, and
- h) how carbon emissions resulting from the construction of the development will be limited, managed and monitored.

5.85 The timing of the delivery of community services and infrastructure has been part of the discussions that have taken place with service providers in seeking to establish what it is necessary to secure, through legal agreements, to mitigate the impact of development. This has included working with Oxfordshire County Council on education provision and transport.

5.86 In these terms, it has been identified that the tunnel is required at an early stage of the development to relieve the capacity issues currently identified at the Howes Lane/ Bucknell Road/ Lords Lane junction and is needed to mitigate the impact of the wider development at NW Bicester. This along with the fact that it complies with the

Masterplan leads to Officers concluding that this proposal is critical to resolve the capacity issues and lead to wider delivery across the site. This proposal will also allow infrastructure to be in place for sustainable transport modes such as the proposed bus services and providing walking and cycling infrastructure.

Conditions and Obligations

- 5.87 A number of conditions are required covering issues such as highways, construction, ecology, landscaping, contaminated land and archaeology amongst others in order to secure acceptable development. These are identified through the report and a full set of conditions will follow the publication of the committee agenda. The limiting of carbon from construction has been addressed on the Exemplar application by measures such as construction travel plans, work on reducing embodied carbon and meeting CEEQUAL (sustainability assessment, rating and awards scheme for civil engineering). It is considered necessary for this application to meet the CEEQUAL standards.
- 5.88 It is considered necessary to secure a legal agreement to secure the identified apprenticeships, to secure farmland bird mitigation in the situation that this is not secured through applications surrounding the road and to secure the closure of Howes Lane through the necessary traffic regulation orders and to make the route available for pedestrian and cyclists. This legal agreement could be in the form of a unilateral undertaking.

Engagement

- 5.89 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through negotiations relating to the details of the scheme through the processing of the application.

Conclusion

- 5.90 The application proposals accord with the development plan being a part of an allocated site and this allocated site is supported by the Eco Towns PPS and the NPPF. Planning decisions should be in accordance with the Development Plan unless material considerations indicate otherwise.
- 5.91 Policy Bicester 1 and the Eco Towns PPS identify North West Bicester as a location of an Eco Town. The NW Bicester SPD and Policy Bicester 1 identify the need for there to be highway improvements including measures to address movement across Howes Lane and Lords Lane and to increase capacity at the junction of Howes Lane/ Bucknell Road and Lords Lane. This junction has been identified over a number of years as being a constraint to the town wide transport network and improvements to it are necessary.
- 5.92 This proposal seeks to provide a tunnel under the railway and taking the opportunity to also realign Howes Lane. This results in a number of benefits including providing the required capacity within the strategic highway network for all planned growth as well as moving the road away from the existing residents that back onto Howes Lane currently thereby improving their living conditions and embedding the highway infrastructure as an integral part of the wider masterplanned site. The proposal is therefore considered to be acceptable in principle.
- 5.93 Other detailed matters have been considered throughout this report and subject to the receipt of comments to the amended scheme, as well as the use of conditions, it is considered that there would be no other significant impacts from this scheme that would outweigh the benefits of the proposal as a whole.
- 5.94 The application proposals would provide sustainable development and on balance would not give rise to significant and demonstrable harm that outweighs the benefits of the granting of planning permission. The application is therefore recommended for

approval as set out below.

Environmental Impact Assessment Determination

5.95 Regulation 24 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 requires;

24.—(1) Where an EIA application is determined by a local planning authority, the authority shall—

(a) in writing, inform the Secretary of State of the decision; .

(b) inform the public of the decision, by local advertisement, or by such other means as are reasonable in the circumstances; and .

(c) make available for public inspection at the place where the appropriate register (or relevant section of that register) is kept a statement containing— .

(i) the content of the decision and any conditions attached to it; .

(ii) the main reasons and considerations on which the decision is based including, if relevant, information about the participation of the public; .

(iii) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the development; and .

(iv) information regarding the right to challenge the validity of the decision and the procedures for doing so.

5.96 It is therefore **recommended** that this report and the conditions and obligations proposed for the development are treated as the statement required by Reg 24 C (i) - (iii). The information required by Reg 24 C (iv) will be set out on the planning decision notice.

6. Recommendation

Approval, subject to:

a) The end of the 21 day consultation period;

b) The resolution of any further objections received to the satisfaction of the Development Services Manager;

c) The applicants entering into an appropriate legal agreement to the satisfaction of the District Council to secure apprenticeships, the closure of Howes Lane and to make the route available for pedestrians and cyclists and to secure a contribution towards offsite farmland bird mitigation if this not secured through other means and delegation to Officers to finalise this;

d) the following conditions:

TO FOLLOW IN FULL

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way through negotiations relating to the details of the scheme through the processing of the application.

CHERWELL DISTRICT COUNCIL
PLANNING COMMITTEE

18 February 2016

WRITTEN UPDATES

Agenda Item 7 14/01968/F New Highway aligned with Howes Lane, Bicester

- Recommendation is amended as follows:

Approval, subject to:

- a) The end of the 21 day consultation period and the resolution of any further objections received, including any minor alterations to the design of the road to accommodate this and to the satisfaction of the Development Services Manager;
 - b) OCC confirming that updated tracking is acceptable including any minor alterations to the design of the road to accommodate this;
 - c) The applicants entering into an appropriate legal agreement to the satisfaction of the District Council to secure apprenticeships, the closure of Howes Lane to vehicular traffic, and the reduction in speed along the retained Howes Lane, the partial closure of Bucknell Road and to secure a contribution towards offsite farmland bird mitigation if this not secured through other means and delegation to Officers to finalise this;
 - d) the attached conditions (see appendix 1) with delegation to Officers to finalise conditions following any ongoing negotiation, in consultation with the Chairman of the Planning Committee.
- The **description of development** has been amended to reflect the amended plans to the following:

‘Construction of new road from Middleton Stoney Road roundabout to join Lord's Lane, east of Purslane Drive, to include the construction of a new crossing under the existing railway line north of the existing Avonbury Business Park, a bus only link east of the railway line, a new road around Hawkwell Farm to join Bucknell Road, retention of part of Old Howes Lane and Lord's Lane to provide access to and from existing residential areas and Bucknell Road to the south and associated infrastructure.’

Further comments:

- Comments from Oxfordshire County Council are attached (see Appendix 2).

Following these comments, conditions have been formulated and correspondence has been ongoing between the Highway Authority and the Applicant's Highway Consultant. In email correspondence, the Highway Authority have indicated that the additional modelling does not appear to suggest unreasonable queue lengths in the worst case scenario

however there are outstanding queries with the tracking provided which may need to result in some widening out of lanes and increasing kerb radius as necessary to ensure the tracking remains within the kerb lines. Advice is further awaited relating to the visibility splays.

- A letter has been received from the agent for one of the Land Owners that notice has been served for this application. This letter is attached (see Appendix 3).

- Natural England

Natural England does not consider that this application poses any likely or significant risk to those features of the natural environment for which we would otherwise provide a more detailed consultation response and so does not wish to make specific comment on the details of this consultation.

- Middleton Stoney Parish Council

Middleton Stoney Parish Council has considered the amendments outlined by the agent in his letter of 15 January 2016 but considers that they do not change the viewpoint contained within our original response and still wishes to **object** to the application.

The original comments made and as summarised within the committee report are repeated.

- Bucknell Parish Council

Taking into account the notes provided by the Agent, we do not feel that these fundamentally change the objections and concerns we have previously raised in relation to this application in our letter of the 26 January 2015. Their comments are reiterated in full along with those provided to other related applications that cover North West Bicester. The original comments are summarised within the committee report.

- Caversfield Parish Council

The Parish Council agrees that, on the whole, the proposal appears to be an improvement; however it was hard to appreciate from the disjointed plans and the Design and Access Statement. The Councillors would be grateful for clarification of the arrangements to the access to the existing Bucknell Road from Lords Lane, both towards Bicester and north towards Bucknell as it is unclear. There was also concern about the proposal to limit the access to Shakespeare Drive at junction 3/ 3a to one way as whilst it is in the text, the plans do not show which direction would be restricted.

- 4 further third party comments have been received. These are summarised as follows:

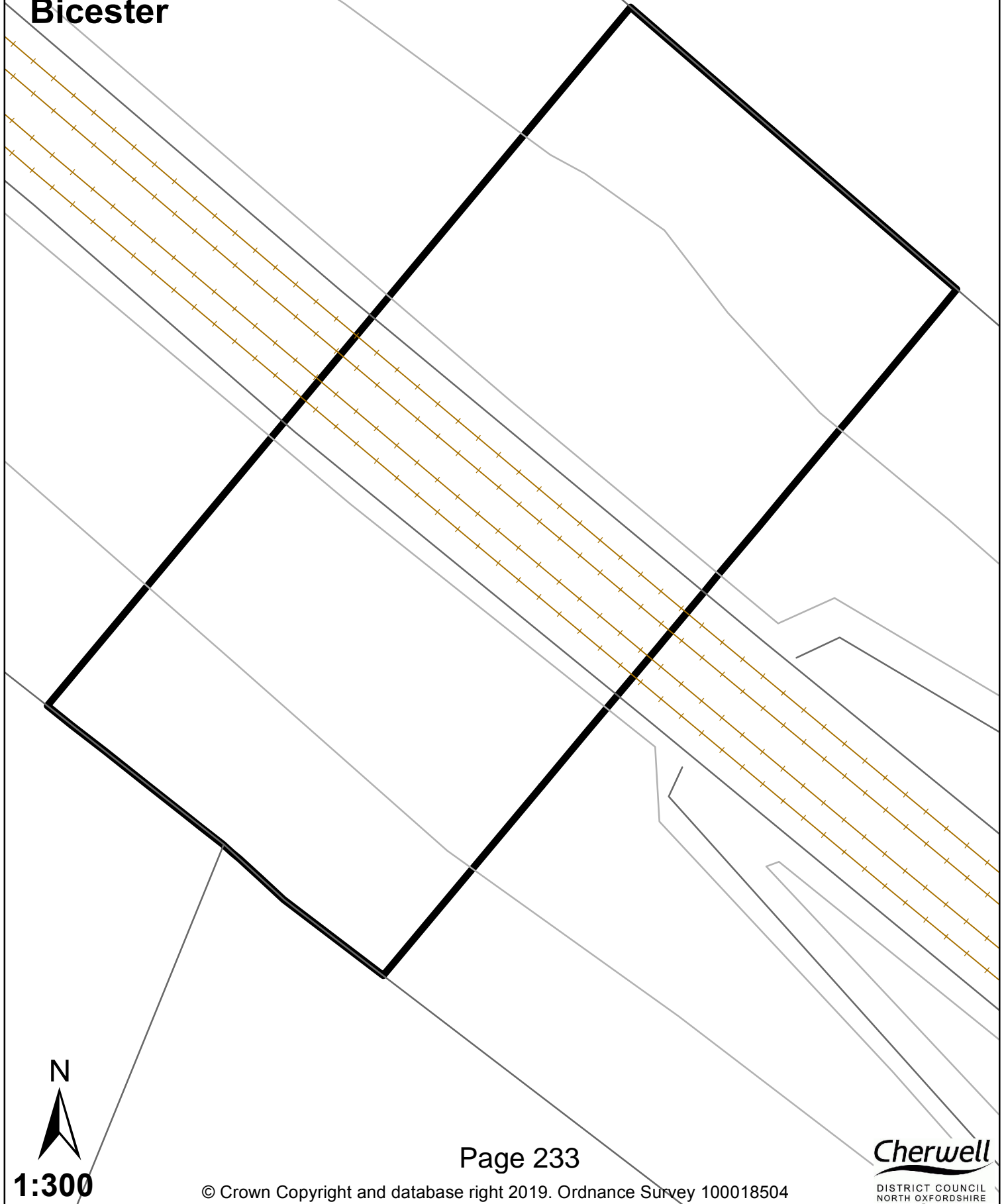
- Support the proposal. The road can be designed to offer protection for cyclists, pedestrians and runners who are vulnerable on the existing Howes Lane and improve the environment for users of this road.
- The new road would be constructed more generously in terms of size of carriageway.
- The proposed road will have well thought out and well designed drainage to cope with future heavy rainfall.
- The road will continue Vendee Drive as a road built to a similar safe standard with good visibility
- The town will have a ring road which is fit for purpose and will enhance future growth and infrastructure.
- Urge the Planning Committee to demonstrate joined up thinking and both approved the realignment of Howes Lane and reject the Albion Land proposal as long it contains such a preponderance of warehousing and the proposal for

access on Howes Lane.

- Strongly in favour of the realignment of Howes Lane. Firstly, the road was not built for and cannot sustain the current level of vehicles using it.
 - As a resident backing onto Howes Lane, you must realise that the noise, pollution and safety is high. Difficult to use back gardens due to the noise, emissions and the closeness of large vehicles using the route.
 - At peak times, there are long queues and the junction with Bucknell Road is becoming a bottleneck.
 - Pleased to see the existing Howes Lane will become a green buffer as part of the plan.
 - The road appears nicely laid out, with thought given to pedestrians and cyclists on both sides of the new road.
- The Derwent Green Residents Association make the following comments:
- Hard to over emphasise the frustration and desperation felt by the Members, particularly those whose homes back onto Howes Lane at the dramatic and dangerous increase of traffic on Howes Lane since Vendee Drive opened and the construction work commenced on the Eco Town development
 - The number of heavy lorries has increased especially during the night and rush hour traffic has increased
 - Has any assessment of traffic levels been made? A 7.5 ton weight limit should be established on Howes Lane as a matter of urgency and the 40mph speed limit extended along the route.
 - Support the proposals for a realigned Howes Lane and urge that an early timetable is agreed and published and adhered to.
 - Urge the Planning Committee to demonstrate joined up thinking and both approve the realignment of Howes Lane and reject the Albion Land proposal as long as it contains such a preponderance of warehousing and the proposal for access on Howes Lane.

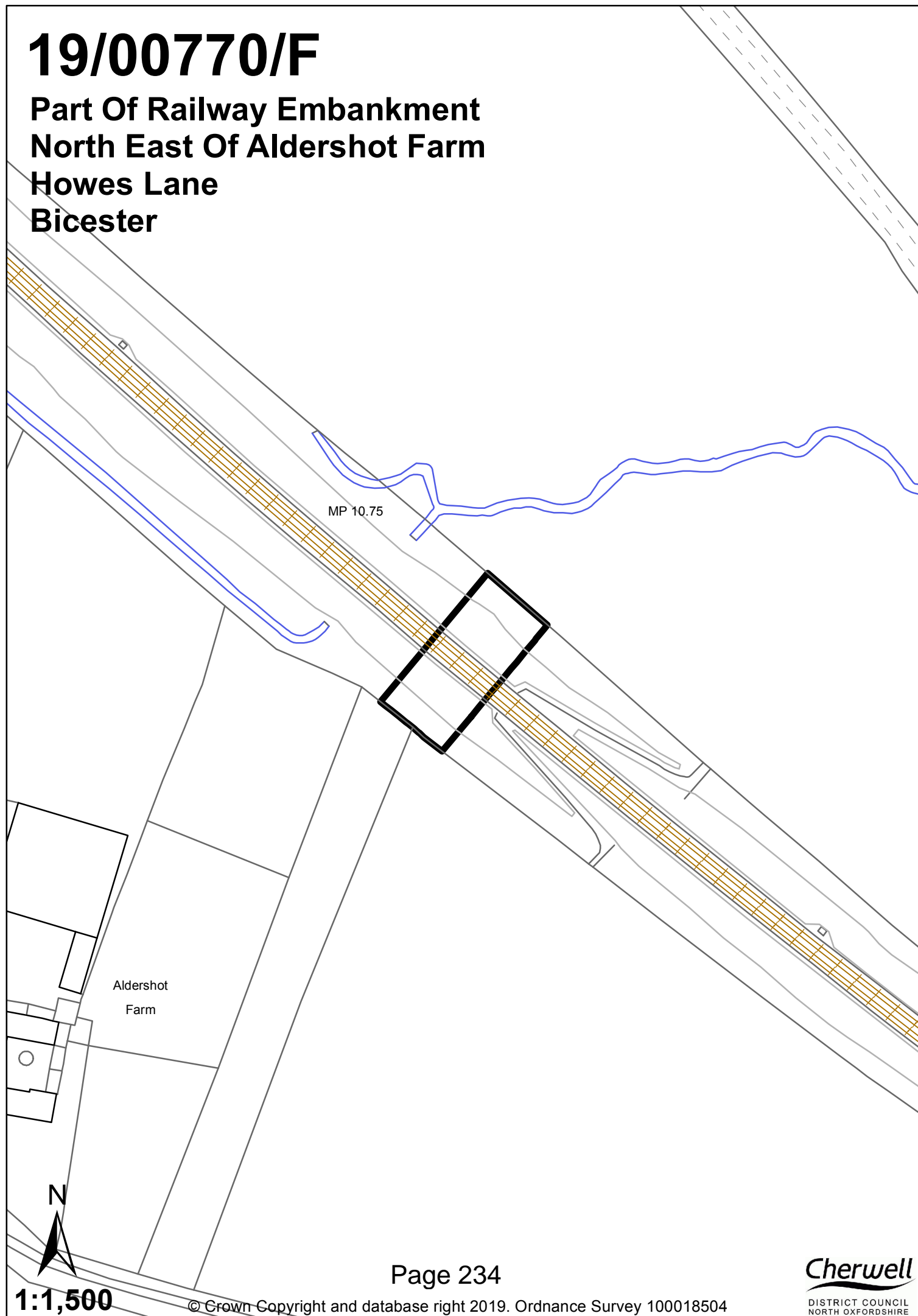
19/00770/F

**Part Of Railway Embankment
North East Of Aldershot Farm
Howes Lane
Bicester**



19/00770/F

Part Of Railway Embankment
North East Of Aldershot Farm
Howes Lane
Bicester



Case Officer: Caroline Ford

Applicant: Cherwell District Council

Proposal: Pedestrian underpass

Ward: Bicester North And Caversfield

Councillors: Cllr Nicholas Mawer
Cllr Lynn Pratt
Cllr Jason Slaymaker

Reason for Referral: The Council is the applicant

Expiry Date: 31 July 2019

Committee Date: 18 July 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

The proposal is for a pedestrian underpass to pass under the railway to the North West of Bicester. The proposal is to provide connectivity for pedestrians and cyclists between the two sides of the NW Bicester site which sit either side of the railway line contributing to reducing walking and cycling distances and reducing car use.

Consultations

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

- Bucknell Parish Council (other than raising some concern regarding flooding)
- CDC Environmental Protection
- Oxfordshire County Council – Transport and Drainage

The following have made **comments** on the application:

- Network Rail
- CDC Arboricultural Team
- Thames Valley Police Crime Prevention Design Advisor

1 letter has been received raising a concern if the pedestrian underpass were to replace the road tunnel.

Planning Policy and Constraints

The application site sits on the land allocated by Policy Bicester 1 for a zero carbon residential led development. The underpass is proposed under the current mainline London to Birmingham railway, which runs on an embankment to the north west of Bicester. The embankment is covered by trees and vegetation and there could be some ecological interest. The land itself is also potentially contaminated.

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 trees
- Residential amenity
- Ecology impact
- Highway 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 situated to the North West of Bicester to the north of Aldershot Farm (which is accessed by a track which is also a bridleway) and south of the Bucknell Road. The application site is part of the existing mainline London to Birmingham railway and its associated embankment. It is currently isolated between agricultural fields with natural vegetation along the embankments.

2. CONSTRAINTS

- 2.1. The application site is within the strategic development site allocated by Policy Bicester 1. It has a number of natural constraints including being under the railway and natural vegetation along the embankment. The site has the potential to be contaminated and a SSSI site is within 2km. The closest access to the site is the bridleway track which accesses Aldershot Farm and the Bucknell Road as a main vehicular route.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The development proposed is a pedestrian underpass under the railway line. This would be in the form of a reinforced concrete portal unit 13.5m in length, 5.1m wide to be positioned under the railway with associated alterations to the embankment including the provision of wing walls. Lineside security fencing would also be required. The design has been progressed with ongoing negotiation with Network Rail through their technical GRIP process.
- 3.2. A pedestrian underpass in the position shown is identified through the Masterplan within the Supplementary Planning Document (SPD) for NW Bicester and is identified as an infrastructure need through Policy Bicester 1. The delivery of the pedestrian underpass is currently planned to take place when the main road tunnel is to be provided. Ongoing discussions are taking place with Network Rail with a view to achieving a 100 hour track possession at Easter 2021 to allow the pedestrian underpass and main road tunnel to be constructed.

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>
15/00003/SO	SCREENING OPINION - non-motorised users underpass connecting the sites for NW Bicester Application 1, NW Bicester Application 2 and NW Bicester New A4095 Strategic Link Road	Screening Opinion not requesting EIA

4.2. The application is not accompanied by an Environmental Impact Assessment.

4.3. Whilst there is limited planning history for this specific proposal, the principle of an underpass in this location has been proposed through the Masterplan for NW Bicester (now embedded in the SPD).

5. PRE-APPLICATION DISCUSSIONS

5.1. No formal pre-application discussions have taken place with regard to this proposal but Officers have been involved in the evolution of the design of the underpass and the vehicular bridge with Network Rail through their technical approval process.

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 11.06.2019, although comments received after this date and before finalising this report have also been taken into account.

6.2. One comment has been received from Councillor Nick Mawer:

- Object if there is any suggestion that the pedestrian underpass is a substitute for any revised vehicular underpass as laid out in the original plans for the urban boulevard

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. BICESTER TOWN COUNCIL: **No comments** received.

7.3. BUCKNELL PARISH COUNCIL: **concerns** regarding flooding of the area since it is very low lying. Otherwise, no objections.

CONSULTEES

- 7.4. OXFORDSHIRE COUNTY COUNCIL: **Support** this application for the pedestrian/cycle underpass at NW Bicester which will provide a key sustainable transport link between the sites north and south of the railway.

OCC TRANSPORT: **No objection** subject to conditions to seek full details of the path through the underpass and a construction traffic management plan. (Other comments and key points are referred to where necessary in the appraisal).

OCC LEAD LOCAL FLOOD AUTHORITY: **No objection** subject to additional information to ensure full technical drainage audit.

- 7.5. NETWORK RAIL: Network Rail is aware of this proposed underpass. The Council are in discussions with Network Rail re. the proposal and the underpass is subject to Network Rail sign off and a two party Underbridge Agreement and Property Agreement.
- 7.6. CDC ENVIRONMENTAL PROTECTION: **No comments** with regard to matters of noise, contaminated land, air quality, odour and light.
- 7.7. CDC LANDSCAPE: **will not be commenting** on the application.
- 7.8. CDC ARBORICULTURE: **comments** that there are no plans giving reference to the trees clearly on site. An arboricultural report, impact assessment and method statement/ tree protection plan must be provided.
- 7.9. THAMES VALLEY POLICE CRIME PREVENTION DESIGN ADVISOR: **comments** that the applicants should be referred to the principles and standards of the police's Secured by Design (SBD) scheme. The incorporation of SBD principles and standards would help the proposals meet the requirements of the NPPF and the PPG guidance on Design.

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
- SLE4 – Improved Transport and Connections
- ESD1 – Sustainable Development Principles
- ESD6 – Sustainable Flood Risk Management
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 – The Character of the Built and Historic Environment

- ESD17 – Green Infrastructure
- Policy Bicester 1 – North West Bicester Eco-Town

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8 – Sporadic Development in the Open Countryside
- C28 – Layout, design and external appearance of new development

8.3. Other Material Planning Considerations

- North West Bicester Supplementary Planning Document (February 2016)
- Planning Policy Statement 1 supplement: Eco Towns
- 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 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 including trees
- Residential amenity
- Ecology impact
- Highway safety

Principle of Development

Policy Context

- 9.2. Policy Bicester 1 of the Cherwell Local Plan is a policy to allocate land to the North West of Bicester for a new zero carbon mixed use development including 600 homes. It confirms that planning permission will only be granted for development in accordance with a comprehensive masterplan for the whole area. In relation to this proposal, it identifies a key infrastructure need at the site that proposals should include appropriate crossings of the railway line to provide access and integration across the North West Bicester site. This includes changes and improvements to Howes Lane and Lords Lane to facilitate integration of new development with the town. In addition, there are a number of key site specific design and place shaping principles including new footpaths and cycleways provided to link with existing networks, the wider urban area and community facilities with a legible hierarchy of routes to encourage sustainable modes of travel. Policy SLE4 confirms 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. Policy ESD17 also seeks to ensure that green infrastructure network considerations are integral to the planning of new development and that proposals should maximise the opportunity to maintain and extend green infrastructure links to form a multi-functional network of open space, providing opportunities for walking and cycling and connecting the towns to the urban fringe and the wider countryside beyond.
- 9.3. The NPPF confirms the role of planning in promoting sustainable transport including to ensure that opportunities to promote walking, cycling and public transport use are identified and pursued. It goes on to confirm that applications for development should give priority first to pedestrian and cycle movements as well as to facilitate access to high quality public transport and create places that are safe, secure and attractive which minimise the scope for conflicts between pedestrians, cyclists and vehicles.
- 9.4. In order to respond to the requirement for a comprehensive Masterplan for NW Bicester and following negotiation, A2 Dominion proposed a masterplan, which was submitted to the Council accompanied by a raft of assessment and environmental information. This was agreed and embedded within the NW Bicester Supplementary Planning Document. The SPD expanded on the requirements of Policy Bicester 1 and the Eco Towns PPS supplement setting out the standards required at NW Bicester and it therefore supports the implementation of Policy Bicester 1.
- 9.5. The Masterplan for NW Bicester identifies two crossings of the railway line. A main road tunnel (which is linked to the realignment of Howes Lane), which appears elsewhere on the Committee agenda and a pedestrian underpass. The position of the underpass was chosen taking into account the level of the embankment whilst being far enough away from the road tunnel to justify a second crossing. The SPD sets out that cycling and walking will be encouraged and supported to be the first choice of transport in new development. This is important in meeting the modal shift targets at NW Bicester, which require at least 50% of trips originating in the development to be made by non-car means with the potential for this to increase to 60% of trips. In addition, given the size of the NW Bicester site and with the aim to increase connectivity between the land uses on either side of the railway embankment, create walkable neighbourhoods and to support the achievement of walking distance targets to key facilities (schools and local centres), the provision of a separate pedestrian underpass to the west of the main road tunnel was considered to be important.

Assessment

- 9.6. Given the above policy context, it is considered that the principle of a pedestrian underpass is acceptable within the position applied for. The provision of an underpass in this location will contribute to meeting the policy requirements at NW Bicester in terms of promoting walking and cycling through the provision of necessary infrastructure, securing connected communities in the long term (once development is constructed around the position of the underpass) and to meet the policy requirements for appropriate crossings of the railway to provide access and integration. Lighting is shown within the underpass and it is 5.1m wide such that it can accommodate pedestrians and cyclists.
- 9.7. Until development is constructed around the position of the underpass it is possible that it could sit in a relatively isolated position for some time. However in order to construct the underpass, a track possession from Network Rail is required. There are time and financial efficiencies by both the underpass and the road tunnel being installed within the same track possession (currently targeted for April 2021). As such, it is considered justified to grant planning permission for the underpass notwithstanding the potential for it to remain unconnected to the wider transport network for a period of time, if it is financially possible to install both tunnels at the same time.

Design and impact on the character of the area including trees

Policy Context

- 9.8. Policy Bicester 1 of the Cherwell Local Plan Part 1 requires a high quality development and for proposals to comply with Policy ESD15. It requires a well-designed approach to the urban edge which relates development to its rural setting and affords good access to the countryside. In addition and as referred to above, footway and cycle way links are to be supported. Policy ESD15 confirms that development will be expected to complement and enhance the character of its context and be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Policy ESD13 advises that development will be expected to respect and enhance the local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Policy ESD10 requires the protection and enhancement of biodiversity and the natural environment by protecting trees, ecology and achieving a net biodiversity gain.
- 9.9. The NW Bicester SPD seeks the provision of Green Infrastructure and in accordance with Policy Bicester 1, 40% of the total gross site area is planned to be green infrastructure. The linking of green infrastructure to the countryside is important and pedestrian routes are part of this as well as linking the different types of green infrastructure to be provided.

Assessment

- 9.10. In terms of landscape impact, the underpass would sit under the railway line and therefore the main elements visible would be the wing walling at the entrances on either side and required security fencing. Until development surrounds the position of the underpass, the feature could appear out of place given its generally rural location currently, however in the long term, once the rest of NW Bicester builds out, the underpass would be surrounded by development and in all likelihood used regularly as an important part of the site infrastructure. It would therefore be visually acceptable in the long term when it sits as part of the strategic extension at NW Bicester. The security fencing is a little unfortunate but necessary given the proximity of the railway for safety reasons. In terms of the finish, the internal tunnel

would be concrete, and the external wing wall finish would be also be concrete, with it then being landscaped to tie into the existing embankment, which is likely to be a grassed finish. This is considered to be acceptable, particularly as the design has evolved to shorten the tunnel to the minimum required length for amenity reasons, albeit this has resulted in the provision of wing walls. An appropriate colour finish could be secured for the security fencing by condition.

- 9.11. The embankment is currently surrounded on both sides by tree and vegetation cover. No tree assessment has been provided to demonstrate the level of trees needing to be removed, however sections of this will need to be removed and this will impact the tree cover in this area as well as potentially biodiversity. The Masterplan Environmental Report identified the railway line as a green corridor which is largely unaltered and remains so other than the position of the two railway line crossings. The principle of an underpass has been established through the Masterplan and this would inevitably involve the loss of the rail side tree and vegetation cover. It is however considered appropriate for a condition to be imposed to require the provision of a tree survey to identify the trees to be removed and to provide an arboricultural method statement and tree protection plan to ensure that appropriate protection for retained trees is provided where necessary. In this regard, whilst there may be some conflict with Policy ESD10 in terms of the loss of the tree and vegetation cover in this area, the benefit of this proposal in terms of the integration and connectivity it will provide in the long term is considered to outweigh this policy conflict. In addition, the suggested condition would ensure that retained vegetation would be protected during the construction period.

Residential amenity

Policy

- 9.12. Policy ESD15 of the Cherwell Local Plan Part 1 requires development proposals to consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space. The NPPF confirms that places that have a high standard of amenity for existing and future users should be created.

Assessment

- 9.13. The underpass would not directly impact upon the amenity of nearby existing residential properties and therefore the proposal would comply with the above mentioned policies. The Masterplan shows parcels for residential development close to the position of the underpass on the southern side of the railway line (to the north are open space areas) and the underpass would not impact on the amenity of any proposed residential dwellings. The use of the underpass would enable the development either side of the railway line to be accessed, but this is a benefit and any planned development either side would be accommodated within the context of the underpass being there (or planned). It is not considered that the provision of the underpass would significantly increase safety issues for nearby farms in the short term as there are already accesses to the farms and the underpass would be between two fields. Overall, the proposal is considered to be acceptable in residential amenity terms and therefore to comply with the above mentioned policies.

Ecology Impact

Legislative context

- 9.14. 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.
- 9.15. 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.
- 9.16. 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.
- 9.17. 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.
- 9.18. 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

- 9.19. 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.

- 9.20. 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.
- 9.21. 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.
- 9.22. 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.
- 9.23. 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.
- 9.24. 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.
- 9.25. 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

- 9.26. 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')

9.27. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site forms a railway embankment covered by trees/vegetation and it is close to the existing watercourse, which runs in a culvert under the embankment. The site therefore has some potential to be suitable for protected species. No biodiversity survey has been submitted with the application and so at this stage it has not been demonstrated that the proposal will not cause harm to any protected species or its habitat as a result of the development proposed.

9.28. In reviewing the Environmental Report submitted to support the Masterplan, the ecological chapter identified that the tributary of the River Bure which runs under the railway embankment supported a small number of common and widespread aquatic invertebrate species and that the embankment itself was likely to support a small population of reptiles. The position of the underpass is also close to the defined 'dark corridor' identified for nocturnal species such as bats due to its ecological value. In terms of mitigation, the report identifies that (i) the most valuable features and ecological corridors would be retained and enhanced, (ii) removal of trees and hedgerows to occur outside of the bird nesting season, (iii) the need for a Construction Environmental Management Plan to protect the environment including biodiversity as well as species specific mitigation such as avoidance of the bird nesting season and the reptile hibernation period (and with pre-construction checks and related mitigation), and (iv) tree protection, amongst other measures.

9.29. The Masterplan Green Infrastructure and Landscape Strategy identifies the underpass as being a key convergence point where the two green loops (leisure route and linear park) meet. This and the fact it is identified through the Masterplan mean that in principle the provision of an underpass in this location is concluded to be acceptable in ecological terms.

9.30. The site conditions around the railway have not changed since the previous environmental work was completed – the embankment remains covered by trees and vegetation and the watercourse remains close to the proposed position of the underpass. Whilst the work itself is out of date, it is likely that the baseline conditions already known have not changed significantly. In the circumstances, it is considered acceptable for checks to be carried out prior to development commencing as a condition of the planning permission and for conditions to be used to ensure protection of the environment and biodiversity to be established through a biodiversity construction management plan. Ecological checks would be required in order for the developer to comply with the legislation as above and through their own due diligence requirements prior to development commencing (the development is likely to be delivered by Network Rail on behalf of Oxfordshire County Council).

9.31. 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 protected species 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.

- 9.32. 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.
- 9.33. In this case, if protected species were to be identified and a licence required, it is considered that it is likely a case could be made to justify the grant of the licence given the public benefits of this proposal and that there is no suitable alternative (the rest of the embankment is likely to be similarly affected in the same way as this site). The indication from the previous environmental work is that protected species are unlikely to be affected by this scheme.
- 9.34. In the circumstances, the proposal is therefore considered to comply with Policy ESD10 of the CLP 2031 Part 1, advice contained in the PPG and Natural England's Standing Advice, and section 15 of the National Planning Policy Framework.

Highway Safety

Policy Context

- 9.35. As mentioned previously, Policy Bicester 1 identifies an infrastructure need to include appropriate crossings of the railway line to provide access and integration across the North West Bicester site. There is also policy support (for example SLE4 and the NPPF) to promoting sustainable transport options.

Appraisal

- 9.36. The Highway Authority raises no objection to the proposal subject to the imposition of conditions. It is confirmed that the development would provide a key sustainable transport link between the sites, reducing walking and cycling distances and reducing car use. In addition, it is a necessary piece of infrastructure to provide the trip containment levels assumed within the transport work for NW Bicester. OCC confirm that as the path through the underpass would be a strategic link, OCC would expect it to be offered for adoption eventually and it would therefore have to be built to OCC adoptable standards. OCC confirm that the dimensions of the subway are acceptable albeit they request additional information via condition to ensure that the footway will be constructed to adoptable standards. They also confirm that bollards will be required to prevent vehicles being driven underneath (bollards are shown on the plans) and that until the adjacent cycle/ pedestrian network is in place, the underpass would need to be secured (this has been verbally confirmed).
- 9.37. OCC point out that planning permission has not been granted for the sites the underpass will connect and that there is no detailed layout of the routes it will connect to. It is agreed that future links will need to be appropriately designed to link into the underpass taking into account safety and personal security. In this regard, matters such as the lighting on the paths leading to the underpass will need to be agreed later.
- 9.38. Two highway conditions are recommended – a condition to require a construction traffic management plan which is agreed as being necessary but has been expanded to consider construction management more generally. The second being to request details of the path through the underpass. Whilst this is agreed as being necessary, it does not need to be a pre-commencement planning condition as

recommended as the footway may be installed later and so the recommendation is that the detail is agreed prior to any footway being installed.

- 9.39. On the basis of the above, it is considered that the proposal is acceptable on highway safety grounds and would be a positive addition to the site in promoting and providing the necessary infrastructure for sustainable modes of transport.

Other Matters

- 9.40. The need to promote healthy and safe communities is important and the NPPF provides guidance on this within chapter 8. It confirms that places should be created which promote social interaction and that allow for easy pedestrian and cycle connections within and between neighbourhoods, are safe and accessible so that crime and disorder and the fear of crime do not undermine the quality of life or community cohesion, and to enable and support healthy lifestyles.
- 9.41. It is considered that the provision of the underpass contributes to the promotion of a healthy and safe community. It will link the two sides of the NW Bicester site either side of the railway infrastructure and provide pedestrian and cycle connections that will support the opportunity for individuals to make healthy lifestyle choices which includes opening the site up to access all provided areas of green infrastructure and other community facilities including sports pitches. In terms of safety, the underpass has been shortened as far as possible (which has resulted in the wing walls on the embankment), which should improve the amenity for users and it is also proposed to be lit. The treatment either side of the underpass would also require careful consideration in this respect. It has also been confirmed that until the underpass is required to be used (i.e. connected either side), it would be secured to avoid trespass. The proposal is considered acceptable in these terms. The Secured by Design guidance advises that new pedestrian subways should be avoided, but that subways should be well lit with vandal resistant lighting, be as wide and as short as possible with a clear line of sight to the exit. Entrance/ exit walls should also help to reduce the opportunity for inappropriate loitering and wall finishes can be used to enable easy removal of graffiti. Given the above assessment, the proposal has taken on board this guidance as far as possible in the design of the underpass.
- 9.42. The physical construction of the underpass including access for construction vehicles and workers is still being negotiated; however it is possible that it may require use of the bridleway to the south of the site. As this matter is not yet confirmed, a construction management plan should be sought for agreement.
- 9.43. The Lead Local Flood Authority raises no objections but do seek additional information to ensure a full technical drainage audit. Drainage requirements will be important but can be the subject of a condition as the scheme is progressed.
- 9.44. Councillor Mawer raised concern that the underpass was instead of the proposed road tunnel. The underpass is in addition to the proposed road tunnel and provides pedestrian and cycle accessibility in a second location under the railway line.
- 9.45. The site is sat on the NW Bicester site, which is required to meet a number of standards given it is allocated to meet zero carbon development and was first identified as an Eco Town. This development contributes to the standards given it contributes towards the necessary highway infrastructure, linking green spaces, being a piece of infrastructure that will assist in meeting the modal shift targets and helps to promote healthy lifestyles and accessibility to local services. The development is therefore considered to be acceptable in terms of its contribution towards the eco town standards.

- 9.46. Contaminated Land is a recorded site constraint. The Council's Environmental Protection Team raises no objections regarding this matter and given the nature of the development, it is unlikely to be a constraint in terms of the development.

Human Rights and Equalities

- 9.47. 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.
- 9.48. 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

- 9.49. 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. 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

- 9.50. 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

- 9.51. 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.
- 9.52. 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. The proposal would facilitate the provision of infrastructure to support

sustainable transport options and would therefore assist in meeting the requirements around creating healthy communities. Whilst there are some outstanding matters, the principle of the development is considered to be acceptable and these matters can be dealt with through the imposition of planning conditions. 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 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: Drawing number 38616-1501-102 Rev P01

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.

Arboriculture

3. No development shall take place until an Arboricultural survey undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions is carried out, submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of identifying and retaining important trees on the site 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. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

4. No development shall take place until an Arboricultural Method Statement and Tree Protection Plan has been submitted to and approved in writing by the Local Planning Authority. The existing trees to be retained shall be protected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of development and / or demolition and shall be maintained until all equipment machinery and surplus material has been removed from the site. Nothing shall be stored or placed within the areas protected by the barriers erected in accordance with this

condition and the ground levels within those areas shall not be altered, nor shall any excavations be made, without the written consent of the Local Planning Authority.

Reason: To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape 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. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Ecology

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

Reason : To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

6. No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:
 - a) Risk assessment of potentially damaging construction activities;
 - b) Identification of 'Biodiversity Protection Zones';
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - d) The location and timing of sensitive works to avoid harm to biodiversity features including reptiles and nesting birds;
 - e) The times during construction when specialist ecologists need to be present on site to oversee works;
 - f) Responsible persons and lines of communication;
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
 - h) Use of protective fences, exclusion barriers and warning signs

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

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

the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Construction Management

7. No development shall take place, including any works of demolition until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The statement shall provide for at a minimum:
- a) The parking of vehicles of site operatives and visitors;
 - b) The routing of HGVs to and from the site;
 - c) Loading and unloading of plant and materials;
 - d) Storage of plant and materials used in constructing the development;
 - e) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - f) Wheel washing facilities including type of operation (automated, water recycling etc) and road sweeping;
 - g) Measures to control the emission of dust and dirt during construction;
 - h) A scheme for recycling/ disposing of waste resulting from demolition and construction works;
 - i) Delivery, demolition and construction working hours;

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

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

Drainage

8. No development shall take place until a drainage strategy for the underpass to include how it will be drained, evidence of soakaway tests and evidence to show the drainage solution can be accommodated in the capacity of the proposed drainage solution and a management and maintenance plan, has been 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 and implemented prior to the first opening of the pedestrian underpass.

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.

Waste

9. No development shall take place until a Site Waste Management Plan, targeting zero waste to landfill, shall be submitted to and approved in writing by the Local Planning Authority. The approved Site Waste Management Plan shall thereafter be implemented in accordance with the approved details.

Reason - to ensure the appropriate management of waste in accordance with Government guidance contained within the Eco Town PPS and the National Planning Policy Framework. This information is required prior to the commencement of the development as it must be implemented from the point the development is commenced.

Transport

10. Prior to the provision of any footway/ cycleway within the pedestrian underpass, full details of the path shall be submitted to and approved in writing by the Local Planning Authority. These details shall include the path construction, materials, drainage, lighting, signage, markings, and bollards to prevent use by motor vehicles. The path shall be constructed in accordance with the approved details and shall be retained for use as a pedestrian/cycle underpass thereafter.

Reason: In the interests of highway safety and to comply with Government guidance in Section 12 of the National Planning Policy Framework.

Design

11. Prior to the installation of the security fencing hereby approved, full details of the colour finish of the security fencing shall be submitted to and approved in writing by the Local Planning Authority. The security fencing shall be finished in accordance with the approved colour finish and retained as such thereafter.

Reason: In the interests of visual amenity and to accord with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and Saved Policy C28 of the Cherwell Local Plan 1996.

Unexpected 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.

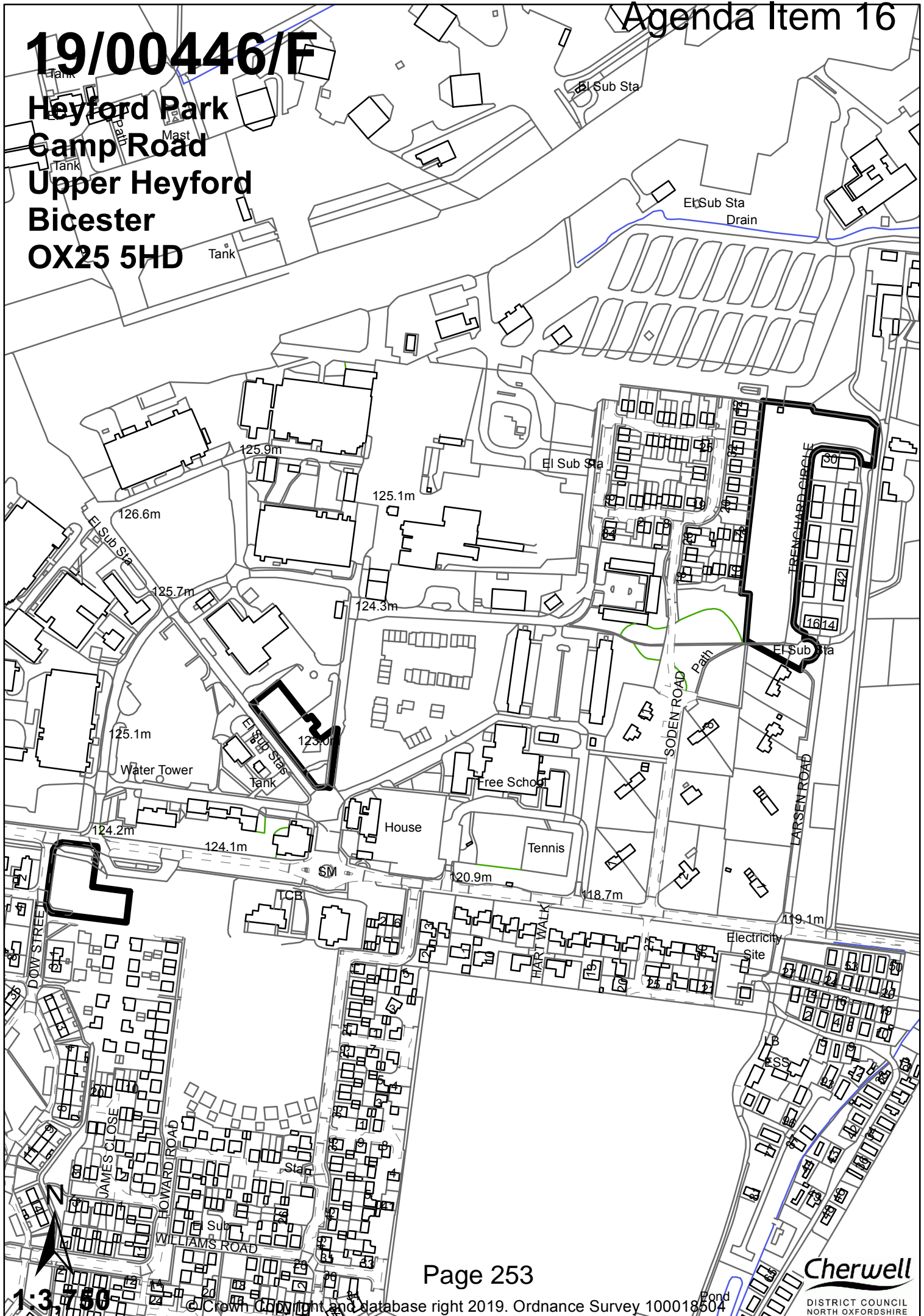
Sustainability

13. The development shall be constructed to meet a minimum of CEEQUAL Standard 'Very Good'.

Reason – To ensure the development reaches high standards of sustainability in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011 – 2031 Part 1 and Planning Policy Statement 1: Eco Towns.

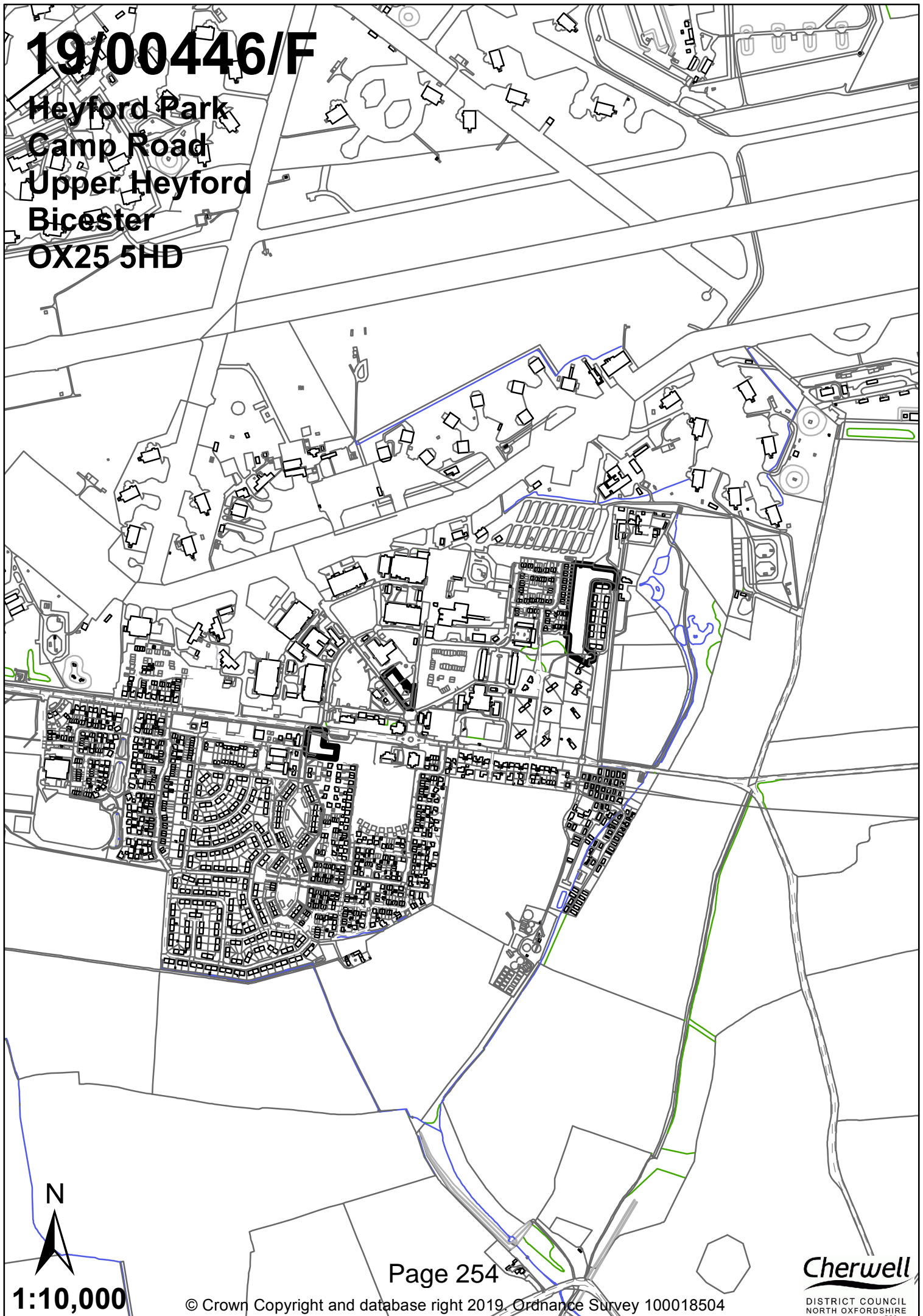
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19/00446/F

Case Officer: Andrew Lewis

Applicant: Heyford Park Settlements LP

Proposal: Erection of up to 57 residential units (Use Class C3) comprising a mix of open market and affordable housing, together with associated works including provision of vehicular and pedestrian accesses, public open space, landscaping, infrastructure and site clearance.

Ward: Fringford And Heyfords

Councillors: Cllr Ian Corkin
Cllr James Macnamara
Cllr Barry Wood

Reason for Referral: Major development

Expiry Date: 19 June 2019

Committee Date: 18 July 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

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

Proposal

Full planning permission is sought for 57 dwellings on three parcels of land all with extant permissions for residential development at the former RAF Upper Heyford. Taking account of the existing permissions, the cumulative number of additional units across the three parcels is 41. 15 of these will be affordable including 3 to be secured as part of the Oxfordshire Housing and Growth Deal.

Consultations

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

- CDC Conservation, CDC Ecology, CDC Landscaping, Mid Cherwell Neighbourhood Plan Forum, Historic England, Environment Agency (subject to conditions)

The following consultees are **in support** of the application:

- CDC Strategic Housing

The formal response from the County Council is awaited. In addition, 2 letters of objection have been received from members of the public.

Planning Policy and Constraints

The application site forms part of an allocated site for a new settlement in the Local Plan. The site is also allocated within the Mid-Cherwell Neighbourhood Plan. The site forms part of the RAF Upper Heyford 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:

- Planning Policy and Principle of Development;
- Design, Layout, Density and Appearance;
- Impact on Heritage Assets;
- Affordable Housing and Growth Deal;
- Ecology;
- Flood Risk and Drainage;
- Landscape Impact;
- Impact on Residential Amenity;
- Accessibility, Highway Safety and Parking

The report looks into the key planning issues in detail, and officers conclude that the scheme meets the requirements of relevant CDC policies and the proposal is acceptable subject to conditions, legal agreement and resolution of highway concerns and any other matters raised by the County Council.

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. This application covers three parcels of development on the former RAF/USAF Upper Heyford base measuring 1.64 hectares in total. In terms of the uses on Upper Heyford, the military use ceased in 1994. Since 1998 the site as a whole has accommodated a number of uses in existing buildings, first under temporary planning permissions and latterly under a permanent permission granted on appeal and subsequent applications. Please refer to the planning history section of this report for further detail.
- 1.2. The base was designated a conservation area in 2006, its primary architectural and social historic interest being its role during the Cold War. This application crosses a number of character zones as classified in the Conservation Appraisal which can be summarised below:

Phase 5D

Residential Zone 10B: RAF Domestic and Residential Section:

The 1920s, red brick, RAF buildings to the south of Camp Road are laid out around and orientated towards the parade ground. The style of the buildings within the area is again British Military and because of their grid-like orientation the area has a strong 'campus' character distinct from the Technical Site to the north on the other side of the road. The area immediately south of the parade ground was developed during the period of RAF expansion in the 1930s. The area is dominated by the Institute (488) and H blocks (489, 498 and 500) set around it. This area has a

coherent character distinct from the 1920s buildings. The general 'military architect' character of the area has been diluted by post-war alterations

Phase 8C

Zone 9 - Technical Site:

This area is characterised by the 'campus' layout of deliberately sited, mix function buildings, in an open setting with organised tree planting. The variation in building type is both a function of their differing use and the fact that there has been continual construction within the site as part of the different phases of development within the airbase. The setting of the 1930s aircraft hangers in an arc on the northern edge of the site provides a visual and physical edge to the site. The access to the Technical Site is dominated by Guardroom (100) and Station Office (52). To the east of these is the impressive 1920s Officers' Mess (74) set within its own lawns. The style of these 1920s, red brick, RAF buildings is British Military.

Trenchard Circle

Residential Zone 10C: Airmen's Housing and Bungalows:

To the east of the Parade Ground is Carswell Circle (datestone 1925) – short terraces of garden city style rendered buildings located originally in an open setting. The later southern second circle is a marriage of an open setting with the prevailing house design styles of the 1940s-50s. Red brick, estate house, smaller cousins to the officers' housing built on Larsen Road. There are a number of areas covered in the prefabricated bungalows; south of Camp Road and north of Larsen Road. There is a perfunctory attempt at landscaping, but the monotony of repeated structures is unrelenting. The bungalows themselves are functional but have no architectural merit.

- 1.3. Because of the unusual nature of this application in that it consists of three separate parcels of land, more detail about the individual sites will be included in the appraisal.

2. CONSTRAINTS

- 2.1. As noted above, the base was designated a conservation area in 2006, its primary architectural and social historic interest being its role during the Cold War. The nature of the site is defined by the historic landscape character of the distinct zones within the base. The designation also acknowledges the special architectural interest – and as a conservation area – the character of which it is desirable to preserve or enhance, and provides the context and framework to ensure the setting and appearance of sections of the Cold War landscape are preserved. The base was divided into three main functional character areas: Flying Field, Technical and Settlement.
- 2.2. In addition to its designation as a Conservation Area, the wider RAF Upper Heyford site also contains a number of Scheduled Monuments identified as 'Cold War Structures' and five listed buildings as noted in the 'RAF Upper Heyford Conservation Area Appraisal' produced by the council (CDC) in 2006. None of these designated structures are located within the boundary of the application sites or in proximity to them.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application sites comprise three parcels of land within the former RAF Base at Upper Heyford, now known as Heyford Park, with the individual parcels identified as Dorchester Phases 5D and 8C, together with Trenchard Circle.

Phase 5D

- 3.2. Phase 5D is a site of 0.29 hectares and comprises the erection of 11 dwellings located on the northern side of the internal east-west estate road of the previously approved proposals for the wider Phase 5 development, as well as on the Dow Street and Camp Road frontages. The units would comprise a pair of semi-detached 4 bed units fronting onto Camp Road with a second 4 bed pair fronting Dow Street together with a detached 3 bed unit. A further 3 bed detached unit and two pairs of semi-detached 3 bed units would be located to the northern side of the previously approved internal estate road on Phase 5. The remaining 3 bed unit on this frontage, would form the western end of a terrace of 3 identical units, with the central and eastern end units falling with the proposed Phase 5C development.
- 3.3. The units fronting Camp Road would be 3 storey in scale with gables at right angles to the road. On Dow Street the units would reduce to a mix of 2½ and 2 storey, with the remaining units all being of 2 storey scale with ridges running parallel to the internal estate road.
- 3.4. Parking for each unit is proposed by means of a mix of on-plot parking to the front, rear parking courts and garaging, varying in respect of the particular frontage and aspect of the units. Access to the parking areas for the units within the former Phase 5 area would be taken direct from the internal east-west estate road. The remaining units would be served from new accesses off either Dow Street or Camp Road.
- 3.5. In addition, the proposals also include landscaping and footway works along the Dow Street, Camp Road and the internal estate road frontages, which would be adopted following completion of works

Phase 8C

- 3.6. The Phase 8C proposals comprise the erection of 15 apartment units, with associate landscaping and car parking on a site of 0.25hectares. All of the units would be of affordable tenures of which 9 would be 1bed flats for rent and 6 intermediate of which 3 would be 1bed and 3 2bed. The apartments would be provided by way of two 3-storey linked apartment blocks set back from the adjacent Trident Road 3. The apartment blocks would form the southern half of a series of four similar buildings, creating a courtyard of units served by an open car parking court to the east, accessed from the adjacent road.
- 3.7. The northern apartment blocks and areas of the car parking court would be provided in conjunction with amended proposals for the adjacent sub-phase 8A of the wider Phase 8 scheme. Pedestrian access to the apartments would be taken via a series of footpaths created within the retained and enhanced open landscape areas, with access to the surrounding facilities proposed in the Village Centre readily achievable.

Trenchard Circle Proposals

- 3.8. The proposals for Trenchard Circle comprise the erection of 31 dwellings with associated car parking and landscaping on a 1hectare site. The dwellings would be located on the western side of Trenchard Circle immediately along the western and

northern site boundaries, opposite the existing retained bungalows in the central part of the wider site.

- 3.9. The dwellings would be laid out via a series of detached, semi-detached and short terraced units, orientated along a linear access road running through the site. Parking for the dwellings would be provided by way of a combination of detached garaging set to the side and rear of units together with open parking to the front of other units. The proposals include the visitor parking at both the northern and southern ends of the internal road, with tree planting along the length of the road and within the open parking areas.
- 3.10. The proposals include that the accommodation would be provided by way of three 4 bed detached units, two 3 bed detached units, seven pairs of semi-detached 3 bed units and four terraces of three 3 bed units. Of these 29 will be market housing with 26 3bed and 3 4bed. There will be 2 3bed affordable intermediate units.

4. RELEVANT PLANNING HISTORY

- 4.1. In terms of the uses on Upper Heyford, the military use ceased in 1994. Since 1998 the site has accommodated a number of uses in existing buildings, first under temporary planning permissions latterly under a permanent permission granted on appeal and subsequent applications.
- 4.2. Numerous applications have been made seeking permission over the last 20 years or so to either develop the base or large parts of it and numerous of them have gone to appeal. The most significant was application ref 08/00716/OUT. This was subject to a major public inquiry that commenced in September 2008. The Council received the appeal decision in January 2010 that allowed *"A new settlement of 1075 dwellings, together with associated works and facilities including employment uses, community uses, school, playing fields and other physical and social infrastructure (as amended by plans and information received 26.06.08)."*
- 4.3. On policy, the Secretary of State (SoS) thought the development was in general conformity with the Oxfordshire Structure Plan policy H2 (the relevant development plan policy at the time) which sought to provide a community of about 1000 dwellings with schools and employment opportunities, and that it would enable environmental improvements, conserve heritage interests and provide appropriate level of employment.
- 4.4. The SoS concluded the proposal would substantially accord with the development plan, meaning Structure Plan policy H2. A sustainable and reasonable balance was secured between retaining the built and natural heritage, and providing an appropriate and proportionate level of employment in the context of the site's location and access to services. The grant of planning permission authorised many of the uses being undertaken at the site and sets out the template for future development.
- 4.5. The development of the settlement and technical areas was delayed as the site was acquired by new owners who decided to refine the approved scheme. As a result, a new masterplan was drawn up and submitted as part of an outline application for: *"Proposed new settlement for 1075 dwellings, together with associated works and facilities, including employment uses, a school, playing fields and other physical and social infrastructure"* and was granted permission on 22nd December 2011 (ref 10/01642/OUT). The planning permission included a number of plans with which compliance was required including a masterplan, a retained buildings plans and other plans showing layouts all of which included the demolition of all buildings on this site. A number of reserved matters have been submitted, approved and

implemented for permission 10/01642/OUT. This includes permissions for the three parcels subject of the current application. As a result of this the new settlement is starting to take shape.

- 4.6. Furthermore, the whole base is currently subject of a further masterplan application (reference 18/00825/HYBRID) seeking to implement the Cherwell Local Plan policy Villages 5. Below is a list of the most relevant applications referred to above and relevant to the current proposal:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
08/00716/OUT	OUTLINE application for new settlement of 1075 dwellings, together with associated works and facilities including employment uses, community uses, school, playing fields and other physical and social infrastructure (as amended by plans and information received 26.06.08).	REF but permitted at appeal
10/01642/OUT	Outline - Proposed new settlement of 1075 dwellings including the retention and change of use of 267 existing military dwellings to residential use Class C3 and the change of use of other specified buildings, together with associated works and facilities, including employment uses, a school, playing fields and other physical and social infrastructure	PER
10/01619/CAC	Demolition of existing structures (as per Conservation Area Consent Schedule and Drawing No. D.0291 38-1)	PER
13/01811/OUT	OUTLINE - Up to 60 dwellings and public open space with associated works	PER
13/00153/DISC	Discharge of Condition 8 of 10/01642/OUT (Design Codes)	PER
16/00627/REM	Reserved Matters to 13/01811/OUT - Erection of 60 dwellings and public open space with associated works	PER
16/00196/F	Demolition of existing bungalows and erection of 13 dwellings with associated car parking and landscaping	PER
16/00864/REM	Reserved Matters Application for 10/01642/OUT - Dorchester Phase 8 (Trident) only. The application represents the provision of 91 residential units of mixed type (dwellings and apartments) and tenure (open market and affordable) with associated gardens, access roads, car	Application Permitted

	parking, landscaping, a local area of play (LAP), utilities and infrastructure.	
17/00663/F	Construction of roads with associated infrastructure within the Heyford Park development	Application Permitted
17/00973/REM	Reserved Matters application to 10/01642/OUT - Dorchester Phase 5C, comprising the provision of 17 residential units of mixed type (dwelling houses and flats) and tenure (open market and affordable) with associated landscaping, car parking, infrastructure and external works	Application Permitted
17/00983/REM	Reserved matters application to 10/01642/OUT - In respect of Bovis Parcel B4A and B4B to provide 29 open market and 71 affordable dwellings	Application Permitted
18/00825/HYBRID	Demolition of buildings and structures as listed in Schedule 1; Outline planning permission for up to 1,175 new dwellings (Class C3); 60 close care dwellings (Class C2/C3); 929 m2 of retail (Class A1); 670 m2 comprising a new medical centre (Class D1); 35,175 m2 of new employment buildings, (comprising up to 6,330 m2 Class B1a, 13,635 m2 B1b/c, 9,250 m2 Class B2, and 5,960 m2 B8); 2.4 ha site for a new school (Class D1); 925 m2 of community use buildings (Class D2); and 515 m2 of indoor sports, if provided on-site (Class D2); 30m in height observation tower with zip-wire with ancillary visitor facilities of up to 100 m2 (Class D1/A1/A3); 1,000 m2 energy facility/infrastructure with a stack height of up to 24m (sui generis); 2,520 m2 additional education facilities (buildings and associated external infrastructure) at Buildings 73, 74 and 583 for education use (Class D1); creation of areas of Open Space, Sports Facilities, Public Park and other green infrastructure; Change of Use of the following buildings and areas: Buildings 357 and 370 for office use (Class B1a); Buildings 3036, 3037, 3038, 3039, 3040, 3041, and 3042 for employment use (Class B1b/c, B2, B8); Buildings 217, 3102, 3136, 3052, 3053, 3054, and 3055 for employment use (Class B8); Buildings 2010, 3008, and 3009 for filming and heritage activities (Sui Generis/Class D1); Buildings 2004, 2005 and 2006 for education use (Class D1); Buildings 366,	Pending Consideration

391, 1368, 1443, 2007, 2008 and 2009 (Class D1/D2 with ancillary A1-A5 use); Building 340 (Class D1, D2, A3); 20.3ha of hardstanding for car processing (Sui Generis); and 76.6ha for filming activities (Sui Generis); the continuation of use of areas, buildings and structures already benefiting from previous planning permissions, as specified in Schedule 2; associated infrastructure works including surface water attenuation provision and upgrading Chilgrove Drive and the junction with Camp Road

19/00438/REM	Reserved matters to 10/01642/OUT - Pending Dorchester Phase 5C, comprising the provision of 13 residential units (5 open market and 8 affordable) with associated landscaping, car parking, infrastructure and external works.	Consideration
19/00439/REM	Reserved matters to 10/01642/OUT - Pending Dorchester Phase 7A, comprising the provision of eleven, two bed affordable dwellings with associated landscaping, car parking, infrastructure and external works.	Consideration
19/00440/REM	Reserved Matters to 10/01642/OUT - Pending Dorchester Phase 8A, comprising the provision of twenty four affordable residential units with associated landscaping, car parking, infrastructure and external works	Consideration

5. PRE-APPLICATION DISCUSSIONS

5.1. The following pre-application advice was given on this application:

- The principle of increasing the density and changing the mix on this part of the site was acceptable
- There is a need to look closely at some of the details to make sure they enhance/preserve the character/appearance of the conservation area, there is adequate parking, design/landscaping is acceptable, etc.
- The Landscape Officer asked if there is a service/foul and surface water drainage layout available, to ensure that there is no conflict with the proposed trees/tree pit. It was advised that tree pit details should be submitted.
- The question of securing the affordable accommodation and possibly other contributions from the rise in numbers, or tying it into the existing s106 agreement will need to be resolved.
- In conclusion the principle of the scheme is one that can be supported.

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 (amend as appropriate). The final date for comments was 25.04.2019, 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:
- Objection to the concentration of affordable units specifically in relation to the Trenchard Circle scheme
 - Change in plans means more overlooking and loss of sunlight
 - Noise from construction
 - Loss of green space
 - Effect of traffic coming out of Larsen Road on to Camp Road
- 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. MID CHERWELL NEIGHBOURHOOD FORUM: **No comment**
- 7.3. HEYFORD PARISH COUNCIL: **No comment** received

CONSULTEES

- 7.4. OXFORDSHIRE COUNTY COUNCIL: A full consultation response is awaited from the County Council; following meetings between CDC and OCC officers, it is anticipated that the County will have no objection subject to agreeing planning obligations (contributions and works) in line with other applications to be determined under Policy Villages 5.
- 7.5. OCC EDUCATION: Seeks S106 contributions as summarised below:

Contribution	Amount £	Price base	Index	Towards (details)
Primary & Nursery	£552,728	2Q17	PUBSEC	A new 1.5 form entry primary school, including a 75 place nursery, within Heyford Park.
Secondary	£248,636	2Q17	PUBSEC	Expansion of Heyford Park Free School's secondary phase, subject to the approval of the Regional Schools Commissioner; otherwise expansion of a secondary school in Bicester.
Land	£47,611	2Q17	RPIX	2.22 ha of land is required

				for a new primary school. A proportionate share of the cost of a 2.22ha site for the new primary school.
Total	£848,975	2Q17		

7.6. HISTORIC ENGLAND: Do not wish to comment

7.7. ENVIRONMENT AGENCY: **No objection** subject to conditions

7.8. CRIME PREVENTION DESIGN ADVISOR: **No objection** but has made a series of detailed comments suggesting changes and recommended a condition requiring the development obtain secured by design accreditation.

7.9. CDC ARBORICULTURE OFFICER: **No objection** but concerned about tree protection

7.10. CDC COMMUNITY DEVELOPMENT PARTNER – ARTS: **Comments** that a public art project which engages both existing and new communities and enables them to celebrate and/or investigate local identity and/or local issues will support social development, cohesion and well-being post occupation and would be beneficial. A sum of £12,768 would be considered appropriate based on £200 per dwelling plus a percentage for management and maintenance costs. There is also scope to develop temporary public art in the form of events which bring residents together and boost community spirit whilst increasing their awareness and understanding of the immediate area.

7.11. CDC STRATEGIC HOUSING: **Comments** that although there are 57 units in total within this new application only 41 of these units are deemed to be additional new units. This is due to the demolition of 14 of the existing bungalows. There are also 2 affordable units that are carried forward from the 1075 outline pp that are being re-provided. Hence the affordable housing for this application should be assessed against 41 units of which 12 (30%) should be affordable.

The applicant has provided for 17 affordable units which includes the 12 delivered through this application, the two affordable being provided from the previous 1075 consent and 3 'Growth Deal' units.

The 3 affordable units that are above the S106 requirements will be funded through the Oxfordshire Growth Deal Affordable Homes programme. These will consist of 2 x 3 bedroom houses and 1 x 2 bedroom apartment for shared ownership.

The tenure split for this application should comply with the policy requirement for 70% affordable rent and 30% shared ownership. Due to the number of flats in this application we are content with the higher percentage of shared ownership. However we will expect to see the policy tenure split reflected across all the affordable housing being provided as additional to the 1075 unit planning application and hence would expect to see a higher percentage of rented units in other applications associated with the additional housing. It is noted that on the reserved matters application 19/00438/REM the additional affordable housing is all for affordable rent.

We have ongoing concerns about the large number of affordable flats as part of this application. However we recognise that these had a prior approval under the previous application and this has been mitigated by the introduction of shared ownership units and 2 ground floor one bedroom flats being fully wheelchair

accessible. There is also a local lettings plan attached to the site which will be applicable. This will prioritise qualifying current residents on site for the affordable housing and hopefully create a more balanced community. However we would expect to see fewer flats in other areas of the development.

As per the previous comments the rented units should conform with the Nationally Described Technical Space Standards and the wheelchair accessible units should conform with part M4(3) of the current Building Regulations. One bedroom units should have at least one car parking space per dwelling and units over one bedroom should have two parking spaces per dwelling.

- 7.12. CDC CONSERVATION OFFICER: **No objections.** The key issue is to determine whether the proposed developments preserve or enhance the character and appearance of the conservation area, in comparison to the previously consented schemes.

Parcel 5D: The proposal is to increase the number of dwellings on this and the adjacent site to 31 units instead of 24 (comprising smaller and different house types). In general terms the proposal for a site of greater density is welcome. In comparison to the existing consented scheme the proposed development is not considered to cause additional harm to the character and appearance of RAF Upper Heyford Conservation Area.

Parcel 8C: The proposed development varies little from the approved development in terms of layout with changes being to the number of units provided (88 rather than 91, but more affordable units) and a different parking layout / allocation. There is no additional harm caused to the character and appearance of the RAF Heyford Conservation Area

Trenchard Circle: The bungalows around Trenchard Circle have already been granted permission for demolition (16/00196/F) and therefore the heritage implications have already addressed. The key issue is to ensure there is a suitable form of development on the site. There are no objections in principle to the proposal to increase the density on the site and in fact there are concerns over the site as a whole with the low density of development.

The proposed house types are small, suburban houses, but they are designed to provide a rhythm and uniformity to the development which is more reflective of the character of the former bungalows than the previously approved scheme. The proposed development is not considered to cause additional harm to the character and appearance of the conservation area in comparison to the previously consented scheme.

In Summary, there is no additional harm compared to previously consented schemes. Any relevant conditions to be carried over from previous consents.

- 7.13. CDC LANDSCAPING: **No objections.** The landscape proposals are acceptable.

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
- VIL5 - Former RAF Upper Heyford
- PSD1 - Presumption in Favour of Sustainable Development
- BSC1 - District Wide Housing distribution
- BSC2 - The Effective and Efficient Use of Land
- 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 & 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
- ESD3 - Sustainable Construction
- ESD5 - Renewable Energy
- ESD6 - Sustainable Flood Risk Management
- ESD7 - Sustainable Drainage Systems (SuDS)
- ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 - Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built Environment
- ESD17 - Green Infrastructure
- INF1 - Infrastructure
- SLE4 - Improved Transport and Connections

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 - Layout, design and external appearance of new development
- C23 - Retention of features contributing to character or appearance of a conservation area
- C30 - Design of new residential development
- TR1-Transportation Funding
- ENV1: Pollution
- ENV12: Contaminated Land

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 Mid-Cherwell Neighbourhood Plan area, and the following Policies of the Neighbourhood Plan are considered relevant:

- PD4: Protection of important views and vistas
- PD5: Building and Site Design
- PH6: Parking facilities for Existing Dwellings

8.4. Other Material Planning Considerations

- RAF Upper Heyford Conservation Appraisal 2006 (UHCA)
- 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”)

In addition a design code was approved in October 2013 in order to comply with Condition 8 of planning permission 10/010642/F. This was required “to ensure that the subsequent reserved matters applications are considered and determined by the Local Planning Authority in the context of an overall approach for the site consistent with the requirement to achieve a high quality design as set out in the Environmental Statement, the Revised Comprehensive Planning Brief for the site, and Policies UH4 of the Non Statutory Cherwell Local Plan, H2 of the Oxfordshire Structure Plan 2016 and to comply with Policies CC6, CC7 and H5 of the South East Plan 2009.”

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

Relevant Background

- 9.1. An outline application that proposed: “A new settlement of 1075 dwellings, together with associated works and facilities including employment uses, community uses, school, playing fields and other physical and social infrastructure (as amended by

plans and information received 26.06.08).” was granted planning permission in 2010 following a major public inquiry (ref 08/00716/OUT).

- 9.2. The permission with regard to the flying field was implemented but a subsequent second application was submitted for the settlement area. That permission for a new settlement was granted in December 2011 (ref 10/01642/OUT). The permission was in outline so details of layout, scale, appearance, landscaping and access (the reserved matters) had to be submitted within a period of six years.
- 9.3. The appeal and subsequent planning decisions have already been taken into account by the Council as part of its Local Plan and the development of former RAF Upper Heyford is seen as the major single location for growth in the District away from Banbury and Bicester. Furthermore, in the CLP 2031 Part 1, additional sites were allocated for development in and around Heyford. Since then much work has been undertaken by the applicants to create a masterplan for Heyford Park in line with Policy Villages 5 of the CLP 2031 and an application (ref 18/00825/HYBRID) has now been submitted to achieve that.
- 9.4. In the preparation of the Local Plan a statement of common ground (SOCG) was reached between the Council’s Head of Strategic Planning and the Economy and the Dorchester Group on the future development of the Former RAF Upper Heyford. An appropriate level of development was to be secured to meet the District’s housing needs and deliver employment whilst the heritage constraints and the need for environmental improvements recognised. It went on to say there should be a sequential approach but brownfield development should not be delayed and greenfield land outside the airbase should be brought forward as part of a comprehensive package. It went on to say that a wide-ranging review of development opportunities would be undertaken to accommodate the growth and this would be worked up through a future masterplan to be achieved by joint working between Dorchester, the Council, other statutory bodies and other land owners.
- 9.5. Consultants were engaged jointly by Dorchester and the Council but after receiving legal advice it was decided that a much higher level of engagement would be required before it could be formally adopted and the time scale for such an exercise was not likely to be achievable in the short term. As a result, Dorchester has undertaken a similar exercise to the one undertaken 10 years ago to produce a new masterplan for Heyford but through the development management process. A hybrid application has now been received (ref 18/00825/HYBRID) which sets out the implementation of Policy Villages 5 in the form of a fresh masterplan.
- 9.6. Extensive discussions have been had earlier in the process for the design codes and pre app advice has been given about the architectural form and detail of the parcels subject of this application. As the site is located within the RAF Upper Heyford Conservation Area it is critical that the development reinforces and enhances the character of this area. Many of the residential buildings across the wider Heyford site were built in the early 20th century and have a character that can be best described as a simple / pared back Arts and Crafts character and that has been the main theme for the housing on phase 5D and Trenchard Circle. On Phase 8C however a more contemporary style is sought to reflect its campus style environment. Greater detail on this can be found in the Design Code.
- 9.7. It is repeated that all three sites included in this application benefit from current permissions but as the applicant states in their Planning Statement: “The key difference is not therefore the use to which the land is put, but rather the manner and form in which the use is brought forward. The application proposals enable the ability to procure a more efficient use of these identified brownfield sites and to provide additional growth and housing delivery therein. Through the use of more

efficient layouts and higher densities, the principle of additional development at this location fully accords with the identification of Heyford Park as a sustainable settlement within Policy Villages 5 and the desire to achieve the most efficient use of land as set out in Policy BSC 2 and NPPF paragraph 117. Alongside this development plan compliance, the taking of opportunities to provide additional growth and advanced housing delivery across a range of tenures within sustainable settlements and locations, fully embraces the objectives of the Oxfordshire Housing and Growth Deal (OHGD)."

9.8. Committee are reminded the OHGD was, in brief, the allocation by the Government in 2017 of £215 million of funding in order to support the planned delivery of 100,000 more houses in Oxfordshire, the funding contributing to affordable housing, accelerated housing delivery and infrastructure provision. In this case the scheme provides in conjunction with other modifications to schemes at Heyford, an additional 41 units of which 15 will be affordable, 3 specifically funded in part by the growth deal.

9.9. Turning to the detail of this application, Officers' consider the following matters to be relevant to the determination of this application:

- Planning Policy and Principle of Development;
- Design, Layout, Density and Appearance;
- Impact on Heritage Assets;
- Affordable Housing and Growth Deal;
- Ecology;
- Flood Risk and Drainage;
- Landscape Impact;
- Impact on Residential Amenity;
- Accessibility, Highway Safety and Parking;

Planning Policy and Principle of the Development

9.10. Paragraph 11 of the NPPF makes it clear that there is a presumption in favour of sustainable development and that permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against policies in the Framework taken as a whole. There remains a need to undertake a balancing exercise to examine any adverse impacts of a development that would significantly and demonstrably outweigh the benefits of it and also the harm that would be caused by a particular scheme in order to see whether it can be justified. 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 Framework. It is also necessary to recognise that Section 38 of the Act continues to require decisions to be made in accordance with the development plan and the Framework highlights the importance of the plan led system as a whole.

9.11. The Development Plan for Cherwell District comprises the saved policies in the adopted Cherwell Local Plan 1996 and the adopted Cherwell Local Plan 2011-2031. The Mid-Cherwell Neighbourhood Plan also forms part of the Development Plan for the area. Section 70(2) of the Town and Country Planning Act 1990 provides that in dealing with applications for planning permission the local planning authority shall have regards to the provisions of the development plan in so far as is material to the application and to any material considerations. Section 38 of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination shall be made in accordance with the development plan unless material considerations indicate otherwise. This is also reflected in the

National Planning Policy Framework (NPPF) at paragraph 12 which makes it clear that the starting point for decision making is the development plan.

9.12. Policy Villages 5 of the CLP identifies the former military base as a strategic site in the rural area for a new settlement. All three parcels of land subject of this application are identified within that policy as part of a potential development area. The policy seeks to achieve a settlement of approximately 1600 dwellings in addition to those already approved. The policy also goes on to lay down specific design and place making principles including avoiding development on more sensitive and historically significant sites, retain features that are important for the character and appearance of the site, encourage biodiversity enhancement, environmentally improve areas, integrate the new and existing communities and remove structures that do not make a positive contribution to the site's special character.

9.13. The plans and supporting documentation demonstrate its conformity with the development plan. The significant elements are:

- Provision of further housing in order to meet the housing target and trajectory
- Provision of over 30% affordable housing on the additional housing
- A satisfactory mix of dwellings including smaller units
- The environmental improvement of the locality
- A commitment to quality design and finishes reflective of the style seen at RAF Heyford
- Scale and massing of new buildings to reflect their context
- Integration and connectivity to the surrounding development
- Retention and reinforcement of the main hedging and trees

9.14. The main issues will be discussed in more detail below but in principle the application is seen to conform to Policy Villages 5.

Design, Layout, Density and Appearance

9.15. In the supporting documentation submitted to accompany the application the three parcels are assessed against the approved Design Code in order to ensure the design is consistent, compliant and sympathetic to the Design Code's objectives. Rather than regurgitate the considerations the applicant's statement is attached for the three parcels:

Phase 5D

"Within the Design Code, Phase 5D falls within both Character Area 2 – Village Centre Residential (CA2) and Character Area 8 – Core Housing East (CA8), with the former being primarily associated with the units along Camp Road, and the latter with those to the rear along the internal Phase 5 estate road. As set out in the accompanying Design and Access Statement for Phase 5D, compliance with the Design Code is achieved as follows:

Layout and Scale: The layout of the proposed development, drawing **0521-PH5D-102**, complies with the indicative Building Density Plan for CA2 and CA8 as well as the Indicative Building Heights Plan, with 3 storey proposed to Camp Road, 2½ storey to Dow Street and 2 storey into Phase 5; • A medium density of 38dph is provided in accordance with the upper target densities for CA2 and CA8; • Dwelling units front direct onto Camp Road providing a strong presence and visual continuity with the adjacent Phase 5C proposals, enhanced by the use of semi-detached units with parking to the rear; • Dual aspect detached and semi-detached plots to Dow Street, provide simple enclosure and a key frontage to the street with a perimeter

layout created along Phase 5 via the use of pairs of semi-detached and terraced units.

Architectural Design: Creation of active street frontages through movement at building entrances and visibility through fenestration; • Visible end elevations treated as part of the street scene; • Dwellings with have living spaces fronting streets. No bathrooms or ancillary rooms to dominate street frontage / public realm.

Materials: As indicated on drawing **0521-PH5C-5D-5(R)-108**, the materials are drawn from a simple palette of red brick (Ibstock Audley Red or similar) and grey slate (Marley 'Rivendale' or similar). • This limited palette of materials reflects the 20th Century Art and Crafts Architecture with a maximum of 3-4 finishes on a single elevational composition.

Parking: Overall parking will be provided on plot and / or adjacent to properties in rear parking courts or garages, with the size of spaces according with those specified in the design code. No more than 4 parking bays in a rows will be provided on street; • In total 25 car parking spaces will be provided for the residential properties within Phase 5D, with visitor parking available in the adjacent Phase 5C scheme.

Recycling and Refuse Collection: The Refuse Plan, drawing **0521-PH5C—5D-5R-111**, identities that each dwelling will be provided with dedicated refuse and recycling storage areas, positioned to the rear of each unit; • This arrangement will allow residents to store refuse containers away from public frontages, thereby enhancing the street scene.

Landscaping: The existing trees to the west of the site have been retained as part of the proposals, indicated on drawing **1619 A8 5C 01 Rev.H**, with frontage landscaping comprising native low level hedgerow enclosures to dwellings with Hornbeam tree planting proposed along the Phase 5 frontage; • Additional ground cover and planting within the on plot parking to the rear units will also assist in breaking up the visual appearance of parked vehicles and add relief to the street scene.

Phase 8C

Within the Design Code, Phase 8C falls within Character Area 3 – Trident Housing, which extends to the whole of the wider Trident area and sub-phases 8A and 8B therein. As set out in the accompanying Design and Access Statement (**0521-PH8C**) for Phase 8C, compliance with the Design Code is achieved as follows:

Layout and Scale: The layout of the proposed development, drawing **0521-PH8C-102**, complies with the indicative Building Density Plan for CA3 as well as the Indicative Building Heights Plan, with 3 storey proposed throughout the scheme, simultaneously ensuring consistency with the adjacent Phase 8A and Phase 8B proposed and permitted schemes; • A high density of 60dph is provided whilst exceeding the 50dph of the Design Code results from the apartment based nature of the proposals and reflects the higher density nature of CA3; • Residential units orientated to create a campus form of accommodation, set with a landscape dominant layout; • Parking provided by way of a landscaped parking court as directly encouraged by the Design Code for CA3; • Complimentary scale and form of apartments which enable a bespoke private courtyard to be created within built form set back from the radial Trident Roads; • New built form aligning with the historic 45 / 90 degree building alignment.

Architectural Design: Creation of active street frontages through movement at building entrances and visibility through fenestration; • Visible end elevations treated as part of the street scene; • Dwellings with have living spaces fronting streets. No bathrooms or ancillary rooms to dominate street frontage / public realm; • Bespoke apartments proposed.

Materials: As indicated on drawing **0521-PH8A-8C-108**, the materials are drawn from a simple palette of red brick (Ibstock Audley Red or similar) and grey slate (Marley 'Rivendale' or similar); • Contemporary materials enabling strong clean lines to be created; • Use of robust cladding in contrast colours to highlight openings.

Parking: Parking will be provided in an open landscape parking courtyard as expressly encouraged within CA3; • In total 15 car parking spaces will be provided for the residential properties within Phase 8C, with 4 visitor parking spaces available.

Recycling and Refuse Collection: The Refuse Plan, drawing **0521-PH8A-8C-111**, identifies a communal refuse and recycling storage areas, positioned to south of the apartment block adjacent to Trident Road 3; • This arrangement will allow residents to store refuse containers away from public frontages, thereby enhancing the street scene, whilst enabling serving from the adjacent road.

Landscaping: Given the apartment nature of the scheme, a private landscaped communal garden will be created in the internal courtyard created by the development and the associated Phase 8A scheme; • This courtyard will comprise native hedging and ground cover, broken up by Wild Cherry tree planting to create a bespoke and useable communal space; • As indicated on drawings **1619 A5 06 Rev.A** and **1619 A5 07 Rev.A**, this internal planting will be supplemented by delineation of apartment frontage by low level hedge planting, with the retention of the existing trees within the adjacent communal grounds.

Trenchard Circle

Given its location within an area of retained housing, the Trenchard Circle did not fall within the original Design Code. However, given the location of the application site on the eastern edge of Heyford Park adjacent to open countryside, Character Area 6 – Rural Edge (CA6) is considered to be the most appropriate design guidance for this site. As set out in the accompanying Design and Access Statement (**0521-TR Issue 2**) for Trenchard Circle, compliance with the Design Code is achieved as follows:

Layout and Scale: The layout of the proposed development, drawing **0521-TR-1002 Rev.A**, complies with the indicative Building Density Plan for CA6 with 2 storey proposed in line with the required 2 or 2½ specified on the plan; • This approach reflects the scale not only of the new Phase 2 development to the immediate west of the application site but also the retained housing on Larsen Road on the approach to the site; • A medium density of 29dph is provided in accordance with the range specified for CA6; • Dwelling units are predominantly arranged in perimeter blocks which retain and exploits the pattern of the existing east-west axis development; • A mix of detached, semi-detached and short terraces forming loose clusters, provide linear symmetry with the existing bungalows to the east and reflects the building topography advocated for CA6; • Development laid out to maximise views over open countryside; • Acknowledgment of the relationship of the northern section of the application site to the flying field to the north and Special Condition C of the Design Code requiring:

- Units predominantly arranged to back onto the flying field, providing containment to the residential streets;

- Urban form of predominantly detached 2 storey family homes;

Architectural Design: Creation of active street frontages through movement at building entrances and visibility through fenestration; • Visible end elevations treated as part of the street scene; • Dwellings with have living spaces fronting streets. No bathrooms or ancillary rooms to dominate street frontage / public realm.

Materials: As indicated on drawing **0521-TR-1008**, the materials are drawn from a simple palette of red brick (Ibstock Audley Red or similar) and grey slate (Marley 'Rivendale' or similar). Individual key units would also be of render finish in line with the limited use permitted by CA6; • This limited palette of materials reflects the 20th Century Art and Crafts Architecture with a maximum of 3-4 finishes on a single elevational composition.

Parking: • Overall parking will be provided on plot and / or adjacent to properties in garages, with the size of spaces according with those specified in the Design Code; • In total 70 car parking spaces will be provided for the residential properties within Trenchard Circle, with a further 5 visitor spaces also provided.

Recycling and Refuse Collection: The Refuse Plan, drawing **0521-TR-1011**, identifies that each dwelling will be provided with dedicated refuse and recycling storage areas, positioned to the rear of each unit; • This arrangement will allow residents to store refuse containers away from public frontages, thereby enhancing the street scene.

Landscaping: Robust yet simple landscaping planting is indicated on drawings **1619 A4 01 Rev. M**, **1619 A4 02 Rev. M** and **1619 A4 03 Rev.D** comprising frontage landscaping of native low level hedgerow enclosures to dwellings with additional cover to the front; • Tree planting of Limes along the length of internal estate road, will create an attractive tree lined corridor, with additional ground cover and grass planting assisting in breaking up the visual appearance of parked vehicles and add relief to the street scene."

- 9.16. Having carefully considered the proposals Officers are content that the above assessment is correct and that the design approach proposed, including density, is compliant with the Design Code for Heyford. The proposals will safeguard the character and appearance of the Conservation Area and they comply with the principles set down in Policy Villages 5 for design and place shaping.

Impact on Heritage Assets

- 9.17. Trenchard Circle is on the periphery of the Conservation Area. There are no designated heritage assets within the site or in proximity to it.
- 9.18. Phases 5C and 8D are slightly different in consideration. Phase 8D's location is at the centre of the former Base's main developed area known as the Technical Site and therefore also at the heart of the Conservation Area. It is located south of the flying field sandwiched between Camp Road, which defines the southern boundary of the technical area, and the southern taxiway of the flying field itself. Access to the Technical Site is via the guarded main entrance off Camp Road. From the Guard Block at the entrance there is a trident of three roads that give access into the application site. The northern boundary of the technical area is defined by an arc of four Type 'A' hangers that essentially act as a visual stop to the application site. There was a wide range of building styles, the result of infill building, and in places the structures appear cramped one upon another. However the presence of trees and the use of spaces between buildings for parking (rather than building) gives a

more planned appearance in places and a “campus” feel. On the application site those buildings have now largely been demolished.

- 9.19. Phase 5C is on the southern side of Camp Road, again at the heart of the Conservation Area. On the application site those buildings have again been demolished. There are two trees in the southwest corner that are part of the character of the site. These are retained and an open space set around them.
- 9.20. It can be seen from the plan below, copied from the Conservation Appraisal, that no heritage assets on Phases 5C and 8D are listed or scheduled. However, in the Technical Area but outside the application site are a number of buildings that whilst not listed are of local significance, namely Buildings 74, 52, 100, 103, 125 and 151. Beyond the semi-circulatory road to the west are the scheduled Hardened Telephone Exchange (129) and beyond that, the Battle Command Centre (126). Building 129 is on the other side of the road from parcel 8D but the relationship remains similar in so far as the substantial tree belt on the northern edge of the application site remains and the buildings behind it have a similar juxtaposition to those previously on site.



- 9.21. Turning to the guidance to Planning authority's contained in the Framework and the NPPG on the historic environment, the applicants have assessed the site's heritage assets and their significance. The applicants have submitted supporting documentation to assess the heritage assets affected by this application. They list those identified above and point out they are not on the site and further separated by distance, verges, trees, etc. This physical separation is also extended by a landscape character and functional separation as set out in the 2006 Character Assessment. They conclude that the setting changes but their individual or collective heritage, historic or functional value remains.
- 9.22. The assessment of the site in its broader context and impact on the Conservation Area also goes back to the 2006 Landscape Assessment which considered the area to be of low significance, a view reinforced by the Environmental Statements submitted with the two outline applications approved at appeal in 2010 and subsequently consented in 2011. The main elements of significance are, for Phase

5C the trees and for phase 8D, the road layout and its reinforcement by strong avenues of trees. These are maintained and reinforced by this scheme therefore preserving and enhancing the character and appearance of the Conservation Area. It is concluded the proposal complies with the parameters of the outline permission, the relevant details of the Design Code and the policies of the development plan relating to the historic environment.

9.23. 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.

9.24. Para 192 (formerly 131) of the Framework advises: “In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

9.25. Para 193 and 194 (formerly para 132) go on to advise: “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. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.”

9.26. These views have already been tested at appeal albeit under a slightly different scenario, and also when applications for reserved matters were previously submitted for the three parcels and by the Council when it drew up development guidelines for the former base. In all cases it was considered that it is not only the built form that contributes to the special character of the conservation area, but the significant spaces and the relationships of buildings that frame them. These often functional relationships also assist with an understanding of how the air base worked. The retention of such spaces not only retains a link with the past, it will assist with creating a legible place and one with a sense of distinctiveness. These key spaces have been retained and incorporated into the master plan for the new settlement including the trident road layout that forms the basis of the layout of the technical core fanning out from the main entrance.

9.27. This road layout was the mainstay of Sir Hugh Trenchard’s plan for the development of the site in the 1920s. It reinforces the importance of the Guard House and Station Offices, provides an instantly legible movement pattern amidst a disparate collection of buildings, enjoys substantial avenue tree planting within a campus style layout and was considered to be easy to integrate into the new settlement. These main assets are retained and enhanced in the current scheme and it is the spaces in

between that were seen as suitable for development, none of the remaining physical structures being so significant to be worthy of retention.

- 9.28. Furthermore, under para 195 (formerly para 133) of the Framework, the Authority also has to consider if there is substantial harm or loss of an asset whether “substantial public benefits are achieved, the nature of the heritage asset prevents all reasonable uses of the site; and no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and the harm or loss is outweighed by the benefit of bringing the site back into use.” In this case the applicants have not been asked to look at alternative uses for the buildings as their loss is not considered to cause significant harm. It is also considered the development of housing at Heyford provides substantial public benefit both in terms of securing optimum viable use, of the site, meeting the five year housing land supply and the provision of affordable accommodation.
- 9.29. The Framework goes on to say a balanced judgement will be required by the Planning Authority having regard to the scale of any harm or loss and the significance of heritage assets and in this case Officers have concluded that what is proposed still provides an opportunity for an appropriate level of new development that overall makes a positive contribution to preserve and enhance the character of and within the Conservation Area and does not cause harm to any individual asset listed on site.

Affordable Housing and Growth Deal

- 9.30. This application seeks full permission for Phases 5D, 8C and Trenchard Circle comprising the erection of 57 residential units of which 17 would be affordable provided by way of the following mix:

Affordable Housing – Rented	
No. of Beds	No. of Units
1 bed flat	7
1 bed maisonette	2
Sub Total Rented	9

Affordable Housing – Intermediate	
No. of Beds	No. of Units
1 bed flat	3
2 bed flat	3
3 bed dwelling	2
Sub Total Intermediate	8
Total Affordable Housing	17

- 9.31. The Trenchard Circle application site has an established residential use (14 units) which should be taken into account when assessing the nature and form of any planning obligations that arise. In line with this agreed approval, it is apparent that the affordable housing requirement should only be applied to the uplift in the new residential units above this established 14 unit baseline. In respect of the current Trenchard Circle proposal the policy should only be applied to the additional 17 units out of the proposed 31. In cumulative terms this would reduce the overall amount of affordable housing to be considered in light of Policy BSC3, to 43 units.
- 9.32. In terms of the Affordable Housing Provision arising from Outline Permission 10/01642/OUT, there is an outstanding requirement for 2 affordable units to be constructed if the overall quantum of 309 units is to be achieved. This remaining affordable provision relates to a need for two 1 bed maisonettes, which due to the overarching design and physical constraints, have not been provided to date in earlier phases. It is intended these two 1 bed maisonettes units are provided within the Phase 8C scheme, where they can be readily and more appropriately delivered as part of the wider apartments-based scheme proposed in that phase. When viewed alongside the retained housing baseline arising in respect of Trenchard Circle, this factor further reduces the overall cumulative housing provision to 41 units. Therefore it is to this figure of **41 units** that **Policy BSC 3** should be applied.
- 9.33. In line with the operation of Policy Villages 5 and BSC 3, and a 30% threshold of provision, a cumulative scheme for 41 units, is required to provide 12 units of affordable accommodation. As can be seen from the table above, the cumulative application proposals delivers 17 affordable units, however this includes the two units transposed from outline permission 10/01642/OUT. The true level of provision is therefore 15 units (37%), which not only complies with Policy Villages 5 and BSC 3 but clearly exceeds it by way of 3 additional affordable units.
- 9.34. As part of the OHGD, express support is given for levels of affordable housing provision which exceed normal planning requirements, such as those set out in Policy BSC 3, with such extra provision being considered under the term 'additionality'.

- 9.35. In direct response to this Government led objective, the application proposals include enhanced levels of affordable housing provision by way of three additional units of shared ownership tenure. These units are provided as 'additionality', representing additional benefits which fall outside of normal requirements and associated planning obligations. This approach in seeking to ensure additional delivery of affordable housing stock accords with the fundamental objective of the OHGD and represents a tangible and realistic opportunity to secure enhanced levels of home ownership and growth within the identified and allocated sustainable settlement of Heyford Park.
- 9.36. The proposed development has been designed to not only be policy compliant in its own right but also to complement the overall number, type and range of sizes of affordable units within the Heyford Park development in line with Local Plan Policies BSC3, BSC4 and Policy Villages 5 in this regard. Notwithstanding this predominant development plan compliance, the level of affordable housing provision exceeds policy requirements, bringing forward additional and tangible opportunities to deliver increased levels of affordable housing, thereby providing additionality in direct accordance with the overarching aims and objectives of the Oxfordshire Housing and Growth Deal, advanced by the Government. The proposed development will therefore assist in delivering an inclusive and mixed community in accordance with central Government and local objectives and, accordingly, is considered acceptable in this regard.

Ecology

Legislative context

- 9.37. 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.
- 9.38. 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.
- 9.39. 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.
- 9.40. 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.

9.41. 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

9.42. 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.

9.43. 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.

9.44. 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.

9.45. 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.

9.46. 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.

9.47. 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.

9.48. The Planning Practice Guidance dated 2014 postdates 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

9.49. 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')

9.50. In respect of ecological matters, the application is accompanied by an Extended Phase 1 Habitat Survey Update prepared 4 Acre Ecology Limited (Issue 1 28/2/19), which has been carried out across all three application sites. The survey notes that all three application sites have been subject to clearance works, with little habitat remaining.

9.51. The survey highlights that:

- Phase 5D consists almost entirely of hard-standing and bare earth with two trees (to be retained in the proposals) and one laurel hedge (to be removed);
- Phase 8C consists of hard-standing, bare ground and amenity grassland with mature trees (which are to be retained);
- Trenchard Circle was subject to clearance work to demolish the original 14 bungalows, carried out in 2016 with an associated bat survey and avoidance method statement. Since that time vegetation has grown across the site with a area of shallow water located in to the north eastern corner of the site.

9.52. Overall the recent survey concludes that there is no ecological interest arising from the Phase 5D application site, with the sole limiting factor being the need for development proposals to avoid the bird nesting season, given the retained trees. In respect of Phase 8C, the survey reached a similar conclusion that given the retained trees, the timing of works to avoid the nesting season was the only ecological constraint. With regard to Trenchard Circle, the survey noted that the application site

is within 250m of off-site ponds where Great Crested Newts (GCN) has been found to be previously present.

- 9.53. Given the existence of a suitable GCN habitat pond in the NE corner of the Trenchard Circle site, the survey highlights that a further survey to assess the presence or otherwise of GCN will be required at the appropriate time. Depending on the outcome of this survey, a GCN translocation survey and mitigation strategy may be required, which can form part of an overall site mitigation plan for GCN.
- 9.54. Alongside this GCN strategy, the survey also recommends the inclusion of bat boxes or similar within the Trenchard Circle proposals. Additional enhancements by way of eight bird boxes around Trenchard Circle, two around Phase 5D and four around Phase 8C are also recommended. These mitigation and enhancement strategies can be readily secured within the application proposals and / or as part of the wider NSA agreed mitigation strategies.
- 9.55. In conclusion the Council's ecologist has no in principle objection but recommends a number of conditions are imposed if permission is granted. With these safeguards and enhancement in place, ecological interests can be protected in line with NPPF paragraphs 174 and 175.

Flooding and Drainage

- 9.56. The site lies within Flood Zone 1 (low risk). A Flood risk assessment has nevertheless been undertaken by the applicants. As the site is in Zone 1 redevelopment of the site for residential development is not precluded. Surface water discharge from the site can be discharged to a new drainage system that can be SuDS compliant. OCC, the Local Flood Risk Authority, will need to see the results of any site soil infiltration investigations and the method of surface water drainage being utilised as a result of further investigations which would need to be conditioned. A separate foul drainage system is proposed.
- 9.57. The Environment Agency did initially object but following receipt of a revised and updated assessment that objection has now been withdrawn although conditions are recommended.

Landscape Impact

- 9.58. Loss of green spaces has been mentioned in a public response but all these sites are allocated for development and/or have extant planning permissions. Technically they are all brownfield sites.
- 9.59. However, the landscape setting is an important part of the character of Heyford. The existing roads are lined with verges and mature trees which are retained within and supplemented by additional planting. This character is retained by tree planting in strategic positions and by blocks of development being slotted into the landscaped areas. The open space is retained around the trees to enhance the visual environment and in addition for use as amenity area on Phase 5C. Further landscaping is proposed to which the Council's Landscape Officer has no objection.
- 9.60. The applicant has set up a management company responsible for maintenance of the landscaping at Heyford Park. This keeps control of some of the hedging and trees in the public domain. It is concluded that what is provided is therefore an environmental enhancement in compliance with Policy Villages 5.

Impact on Residential Amenity

- 9.61. Concern has been expressed by residents of the new houses in Hampden Square to the rear of the development proposed in Trenchard Circle. However the development is unlikely to have an adverse impact to justify refusal of planning permission. The new houses are 2 storeys and with a back to back distance of over 20 metres between the properties so any overlooking or overshadowing would be within the normal parameters of acceptability at Heyford.
- 9.62. Impact from noise during the construction phase is also a concern and obviously the developer will need to comply with other legislation enforced by the Environmental Health Officer.

Traffic, Access and Parking

- 9.63. The comments of the Highway Authority are awaited and members will be updated at Committee. It is understood that whilst there are concerns from the amount of development and its likely impact on the highway network, these can be overcome by conditions and mitigation secured by legal agreement.
- 9.64. All three sites have access to Camp Road via the existing highway network and being only a short distance from Camp Road will benefit from being adjacent to that primary route for the bus service. They are also close or adjacent to the proposed village centre, school and other services are reasonably close and therefore this part of the development site is an accessible and sustainable one as required by Policy Villages 5. The layout and level of parking reflects the standard set out in the Design Code. The parking for the flats is in shared areas and integrated into the public realm. Cycle parking is provided in stores for the flats and sheds for the houses.

Planning Obligations

- 9.65. Dorchester accepts their application should be determined in accordance with the Development Plan, unless material considerations indicate otherwise, and acknowledge the requirements of Policy Villages 5 to require delivery of infrastructure provision. Heads of terms have broadly been agreed between the applicant, the Council and County Council in relation to mitigating the impacts arising from the additional units proposed in this application.
- 9.66. There are 6 main headings for infrastructure in the Local Plan:
- Education
 - Health
 - Open space,
 - Community
 - Access and Movement
 - Utilities
- 9.67. These would be supplemented by others from the s106 SPD for example Employment Skills and Training Plan but more significantly towards the conservation of heritage interests
- 9.68. Where on and off site infrastructure needs to be secured through a planning obligation (i.e. legal agreement) the obligation(s) must meet statutory tests set out in regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). Each obligation must be:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development;
- c) fairly and reasonably related in scale and kind to the development.

9.69. Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. To do so would potentially render any decision unlawful. 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. The statutory tests also ensure that planning permissions cannot lawfully be 'bought' by developers offering unrelated, disproportionate but nonetheless attractive contributions to try to achieve a planning permission that would otherwise not be granted. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them.

9.70. In order for the proposed development to be acceptable having regard to local and national planning policy requirements, officers recommend that the following items need to be secured via proportionate planning obligations within a legal agreement (with both Cherwell District Council and Oxfordshire County Council) in order to mitigate the impact of the proposed development:

Cherwell District Council:

- Provision of 30% affordable housing (70% affordable rent, 30% social rent);
- Financial Contribution towards the conservation of heritage interests;
- Financial contribution towards off-site improvements to indoor and outdoor sports facilities;
- Financial contribution towards provision in Heyford of Health Centre/Health Care provision/Nursery/Police Facility/Place of worship;
- Financial contribution in lieu of on-site provision of allotments;
- Financial contribution towards additional cemetery provision at Heyford;
- Financial contribution towards expansion/provision of Community Hall and other local facilities;
- Financial contribution towards Community Development Worker;
- Public Art: There will be a requirement to provide public art either on site to enhance a new communal area or community resource or offsite to encourage community cohesion and improve cultural infrastructure;
- Provision, maintenance and transfer to the Council of on-site public realm features including open space, trees, hedgerows, SuDs features etc.;
- Employment Skills and Training Plan including provision of apprenticeships.

Oxfordshire County Council:

- A Financial Contribution of £848,975 towards:
 - Nursery & Primary education
 - Secondary education:
 - Land

It is also expected proportionate financial contributions will be required towards:

- Mitigation package for Policy Villages 5, which will include improvements to a number of junctions off site and traffic calming in villages. Other measures may also be recommended;

- Provision of new bus services linking the site to Oxford and Bicester, in accordance with the public transport strategy yet to be finalised for the Policy Villages 5 Allocation;
- Bus stops on Camp Road serving the development procuring, installing and maintaining a pair of bus stops on Camp Road, to include provision of shelters and pole/flag/information cases;
- Travel Plan monitoring fee;
- Off-site rights of way improvements required by Policy Villages 5 masterplan.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the Development Plan unless material considerations indicate otherwise. 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. For the reasons set out in the report, officers have found that the proposals are consistent with the policies of the Development Plan including, in particular, Policy Villages 5. As such, the starting point is to approve the application.
- 10.2. It is then necessary to consider whether any material planning considerations indicate otherwise. National planning policy and guidance is one such consideration and includes a presumption in favour of sustainable development. The Council can demonstrate 5+ years of housing supply within the District and the policies of the CLP were examined and found sound (subject to incorporation of modifications) against the provisions of the NPPF. As such, there is no reason to conclude that its policies are anything other than sustainable, up-to-date and consistent with the NPPF. As a result, the NPPF does not indicate a reason to depart from the decision that would otherwise be reached against the provisions of the Development Plan. Officers are unaware of any other material consideration of significant weight, including matters raised in response to consultation/publicity, that would justify departing from the decision that would be taken against the Development Plan.
- 10.3. It is considered this scheme will help form areas with distinct characters appropriate to their setting and surroundings and that reflect the policies of the Development Plan. The buildings on each parcel are of a scale and have a variety of designs reflecting a contemporary style reflecting the arts and crafts and military style seen elsewhere that is reflective of the character of Heyford. Taken together they form an appropriate form of development. They provide a decent standard of amenity inside and outside the properties. As a result, officers have concluded that subject to no fundamental adverse comments from the County Council, Committee should be minded to approve the application and planning permission be granted subject to conditions and the completion of a legal agreement. In coming to this conclusion officers are conscious that negotiation still needs to take place on the agreement before the permission can be issued and in particular completion of the transport modelling.

11. **RECOMMENDATION**

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY TO **GRANT PERMISSION SUBJECT TO NO OBJECTIONS FROM** OXFORDSHIRE COUNTY COUNCIL **AND SUBJECT TO CONDITIONS** (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 ITEMS SET OUT IN PARAGRAPH 9.69 (AND ANY AMENDMENTS AS DEEMED NECESSARY)

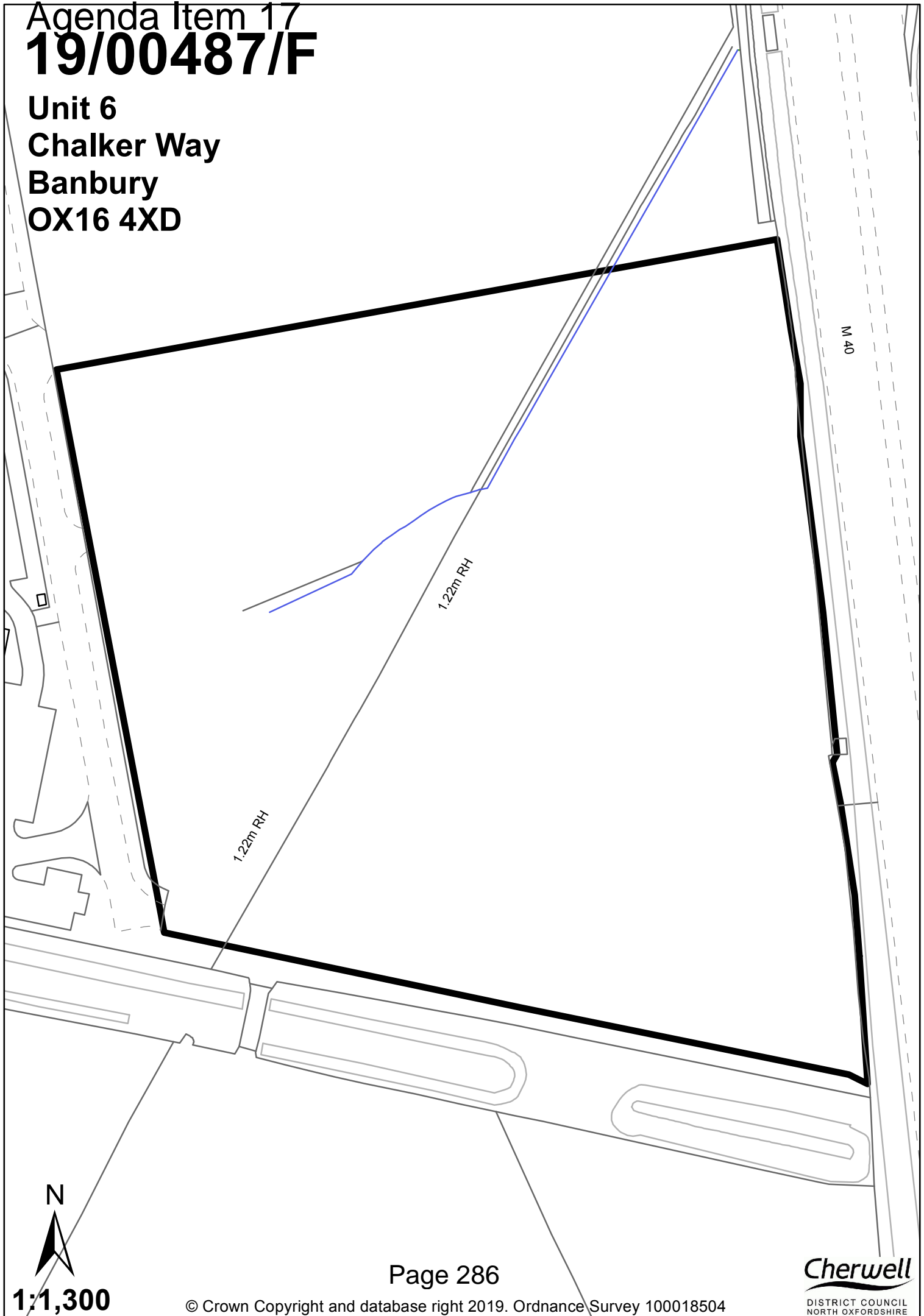
As formal comments are awaited from Oxfordshire County Council, a full list of proposed conditions and heads of terms will be provided in the written updates.

CASE OFFICER: Andrew Lewis

TEL: 01295 221813

Agenda Item 17
19/00487/F

**Unit 6
Chalker Way
Banbury
OX16 4XD**



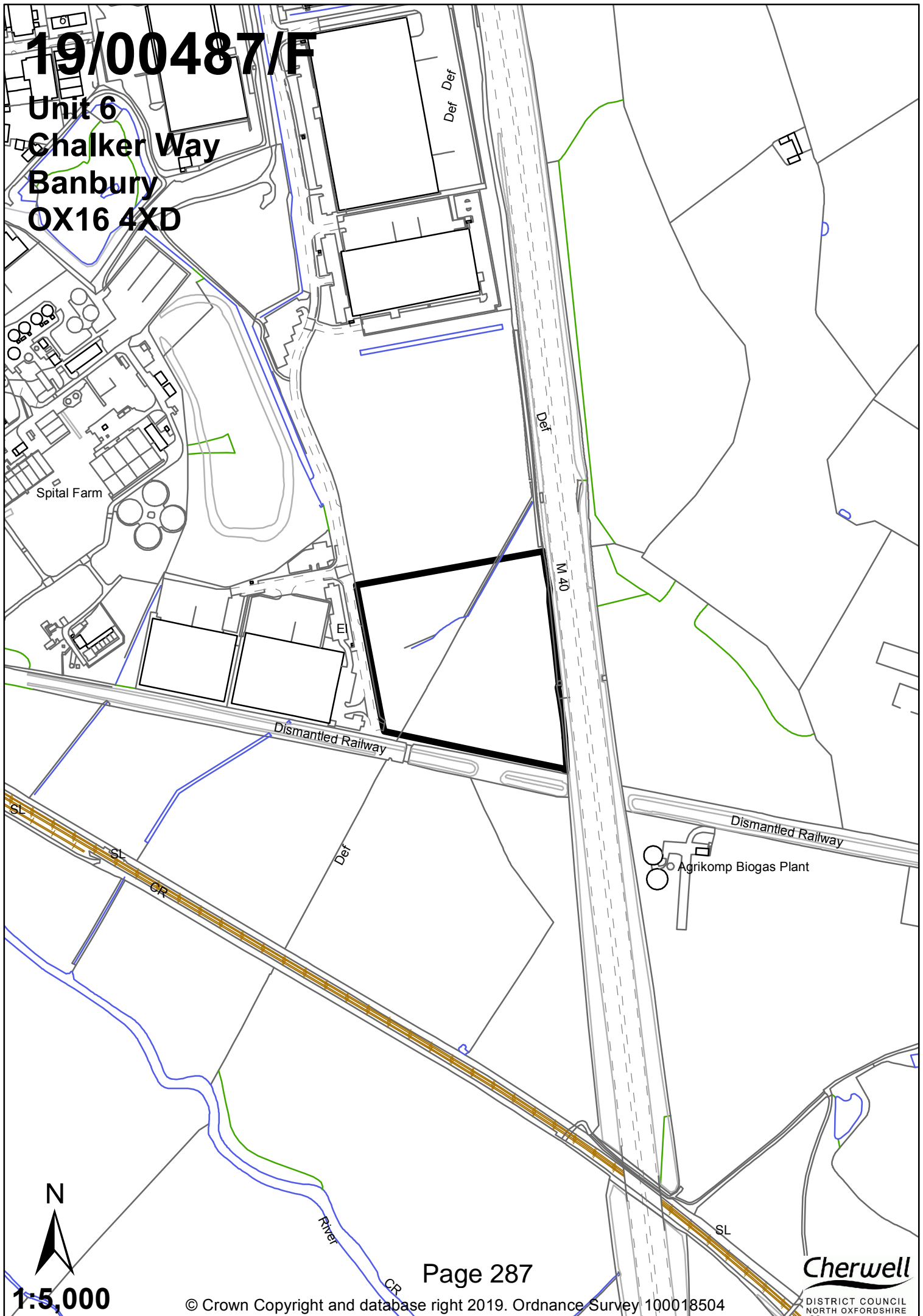
19/00487/F

Unit 6

Chalker Way

Banbury

OX16 4XD



Case Officer: Samantha Taylor

Applicant: DB Symmetry Ltd

Proposal: Phase 2 Central M40 - Unit 6 - 17,768 sqm of logistics floorspace within Class B2 or B8, including ancillary class B1(a) offices (697 sqm), service yard and access to Chalker Way.

Ward: Banbury Grimsbury And Hightown

Councillors: Cllr Andrew Beere
Cllr Shaida Hussain
Cllr Perran Moon

Reason for Referral: Major Development

Expiry 10th July 2019

Committee Date 18th July 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO THE CONDITIONS OUTLINED WITHIN THE REPORT

Proposal

The application seeks full planning permission for the provision of a 17,768 sqm Logistics warehouse, falling within Use Class B8 and will include 697sqm of ancillary B1 floorspace with a service yard.

The application follows the grant of outline planning permission for the provision of a large scale mixed B2 and B8 development on the wider Banbury 16 sites. This development was approved subject to a height restriction of 16.25 metres. In July 2014, a revised outline application was granted, raised the building height on the Banbury 16 parcel to 16.75 metres. The current application seeks to increase the height of Unit 6 to 18.25 metres.

Consultations

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

- OCC Lead Local Flood Authority

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

- OCC Highways,

No third party representations have been received.

Planning Policy and Constraints

The application site comprises of 4 hectares on the land to the west of the M1 on land that forms part of the BAN 6 allocated site. To the north of the site lie Units 1-5 and to the west lies Units 7 and 8. To the south lies an area of existing vegetation, before open countryside and the railway line. The M40 lies to the east of the site. The site falls partly within Flood Zones 2 and 3. The site also contains the Locally Listed land to the South East of Spital Farm Sewage Works, although this falls outside of CDC control.

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
- S106 and Planning Obligations

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 comprises 4 hectares of largely flat land, within the industrial area of BAN 6 employment land allocation. Access to the site would taken from Chalker Way, that runs south from the Overthorpe Road roundabout. The land is located to the west of the M40 and in close proximity to junction 11.
- 1.2. The site is predominantly characterised by patch scrub and rough grassland. The site is visible to motorists on the M40 and there are longer distance views from Overthorpe, the road between Kings Sutton and Overthorpe and the A422 near Middleton Cheney, which are all set on a higher ridge line.

2.1. CONSTRAINTS The following are constraints to the application:

- The site falls within an area of potential contamination;
- The site falls partly within Flood Zones 2 and 3;
- The site falls within 250 of the Spital Farm Landfill Site;
- The site falls within an area of Radon Gas;

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The applications seeks full planning permission for the erection of a new B8 warehouse with ancillary B1(a) offices, service yard and access to Chalker Way.

The application has been submitted to increase the height of the unit above that restricted by way of planning condition under the earlier outline consent. The height of the unit would now be 18.25m.

- 3.2. The design of the building is also as previously approved and follows the strong pattern established by Units 3 and 4 to the north, and Units 7-8 which have recently been completed, with low barrel-vaulted roof design of distinctive and not unattractive appearance. The roof colouring is dark grey with matching eaves fascia and soffit. The wall cladding is proposed in a format consistent with that previously agreed, and used adjacent, of mid grey, at lower and higher level, with a substantial silver mid-section. The office sections are proposed with horizontal spanning composite micro-rib metal panels in silver. The combination of design and materials will give this group of buildings a distinctive character.

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>
11/01878/OUT	Erection of upto 115,197 sqm of floorspace to be occupied for either B2 or B8 (use classes) or a mixture of both B2 and B8 (use classes). Internal roads, parking and service areas, landscaping and the provision of a sustainable urban drainage system incorporating landscaped area with balancing pond and bund (OUTLINE)	Application Permitted
11/00029/SO	Screening Opinion to 11/01878/OUT - Erection of upto 115,197 sqm of floorspace to be occupied for either B2 or B8 (use classes) or a mixture of both B2 and B8 (use classes). Internal roads, parking and service areas, landscaping and the provision of a sustainable urban drainage system incorporating landscaped area with balancing pond and bund	Screening Opinion not requesting EIA
14/00175/REM	Reserved Matters to Outline application (14/00180/OUT) - Approval of appearance, landscaping, layout and scale	Application Permitted
14/00180/OUT	Variation of Condition 29 (Height of building to enable Unit 1 to be constructed to an overall height of 16.75m) of 11/01878/OUT	Application Permitted
14/00407/ADJ	Variation of conditions 25 and 29 on S/20144/1620/MAO - Change of roof colour to Goosewing Grey and alter height of Unit 1 to 16.75m.	No Objections

15/02206/REM	Reserved matters pursuant to Condition 5 (Phase 2) OF 14/00180/OUT	Application Permitted
19/00027/SO	Screening opinion to 19/00487/F - Phase 2 Central M40 - Unit 6 - 17,768 sqm of logistics floorspace within Class B2 or B8, including ancillary class B1(a) offices (697 sqm), service yard and access to Chalker Way.	Pending Consideration

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, 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 06.06.2019, 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. BANBURY TOWN COUNCIL: **No response received**

CONSULTEES

- 7.3. OCC HIGHWAYS: **no objections** subject to standard conditions in respect of width of the access, surfacing, drainage and visibility splays

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
- ESD13 - Local Landscape Protection and Enhancement
- BAN 6 – Employment Land West of M40

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

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
- Increased visual impact of the development due to the increase in height
- Impact on the nearby scheduled ancient monument and heritage asset
- Revised Conditions
- Legal Agreement

Principle of Development

- 9.2. The principle of this land being used for the provision of B8 warehousing has been established through the allocation of the land within the Cherwell Local Plan (Policy BAN 6) and the granting of outline permissions as outlined above. Furthermore, through the granting of the above outlined reserved matters applications, the Council has approved a building with this footprint, servicing and parking arrangements. The proposal seeks to implement the earlier consents and approved discharge of conditions application, but with an additional 1.5m in height, taking the building height to a maximum of 18.25m.
- 9.3. Since the determination of the outline, reserved matters and associated discharge of conditions applications, there have been no changes in policy context or local circumstances that would alter the consideration of this application and therefore the principle of development is considered acceptable, with the sole substantive issue being the assessment of the impact of the raised height.

Visual Impact

- 9.4. As noted above, the design of the building follows the strong pattern of established by the development Units 3, 4 and 5 with a low barrel vaulted roof of similar design and functional in design. Along the motorway, this building would continue the trend of stepping in from the positioning of the original buildings 1 and 2. The design quality and the distance from the motorway will result in an acceptable relationship and appearance with the M40. The provision of a 10m wide landscaping buffer along the boundary with the M40 will provide adequate screening of the service yard.
- 9.5. Views from the east near Overthorpe and the Banbury to Middleton Cheney Road are extensive over Banbury. This building would be located within the foreground of these views, but would be framed within the remainder of the town beyond, as are the existing buildings on this industrial estate. The use of a similar design to that of the existing buildings, with dark grey roofing and mixed grey elevations will help to blend the building into its surroundings.
- 9.6. There are some longer distance views from the south west of the southern end of Bankside. From here the building would also be read as part of the industrial area and would be in-keeping in scale, form and design with the surrounding buildings.
- 9.7. The principal issue is whether the increase in height of 1.5m would be harmful to the visual amenity of the area from the short or long range views. From the M40 and some closer viewpoints, it may be possible to identify an increase in height. However, the adjacent building Unit 5, has been granted consent at 18.25m with this proposal being of the same height. The increase in height from the adjacent Units 1-4 would not be unduly prominent in shorter views and would not be discernible from longer distance views. The increase in height would therefore, not detract from the composition of the building or grouping of similar buildings or appear overly dominant from the adjacent buildings or motorway/Chalker Way routes.
- 9.8. Overall, it is concluded that the increase in height would not be harmful and is acceptable.

Impact upon the Schedule Ancient Monument and Hertiage Asset

- 9.9. The Council has a duty to consider whether a development affects the significance or setting of a schedule ancient monument. The monument, the former WW1 munitions factory site is located to the east of the M40 motorway. There is also a

non-designated heritage asset, a further section of the munitions works which has largely been destroyed by the construction of the motorway.

- 9.10. The outline planning permission and subsequent reserved matters approvals for the first phase were granted in the full knowledge of the scheduled ancient monument and of the non-designated heritage asset on the western side of the motorway. In those cases, it was concluded that the development would not be harmful to the setting or significance of the scheduled ancient monument or non-designated heritage asset.
- 9.11. There have been no changes in policy context or local circumstances that would alter the previous conclusion in respect of the scheduled ancient monument and non-designated heritage asset. Therefore the proposal is considered acceptable in this respect.

Revised Conditions

- 9.12. A number of decisions have been made which discharge the requirements of the conditions imposed on the outline planning permissions. These are applicable to the current application and therefore, the recommended conditions below reflect these previous approvals.

Legal Agreement

- 9.13. The original outline planning permission was the subject of a legal agreement to secure highway contributions and the monitoring and implementation of a travel plan. That agreement was amended with respect of the second outline consent granted and will need further amendment if this permission is to be granted. A unilateral undertaking to secure the necessary contributions will be required and update will be provided to Committee on this.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The Council is committed through the land allocation outlined in Local Plan Policy BAN6 and the granting of outline planning permission. The consideration of this application should therefore be focussed upon the assessment of the impact of the increased 1.5m in height now proposed.
- 10.2. As outlined above, it is considered that the proposed increased height would not cause harm to the amenity of the local or wider area or to the heritage assets. Therefore, the proposed development is considered acceptable.

11. RECOMMENDATION

That permission is granted, (i) subject to the land-owners entering into an appropriate legal agreement and (ii) subject to the following conditions

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.

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(dwg. No. 6235-003)
- Site layout plan (dwg no 5884-060 Rev E)
- Site layout plan external finishes (dwg no 5884-066 Rev A)
- Proposed Elevations (dwg no. 6236-001)
- Proposed context elevation (dwg no 6236-002)
- Building Plan (dwg no. 5884-061 Rev A)
- Roof Plan (dwg no. 5884-062 Rev A)
- Sprinkler Tank and Pump House (dwg no. 5884-067)
- Office Floor Plans (dwg no. 5884-063 Rev A)
- Design and access statement (Dec 2011) and addendum document (April 2012)
- Architectural design statement (prepared AJA)
- Landscape and Visual Assessment addendum (prepared by Aspect dated Dec2019 ref 6870 .LVIA Addendum 002)
- Transport Assessment Technical Note (ref 07010-HYD-XX-XX-TN-TP-101-P.1.2)
- Flood Risk Assessment Technical Note (ref C07010C-Unit 6-TN-001)
- Dry Vibro Displacement Method Statement

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.

3. The drainage strategy for the site shall be in general accordance with the FRA prepared by Peter Brett Associates dated Dec 2011 and the details approved by the Council under application ref.no. 16/00354/DISC on 27th June 2016 and all works shall be complete prior to the occupation of the building

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.

4. The flood storage area and associated landscaping, ground re-profiling, and ecological enhancement shall be undertaken in accordance with the details approved by the Council under application 16/00167/DISC on 27 June 2016 ,and planting plans dwg no 4995/ASPOO1-11Rev C/D referred to in Frampton's letter dated 17 January 2018 with respect to conditions 3 and 8 of the Outline Planning permission 14/00180/OUT, and all relevant works shall be complete prior to the occupation of the building

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

5. The strategy for the translocation of reptiles, including the identification of receptor sites, the management scheme, landscaping and the arrangements for implementation. shall be undertaken in accordance with the 'Revised Reptile Mitigation Method Statement (Phase 2 Development) (February 2016 - Ref EDP1419_07f)' approved under application 15/00512/DISC on 29 February 2016

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 and Government guidance contained within the National Planning Policy Framework.

6. The development shall be implemented in accordance with the land contamination strategy set out in the Land Contamination Report, in accordance with the 'Desk Study and Ground Investigation at Overthorpe Road, Banbury - Combined Report (Hydrock Ref: R/11237/003 - March 2013)' submitted in application reference no 15/00062/DISC approved on 23 January 2017

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

7. The development shall be undertaken in accordance with the Archaeological Written Scheme of Investigation, in accordance with the documents titled "Project specification for an archaeological excavation and recording action" - 8th January 2016 (revised 25/5/16) ORB16-150exc; and "Spital Farm, Overthorpe Road, Banbury, Oxfordshire - An Archaeological Evaluation for Kennet Properties" - SFB04-60 (October 2008) submitted in application reference no 15/00062/DISC and approved by the Council on 23 January 2017

Reason - In order to determine the extent, character and significance of the surviving remains of archaeological interest and to safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Government guidance contained within the National Planning Policy Framework.

8. Landscape management and tree planting shall be undertaken in accordance with the Landscape Management Plan Ref No 4995.LMP.005.VF(March 2016) submitted as part of application 16/00167/DISC approved by the Council on 27 June 2016

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

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 and Government guidance contained within the National Planning Policy Framework.

9. Construction Traffic Management shall be undertaken in accordance with the Construction Traffic Management Plan (CTMP) for Phase 2 of the development, including full details of wheel washing facilities, a restriction on construction and delivery traffic during construction and a route to the development site. In accordance with the 'Central M40 (Units 5, 6, 7 and 8) Construction Traffic Management Plan (dated February 2016)' submitted under application ref no 15/00512/DISC and approved by the Council on 29 February 2016.

Reason - In the interests of highway safety and to safeguard the amenities of the occupants of the adjacent dwellings during the construction period and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

10. The development hereby approved shall be the subject of the Travel Plan for Phase 2 of the development, in accordance with the 'Travel Plan - Units 5, 6, 7 and 8 (March 2016)' document submitted under application ref.no. 16/00131/DISC and approved by the Council on 29 April 2016.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Policies SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

11. The existing public footpath on the site shall be protected and fenced as set out in the covering letter from Frampton's dated 5th August 2014 and the Heras Fencing details submitted in respect of S/2011/1620/MAO and received 04 February 2014 as submitted under application ref no 14/00035/DISC and approved by the Council on 9th December 2014.

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

12. The building 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.

13. The new public footpath to be provided shall be built in accordance with these details submitted under ref no 14/00259/DISC and approved by the Council on 3rd August 2015

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

14. The proposed means of access shall be provided prior to the first occupation of the building hereby approved in accordance with the details submitted under application ref no 15/00178/DISC and approved by the Council on 3 August 2015

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

15. The ecological enhancement measures relevant to this site proposed in submitted in application ref.no.16/00505/DISC and approved by the Council on 21 November 2016 shall be implemented prior to its first occupation

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 and Government guidance contained within the National Planning Policy Framework.

16. No external lighting shall be installed until details of all external lighting, security lighting and floodlighting including the design, position, orientation and any screening of the lighting has been submitted to and approved in writing by the Local Planning Authority. The lighting shall be installed and operated in accordance with the approved scheme at all times thereafter.

Reason - In order to safeguard the visual amenities of the area in accordance with Policy C28 of the adopted Cherwell Local Plan, ESD 15 of the Cherwell Local Plan 2011-2031 (Part 1) and Government guidance contained within the National Planning Policy Framework.

17. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with the approved drawings. The covered cycle parking facilities so provided shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.

Reason : In the interests of promoting sustainable transport modes in accordance with Government advice in the National Planning Policy Framework

18. The existing areas shown for parking, turning and/or loading and unloading on the approved plan(s) shall be permanently set aside and reserved for that purpose unless otherwise agreed in writing by the Local Planning Authority.

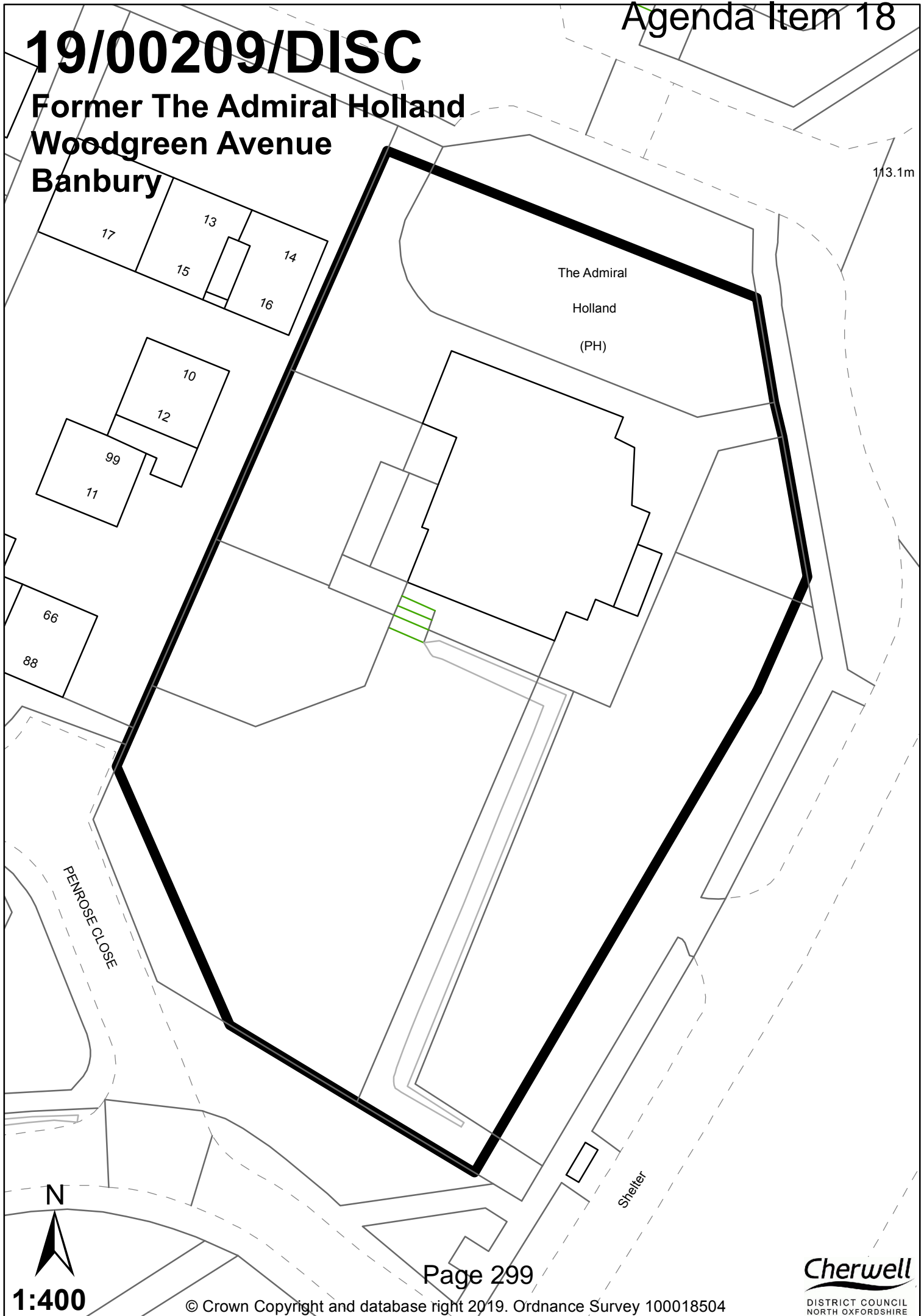
Reason - In the interests of highway safety, to ensure the provision of adequate offstreet lorry and car parking and turning/loading/unloading and to comply with Government guidance contained within the National Planning Policy Framework

CASE OFFICER: Samantha Taylor

TEL: 01327 322247

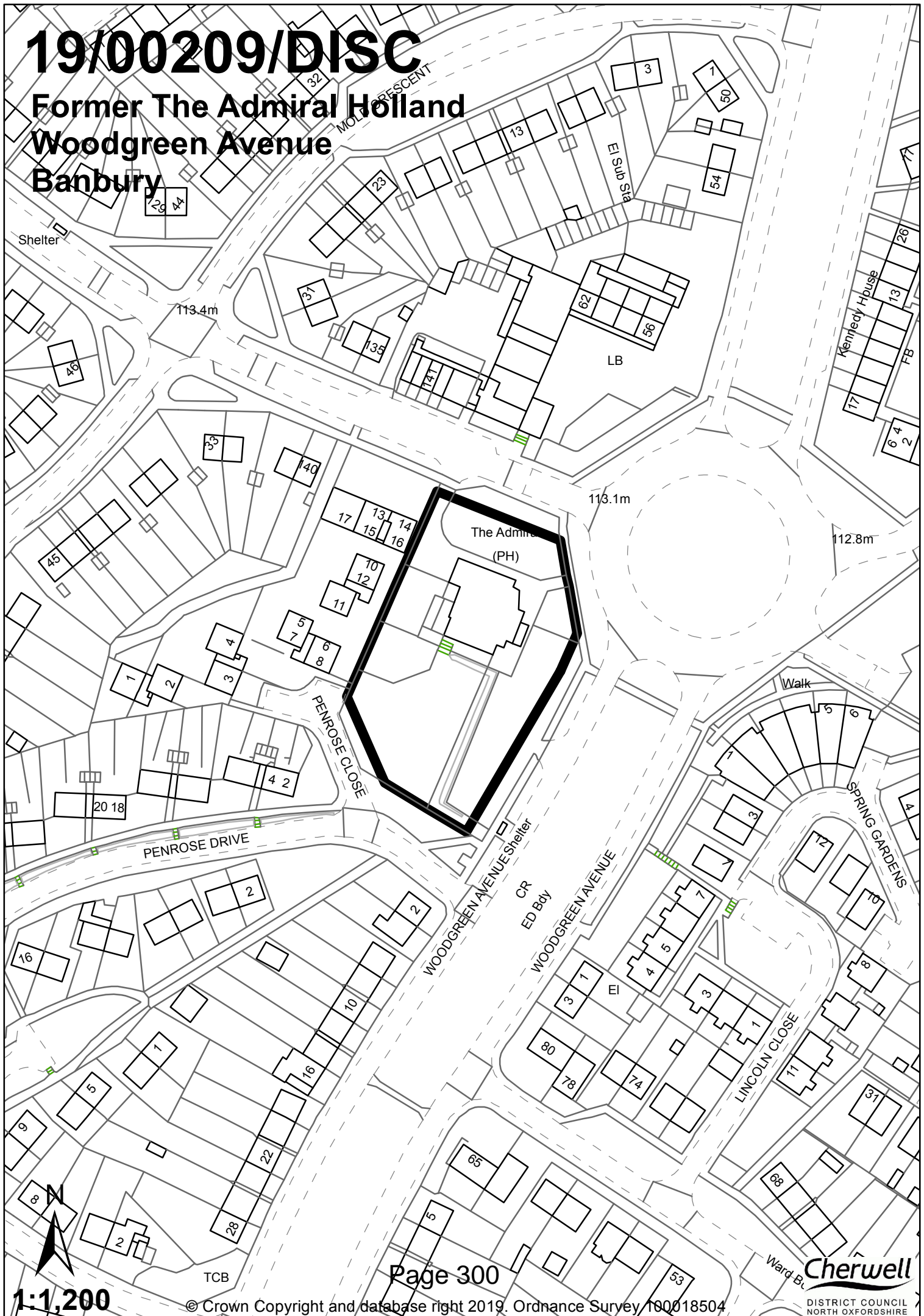
19/00209/DISC

**Former The Admiral Holland
Woodgreen Avenue
Banbury**



19/00209/DISC

Former The Admiral Holland
Woodgreen Avenue
Banbury



Case Officer: James Kirkham

Applicant: Cherwell District Council

Proposal: Discharge of Conditions 4 (sustainable construction), 5 (architectural details), 9 (boundary treatment) and 10 (external lighting) of 18/01591/CDC

Ward: Banbury Ruscote

Councillors: Cllr Barry Richards
Cllr Sean Woodcock
Cllr Mark Cherry

Reason for Referral: Application affects Council's own land

Expiry Date: 30 July 2019

Committee Date: 18th July 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION

Proposal

This application seek permission to agree the details attached to full planning approval attached to 18/01591/CDC which allowed for the demolition of the former Admiral Holland and the erection of new dwellings and flats.

Consultations

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

- CDC Environmental Health, CDC Building Control

No third party letters of objection or support have been received.

Planning Policy and Constraints

The application site lies within the built up limits of Banbury and is also situated in the area identified by Banbury 10 as Bretch Hill Regeneration Area.

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

Conclusion

The key issues arising from the application details are:

- Acceptability of details submitted in relation to each condition

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 the site of the former Admiral Holland public house in Banbury. It is situated to the south of The Fairway and to the west of Woodgreen Avenue adjacent to the roundabout. A small group of commercial uses including a shop and takeaway exist to the north of the site. A number of residential apartments exist to the west of the site.

2. CONSTRAINTS

- 2.1. The site lies in the Bretch Hill Regeneration Area as identified by Policy Banbury 10 of the Cherwell Local Plan Part 1 2015. The site contains a number of trees, in the northern and south-west areas of the site. The site is located on approximately 1 metre higher ground than The Fairway.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. This application seek permission to agree the details attached to full planning approval attached to 18/01591/CDC which allowed for the demolition of the former Admiral Holland and the erection of new dwellings and flats. Approval is sought for details concerning:
- Carbon reductions (condition 4)
 - Architectural details (condition 5)
 - Boundary treatment (condition 9)
 - External lighting (condition 10)

4. RELEVANT PLANNING HISTORY

- 4.1. Other than the planning permission to which this current application relates, there is no relevant planning history.

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 not been publicised as the Regulations do not require such publicity or consultation.

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 ENVIRONMENTAL PROTECTION: **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)

- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD10 – Natural Environment
- ESD15 – The Character of the Built and Historic Environment
- BAN10 – Bretch Hill Regeneration Area

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- C30 – Design control

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

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. Condition 4 (sustainable construction) requires that the dwelling 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. The applicant has submitted an energy statement which outlines a number of measures to improve the performance of the dwellings. This is supported by SAP calculations for the proposed dwellings which demonstrate that the proposed Dwelling Emission Rate for the units will be in excess of 19% below the Target Emission Rate (which is Building Regulations requirement). This is therefore considered to be acceptable.
- 9.2. Condition 5 (architectural detailing) requires full details of the architectural detailing of the development. These show the provision of grey framed windows and doors with a brick depth reveal and the use of brick slip reveals and lintels of the opening and recessed brick panels. These details are considered to be acceptable and will provide some depth to the elevations. Further clarification is being sought on the verge details from the applicant.
- 9.3. Condition 9 (boundary treatment) requires details of the boundary treatment. This shows the provision of brick walls with trellis to the rear parking area and the use of the existing metal palisade fencing to the rear of the site. Brick walls have been used in the most prominent positions and the use of close boarded fence is restricted to less prominent areas (i.e. to separate the rear gardens from each other). The access gate to the rear parking area has been removed. However, the apartments and dwellings will provide surveillance over this area and this is therefore considered to be acceptable. Hedge planting is proposed to the front of the site. The proposed boundary treatments are therefore considered acceptable.
- 9.4. Condition 10 (external lighting) requires the submission of external lighting to be provided. This shows the provision of 3 column lights and a number of bollard lights to the rear parking area. The Environmental Protection Officer has examined these and considers them to be acceptable.

10. RECOMMENDATION

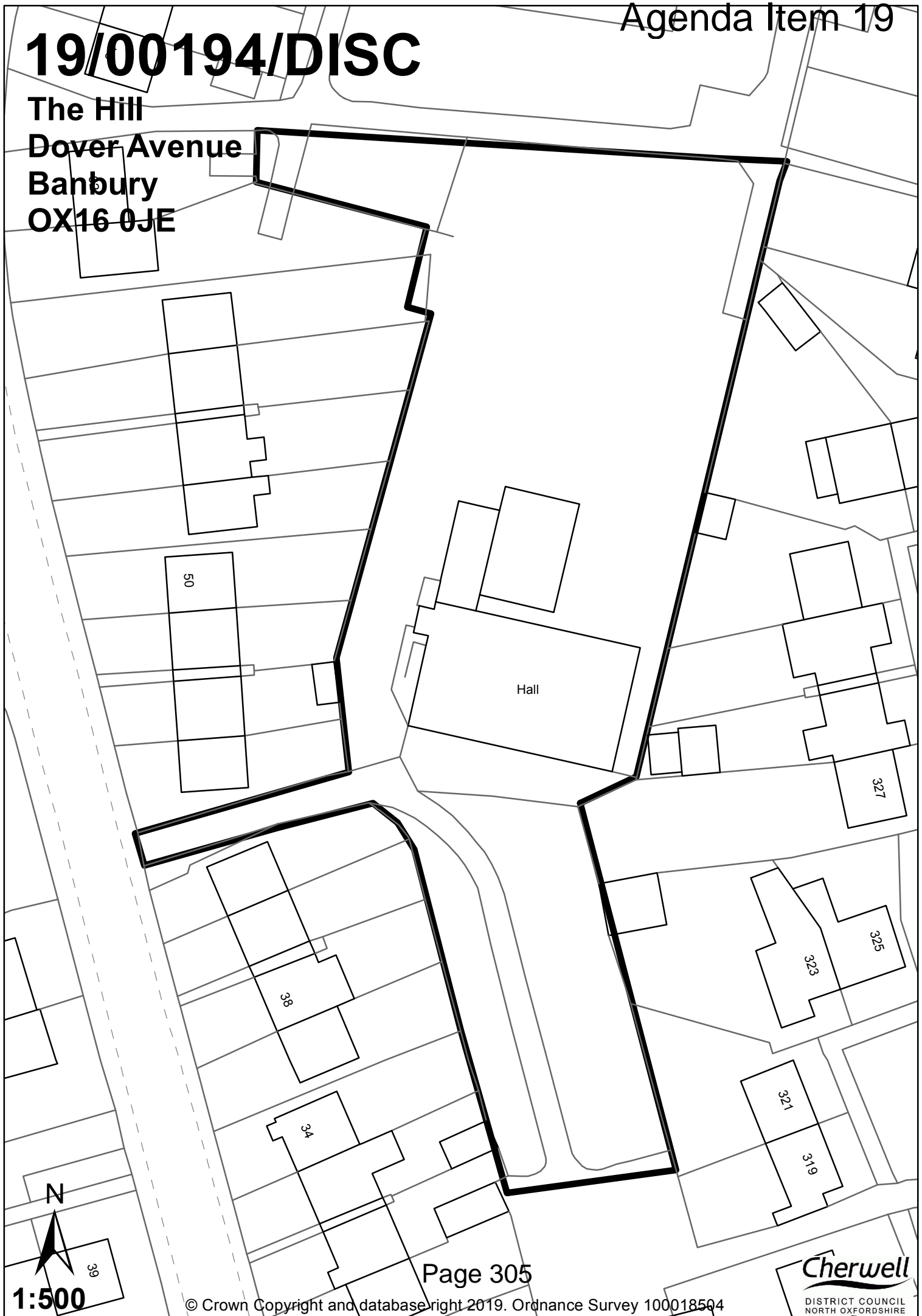
RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY TO **APPROVE THE DETAILS.**

CASE OFFICER: James Kirkham

TEL: 01295 221896

19/00194/DISC

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



Hall

50

38

34

327

325

323

321

319

39

Pond

HIGHCLERE

Play Area

Hal

143.0m

Shelter



Page 306

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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

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

19/00194/DISC

Case Officer: Matthew Chadwick

Applicant: Cherwell District Council (Build Department)

Proposal: Discharge of Conditions 8 (lighting) & 9 (external plant installation) of 18/00952/CDC

Ward: Banbury Ruscote

Councillors: Cllr Barry Richards
Cllr Sean Woodcock
Cllr Mark Cherry

Reason for Referral: Application affects Council's own land and/or the Council is the applicant

Expiry Date: 23 July 2019

Committee Date: 18 July 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION

Proposal

This application seeks the clearance of conditions attached to the full planning approval ref. 18/00952/CDC.

Consultations

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

- CDC Environmental Health

No third party letters of objection or support have been received.

Planning Policy and constraints

The application has been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance. The ground in close proximity of the site has naturally elevated levels of arsenic though this is not relevant to the current discharge of condition application.

Conclusion

The key issues arising from this application is whether the submitted details are considered to be acceptable to discharge the conditions. The Environmental Health Officer has offered no objections and the report concludes that these details are acceptable.

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 area of community land that is bounded by houses on all sides. The site is bounded to the south and west by Dover Avenue, to the north by Edmunds Road and to the east by Bretch Hill. The levels of the land drop to the north of the site and there is a play area to the north. The new community centre on the site is under construction.

2. CONSTRAINTS

- 2.1. The application site is not located within a conservation area and is not in close proximity to any listed buildings. The ground in close proximity of the site has naturally elevated levels of arsenic.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. This application seeks the clearance of conditions attached to the full planning approval 18/00952/CDC. Approval is sought for details concerning:
- External lighting details (Condition 8)
 - External plant installation (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>
18/00952/CDC	Variation of Condition 2 (plans) of 17/00197/CDC - Minor amendments to design of scheme	Application Permitted
18/00277/DISC	Discharge of Conditions 3 (material samples) 4 (landscaping scheme) 5 (construction, layout and drainage of car parking area) and 6 (cycle parking) of 18/00952/CDC	Application Permitted
19/00014/NMA	Non-Material Amendment to 18/00952/CDC - Change of cladding manufacturer, louvres on east and west of building and swift boxes on south and north elevations	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 not been publicised as the Regulations do not require such publicity or consultation.

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. None.

CONSULTEES

- 7.3. CDC ENVIRONMENTAL HEALTH: **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)

- PSD1 – Presumption in Favour of Sustainable Development
- BSC5 – Area Renewal
- BSC10 – Open Space, Outdoor Sport and Recreation Provision
- BSC12 – Indoor Sport, Recreation and Community Facilities
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD10 – Natural Environment
- ESD15 – The Character of the Built and Historic Environment
- BAN10 – Bretch Hill Regeneration Area

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- C30 – Design control

- 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 , and the following Policies of the Neighbourhood Plan are considered relevant:

- 8.4. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- 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. Condition 8 requires that prior to the installation of any external lighting required in association with the approved development, full details of the siting, design and technical specification of the lighting shall be submitted to and approved in writing by the Local Planning Authority. A lighting specification document and lighting plan have been received with this application. The Environmental Health Officer has offered no objections to these details and considers the details to be acceptable. Officers have no reason to disagree with this assessment.
- 9.2. Condition 9 requires that prior to the installation of any external extraction or air conditioning equipment or any other fixed plant associated with the approved development, full details of the siting, design and technical specification of the plant and equipment shall be submitted and approved by the Local Planning Authority. Plans have been submitted providing these details; the Environmental Health Officer has offered no objections to these details and considers the details to be acceptable. Officers have no reason to disagree with this assessment.

10. 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)

CASE OFFICER: Matthew Chadwick

TEL: 01295 753754

Cherwell District Council

Development Management Committee

18 July 2019

Planning Enforcement Report

Report of Interim Senior Manager – Development Management

1.0 Purpose of report

- 1.1 To update the Committee on the work of the Cherwell Planning Enforcement Team and to initiate a regular Enforcement Update Report that will be presented at future Planning Committees.

2.0 Recommendations

- 2.1 The meeting is recommended
 - 1.1 To note the contents of the report; and
 - 1.2 To provide feedback regarding the format and frequency of future Enforcement Update Reports.

3.0 Executive Summary:

- 3.1 This report provides an overview of the work of Planning Enforcement over the last 12 months and proposes actions to improve the service offered. It also sets out a draft proposed regular update report to the Committee.
- 3.2 At the beginning of July 2019 there were 356 live planning enforcement cases and between 1 July 2018 and 30 June 2019, the Enforcement Team investigated and closed 575 cases and over the same period received 425 new cases. Whilst the number of live cases has dropped from over 600 in April 2018 there is need to improve the service offered so, where it is justified, action is taken in a more timely manner. There is also a need to improve communication relating to enforcement investigations to all interested parties.
- 3.3 To improve the Planning Enforcement Service, it is proposed to build on actions that have already been implemented in the last 12 months and to also undertake a review and to prepare and implement an improvement plan. I
- 3.4 It is also proposed to initiate a regular Enforcement Update Report that would form part of the Planning Committee agendas in the future. This will provide information on what enforcement activity has taken place.

4.0 Introduction

- 4.1 The Planning Enforcement Team are responsible for investigating alleged breaches of planning control and taking formal enforcement action when necessary in line with the Council's adopted enforcement policy and national planning legislation and guidance. The Team is also responsible for the monitoring of conditions on new developments and in April 2018 took over the responsibility for the monitoring of S106 Obligations.
- 4.2 The Council adopted a Local Enforcement Plan in 2016 which sets out the enforcement priorities, the powers available to the Council and other information relating to planning enforcement. Not all enforcement complaints reported to the Council involve a breach of planning control: many are resolved through negotiation; some, whilst there is breach of planning control, are closed where there is no planning justification to take enforcement action; and a relatively small proportion have formal enforcement action taken.
- 4.3 The Team comprises a team leader, 2 FTE enforcement officers, 2 FTE development monitoring officers and 1 FTE S106 monitoring officer. The Team also has 2 temporary enforcement officers who will be in post until September and December 2019 who have been helping to reduce the backlog of cases and progress the more complex cases.

5.0 Review of last 12 months

- 5.1 Between 1 July 2018 and 30 June 2019, the Enforcement Team received 425 new cases and over the same period closed 575 cases. Appendix 1 provides data on the number of enforcement (and development monitoring) cases received and closed and the number of and types of notices and actions taken.
- 5.2 Since the last quarter of 2018 the number of cases closed has exceeded the number of new cases opened and at the beginning of July 2019 there were 356 live planning enforcement cases being dealt with. This is a reduction from over 600 live cases in April 2018.
- 5.3 The high number of open enforcement cases in 2018 and before was due in part to a lack of, and high turnover of staff meaning officers were each dealing with a caseload of about 130 cases.
- 5.4 There has also been a lack of communication regarding enforcement cases, both in terms of responding to enquiries and information on what action is being taken and why. There is also often an expectation that the Council will be able to resolve every enforcement complaint to the satisfaction of the complainant whereas in many cases there either is no planning breach or lack of a planning justification to act (expediency). The fact that a development does not have planning permission is not a reason that justifies enforcement action, but this is not always understood by the complainant.
- 5.5 The high number of live enforcement cases and the lack of communication has led to complainants, local community and member frustration and undermines the reputation of the Council.
- 5.6 Over the last year new (permanent and temporary) officers and a team leader have been recruited who have worked hard to investigate and resolve cases.

This has helped to reduce the number of open cases which enables the Team to focus resources on those cases prioritised by the Enforcement Plan and on the complex cases, which in some instances, may take years to close if the Council's decisions and notices are challenged through appeals and in the Courts.

- 5.7 Nevertheless, there are still a significant number of open cases and further work is needed to reduce this; to improve the timeliness of investigating complaints and to initiate action where justified and to improve communication and customer service.
- 5.8 In respect of monitoring a new development monitoring system has been set up to ensure compliance with conditions imposed on a planning permission. The aim of this is to proactively monitor certain developments (mainly new housing and other prominent sites). There are now over 170 development being proactively monitored through the lifetime of the development and further new sites are added weekly as planning permissions are granted.
- 5.9 The Enforcement Team has also taken over responsibility for monitoring S106 obligations and in the last 12 months has invoiced for over £3 million of contributions. A High Court injunction was recently secured by the team for non-payment of S106 monies.

6.0 Future actions

- 6.1 There has been a reduction in the number of enforcement cases that are unresolved but there is nevertheless, a need to continue to refine and improve the service offered. Whilst it needs to be borne in mind that not all who come into contact with the Planning Enforcement will be satisfied with the final outcome there are still actions that can be taken to keep interested parties better informed, to publicise how planning enforcement is undertaken, the timelines and what to expect in order to manage expectations regarding the service.
- 6.2 The team has initiated a review of open cases, especially the older ones to determine whether the case should be closed or if there is enough justification to require further action. Where action is justified and in consultation with legal, notices or prosecutions will be initiated.
- 6.3 The new DEF system (a planning software package) is being introduced and will enable improved recording and monitoring of enforcement cases. Once DEF is introduced for development management the other modules, including those for enforcement and S106 monitoring will be developed to enable more comprehensive monitoring and management of enforcement activity.
- 6.4 The enforcement team has already been through a full LEAN Process review which has highlighted a number of modifications that can be made to the way enforcement work is undertaken in order to provide a better level of customer service and generate efficiency savings. Some of the actions arising from the review are already underway including changes to the way breaches of planning are reported, information leaflets for all parties involved, and a full

review of all template enforcement letters. This work will continue to ensure a more responsive and consistent service is provided to all.

6.5 It is proposed that the enforcement function is kept under review and an action plan developed to identify and implement actions that will build on the work already started in order to improve further the service being provided. This would also include the monitoring and S106 elements of the work.

6.6 It is also proposed that a regular update report is presented to the Planning Committee which provides a summary of the activity of the enforcement team. An example of the type of data that could be presented is contained in Appendix 1 – the example contains information relating to the activity of the enforcement team over the last 12 months. The report will contain a short commentary as necessary. The Committee is asked to provide any feedback so that the format and frequency of reporting can be refined.

7.0 Conclusions and Reasons for Recommendations

7.1 The Councillors are asked to note the report and to endorse the further work proposed and reporting.

8.0 Consultation

8.1 None

9.0 Alternative Options and Reasons for Rejection

9.1 None

10.0 Implications

Financial and Resource Implications

10.1 None

Comments checked by:

Kelly wheeler, Principal Accountant, 01295 221570

kelly.wheeler@cherwell-dc.gov.uk

Legal Implications

10.2 None

Comments checked by:

David Mytton, Solicitor, 07392 318904, David.Mytton@Oxfordshire.gov.uk

11.0 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
1	Draft report and enforcement data
Background Papers	
None	
Report Author	Amy Sedman
Contact Information	01295 221564 amy.sedman@cherwell-dc.gov.uk

Table 1 Enforcement Cases Received and Closed

Month - 2019	New ENF Case Received	New MON case created	Closed ENF Case	Closed MON Case
1st Qtr. 2019	129	42	143	3
2nd Qtr. 2019	96	38	143	2
TOTAL (YTD)	225	80	286	5
2018				
1st Qtr. 2018	114	0	114	N/A
2nd Qtr. 2018	104	0	38	N/A
3rd Qtr. 2018	118	48	83	0
4th Qtr. 2018	78	44	199	1
TOTAL	414	92	435	1
2017				
1st Qtr. 2017	118	N/A	70	N/A
2nd Qtr. 2017	89	N/A	120	N/A
3rd Qtr. 2017	106	N/A	55	N/A
4th Qtr. 2017	84	N/A	58	N/A
TOTAL	397	N/A	303	N/A

Table 2 Enforcement Cases received and cases closed

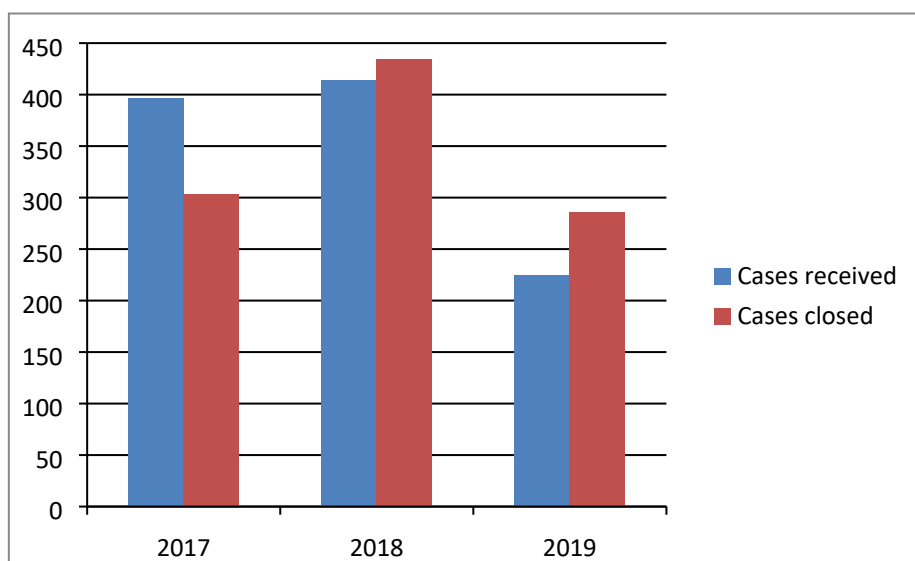


Table 3 Notices Served/ and type of action taken

Type of Notice	Period				
	2018		1 st Quarter 2019	2 nd Quarter 2019	2019 Total to date
Enforcement Notice	5		2	0	2
Stop Notice	0		0	0	0
Temporary Stop Notice	0		0	1	1
S215 – Amenity Notice	2		0	0	0
Planning Contravention Notice	8		8	9	17
High Hedge Remedial Notice	1		0	1	1
Injunction	1		0	0	0
Direct Action	0		0	0	0

Agenda Item 21

Cherwell District Council

Planning Committee

18 July 2019

Appeals Progress Report

Report of Assistant Director 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

18/00792/OUT - Land At Tappers Farm, Oxford Road, Bodicote, Banbury, OX15 4BN - Outline application (all matters reserved except for access) for the demolition of existing buildings and erection of up to 46 no dwellings, with associated works and provision of open space - To be decided by a Hearing

18/01822/F - Bicester Service Station, Oxford Road, Bicester, OX26 1BT - Re-development of the existing service station including the retention of the existing petrol filling station (PFS) and kiosk; demolition of existing restaurant building and construction of a drive-thru coffee-shop; construction of a restaurant building on land currently used for HGV parking; associated parking provision; retention of existing vehicular access from Oxford Road and reconfiguration of internal access routes to serve the development; creation of separate pedestrian/cycle access; all associated engineering and landscape works - re-submission of 17/01967/F

18/01727/F – 126 Churchill Road, Bicester, OX26 4XD - Externally re-clad and re-image an existing office and the attached industrial brick factory, storage and distribution unit. This includes splitting the existing industrial unit

into 5 separate areas with additional DDA access and Accessible WC provision to all areas.

2.2 New Enforcement Appeals

None

2.3 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:** 29.07.2019 **Decision:** Awaited

17/02394/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 **Decision:** Awaited

18/00672/OUT - OS Parcel 8233 South Of Baynards Green Farm, Street To Horwell Farm, Baynards Green - Outline development for up to 7,161 m2 of B2 and/or B8 industrial development with ancillary offices (B1a), access and landscaping.

Method of determination: Written Reps.

Key Dates:

Start Date: 08.05.2019 **Statement Due:** 12.06.2019 **Decision:** Awaited

18/00848/F – Streamways, 8 Rectory Close, Wendlebury, OX25 2PG – Appeal by Mr and Mrs Hooke against the refusal of Planning Permission for Erection of new detached dwelling with integral garage.

Method of determination: Written Reps.

Key Dates:

Start Date: 11.03.2019 **Statement Due:** 15.04.2019 **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

18/01332/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:** 15.10.2019 **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

18/01501/F – The Pheasant Pluckers Inn, Burdrop, Banbury, OX15 5RQ - Change of use from Class A4 (ACV Listed) to Class C3 dwellinghouse.

Method of determination: Written Reps.

Key Dates:

Start Date: 17.05.2019 **Statement Due:** 21.06.2019 **Decision:** Awaited

18/01734/F – 13 Longford Park Road, Banbury, OX15 4FU – Appeal by Mr J Pickup against the refusal of Planning Permission for RETROSPECTIVE - Brick wall with pier caps.

Method of determination: Householder (Fast Track)

Key Dates:

Start Date: 14.03.2019 **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

18/02046/F – 2 Hudson Street, Bicester, OX26 2EP - 2 No one bed bungalows

Method of determination: Written Reps.

Key Dates:

Start Date: 07.05.2019 **Statement Due:** 11.06.2019 **Decision:** Awaited

18/02056/OUT – Land North of Merton Road, Ambrosden - OUTLINE - Erection of up to 84no dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Merton Rd - All matters reserved except for means of access.

Method of determination: Public Inquiry

Key Dates:

Start Date: 20.05.2019 **Inquiry Date:** 20.08.2019 **Decision:** Awaited

19/00163/F - Part Land East And Adj To Roundabout At Junction Of Bicester Road, Launton - Erection of accommodation building and

associated ancillary external works to accommodate gas fuelled demand response electric generation facility to support the National Grid.

Method of determination: Written Reps.

Key Dates:

Start Date: 30.04.2019 **Statement Due:** 04.06.2019 **Decision:** Awaited

Enforcement appeals

None

- 2.3 Forthcoming Public Inquires and Hearings between 18 July and the 15 August.

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

Inquiry Date: 29.07.2019 (5 days 13:00 start on first day)

2.4 **Results**

Inspectors appointed by the Secretary of State have:

1. **Dismissed the appeal by Mr P Greenslade for 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). Greene House, Brill Road, Horton Cum Studley, Oxford, OX33 1BZ – 18/01926/F (Delegated)**

The Inspector supported the Council's changes to the description of development.

The Inspector considered the main issues to be (i) whether the development is inappropriate development in the Green Belt, (ii) the effect on the openness of the Green Belt and (iii) if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

The Inspector noted that planning permission had been given in 2017 for a similar but smaller building on the site. The Inspector disagreed with the appellant's contention that the 2004 permission for the dwelling envisaged a new garage being provided but found nonetheless that permission had been granted for a garage in 2017, and held that the proposal had to be assessed on its own merits based on current local and national policy relating to new buildings in the Green Belt. In addition the Inspector was not persuaded that the appeal decision in Chiltern District (raised by the appellant) was directly comparable to the appeal proposal.

The Inspector agreed with the Council that the garage was inappropriate development in the Green Belt, and was by definition harmful to the Green Belt. The Inspector also found the garage to be harmful to the openness of the Green Belt and the purposes of including land in it. Even when comparing it with the approved outbuilding, the Inspector noted there would be some additional harm to openness due to the increased footprint and height.

Turning to the 2017 permission, the Inspector found the footprint of the building erected not significantly beyond that of the 2017 approval, but found the increase in height to have increased the building's prominence, reduced its subservience and resulted in a greater impact on the openness of the Green Belt, therefore only attaching moderate weight to the 2017 approval as a fallback position.

Lastly the Inspector held that the appellant's contentions (a) not to have intentionally increased roof volume, and (b) that the increase in height over that originally approved could have been carried out at a later date did not justify allowing the appeal, noting that any further changes to the size of the building would have required planning permission.

The Inspector concluded that the outbuilding is inappropriate development within the Green Belt, not outweighed by other considerations, that very special circumstances did not exist, and accordingly dismissed the appeal.

2. Allowed the appeal by Mr W Ellis for Shed to store bicycles and garden tools and a wood store - (Retrospective). The Courtyard, South Side, Steeple Aston, Bicester, OX25 4RU – 18/01305/F (Delegated)

This appeal relates to a garden shed which has been constructed to the side of a new-build infill dwelling which abuts the Steeple Aston Conservation Area. The retrospective application was refused because the shed was deemed to fail 'to contribute positively to the surrounding built environment, including the setting of the Steeple Aston Conservation Area'.

The Inspector found that whilst visible from the public realm, including the Conservation Area, "these views are relatively contained from the west due to its siting on the cottage, and to the east by the landscaped boundary treatment of the property on the opposite side of the lane to the east. The overall effect is such that the shed is only visible for a very limited and contained stretch of the road frontage and the private lane".

The Inspector goes on to state that "the shed has a neutral and natural colour. The colour blends with the appearance of the stone of the existing cottage and the structure does not appear as excessively obtrusive" and that "the shed is in-keeping with the scale of the cottage and its natural materials and colour assist in it blending in with the existing property". Although Officer questioned this positive assessment of the shed, the Inspector found that it did not result in material harm to the character or the area or the setting of the Conservation Area and the appeal was therefore allowed.

3.0 Consultation

None

4.0 Alternative Options and Reasons for Rejection

- 4.1 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.

5.0 Implications

Financial and Resource Implications

- 5.1 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

- 5.2 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

- 5.3 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

6.0 Decision Information

Wards Affected

All

Links to Corporate Plan and Policy Framework

A district of opportunity

Lead Councillor

Councillor Colin Clarke

Document Information

Appendix No	Title
None	
Background Papers	
None	
Report Author	Sarah Stevens, Interim Senior Manager, Development Management
Contact Information	sarah.stevens@cherwell-dc.gov.uk