

# Public Document Pack



**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Committee:** Planning Committee  
**Date:** Thursday 14 November 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 George 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 Timothy Hallchurch MBE  
Councillor Tony Mephram  
Councillor Richard Mould  
Councillor Fraser Webster  
Councillor Barry Wood

Councillor Surinder Dhesi  
Councillor Tony Ilott  
Councillor Ian Middleton  
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 - 35)

To confirm as a correct record the Minutes of the meeting of the Committee held on 24 October 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 Development

This will be circulated at the meeting.

## **Planning Applications**

8. **Land North and West of Bretch Hill Reservoir Adj to Balmoral Avenue, Banbury** (Pages 38 - 72) **19/01811/OUT**
9. **Exham House, Bloxham School, Banbury Road, Bloxham, Banbury, OX15 4PE** (Pages 73 - 86) **19/01160/F**
10. **65 Bicester Road, Kidlington, OX5 2LD** (Pages 87 - 106) **19/01082/F**
11. **Land East of South View and South of School Lane, Great Bourton** (Pages 107 - 132) **19/01808/F**

## **Review and Monitoring Reports**

12. **Appeals Progress Report** (Pages 133 - 139)

Report of Assistant Director Planning and Development

### **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.

### **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](mailto:democracy@cherwellandsouthnorthants.gov.uk) or 01295 221591 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 Lesley Farrell, Democratic and Elections  
[democracy@cherwellandsouthnorthants.gov.uk](mailto:democracy@cherwellandsouthnorthants.gov.uk), 01295 221591

**Yvonne Rees**  
**Chief Executive**

Published on Wednesday 6 November 2019

## Cherwell District Council

### Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 24 October 2019 at 4.00 pm

Present: Councillor James Macnamara (Chairman)

Councillor John Broad  
Councillor Phil Chapman  
Councillor Colin Clarke  
Councillor Ian Corkin  
Councillor Chris Heath  
Councillor Cassi Perry  
Councillor Lynn Pratt  
Councillor George Reynolds  
Councillor Barry Richards  
Councillor Les Sibley  
Councillor Katherine Tyson

Substitute Members: Councillor Barry Wood (In place of Councillor Mike Kerford-Byrnes)  
Councillor Douglas Webb (In place of Councillor Hugo Brown)

Apologies for absence: Councillor Maurice Billington  
Councillor Andrew Beere  
Councillor Hugo Brown  
Councillor Simon Holland  
Councillor David Hughes  
Councillor Mike Kerford-Byrnes

Officers: Sarah Stevens, Interim Senior Manager – Development Management  
Nat Stock, Minors Team Leader  
Caroline Ford, Principal Planning Officer  
Linda Griffiths, Principal Planning Officer  
Lewis Knox, Planning Officer  
Jennifer Crouch, Solicitor  
Lesley Farrell, Democratic and Elections Officer

## 79 Declarations of Interest

### **8. Proposed Himley Village, North West Bicester, Middleton Stoney Road, Bicester, Oxfordshire.**

Councillor Les Sibley, Non Statutory Interest, as a member of Bicester Town Council an which had been consulted on the application.

Councillor Lynn Pratt, Non Statutory Interest, as a member of Bicester Town Council an which had been consulted on the application.

**9. Land North of Park and Ride, Adj To Vendee Drive, Bicester.**

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

Councillor Colin Clarke, Declaration, as a member of the Executive and would leave the Chamber for the duration of the item.

Councillor George Reynolds, Declaration, as a member of the Executive and would leave the Chamber for the duration of the item.

Councillor Ian Corkin, Declaration, as a member of the Executive and would leave the Chamber for the duration of the item.

Councillor Les Sibley, Non Statutory Interest, as a member of Bicester Town Council which had been consulted on the application.

Councillor Lynn Pratt, Non Statutory Interest, as a member of Bicester Town Council which had been consulted on the application and a separate declaration as a member of the Executive and would leave the Chamber for the duration of the item.

**11. Lower Lodge, Williamscot, OX17 1AE.**

Councillor Douglas Webb, Declaration, was known to the applicant, would speak as local Ward Member but not take part in the vote.

**13. Trysports, 26 Deans Court, Bicester, OX26 6RD.**

Councillor Les Sibley, Non Statutory Interest, as a member of Bicester Town Council which had been consulted on the application.

Councillor Lynn Pratt, Non Statutory Interest, as a member of Bicester Town Council which had been consulted on the application.

80 **Requests to Address the Meeting**

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

81 **Minutes**

The Minutes of the meeting held on 19 September 2019 were agreed as a correct record and signed by the Chairman.

82 **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.

83 **Urgent Business**

There were no items of urgent business.

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

No pre-Committee site visits were proposed.

85 **Proposed Himley Village, North West Bicester, Middleton Stoney Road, Bicester, Oxfordshire**

The Committee considered application 14/02121/OUT an outline application for a 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, C1 and D1), 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 would 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) at the proposed Himley Village, North West Bicester, Middleton Stoney Road, Bicester, Oxfordshire for Portfolio Property Partners Limited.

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

**Resolved**

- (1) That permission be granted for application 14/02121/OUT subject to the following conditions (and any amendments to those conditions as deemed necessary – and their reordering as to the timescale for compliance):

**CONDITIONS**

**Time Limits**

1. No development shall commence on any phase until full details of the layout, scale, appearance, access and landscaping (hereafter referred to as reserved matters) for that phase 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 (Development Management Procedure) (England) Order 2015 (as amended).

2. In the case of the reserved matters, application for approval shall be made for the first residential phase of development not later than the expiration of three years beginning with the date of this permission.

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 (Development Management Procedure) (England) Order 2015 (as amended).

3. In the case of all other reserved matters, in respect of subsequent phases, application for approval shall be made not later than the expiration of ten years beginning with the date of this permission.

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 (Development Management Procedure) (England) Order 2015 (as amended).

4. The development to which this permission relates shall be begun not later than the expiration of two years from the approval of the first residential phase reserved matter and for all subsequent phases 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 reserved matters to be approved for that phase.

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 (Development Management Procedure) (England) Order 2010 (as amended).

#### **Regulation**

5. Except where otherwise stipulated by condition, the development shall be carried out in accordance with the following plans and documents:
  - Site Boundary Parameter Plan 1 (drawing number 592-PL-101 Rev B);
  - Demolitions Parameter Plan 2 (drawing number 592-PL-102 Rev B);
  - Land Use Parameter Plan 4 (drawing number 592-PL-103 Rev J);
  - Building Heights Parameter Plan 5 (drawing number 592-PL-104 Rev H);
  - Density Parameter Plan 6 (drawing number 592-PL-105 Rev G);
  - Landscape Parameter Plan 3 (drawing number 592-PL-106 Rev H);

- Movement and Access Parameter Plan (drawing number 1665/75/04); dated 17 December 2014
- Surface Water Drainage Strategy and Flood Risk Assessment dated December 2014 and all additional correspondence relating to Drainage and Flood Risk.

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.

6. Prior to the submission of the first reserved matters application, a phasing plan covering the entire site the subject of this application, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter each reserved matters application shall refer to a phase, phases, or part thereof identified in the approved phasing plan and development shall proceed in accordance with the approved phasing.

Reason: To ensure the proper phased implementation of the development and associated infrastructure in accordance with Policy Bicester 1, SLE4 and INF1 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

7. No more than 1700 dwellings falling within Use Class C3 shall be constructed on the site.

Reason: To ensure that the significant environmental effects arising from the development are mitigated, as set out in the Environmental Statement, and sustainable development is achieved in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

8. No more than 100 dwellings falling within Use Class C2 shall be constructed on the site.

Reason: To ensure that the significant environmental effects arising from the development are mitigated, as set out in the Environmental Statement, and sustainable development is achieved in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

9. No more than a total of 8,000sqm floor space shall be provided for the mixed uses set out in Table 1 and each use shall not exceed the maximum Gross Internal Area for each specified use. These uses shall only be provided within the areas of the site annotated for 'Other Uses' and 'Social/ Community' on 'Land Use Parameter Plan 4' drawing number 592-PL-103 Rev J.

Table 1

Land Use

Hotel (Class C1)

Maximum GIA (sqm)

2,600sqm



Veterinary surgery (Class D1)	2,000sqm
Pub/ Community (Classes A4/ D1)	400sqm
Retail (Classes A1, A2, A3, A4, A5)	700sqm
Office (Class B1)	1,000sqm
Health facility (Class D1)	1,500sqm
Nursery (Class D1)	100sqm
Energy Centre (Sui Generis)	375sqm
Water treatment plant (Sui Generis)	450sqm

The approved uses shall remain within the Use Classes set out above as specified in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or their equivalent in subsequent enactments or re-enactments) and for no other purpose(s) whatsoever.

Reason: To ensure that the significant environmental effects arising from the development are mitigated, as set out in the Environmental Statement, and sustainable development is achieved in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

10. No individual Retail unit allowed for in Table 1 of condition 9 shall exceed 150m<sup>2</sup> in gross floor internal area with the exception of a single unit up to a maximum of 300m<sup>2</sup> which shall be for uses within Use Class A1 of the Town and Country Planning (Use Classes) Order 1987 (or their equivalent in subsequent enactments or re-enactments). If provided, the single retail unit over 150m<sup>2</sup> for uses falling within Use Class A1 shall remain within that Use Class and it shall be used for no other Use whatsoever. Thereafter retail units shall not be amalgamated.

Reason: To ensure the scheme meets local retail needs in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained in the Eco Towns PPS and the National Planning Policy Framework.

### **Design**

11. Prior to the submission of the first reserved matters application (other than on the area annotated as 'Other Uses' on the Land Use Parameter Plan 4 drawing number 592-PL-103 Rev J where the Masterplan has been approved for that area pursuant to condition X, a site wide Masterplan and Design Code shall be submitted to and approved in writing by the Local Planning Authority. The Masterplan and Design Code shall set out the urban design approach for the site to include a regulating plan and supporting information to include;
- Details to provide continuity with adjacent development
  - A detailed masterplan for the area fronting the Middleton Stoney Road annotated as 'Other Uses' on Land Use Parameter Plan 4 drawing number 592-PL-103 Rev J showing the location of each of the land uses
  - Key approaches to deliver sustainable development that as a minimum meets the Eco Town PPS standards
  - The identification of Character areas and for each, the built form and green spaces to include their key features, density, block layout and principles, structure and permeability

- Movement network and principles of streetscape including access locations, hierarchy, street type, form and design, cross sections, surface materials and landscaping, cycleways, footways, crossing points, street furniture, bus routes and stop locations
- Parking strategy including car and cycle parking standards and approach for residential and non-residential uses
- Public realm
- Building heights, scale, form, design features materials, architectural details and frontages
- Boundary treatments
- Key views, vistas, landmarks
- Landscape character, landscape types, green infrastructure, amenity spaces, public open space, play areas including their distribution, existing trees and retained hedges and biodiversity measures
- Provision and details of buffers to retained hedgerows and dark corridors for biodiversity
- Legibility and diversity of built form and landscape
- Landscape and boundary treatment principles for the buffer surrounding Himley Farm
- Drainage including sustainable urban drainage features
- Adaptability

All reserved matters applications shall be made and the development shall thereafter be carried out in accordance with the principles of the approved Masterplan and Design Code.

Reason: To secure the delivery of high quality sustainable development in accordance with Government guidance contained within the National Planning Policy Framework and Policies Bicester 1 and ESD15 of the Cherwell Local Plan Part 1 2011-2031. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

12. Each reserved matter submission for built development shall be accompanied by details showing how Building for Life 12 has been used to inform the design process and that the scheme achieves Built for Life™.

Reason: To secure the delivery of high quality sustainable development in accordance with Government guidance contained within the National Planning Policy Framework and Policies Bicester 1 and ESD15 of the Cherwell Local Plan Part 1 2011-2031.

### **Dwellings**

13. Each dwelling hereby approved shall be provided with real time energy and travel information prior to its first occupation. Details of the provision for each phase shall be submitted to the Local Planning Authority and agreed in writing prior to the commencement of construction of dwellings above slab level within that phase. The devices shall thereafter be retained in operational condition.

Reason: To support the delivery of modal shift towards sustainable modes and create high quality, inclusive, sustainable development in

accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

14. Each reserved matters application shall be accompanied by a statement setting out how the design of buildings and the layout has taken account of future climate impacts, as identified in TSB research 'Future Climate Change Risks for NW Bicester', or any more recent assessment that has been published, and how the proposed development will be resilient to overheating, changing rainfall patterns and higher intensity storm events.

Reason: To address the impacts of climate change in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031, Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

15. Each reserved matters application for a phase shall consider whether any area of that phase is subject to elevated levels of noise, principally from road traffic sources as set out in the Environmental Statement. Any dwellings that are to be constructed in any affected area within that phase shall be identified and confirmation provided that they will be designed and constructed in such a manner that they will contain elements of sound insulation that will ensure that the internal noise levels contained within BS 8233:2014 Table 4 can be achieved.

Reason: To ensure that properties are not subject to high levels of noise in accordance with Policies Bicester 1 and ESD15 of the Cherwell Local Plan 2011-2031, Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

16. Noise levels from any mechanical plant and the energy centre shall not exceed the noise emission limits contained within table 10.15 of the Environmental Statement. Any reserved matters submission for the energy centre or for development that will include mechanical plant shall include details of how the noise emission limits for that development will be met.

Reason: To ensure that noise remains within acceptable levels in accordance with Policies Bicester 1 and ESD15 of the Cherwell Local Plan 2011-2031, Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Phase conditions**

17. No dwelling or employment building hereby permitted shall be occupied until that facility has been provided with service connections capable of supporting the provision of high speed broadband from the building to the nearest broadband service connection outside the site.

Reason: To facilitate information provision to homes for energy monitoring, travel and home working in accordance with Policy Bicester

1 of the Cherwell Local Plan 2011-2031 Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

18. No phase of development shall commence until a report has been submitted to and approved in writing by the Local Planning Authority outlining how carbon emissions from the construction process and embodied carbon within that phase will be minimised. The phase of development shall thereafter be carried out in accordance with the approved report.

Reason: To ensure the development achieves a reduced carbon footprint in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the Eco Towns PPS. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

19. All services serving the proposed development shall be provided underground unless details of any necessary above ground service infrastructure, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), have first been submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the development that they serve, the above ground services shall be provided on site in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031, Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Transport**

20. No more than 500 dwellings shall be occupied until either;
- the development work to realign Howes Lane/ Lords Lane and provide a tunnel under the railway approved under 14/01968/F (or any other such planning permission which may be granted for the Strategic Link Road) has been completed and the road is open to vehicular traffic or,
  - once all necessary consents and approvals are in place and there is certainty of the delivery of the work to realign Howes Lane/ Lords Land and provide a tunnel under the railway approved under 14/01968/F (or any other such planning permission which may be granted for the Strategic Link Road), a programme may be provided by the developer for the phasing of the remaining 1200 dwellings and associated infrastructure and other uses approved under this permission. This shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority prior to any development beyond the first 500 dwellings.

Reason – Oxfordshire County Council as Highway Authority have advised that there is a need for a restriction on the quantum of development that can occur at North West Bicester prior to the opening of the Howes Lane/ Lords Lane realignment. The development identified

has been agreed on the basis of expected delivery rates such that it is likely that this development, with other committed development would fall within the identified capacity in vehicular movements in advance of the Howes Lane/ Lords Lane realignment. Beyond this level of development and without the realignment, the highways impact of development over the identified capacity would be severe. A restriction on development is therefore necessary until such time that the realigned road is in place and open to vehicular traffic. In the event that there is certainty for the delivery of the realigned road, phasing of the development could be agreed to avoid severe traffic impacts and to mitigate the impact of traffic from the development in accordance with Government Guidance within the Eco Towns PPS and the National Planning Policy Framework.

21. Each reserved matters application for a phase shall include full details of the means of vehicular accesses between the land and the highway, including, position, layout, construction, drainage and vision splays for development within that phase. Thereafter, the approved means of access for that phase 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.

22. Each reserved matters application for a phase shall include full details of the means of footway and cycleway links between the land, the local highway network and adjacent parcels, including, position, layout, construction, drainage, street lighting and a timetable for their provision for that phase. Thereafter, the means of footway and cycleway links for that phase shall be constructed in accordance with the approved timetable 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.

23. Each reserved matter application for a phase shall be accompanied by a Travel Plan setting out how the development will enable at least 50 per cent of trips originating within the development to be made by non-car means, with the potential for this to increase over time to at least 60 per cent, in accordance with the Eco Towns PPS ET 11.2 (a). The Travel Plan shall be submitted to and agreed in writing by the Local Planning Authority prior to any occupations within the relevant phase and the actions of the Travel Plan shall thereafter be delivered in accordance with the Travel Plan.

Reason: To ensure sustainable travel in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

### **Contamination**

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

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

25. If a potential risk from contamination is identified as a result of the work carried out under condition 27, prior to the commencement of the development hereby permitted on the relevant phase, 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 of the phase shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

26. If contamination is found by undertaking the work carried out under condition 28, prior to the commencement of the development of the relevant phase 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 of the phase shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

27. If remedial works have been identified in condition 29, the development of the phase shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 29. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

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

28. Piling or any other foundation designs using penetrative methods within any area identified as being subject to risk from contamination shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater quality. The development shall be carried out in accordance with the approved details.

Reason: To ensure that piling or deep foundations do not mobilise any contamination which may be present on site in order to ensure that controlled water quality is protected as required by Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the Eco Towns PPS and the National Planning Policy Framework.

29. If, during development of any phase, contamination not previously identified is found to be present then no further development of that phase (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy for that phase has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall detail how this unsuspected contamination shall be dealt with and written approval from the Local

Planning Authority shall be obtained. The remediation strategy shall be implemented as approved.

Reasons: To ensure that any unexpected contamination encountered is dealt with, such that it does not pose an unacceptable risk to controlled water quality as required by Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the Eco Towns PPS and the National Planning Policy Framework.

30. The development hereby permitted shall not be commenced until such time as a pollution prevention scheme to dispose of contaminated surface water has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented as approved.

Reason - Run off from roads and areas associated with lorry and car parking areas may contain elevated levels of contaminants. Drainage from these areas could contaminate controlled waters. Details of the surface water drainage arrangements which outlines how any contamination risks will be mitigated is required to ensure controlled water quality is protected as required by Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the Eco Towns PPS and the National Planning Policy Framework. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

#### **Biodiversity**

31. No development shall commence on any phase unless or until an up to date ecological survey has been undertaken to establish changes in the presence, abundance and impact on bio diversity within that phase. The survey results, together with an updated biodiversity mitigation plan and method statement shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development of the phase shall be carried out in accordance with the approved Mitigation Plan and Method Statement.

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. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

32. The retained hedges shall have a buffer a minimum of 20m in width comprising of 10m either side of the retained hedge except where they form part of a dark corridor, as defined in the supporting documents to the NW Bicester Masterplan, where the buffers shall extend to a minimum width of 40m comprising of 20m either side of the retained hedge, and the woodlands shall have a buffer around their perimeter a minimum of 10m in width when measured from the canopy edge, all of which shall be demonstrated on the approved Masterplan/ Design Code unless otherwise agreed in writing by the Local Planning Authority. The



hedge and woodland buffers shall be maintained thereafter as public open space and managed to maintain and create bio diversity.

Reason: To protect biodiversity and historic landscape features in accordance with Policies ESD10 and ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

33. No development shall commence on a phase until details of any existing hedgerow, or part thereof, to be removed, and proposals for creation of new compensatory hedgerow, have been submitted to and approved in writing by the Local Planning Authority. The compensatory hedgerow shall be provided in accordance with the approved details. If any tree or hedgerow shown to be retained is cut down, uprooted or destroyed or dies, another tree or hedgerow shall be planted in the same place within the following planting season and that tree shall be of such a size and species as will be first agreed in writing with the Local Planning Authority.

Reason: To protect biodiversity and historic landscape features in accordance with Policies ESD10 and ESD15 of the Cherwell Local Plan 2011-201 and Government guidance contained within the Eco Towns PPS and the National Planning Policy Framework. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

34. No development shall commence on a phase until an Arboricultural Method Statement (AMS) undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions including a scheme for the provision of protective fencing, to prevent damage during construction, for the retained hedgerows, trees, woodlands, ponds and areas of green space within that phase, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on the phase shall be carried out in accordance with the approved AMS with all tree protection erected prior to development commencing on that phase. If any tree or hedgerow shown to be retained is cut down, uprooted or destroyed or dies, another tree or hedgerow shall be planted in the same place within the following planting season and that tree shall be of such a size and species as will be first agreed in writing with the Local Planning Authority.

Reason: To protect biodiversity and historic landscape features in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the Eco Towns PPS and National Planning Policy Framework. This information is required prior to commencement of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

35. No development shall commence until a Great Crested Newt mitigation strategy which includes a protection area for Newts, a minimum of 50m in circumference, around the two ponds on the site and the land between them, which shall be provided in accordance with that shown on 'Landscape Parameter Plan 3' drawing number 592-PL-106 Rev H, has

been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Great Crested Newt mitigation strategy. No removal of suitable aquatic and terrestrial habitat within 250m of the breeding ponds shall be carried out unless first agreed in writing by the Local Planning Authority.

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

36. Prior to the submission of the first reserved matters application, a Bio Diversity Strategy for the site shall be submitted to and approved in writing by the Local Planning Authority. Each reserved matter application shall be accompanied by a statement setting out how the proposed development will contribute to achieving the Bio Diversity Strategy and net biodiversity gain. The development shall be carried out in accordance with the approved biodiversity strategy.

Reason: To secure net biodiversity gain in accordance with Policies Bicester 1 and ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the Eco Towns PPS and National Planning Policy Framework. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

37. No development shall commence on a phase until a Landscape & Habitat Management Plan (LHMP) for that phase detailing both management and monitoring proposals for green space (excluding building curtilages) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the LHMP shall be implemented in accordance with the approved details.

Reason: To secure net biodiversity gain in accordance with Policies Bicester 1 and ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the Eco Towns PPS and National Planning Policy Framework.

38. No development shall take place on any phase, including any works of demolition until a Construction Method Statement for that phase 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) A restriction on construction and delivery traffic during the peak traffic periods
  - d) Loading and unloading of plant and materials;
  - e) Storage of plant and materials used in constructing the development;
  - f) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - g) Wheel washing facilities/ road sweeping;

- h) Measures to control the emission of dust and dirt during construction;
- i) A scheme for recycling/ disposing of waste resulting from demolition and construction works;
- j) Delivery, demolition and construction working hours;
- k) The mitigation measures summarised at Table 5.5 and recommended at paragraphs 6.78, 7.62 – 7.79, 8.130 – 8.133, 9.91, 10.112, 12.78 – 12.80, 13.66 and 14.55 and tables 8.19 and 10.13 of the submitted Environmental Statement (December 2014)

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 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 any development as it is fundamental to the acceptability of the scheme.

39. No development shall commence on a phase until a Soil Resources Plan that details the soils present, proposed storage locations, handling methods and locations for reuse, within that phase, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved plan.

Reason: To ensure the soil resource is managed on site in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031.

40. No removal of hedgerows, trees or shrubs, 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 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 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.

### **Archaeology**

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

Reason - 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. This

information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

42. Prior to any demolition on the site (other than in accordance with the agreed Written Scheme of Investigation) and prior to the commencement of the development and following the approval of the first stage Written Scheme of Investigation referred to in condition 46, a programme of archaeological evaluation, investigation and recording of the application area shall be carried out by the commissioned archaeological organisation in accordance with the approved first stage Written Scheme of Investigation and shall be submitted to and approved in writing by the Local Planning Authority. The programme shall be followed throughout the construction of the development.

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

#### **Drainage**

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

Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the/this additional demand in accordance with Policy ESD8 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the Eco Towns PPS and the National Planning Policy Framework.

44. Prior to the commencement of the development, a foul drainage strategy for conveyance and treatment, detailing any on and/or off site drainage works, shall be submitted to and approved by the Local Planning Authority. 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. No dwelling shall be occupied until the foul drainage has been provided in accordance with the approved strategy.

Reason - The development may lead to sewage flooding; to ensure that sufficient capacity is made available to treat and convey foul flows from the new development; and in order to avoid adverse environmental impact upon the community and water environment in accordance with

Government guidance contained within the Eco Town PPS and the National Planning Policy Framework. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

45. Prior to the submission of the first reserved matters application, a full 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, shall 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 scheme shall also include:
- Discharge Rates
  - Discharge Volumes
  - Sizing of features - attenuation volume
  - Infiltration in accordance with BRE365
  - Detailed drainage layout with pipe numbers
  - SUDS - Swales, Ponds, Permeable Paving, Filter Strips, Rain Gardens
  - Network drainage calculations
  - Phasing

Reason - To mitigate the risk of surface water flooding, protect water quality and biodiversity on the site in accordance with Government guidance contained within the Eco Town PPS and the National Planning Policy Framework. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

46. In addition to the site wide surface water drainage strategy, each reserved matters application for a phase shall be accompanied by a detailed surface water drainage scheme for that phase, to meet the flood risk, water quality, green infrastructure and biodiversity requirements of the site. The detailed surface water drainage scheme shall be in compliance with the approved Flood Risk Assessment, Surface Water Drainage Strategy and the Masterplan Surface Water Drainage Strategy and the approved site wide detailed surface water drainage strategy required under condition 49. The detailed surface water drainage scheme for that phase shall be accompanied by a maintenance plan for all drainage features, which shall include timings of the implementation of the plan, long term objectives, management responsibilities, maintenance schedules and procedures for dealing with the failure of any part of the system. No development of a phase shall commence until the detailed reserved matter surface water drainage scheme has been approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and shall be maintained in accordance with the approved scheme of maintenance thereafter and in perpetuity.

Reason: To mitigate the risk of surface water flooding, protect water quality and biodiversity on the site in accordance with Government guidance contained within the Eco Town PPS and the National Planning Policy Framework. This information is required prior to commencement

of any development on the appropriate phase as it is fundamental to the acceptability of the scheme.

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

Reason: The site is located in an area of water stress and to comply with Government guidance contained within the Eco Town PPS and the National Planning Policy Framework.

48. No phase of employment development shall commence until details of the measures to be installed in that phase to minimise water consumption have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. The measures shall thereafter be retained in an operational condition.

Reason: The site is located in an area of water stress and to comply with Government guidance contained within the Eco Town PPS and the National Planning Policy Framework.

49. Prior to the commencement of the development, details of the strategy to work towards water neutrality, in accordance with the Eco Towns PPS shall be submitted to and approved in writing by the Local Planning Authority. Each reserved matters application shall demonstrate how it contributes to and is in accordance with the approved strategy.

Reason: The site is located in an area of water stress and to comply with Government guidance contained within the Eco Town PPS and the National Planning Policy Framework.

### **Waste**

50. Prior to the occupation of any phase of the development, a waste strategy, setting targets above national standards for residual waste levels, recycling levels and landfill diversion and which identifies measures to facilitate waste reduction and recycling for commercial occupiers of that phase shall be submitted to and approved in writing by the Local Planning Authority. The waste reduction measures shall be implemented in accordance with the strategy.

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.

51. Prior to the commencement of a phase, a Site Waste Management Plan, targeting zero construction waste to landfill for that phase, 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.

52. No waste shall be brought to the site for the purpose of use within any future energy centre.

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.

53. Prior to the submission of the first reserved matters application and in the event that the Design Code has not been approved, a detailed masterplan for the area fronting the Middleton Stoney Road annotated as 'Other Uses' on Land Use Parameter Plan 4 drawing number 592-PL-103 Rev J, shall be submitted to and approved in writing by the Local Planning Authority. The masterplan shall show the location of each of the land uses, access and parking locations, key frontage and public space conditions and landscape principles. All reserved matter applications for the area covered by the Masterplan approved by this condition X shall be made and the development shall thereafter be carried out in accordance with the principles of the approved Masterplan.

Reason: To ensure the creation of a high quality design for the mixed use area in accordance with Government guidance in the NPPF and Policy ESD15 of the Cherwell Local Plan Part 1 2011-2031. This information is required prior to commencement of any development as it is fundamental to the acceptability of the scheme.

- (2) That 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:

1 **Affordable Housing**

Provide 30% affordable housing in accordance with an agreed phasing and mix.

Affordable housing to be provided by a Registered Provider.

Affordable Housing scheme to be submitted and approved prior to submission of first residential reserved matter submission identifying the distribution of the affordable housing.

Affordable housing to be delivered in clusters of no more than 15 affordable housing units unless agreed.

Nomination agreement

2 **GP Surgery**

Provide financial contribution to the provision of a new GP Surgery or such other interim measure as may be required.

3 **Thames Valley Police**

Provide financial contribution to neighbourhood policing

4 **Community Hall & Sports Pavilion**

Financial Contributions towards build cost of hall and sports pavilion south of the railway line along with other applicants south of the railway line.

Arrangements for temporary community facilities on the site to support the early residents until a permanent space is provided.

The safeguarding of land for a sports pavilion should a sports pavilion on an adjoining site not be forthcoming.

5 **Community Development Worker**

Financial contribution for the provision of a community development worker(s) to deliver the creation of the new community during the build out of the site.

6 **Community Development Fund**

Financial contribution to deliver community development

7 **Employment and Training**

Provide employment and training action plan to include measures to ensure opportunities for local labour and businesses through the development, measures to support home working and to work with the local job club to advertise jobs created through construction on the site.

Delivery of specified number of construction (and related trades) apprenticeships in accordance with the number of opportunities identified through an agreed provider.

8 **Primary School**

2.22ha of land at nil cost and provide school or financial contribution sufficient to provide a 1FE Primary School and funding to provide extra accommodation corresponding to the pupil generation (up to a 2 FE School). Timing to be agreed.

9 **Secondary School**

Financial contribution towards the provision of secondary schools or such other interim measure as may be required.

**Contribution towards school transport**

10 SEN

Provide contribution for the provision of SEN places

11 Library

Contributions to the new Bicester library plus contribution towards core book stock.

12 **Permanent Sport Pitches**

Provide land to accommodate the required sports pitches south of the railway line and make a proportionate contribution towards the capital and revenue costs of the pitches.

13 **Public Open Space**

Layout the public open space and transfer it to a Management Company or to CDC with the appropriate commuted sums for maintenance in accordance with an agreed plan and phasing. If a Management Company is chosen, appropriate security around this to be secured.

14 **Other Amenity space**

Maintenance sums towards woodland, hedges, swales (within areas of public open space), orchards and paths

15 **Allotments**

Layout the allotments and transfer them to CDC in accordance with an agreed plan and phasing.

16 **Play Areas**

Layout the NEAPs, LEAPS and LAPS and transfer to a Management Company or to CDC with the appropriate commuted sums for maintenance in accordance with an agreed plan and phasing. If a



Management Company is chosen, appropriate security around this to be secured.

17 **Indoor Sport**

Provide funding for the expansion of the Bicester Sports Centre

18 **Green Space that could be used for a Burial Ground**

Provide contribution to the provision of a burial ground

19 **Bio Diversity Off Sett**

Provide funding for off site bio diversity mitigation

20 **Cultural & Wellbeing Strategy**

Provide a cultural and wellbeing strategy and action plan for delivery across the site

21 **Community Management Organisation**

Provide funding for the establishment of the CMO and its activities including contributions towards the maintenance of community facilities across the site such as allotments, community farm and community buildings.

22 **Waste Collection & Recycling**

Provide funding for the provision of domestic bins for waste and recycling

Provide funding for the provision of bring bank sites

23 **Strategic Infrastructure**

Contributions towards the major infrastructure to serve NW Bicester including the realigned Howes Lane and tunnels and the costs related to such delivery including to Network Rail for the rights to construct the tunnels.

24 **Bus Provision**

Provide funding for the provision of the bus service to serve the site in accordance with agreed phasing

25 **Bus Access Scheme**

Provide or provide funding for the improvement of Bucknell Road and Field Street to facilitate bus access

26 **Off Site Cycle Way Improvements**

Provide a contribution towards the following improvements;

- Off-site cycleway along Middleton Stoney Road between Howes Lane and Oxford Road.
- Off site cycleway and traffic calming scheme on Shakespeare Drive

27 **Field Path Improvements**

Fund improvements to Bridleway Bicester 9 and Bucknell 4

28 **Highway Works**

Contribution to Banbury Road B4100 roundabout improvement

Entry into a S38/ S278 agreement as necessary towards Highway Works.

Highway works to create up to two vehicular accesses off Middleton Stoney Road

Provision of bus stop laybys and pedestrian infrastructure including a link from the edge of the site to connect with the junction of Middleton Stoney Road and Howes Lane (or such part of it that is necessary)

Provision of footway/ cycle links to allow sustainable transport options in advance of surrounding development.

Facilitation of the delivery of wider site infrastructure including a bus only lane, pedestrian/ cycle links, ability to connect to other roads.

29 **Village Traffic Calming**

- 30 Contribution to funding village traffic calming in Middleton Stoney  
**Travel Plan**  
Provide funding for travel plan monitoring
- 31 **Arrangements for non-residential facilities**  
Including timescales for the provision of a principle retail store, ancillary retail store, other uses and arrangements for their marketing. There are also arrangements around the safeguarding of a site for a local health facility should an alternative not be provided and around provision of a nursery.
- 32 **Monitoring**  
Provide scheme of monitoring eco town standards
- 33 **Bond/Guarantee**  
Provide bond or guarantee for the delivery of the infrastructure
- 34 **Monitoring fees**  
Provide a fee for monitoring of legal agreements
- 35 **On site internal roads/ streets**  
Committed sums for road adoption will be applicable  
Agreement to secure internal roads and vehicular, bus only and pedestrian/cycle linkages to adjacent Northwest Bicester sites.
- 36 On-site sustainable transport initiatives  
Travel Plan co-ordinator  
Electric Vehicle charging points  
Car club
- 37 **Zero Carbon**
- 38 **Requirements around building standards** (i.e. BREEAM and CEEQUAL)

86 **Land North of Park and Ride, Adj To Vendee Drive, Bicester**

The Committee considered application 19/01351/CDC for the change of use from agricultural (arable) to informal recreation with public access at Land North of Park and Ride Adj to Vendee Drive, Bicester for Cherwell District Council.

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

**Resolved**

- (1) That authority be delegated to the Assistant Director for Planning and Development to Grant Permission for application 19/01351/CDC 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: Planning Statement; Ecological Appraisal Report; Geophysical Survey Report; Indicative Phase 1 Site layout Plan, drawing number ES/LS/001 and red line site location plan.

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

**Temporary Obstructions**

3. No materials, plant, temporary structures or excavations of any kind should be deposited/undertaken on or adjacent to the Public Right of Way that may obstruct or dissuade the public from using the public right of way whilst development takes place.

Reason – To ensure the public right of way remains available and convenient for public use, to comply with Policy ESD15, ESD17 and Bicester 3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the NPPF.

**Route Alterations**

4. No changes to the public right of way direction, width, surface, signing or structures shall be made without prior permission approved by the Countryside Access Team at Oxfordshire County Council or necessary legal process.

Reason – To ensure the public right of way remains available and convenient for use, to comply with Policy ESD15, ESD17 and Bicester 3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the NPPF.

**Vehicle Access (Occupation)**

5. No vehicle access (including for construction and demolition purposes) may be taken along or across a public right of way to residential or commercial sites without prior permission and appropriate safety and surfacing measures approved by the Countryside Access Team at Oxfordshire County Council. Any damage to the surface of the public right of way caused by such use will be the responsibility of the applicants, their contractors to put right/make good to a standard required by the Countryside Access Team.

Reason – To ensure the public right of way remains available and convenient for public use, to comply with Policy ESD15, ESD17 and Bicester 3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the NPPF.

**Gates/Right of way**

6. Any gates provided shall be set back from the public right of way or shall not open outwards from the site across the public right of way.

Reason – To ensure that gates are opened or closed in the interests of public right of way user safety, to comply with Policy ESD15, ESD17 and Bicester 3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the NPPF.

**Details of Gates**

7. Details of the proposed new maintenance gates and pedestrian kissing gates, together with a timeframe for their provision shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of their installation. Thereafter the development shall be completed in accordance with the approved details prior to the first use of the site for recreation purposes.

Reason – In the interests of the visual amenities of the locality and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

**Protection of Archaeology**

8. There shall be no regrading of the land or removal of topsoil without the written express consent of the Local Planning Authority.

Reason – In order to protect the archaeological interests of the site in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

**Dog/litter Bins and Interpretation Boards**

9. Prior to their installation, details of the dog and litter bins and interpretation boards, together with their locations shall be submitted to and agreed in writing by the Local Planning Authority. These shall be installed in accordance with the approved details prior to the site being first brought into use and retained as such thereafter.

Reason – To ensure the satisfactory appearance of the development and the proper arrangements for the disposal of litter and waste, to comply with Policy ESD15 of the Cherwell Local Plan and Government guidance within the National Planning Policy Framework.

**Footbridges/Culverts**

10. Prior to the site being first brought into use, full details of the proposed pedestrian bridges over the ditches 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 details.

Reason – To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

### **Nesting Birds**

11. No removal of hedgerows, trees or shrubs shall take place between 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 the site, together with details of measures to protect the nesting bird interest on the site.

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 within the National Planning Policy Framework.

### **Carry Out in accordance with Survey**

12. The development hereby approved shall be carried out in accordance with the recommendations set out in section 7 of the Preliminary Ecological appraisal report carried out by Middlemarch Environmental dated September 2019 Reference RT-MME-150493-01 submitted with this application.

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.

## 87 **Lower Lodge, Williamscot, OX17 1AE**

The Committee considered application 19/01399/F for the demolition of 20th Century extensions and erection of replacement two storey part subterranean extension and associated engineering works at Lower Lodge, Williamscot, OX17 1AE for Mr Julian Bernard.

Mr Julian Bernard, the applicant and Mr James Mackintosh, Architect addressed the committee in support of the application.

It was proposed by Councillor Chapman and seconded by Councillor Reynolds that application 19/01399/F be approved contrary to officer recommendations subject to suitable conditions (the exact wording to be delegated to officers). It was believed that application 19/01399/F would be an improvement to the visual amenity, it would be of no significant harm and had the support of the local community.

In reaching its decision the committee considered the officer's report and presentation, the written update and the address of the public speakers.

### **Resolved**

- (1) That authority be delegated to the Assistant Director of Planning and Economy to grant permission for application 19/01399/F, subject to conditions (the exact conditions and the wording of those conditions to

be delegated to the Assistant Director for Planning and Economy in consultation with the Chairman).

88 **Lower Lodge, Williamscot, OX17 1AE**

The Committee considered application 19/01400/LB for the demolition of 20th Century extensions and erection of replacement two storey part subterranean extension and associated engineering works at Lower Lodge, Williamscot, OX17 1AE for Mr Julian Bernard.

Mr Julian Bernard, the applicant and Mr James Mackintosh, Architect addressed the committee in support of the application.

It was proposed by Councillor Chapman and seconded by Councillor Reynolds that application 19/01399/F be approved contrary to officer recommendations subject to suitable conditions (the exact wording to be delegated to officers). It was believed that application 19/01399/F would be an improvement to the visual amenity, it would be of no significant harm and had the support of the local community.

In reaching its decision the committee considered the officer's report and presentation, the written update and the address of the public speakers.

**Resolved**

- (1) That authority be delegated the Assistant Director of Planning and Economy to grant permission for application 19/01400/LB, subject to conditions (the exact conditions and the wording of those conditions to be delegated to the Assistant Director for Planning and Economy in consultation with the Chairman).

89 **Photovoltaic Installation and Premises, Woodstock Road, Yarnton, Oxfordshire OX5 1PQ**

The Committee considered application 19/01046/F for the development of a ground mounted solar park incorporating the installation of solar PV panels, associated infrastructure and new access at Photovoltaic Installation and Premises, Woodstock Road, Yarnton, Oxfordshire OX5 1PQ for Generale Du Solaire.

David Pickford, Agent for the applicant addressed the committee.

In reaching its decision the committee considered the officer's report and presentation, the written update and the address of the public speaker.

**Resolved**

- (1) That authority be delegated to The Assistant Director for Planning and Economy to grant permission for application 19/01046/F subject to the following conditions (and any amendments to those conditions as deemed necessary):

## 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, Drawing Nos 772522- DWG-ENV-001, 002, 003 and 004, PV Power Plant Layout rev F, SK01 rev B, Transformer rev A, Cross Section Design, rev A and Access Road rev A.

- Design and Access Statement prepared by Pegasus Group, Planning Statement prepared by Pegasus Group, Landscape and Visual Impact Assessment prepared by Pegasus Landscape Design, Tree Survey, Arboricultural Impact Assessment, Tree Protection Plan, Preliminary Ecological Appraisal, Great Crested Newt Survey, Bat Survey, Historic Environment Desk Based Assessment, Flood Risk Assessment and Drainage Strategy and Construction Management Plan submitted with the application.

- Landscape and Visual Impact Assessment Addendum dated September 2019,

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

3. The permission shall expire no later than 35 years from the date when electricity is first exported from any part of the array to the electricity grid network ('First Export Date'). Written confirmation of the First Export Date shall be provided to the Local Planning Authority no later than 1 calendar month after the event.

Reason - In order to safeguard the amenities of the area and protect the rural character of the landscape and to comply with Policies ESD 13 and ESD15 of the Cherwell Local Plan 2011-2031 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. Not later than 24 months before the end of this permission, a decommissioning and site restoration scheme shall be submitted to and approved by the Local Planning Authority, such scheme to include the management and timing of any works and traffic management plan to address likely traffic impact issues during the decommissioning

period. The approved scheme shall be fully implemented within 12 months of the expiry of this permission.

Reason - To ensure the environment is protected during decommission in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. Prior to the clearance of the site 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.

The development shall not be carried out other than in strict accordance with the approved scheme and the hard landscape elements of the scheme shall be fully implemented prior to the first operation of the development 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 ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

6. 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 Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

7. Prior to the clearance of the site a schedule of landscape maintenance for a minimum period of 5 years, to include the timing of the



implementation of the schedule and procedures for the replacement of failed planting shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the landscape maintenance shall be carried out in accordance with the approved schedule.

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 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. The existing hedgerows along all boundaries of the site boundary shall be retained and properly maintained at mature heights, not less than 3.5 metres, and if any hedgerow plant dies within five years from the completion of the development it shall be replaced and shall thereafter be properly maintained in accordance with this condition.

Reason - In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. Except to allow for the means of access and vision splays the existing hedgerow along the south west boundary of the site shall be retained and properly maintained at mature height, not less than 3.5 metres, and if any hedgerow plant dies within five years from the completion of the development it shall be replaced and shall thereafter be properly maintained in accordance with this condition.

Reason - In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 and saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. Prior to the clearance of the site full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the construction of the solar array, 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.

11. The vision splays shall not be obstructed by any object, structure, planting or other material of a height exceeding 0.6m measured from the carriageway level.

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

12. Notwithstanding the Construction Traffic Management Plan (CTMP) dated July 2015 prepared by Transport Planning Associates submitted with the application prior to the commencement of the development hereby approved a revised Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. The CTMP shall include a commitment to deliveries only arriving at or leaving the site outside local peak traffic periods. Thereafter, the approved CTMP shall be implemented and operated in accordance with the approved details;

- The CTMP must be appropriately titled, include the site and planning permission number.
- Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
- Details of and approval of any road closures needed during construction.
- Details of and approval of any traffic management needed during construction.
- Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
- Details of appropriate signing, to accord with the necessary standards/requirements, for pedestrians during construction works, including any footpath diversions.
- The erection and maintenance of security hoarding / scaffolding if required.
- A regime to inspect and maintain all signing, barriers etc.
- Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.
- The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.
- No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will be parked and occupiers transported to/from site to be submitted for consideration and approval. Areas to be shown on a plan not less than 1:500.
- Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.
- A before-work commencement highway condition survey and agreement with a representative of the Highways Depot – contact 0845 310 1111. Final correspondence is required to be submitted.
- Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution.
- Any temporary access arrangements to be agreed with and approved by Highways Depot.
- Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.

- Left in left out arrangement to ensure that vehicles egressing the site do not need to cross oncoming traffic.

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.

13. Prior to the levelling of the site or construction of the access and internal tracks whichever is the earliest the drainage for the development shall be carried out in accordance with drawing no. G234/03 and the drainage shall be maintained in accordance with the procedures set out in Table D of the Flood Risk Assessment dated May 2018 prepared by PFA Consulting thereafter.

Reason - To protect the development and its occupants from the increased risk of flooding and in order to comply with Policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

14. Prior to the first excavation or levelling of the site whichever is the earliest, a geophysical survey shall be undertaken by a professional archaeological organisation acceptable to the Local Planning Authority to inform the need for further archaeological investigation and a Written Scheme of Investigation relating to the application site area, shall be submitted to and approved in writing by the Local Planning Authority.

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.

15. Prior to the first excavation or levelling of the site whichever is the earliest and following the approval of the geophysical survey referred to in condition 15, 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.

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.

16. The development hereby approved shall be carried out in accordance with the recommendations set out in Sections 5 and 6 of the

Preliminary Ecological Appraisal carried out by Mott Macdonald on 16 October 2017.

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.

17. The initial clearance of the site shall be supervised by a suitably qualified ecologist to ensure that no protected species, which could be harmed by the development, have moved on to the site since the previous surveys were carried out. Should any protected species be found during this check, full details of mitigation measures to prevent their harm shall be submitted to and approved in writing by the Local Planning Authority before any development commences. 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.

18. Prior to the first commencement of the development hereby approved a Landscape and Ecology Management Plan (LEMP) to include biodiversity enhancement shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than 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.

19. No external lighting shall be installed within the site area.

Reason - To safeguard the amenities of the area and 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

20. The solar panels hereby approved shall be constructed with a non-reflective material and shall be retained as such thereafter.

Reason - In the interests of aircraft safety due to the close proximity to the protected safeguarded approach and take off surfaces and visual circuit and to comply with Government guidance contained within the National Planning Policy Framework.

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

Reason: To ensure the public right of way remains available and convenient for public use 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.

90 **Trysports, 26 Deans Court, Bicester, OX26 6RD**

The Committee considered application 19/01210/F for alterations to an existing toilet block, including replacement windows and doors and infill of door with matching brick at Trysports, 26, Deans Court, Bicester, OX26 6RD for Cherwell District Council.

In reaching its decision the Committee considered the officer' report and presentation.

**Resolved**

- (1) That authority be delegated to the Assistant Director for Planning and Development to grant permission for application 19/01210/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.

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: NTBS3216/01 Rev. A, NTBS3216/04, NTBS3216/06 Rev B and NTBS3216/10

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.

**External Materials to Match Existing**

3. The materials to be used for the external walls of the development hereby permitted shall match in terms of colour, type and texture those used on the existing building.

Reason: To ensure that the development is constructed and finished in materials which are in harmony with the materials used on the existing building and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 [C18] of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

The Meeting was adjourned at 17.50 to evacuate the building due to a Fire Alarm.

The Meeting was re-convened at 18.05

91 **Appeals Progress Report**

The Assistant Director for Planning Policy and Development 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.

92 **Enforcement Report**

The Assistant Director Planning and Development submitted a report to inform Members of planning enforcement cases at Cherwell District Council and update the Planning Committee on the current position following the update in July regarding case numbers, formal notices served, and enforcement action taken.

**Resolved**

(1) That the contents of the report be noted.

The meeting ended at 6.20 pm

Chairman:

Date:

# Agenda Annex

## CHERWELL DISTRICT COUNCIL

### PLANNING COMMITTEE

14 November 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

	<b>Site</b>	<b>Application No.</b>	<b>Ward</b>	<b>Recommendation</b>	<b>Contact Officer</b>
8	Land North and West of Bretch Hill Reservoir Adj to Balmoral Avenue, Banbury	19/01811/OUT	Banbury, Calthorpe and Easington	Refusal	Clare Whitehead
9	Exham House, Bloxham School, Banbury Road, Bloxham, Banbury OX15 4PE	19/01160/F	Adderbury, Bloxham and Bodicote	Approval	George Smith
10	65 Bicester Road, Kidlington, OX5 2LD	19/01082/F	Kidlington East	Approval	Matthew Chadwick
11	Land East of South View and South of School Lane, Great Bourton	19/01808/F	Cropredy, Sibfords and Wroxton	Approval	Bob Neville



# 19/01811/OUT

## Land North And West Of Bretch Hill Reservoir Adj To Balmoral Avenue Banbury

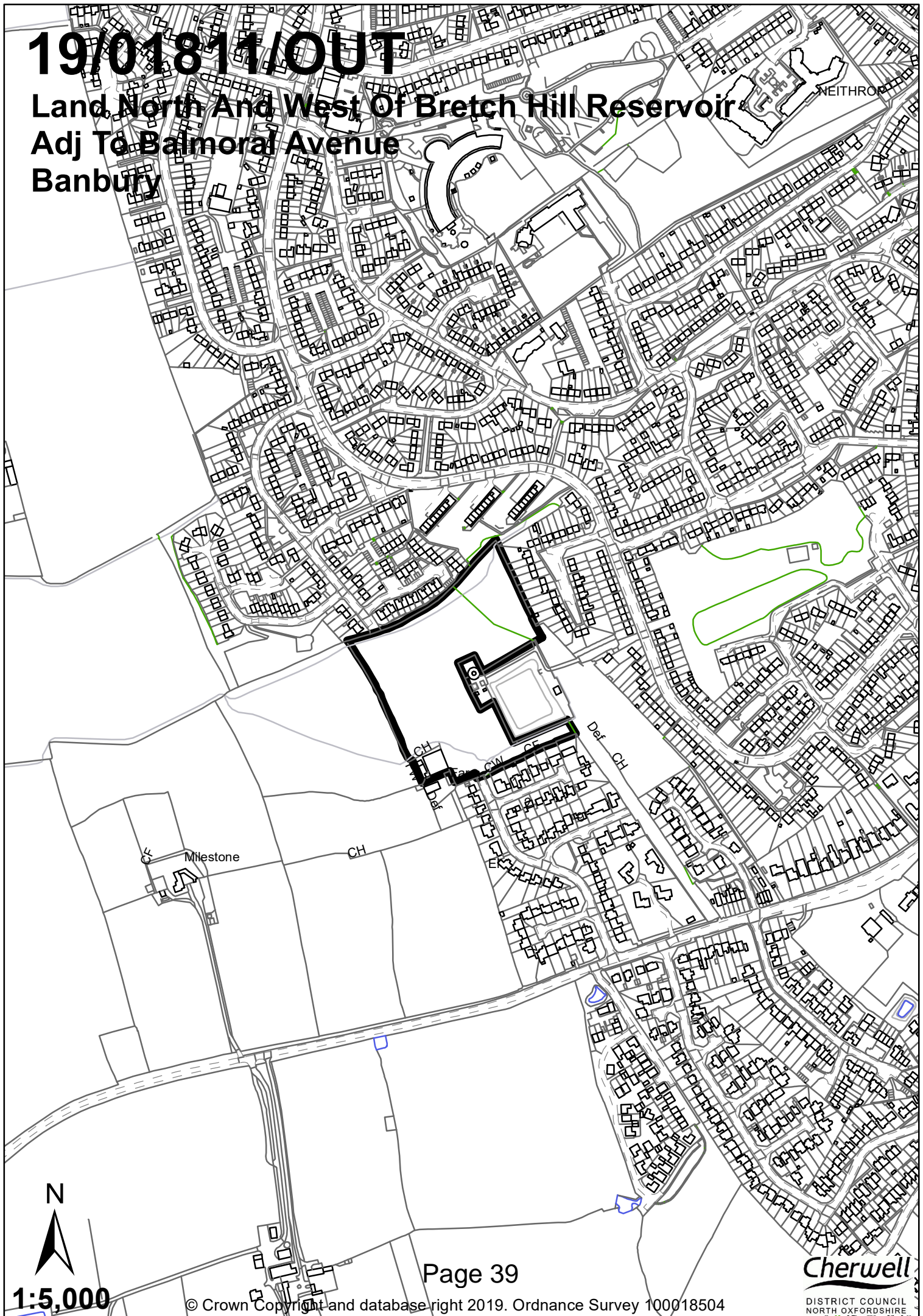


1:1,500

ED & Ward Bdy

# 19/01811/OUT

Land North And West Of Bretch Hill Reservoir  
Adj To Balmoral Avenue  
Banbury



**Case Officer:** Clare Whitehead

**Applicant:** Lone Star Land Limited

**Proposal:** OUTLINE - Erection of up to 70 homes, public open space, and other infrastructure, with all matters reserved except access

**Ward:** Banbury Calthorpe And Easington

**Councillors:** Cllr. Colin Clarke, Cllr. Kieron Mallon, Cllr. Tony Mepham

**Reason for Referral:** Major development

**Expiry Date:** 2 December 2019

**Committee Date:** 14 November 2019

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

### **RECOMMENDATION: REFUSE PERMISSION**

#### **Proposal**

Outline planning permission is sought for up to 70 dwellings including 30% affordable housing. All matters reserved except access which is proposed from Balmoral Avenue to the south of the site. The site is on the eastern edge of Banbury, to the north of the Broughton Road and surrounded on three sides by existing residential development.

#### **Consultations**

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

- Banbury Town Council, Thames Valley Police, Thames Water, CDC Strategic Housing, CDC Ecology, OCC Highways, OCC Lead Local Flood Authority

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

- CDC Planning Policy, CDC Building Control, CDC Landscape Services, OCC Education, Legal Services Rights of Way, CDC Community Infrastructure

19 letters of objection have been received and 1 petition of objection with 17 signatures.

1 letter of support has been received.

#### **Planning Policy and Constraints**

The site is allocated for residential development in the non-statutory Cherwell Local Plan (Policy H1b). This non-statutory allocation remains a material planning consideration. The proposal would assist in the delivering of new homes and meeting overall district housing requirements, including affordable housing to 2031.

The site is identified to be Grade 5 (the lowest quality) agricultural land and there are records of protected species including badgers on site and within 250m of the site. There are a great number of well established and healthy trees across the site.

The application has been assessed against the relevant policies in the adopted Local Plan as well as the National Planning Policy Framework (NPPF) 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
- Site layout and design principles
- Impact on the character and appearance of the area
- Highways
- Residential amenity
- Affordable housing
- Flood Risk and drainage
- Ecology
- Infrastructure
- Other matters

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

1. The indicative layout is not acceptable as it fails to adequately take account of policy requirements relating to recreation, outdoor sports provision, children's play space, affordable housing tenure and suitable layout for parking and existing rights of way.
2. The proposal would be poorly connected to services and facilities via pedestrian and cycle links to the surrounding area including public transport links and routes to local schools.
3. The submitted Flood Risk Assessment is inadequate due to contradictions in the calculations and methodology.
4. There is a net loss of biodiversity across the site as a result of the development and conflicting requirements in terms of retained woodland, enhancement of a priority habitat and biodiversity against providing public open space and safe accessible linkages to existing development.
5. Absence of a satisfactory Planning Obligation.

**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 western edge of Banbury to the immediate west of Bretch Hill. The site comprises approximately 2.8 hectares and is land formerly used for agricultural purposes associated with Bretch Farm but is now scrub. The physical remains of Bretch Farm lie in the south-west corner of the site with a number of buildings in ruin.
- 1.2. To the west is an existing water tower and an underground reservoir under the ownership and control of Thames Water. On three sides the site is bounded by existing residential development.
- 1.3. The site is generally flat with a slight drop in land level from west to east and the site is effectively on the top of the hill. There is also a significant fall on the northern boundary of the site and the rear gardens of properties on Harlech Close. The fall means that the site sits approximately 2.5 metres above these rear gardens.

- 1.4. The proposed access to the site would be off the existing gated entrance from Balmoral Avenue to the south of the site. Balmoral Avenue is a steep road on rising and from the Broughton Road to the south.

## **2. CONSTRAINTS**

- 1.5. The land is predominantly enclosed by hedgerows and well-established mature trees. There is a copse of trees in the northern corner which extends in a linear fashion along the northern boundary backing on to dwellings on Harlech Close. This woodland is classified as deciduous woodland priority habitat.
- 2.1. A public right of way (ref 120/24/10) runs along the northern boundary to the northeast corner to join a hard-surfaced footpath stretching into Bretch Hill. The current footpath within the site is unmarked, not levelled or laid to hardstanding or surfaced and is unlit.
- 2.2. There are a number of notable protected species which have been recorded as present on the site or within 250m of the site. Within 2km of the site is a Site of Special Scientific Interest (Neithrop Fields Cutting).

## **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The planning application seeks outline consent for residential development with all matters reserved except access. The proposal comprises the following elements:
  - Erection of up to 70 dwellings;
  - 30% affordable housing;
  - Vehicular access from Balmoral Avenue;
  - Pedestrian access from Balmoral Avenue and via public right of way to Bretch Hill;
  - 0.68 hectares of public open space;
  - Informal play space;
  - Sustainable urban drainage systems; and
  - Other supporting infrastructure.
- 3.2. The application proposes vehicular and pedestrian access to be taken from Balmoral Avenue to the south of the site. This is a continuation of the existing road. In addition, the illustrative plan shows the public right of way running along the northern boundary of the site would remain in situ and as is, to provide a link through to Bretch Hill.
- 3.3. Whilst the layout is not submitted for approval, an illustrative layout plan has been submitted to show one way that the development could be delivered. The development proposed comprises up to 70 homes, both houses and flats. A mix has been provided for illustrative purposes alongside the layout. It is acknowledged in the Planning Statement that the figures submitted are illustrative only and the mix for affordable units would be set by an agreed S106 agreement and the mix for market housing set through the relevant reserved matters application.
- 3.4. The illustrative layout shows the retention of the woodland to the north and this includes an area of public open space and informal play space. The layout does not include a LAP and a LEAP.
- 3.5. In terms of density, the proposed 70 dwellings are provided on approximately 1.52 hectares of developable land resulting in a density of 46 dwellings per hectare.

## **4. RELEVANT PLANNING HISTORY**

4.1. There is no planning history directly relevant to the proposal.

## **5. PRE-APPLICATION DISCUSSIONS**

5.1. Pre-application advice was given in January 2018 (17/00170/PREAPP refers). It was advised that the site was allocated through Policy H1b of the non-statutory Cherwell Local Plan. The designation is a material planning consideration but carries little weight. The report concluded that careful consideration would need to be given to the landscape impact of the proposed development and design and layout of the proposed development to ensure that satisfactory visual amenity (both perceived and actual) was achieved for future residents. Subject to these matters being satisfactorily resolved, and to the assessment of access and traffic matters and other technical matters, the principle of development was considered to be acceptable.

5.2. Limited advice was also given on the affordable housing requirements, developer contributions, landscape and visual impact, residential amenity, impact on trees and access and transport matters.

5.3. Advice was given on the requirement to provide suitable access from the site to existing bus stops in that any application should ensure dwellings are within 400m of bus stops in Bretch Hill. It was considered that bringing the existing public right of way across the northern boundary of the site up to a suitable standard to encourage people to use it would likely be too expensive and as it passes through woodland this would be difficult to light and people would avoid it due to personal safety concerns. The officer at the time expressed a preference to providing a footpath connection to Balmoral Avenue to the north which would allow access to bus stops at Chepstow Gardens. This link would also provide access towards schools and local shops.

5.4. The pre-application advice concluded that, although there was no pressing need for the release of further housing for development, the presumption in favour of sustainable development would need to be applied. Taking into account the previous allocation of the site and the apparent wider limited landscape impacts it was officer opinion that the development of the site could possibly be supported. This was on the basis that it could be demonstrated that development could be appropriately accommodated taking into account the site's constraints.

## **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 **4 November 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:

- The council has a demonstrated 5 year land supply and land is not required for further housing
- The land is not allocated in the Cherwell Local Plan
- The development would spoil the landscape and be visible from the surrounding area
- Unacceptable increase in traffic along Balmoral Avenue, through Bretch Hill and Broughton Road to the detriment of highway safety

- Balmoral Avenue (south) was not designed or built to cope with construction vehicles and extra traffic serving 70 additional dwellings. Furthermore, the road is currently in a state of disrepair which would be made worse by construction traffic and the regular use of another 155 vehicles associated with the new dwellings.
- The proposed access would create issues for the residents at the top of Balmoral Avenue (south) in exiting their properties in a vehicle as they need to turn out across the road. Extra traffic on this road would make that manoeuvre dangerous
- Alternative access should be made from Balmoral Avenue (north) connecting to Bretch Hill
- It would exacerbate the on-street parking problem already present on Balmoral Avenue (south) and its three side roads
- Concern about traffic conditions and parking arrangements during the construction phase and during adverse weather conditions such as snow and ice
- Schools in the area are at maximum capacity
- A play area on the site would attract anti-social behaviour and place heavier resources on the Safer Neighbourhood Policing Teams
- Increase in air pollution, noise pollution and light pollution
- The type of housing proposed would not satisfy local housing needs for social housing
- Concern regarding surface water drainage and whether there is capacity in the existing network for additional foul and surface water drainage
- Concern regarding the underground reservoir and the network of water mains laid across the site
- Pressure on the local broadband network
- Detrimental impact on ecology and protected species
- There are many informal footpaths across the site which have been used for in excess of thirty five years and so could now be legally considered to be public rights of way and the application fails to take account of these
- Development on this land would make use of an otherwise useless, underused piece of land and deter anti-social behaviour.

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

## 7. RESPONSE TO CONSULTATION

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

### TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. BANBURY TOWN COUNCIL: **Objects** on the grounds of a) adverse impact on the local highway network as Broughton Road junction is not suitable for the additional traffic generated; b) adverse impact on wildlife and ecology; c) the site is not within the adopted Local Plan and CDC has its 3 year housing supply so the additional housing is not needed.

### CONSULTEES

7.3. CDC PLANNING POLICY: **No objections** to the principle of development on the site.

- 7.4. CDC STRATEGIC HOUSING: **Comments.** Strategic Housing would not seek flats for the affordable housing units with their preference being maisonettes for 1 bed units and houses for 2 bed units, due to the issues associated with the management of the flats, the service charges linked to the communal areas and the suitability of the property type with regards to housing families. The proposed Affordable Housing Schedule and Illustrative Site Layout will therefore need to be re-worked in order to replace the flats.
- 7.5. CDC BUILDING CONTROL: **No objections** subject to a level approach in accordance with Part M should be provided to all new dwellings.
- 7.6. CDC LANDSCAPE SERVICES: **No objection** in terms of visual impact. The officer comments that the methodology for the report is not clear and that the visual receptor assessment is to be better explained. This information has been passed to the agent to clarify.
- 7.7. **However**, the officer made the following comments: Requested to see wireframe visualisations and additional recorded viewpoints assessments. Comments were also offered on the illustrative site layout as follows: there is currently no provision for a LAP or a NEAP. The trigger for a LAP is 10 units and a LEAP is 50 units. A public right of way runs along the northern boundary and given that this route runs through the tree root protection area a “no-dig” path in accordance with BS5837 is required. Plots likely to be overshadowed by trees would cause a future issue when occupiers wish to remove or cut back that trees in increase light to internal living spaces in the dwellings. There is currently an insufficient number of street trees to improve visual amenity and climate amelioration. Any underground attenuation must be designed so as not go under play areas or public open space as this disrupts their usage when closed for maintenance.
- 7.8. CDC ECOLOGY: **Objects.** In general the ecological appraisal has considered all the features required and makes some valid recommendations as regards protected species and habitat on site.
- 7.9. The report suggests badgers are likely absent from the site. However, it is known that there is an active sett on the immediately adjacent land. The need to retain foraging access for the sett would need to be taken into consideration when designing a layout. The illustrative layout does not address this and would need to be changed. Also, additional surveys should be undertaken and liaison with the badger group carried out prior to layouts being finalised.
- 7.10. The woodland on the site is a priority habitat (Section 41 NERC Act) and whilst it is proposed to be retained there is little provision on site in the illustrative layout for any amenity space and concern is raised whether the aim to enhance the woodland is possible alongside the minimisation of loss of the woodland. The woodland would be heavily used for recreation and this aspect should be considered when it comes to assessing potential impacts – similarly for the buffer areas and other important habitats on site to be retained (e.g. hedgerows). If these are amenity areas, questions are raised at how well they would function as green corridors for wildlife. This is not addressed in the illustrative layout or any Landscape and Ecological Management Plan.
- 7.11. It is also mentioned that there would be a need for a full lighting strategy to ensure dark corridors are maintained and the retained woodland is not affected by light.
- 7.12. Any boundaries on site need to be wildlife permeable. A minimum of the equivalent of one bat or bird provision per dwelling is required.



- 7.13. The ecologist's main concern is the net loss for biodiversity identified on the site, which is demonstrated in the submitted ecological appraisal. Local policy is to seek a net gain in biodiversity from all development and recently guidance to seek a minimum of 10% net gain was agreed by CDC. There is a significant shortfall in biodiversity units with this proposed development. A financial contribution is not sufficient to discharge net gain responsibilities. Currently there is no proposal put forward as to how the net loss for biodiversity is to be addressed and on the grounds of this lack of information the Ecology Officer objects.
- 7.14. CDC COMMUNITY INFRASTRUCTURE: **Comments.** We seek contributions in line with the adopted 2018 SPD developer contributions guidance. These are:
- Off-site Outdoor Sports Contribution – 70 dwellings x £2,017.03 per dwelling contribution = £141,192.10 towards the development of a new artificial pitch at Hanwell Fields playing fields in Banbury.
  - Off-site Indoor Sports Contribution – 70 dwellings x 2.49 avg. people per dwelling x £335.32 per person contribution = £58,446.28 towards the development of an indoor tennis centre at Hanwell Fields playing fields in Banbury.
  - Community Hall Contribution – 70 dwellings x 2.49 avg. people per dwelling x £520 contribution per person = £90,636 towards improvements at the Sunshine Centre in Banbury.
- 7.15. CDC HOUSING STANDARDS (PRIVATE HOUSING SECTOR): **No response at the time of writing this report.** Any response received prior to the committee meeting will be included in the written updates.
- 7.16. CDC RECREATION AND LEISURE: **No response at the time of writing this report.** Any response received prior to the committee meeting will be included in the written updates.
- 7.17. CDC WASTE AND RECYCLING: **No response at the time of writing this report.** Any response received prior to the committee meeting will be included in the written updates.
- 7.18. PUBLIC ART: **No response at the time of writing this report.** Any response received prior to the committee meeting will be included in the written updates.
- 7.19. OXFORDSHIRE COUNTY COUNCIL HIGHWAYS: **Objects.** The site as proposed has insufficient pedestrian and cycle links to the surrounding residential area, bus stop and amenities. In addition, the application contains insufficient and contradictory information surrounding the proposed use of the public right of way along the northern boundary as a pedestrian link. Footpath 120/24 would require significant improvements to be utilised as a credible pedestrian link to the wider Bretch Hill area and Balmoral Avenue (north), none of which are referenced in the application documents,
- 7.20. If despite of OCC Highway's objection permission is granted then prior to the issuing of planning permission OCC require a S106 legal agreement including an obligation to enter into a S278 agreement to mitigate the impact of the development plus planning conditions and informative notes (mentioned below).
- 7.21. The following obligations are requested:

- Public transport services - £70,000 (£1,000 per dwelling) – towards the strengthening and enhancing of the B5 bus service which runs through Bretch Hill
- Public rights of way - £5,000 – to improve the surfaces of all routes within 2km and to take account of the likely increase in use by residents of the development as well as new or replacement structures like gates, bridges and seating, sub-surfacing and drainage to enable easier access, improved signing etc.
- Strategic highway contribution - £89,674 – a) Bridge Street/Cherwell Street eastern corridor improvements and b) A361 Bloxham Road/Queensway/Springfield Avenue junction movements.
- Developer to enter into a S278 agreement to secure mitigation/improvement works including:
  - A dropped kerb crossing facility to be provided at the origin of footpath 120/24 where it joins onto Bretch Hill.
  - Provision of the site access and pedestrian footways as shown by a plan agreed with Highway Authority.
  - Improvement of Public Right of Way 120/24 into a “blacktop” footpath which is illuminated to OCC standards. The footpath should connect the development to Bretch Hill and Balmoral Avenue north or Harlech Close.

7.22. In other comments, the overall conclusions of the Transport Statement are accepted. However, it is difficult to know whether the Queensway Roundabout should have been excluded from the analysis without seeing how the applicant reached that decision. It is noted that the Balmoral Avenue/Broughton Road junction is within capacity.

7.23. If consent is granted planning conditions are requested for the provision of new permanent public footpaths, the provision of a link to Balmoral Avenue North, full details of access between the land and the highway, travel pack information and submission of a Construction Travel Management Plan. In addition, an informative is recommended outlining the requirements of the road agreements team in terms of standards and provisions relating to access widths, surfacing, private and visitor parking, visibility splays and vehicle tracking plans.

7.24. OXFORDSHIRE COUNTY COUNCIL LEAD LOCAL FLOOD AUTHORITY: **Objects** on the following grounds. The calculation files contradict the Flood Risk Assessment in the methodology used to define flow and volume. In addition, opportunities to maximise SuDS techniques on site have been missed.

7.25. OXFORDSHIRE COUNTY COUNCIL EDUCATION: **No objection** subject to S106 contributions as follows:

- Primary education - £326, 326 – for the expansion of primary capacity serving the Banbury area. This is based on 21.39 being the number of primary pupils expected to be generated from the development. The estimated cost per pupil of expanding a primary school is £15,256.
- Secondary education (including sixth form) - £469, 255 – towards a new secondary school in Banbury. This is based on 15.06 being the number of secondary and sixth form pupils expected to be generated from the development. The estimated cost per pupil of building a new 600-place secondary school is £31,159.

7.26. The above contributions are based on a unit mix of:

9 x 1 bed dwellings

18 x 2 bed dwellings

30 x 3 bed dwellings

13 x 4 bed dwellings

7.27. THAMES VALLEY POLICE: **Comments.** Raises concern about the content of the Design and Access Statement which does not address crime prevention. To ensure that the opportunity to design out crime is not missed the following condition is requested:

*“No development shall commence until details of the measures to be incorporated into the development demonstrating how ‘Secured by Design (SBD)’ principles and standards on physical security of dwellings will be integrated have been submitted to and approved in writing by the authority. The development shall be carried out in accordance with the approved details and shall not be occupied or used until written confirmation of compliance with SBD is received by the authority.”*

7.28. Thames Valley Police go on to state that any reserved matters application would need to consider the following:

- Appropriate and sustainable natural surveillance to/from the dwellings and across the site and along any footpaths
- Adequate lighting for entrance route and parking to recommended standards.
- Provision of defensible space where the front aspect of the dwellings adjoins public/semi-public space.
- Installation of appropriate boundary treatments with toppings that help to prevent climbing.
- A holistic approach to landscaping, to ensure none are compromised during the lifetime of the development.
- Utility meters installed where access can be gained without entering private spaces
- I note that from the Outline illustrative site layout shows the dwellings parking spaces are next to the side elevation of many dwellings I would like to see windows to active rooms on these elevations looking over parking spaces.
- Adequate access control measures for the apartment blocks.

7.29. THAMES WATER: **Objects.** The proposed development proposes to build on operational land owned by Thames Water Utilities and as such the applicant does not have permission to build on this land. The objection will remain until such a time as Thames Water are reassured that their operational land will remain unimpacted by the proposed development.

7.30. In addition, Thames Water has identified an inability of the existing foul water network infrastructure to accommodate the needs of the development. If consent is granted the following condition is required:

*“No properties shall be occupied until confirmation has been provided that either:-*

*a. All wastewater network upgrades required to accommodate the additional flows from the development have been completed: or*

*b. A housing and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied. Where a housing and infrastructure plan is agreed, no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.”*

- 7.31. With regard to surface water drainage, Thames Water advises that if the developer follows the sequential approach to the disposal of surface water then they hold no objection. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required.
- 7.32. With regard to existing water network infrastructure, Thames Water has identified an inability of the network to accommodate the needs of this development proposal. As such, if consent is granted they require the imposition of the following condition.

*“No properties shall be occupied until confirmation has been provided that either:-*

- a. all water network upgrades required to accommodate the additional flows from the development have been completed; or*
- b. 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.”*

- 7.33. The proposed development is located within 5 metres of a strategic water main that Thames Water do not permit the building over or construction within 5m of this water main and recommend a condition to reinforce this. As there is proposed development within 15 metres of a strategic water main a condition is recommended which requires a piling method statement be submitted and approved prior to any such work being undertaken.

- 7.34. There are water mains (non-strategic) crossing the or close to the site and Thames Water do not permit building over or construction within 3 metres of these mains. Finally, the proposal is within 15 metres of a Thames Water underground water asset and as such recommend an informative be attached to any approval granted. The informative refers the developer to the Thames Water guide “Working near our assets” to ensure any work is in line with the necessary processes to be followed when working above or near Thames Water assets.

- 7.35. *Officer comment: The agent has confirmed and provided details of the applicant’s land ownership and evidence that the appropriate notice was served on Thames Water. Thames Water have been reconsulted with this information.*

- 7.36. Response to second consultation: *“We are not disputing the validity of the application as a notice 1 has been served on Thames as noted by the agent. However, we do dispute their statutory declaration of truth, which as the agent states is a matter for the lawyers and is being disputed. Ultimately the applicant won’t be able to build on land that they do not own, or which they do not have an agreement to do so on, as such whilst permission could be granted, it cannot be implemented.”*

- 7.37. **CAMPAIGN TO PROTECT RURAL ENGLAND OXFORDSHIRE: No response at the time of writing this report.** Any response received prior to the committee meeting will be included in the written updates.

- 7.38. CLINICAL COMMISSIONING GROUP (CCG): **No response at the time of writing this report.** Any response received prior to the committee meeting will be included in the written updates.
- 7.39. LEGAL SERVICES RIGHTS OF WAY OFFICER: **Comments** that the proposal does not appear to require any diversion to the Banbury public footpath numbered 120/24 which extends along the northern boundary of the site. Its retention on its current legal alignment with additional planting and screening is welcomed. Requests an informative reminding the applicant
- 7.40. FINANCE (NEW HOMES BONUS AND BUSINESS RATES): **No response at the time of writing this report.** Any response received prior to the committee meeting will be included in the written updates.
- 7.41. *Officer comment:- Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the 1990 Act (as amended) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.*
- 7.42. *In this particular instance, any financial payments are not considered to be material to the decision as they would not make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority and hence the above response from the Council's Finance department is therefore provided on an information basis only.*

## **8. RELEVANT PLANNING POLICY AND GUIDANCE**

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

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

- Policy PSD1: Presumption in Favour of Sustainable Development
- Policy BSC1: District Wide Housing Distribution
- Policy BSC2: The Effective and Efficient Use of Land – Brownfield Land and Housing Density
- Policy BSC3: Affordable Housing
- Policy BSC4: Housing Mix
- Policy BSC10: Open Space, Outdoor Sport and Recreation Provision
- Policy BSC11: Local Standards of Provision – Outdoor Recreation
- Policy ESD1: Mitigating and Adapting to Climate Change
- Policy ESD2: Energy Hierarchy and Allowable Solutions

- Policy ESD3: Sustainable Construction
- Policy ESD6: Sustainable Flood Risk Management
- Policy ESD7: Sustainable Drainage Systems (SuDS)
- Policy ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- Policy ESD15: The Character of the Built and Historic Environment
- Policy Banbury 10: Bretch Hill Regeneration Area

#### NON-STATUTORY CHERWELL LOCAL PLAN 2011

- Policy H1b: Allocation of sites for residential development

#### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- Policy C28: Layout, design and external appearance of new development
- Policy C30: Design control

### 8.3. Other Material Planning Considerations

- Cherwell Residential Design Guide SPD
- Cherwell Developer Contributions SPD
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- EU Habitats Directive
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)

## 9. APPRAISAL

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

- Principle of development
- Site layout and design principles
- Impact on the character and appearance of the area
- Highways
- Rights of Way, access and pedestrian connectivity
- Residential amenity
- Affordable housing
- Flood Risk and drainage
- Ecology
- Infrastructure
- Other matters

#### Principle of Development

9.2. Planning law requires that planning decisions are made in accordance with the Development Plan unless material considerations indicate otherwise. Paragraph 12 of the National Planning Policy Framework (NPPF) makes clear that it does not change the statutory status of the development plan as the starting point for decision making. Proposed development that conflicts with the development plan should be refused unless other material considerations indicate otherwise. Cherwell has an up to date Local Plan and can demonstrate a 5 year housing land supply. However, the NPPF is a significant material consideration.

*NPPF*

- 9.3. Paragraph 11 of the NPPF explains the Government's presumption in favour of sustainable development. For decision-taking this means approving proposals that accord with an up to date development plan and in cases where there are either no relevant development plan policies or those policies important for determining the application are out of date; granting permission unless the NPPF policies provide a clear reason for refusal or any adverse impacts significantly and demonstrably outweigh the benefits.

#### *Development Plan*

- 9.4. The Development Plan comprises the saved policies of the 1996 adopted Cherwell Local Plan (CLP1996) and the 2015 adopted Cherwell Local Plan (CLP 2031 Part 1). The policies important for determining this application are referenced above.
- 9.5. Policy PSD1 of the Cherwell Local Plan 2011-2031 accords with the NPPFs requirement for sustainable development and that planning applications that accord with policies in the statutory Development Plan will be approved without delay.
- 9.6. The Cherwell Local Plan 2011-2031 seeks to allocate sufficient land to meet District Wide Housing needs. The overall housing strategy is to focus housing growth at the towns of Bicester and Banbury.
- 9.7. Policy H1b of the Non-Statutory Cherwell Local Plan identifies the site as suitable for residential development of approximately 70 dwellings. This document was never formally adopted as part of the Development Plan but it does hold some weight in terms of decision making in the District, albeit more limited. The adopted Part 1 Local Plan does not allocate sites under the threshold of 100 residential units, thus not considering this site.

#### *Assessment*

- 9.8. The 2018 AMR (December 2018) demonstrates that the District presently has a 5.2 year housing land supply for the period 2019-2024. In addition to this, the Secretary of State for Ministry of Housing, Communities and Local Government issued a written statement on 12 September 2018 containing a "*temporary change to housing land supply policies as they apply in Oxfordshire*". It sets out that the Oxfordshire authorities will only need to demonstrate a 3 year housing land supply and not 5 years so that the authorities can focus their efforts on the Joint Statutory Spatial Plan. As such, policies for determining the application are only considered to be out of date where a 3 year supply of deliverable sites cannot be demonstrated.
- 9.9. Whilst the Council can demonstrate a 3 year housing land supply, significant weight is still afforded to benefits of providing housing to contribute towards meeting the requirements of Local Plan Part 1, meeting the housing needs of the area and contributing towards meeting the need of the Oxfordshire Growth deal.
- 9.10. Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. The 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.
- 9.11. In terms of the economic impact, the proposed development would create jobs both directly and indirectly. Socially, the development would provide both market and affordable housing whilst environmentally it would provide new planting and some

enhancements for a range of habitats available for wildlife and the setting of the site. It is considered that the proposed development fulfils the requirements of paragraph 8 of the Framework and can be considered to be sustainable. However, these aspects are explored in greater detail through the coming paragraphs.

### *Conclusion*

- 9.12. Therefore, considering (1) the site allocation (albeit it holds limited weight), (2) the physical location of the site in Banbury and it being bounded by existing residential development on three sides, (3) that the proposal would assist in the delivering of new homes and meeting overall district housing requirements, including affordable housing to 2031 and (4) the presumption in favour of sustainable development, it follows that the development is acceptable in principle.

### Site Layout and Design Principles

#### *Policy Context*

- 9.13. Policy ESD15 of the CLP 2015 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high quality design meeting high design standards and complementing any nearby heritage assets. The National Planning Policy Framework is clear that good design is a fundamental to what the planning and development process should achieve.
- 9.14. Policy BSC10 of the Cherwell Local Plan Part 1 2011-2031 outlines the requirements for open space, outdoor sport and recreation provision. Policy BSC11 sets out the local standards of provision for outdoor recreation including children's play space.
- 9.15. The Council's Residential Design Guide SPD seeks to ensure that new development responds to the traditional settlement pattern, character and context of a village. This includes the use of continuous building forms along principle routes and adjacent to areas of the public open space, the use of traditional building materials and detailing and form that respond to the local vernacular.

#### *Assessment*

- 9.16. The application is in outline with all matters reserved except for access. The application is accompanied by an indicative concept layout. The layout as submitted is not considered to embrace the principles as set out in the 2018 adopted Residential Design Guide. The issues, briefly, are as follows:
- There is no active surveillance from proposed dwellings onto the footpath which is broadly parallel to the northern boundary and terminates at the north/north-eastern corner,
  - There is no active surveillance from proposed dwellings onto the public open space,
  - No LAP nor LEAP is provided on site (requirement of proposals for dwellings over 50 units),
  - Frontages are dominated by parking,
  - The entrance to the site in particular is dominated by car parking spaces,
  - There is no pedestrian or cycle link from Balmoral Avenue south to north,
  - Flats for affordable housing are not supported and strategic housing require maisonettes and houses instead (see paragraphs 9.71 to 9.74). Since 18 of



the 70 units are proposed to be provided as flats, this brings into question whether 70 units can be delivered at the site.

- 9.17. Whilst design and materials would be assessed under a reserved matters application it is considered that, given the location of the site on the edge of the town and adjacent existing residential development, appropriate levels of control should be secured at any such detailed application stage, to ensure compliance with design principles reflective of those within the area and wider district.
- 9.18. The proposed landscaping, with retention of the existing tree lined boundaries, woodland and introduction of landscape buffers would provide a softer edge to the proposed development allowing for a transition to the rural landscape to the west.
- 9.19. That said, whilst every application would need to be assessed on its own planning merits at the time of the of any such application, officers are confident of the level of control that could be safeguarded through ensuring broad compliance with any approved plans secured by way of appropriate condition attached to any such permission.

### *Conclusion*

- 9.20. It is considered that the submitted indicative layout would not be acceptable, and although this plan would not form part of any approval of the current application even if supported, it must be mentioned that the proposed layout fails to provide a well-designed, safe, accessible and well-connected environment with an appropriate tenure mix, and means that it is unlikely that 70 dwellings could be achieved on the site. The application and accompanying indicative layout fail to adequately take into account the policy requirements relating to recreation and children's play space. In addition, it fails to ensure a safe and overlooked means of pedestrian and cycle route connection to the existing development. As such, the proposal is contrary to Policies BSC10, BSC11 and ESD15 of the adopted Cherwell Local Plan 2011-2013 and government guidance within the NPPF.

### Impact on the character and appearance of the area

#### *Policy context*

- 9.5. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPG goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Further, Paragraph 130 of the NPPF states that permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 9.6. Paragraph 127 of the NPPF states that planning decisions should ensure that developments:
- Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change;

- Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks;
- Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

9.21. Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“New development proposals should:*

- *Contribute positively to an area’s character and identity by creating or reinforcing local distinctiveness and respecting local topography, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views.*
- *Respect the traditional pattern routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages.”*

9.22. Policy ESD13 of the Cherwell Local Plan Part 1 states that: *“Development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not be permitted if they would:*

- *Cause undue visual intrusion into the open countryside;*
- *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;*
- *Harm the historic value of the landscape.”*

9.23. Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context and Saved Policy C8 seeks to limit sporadic development beyond the built limits of settlements.

9.24. Saved Policy C33 states the Council will seek to retain any undeveloped gap with is important in preserving the character of a loose knit settlement structure or maintaining the setting of heritage assets.

9.25. The Cherwell Residential Guide SPD (2018) builds on the above policies and provides a framework to deliver high quality locally distinctive development.

9.26. The Non Statutory Local Plan also contains relevant policies as set out below:

Policy EN31 (Countryside Protection) (like its equivalent policy C9 in the Adopted Cherwell Local Plan 1996) states that beyond the existing and planned limits of the towns of Banbury and Bicester, development of a type, size or scale that is incompatible with a rural location will be refused.

9.27. Policy EN34 (Landscape Character) sets out criteria that the Council will use to seek to conserve and enhance the character and appearance of the landscape through the control of development. 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*
- *harm the historic value of the landscape*

#### *Assessment*

9.28. Given the site's location on the edge of the town, its rural location and on top of the hill, the proposed development has the potential to cause harm and each of these criteria needs to be carefully considered.

9.29. The western boundary to the site is heavily treed and with well-established mature hedgerow providing a strong visual barrier to the wider open countryside beyond the site. The site visually is well-contained by tree-lined boundaries and being bounded on three sides by existing residential development. It is also dominated by the adjoining water tower and telecommunications tower.

9.30. The application is accompanied by a Landscape and Visual Impact Assessment (LVIA) produced by Mood Landscape Ltd which seeks to introduce the principle of development into the context of the existing landscape character, visual environment and landscape related policy to assess the ability of the site to integrate future development. In terms of the visual assessment carried out by Mood Landscape, fieldwork was undertaken to identify several viewpoints in the immediate and wider setting of the site.

9.31. Within the Oxfordshire Wildlife & Landscape Study the site is identified as being adjacent the 'Farmland plateau' landscape type. Farmland plateau landscape type are identified as being:

- Level or gently rolling open ridges dissected by narrow valleys and broader vales,
- Large, rectangular arable fields enclosed by low thorn hedges and limestone walls,
- Rectilinear plantations and shelterbelts,
- Sparsely settled landscape with few nucleated settlements,
- Long, straight roads running along the ridge summits.

9.32. As noted above the site is a 'greenfield' site set at the edge of Banbury. It is described that the site is consistent with some of the key characteristics of the farmland plateau character area. It is a geometric elevated plateau with wooded rectilinear plantations of field maple, ash and oak on its boundaries. However, it has some distinct differences to the neighbouring farmland plateau character including the imposing water tower and mobile telephone mast on the site boundary and close proximity of neighbouring houses, which gives the site an urban fringe character and heavily dilutes any farmland character.

9.33. Although the site itself is not within the farmland plateau character area, the western boundary area of the site forms the eastern boundary of this character area and therefore the impact on the adjoining character area is relevant to the study and is categorised as being of medium sensitivity. The proposed development would bring

the built environment closer to the boundary of the character area. The current transitional zone that the site provides between the existing housing in Bretch Hill and the farmland plateau would change in character. However, this is the only example of a transition zone being between the built form and the character area and the close proximity of housing to the edge of the character area is considered to be typical of the character along this boundary.

- 9.34. The LVIA claims that the development would make a positive contribution to the character of the site area as it directly addresses and enhances an untidy fringe of the town and would help absorb the impact of the water tower and mobile phone mast in the urban fabric of the town. This coupled with the development bringing the boundary of the built form in line with the boundaries to the north and south represents a negligible overall impact on the farmland plateau character area and would not result in a significant impact on the character area.
- 9.35. The Landscape Visual Impact Assessment concludes that *“the site is heavily influenced by the surrounding housing and most notably the adjoining water tower and mobile phone mast, which are detracting features and dominate the view across the site. These necessary but overbearing urban influences coupled with the unkempt rough grassland create a site, which is typically urban fringe in character. The addition of properties and the associated infrastructure within the site will change its character from being urban fringe to urban”*.
- 9.36. The Council’s Landscape Officer (CLO) has assessed the proposals and accompanying LVIA and associated assessment of key viewpoints. The CLO raises no objections. In summary, he largely agrees with the part of the LVIA conclusion as stated above but identifies that further wireframe visualisations and additional recorded viewpoint assessments from View Point E are required in order to fully satisfy the criteria. The visual receptor at view point E is described as “HIGH” in terms of sensitivity (rather than medium) and because of this the Landscape Architect requests at least another recorded view towards the site from the highest elevation. Another recorded view between this viewpoint and the field hedgerow is required. On receipt of this information and that the landscape impact is at a satisfactory level, there is no reasonable or sustainable objection on put forward on this basis.
- 9.37. The CLO goes on to offer feedback on the illustrative layout although it should be noted that this does not form part of the decision. Sufficient landscape buffers protect the trees and woodland to the north from encroaching development although plots that are overshadowed by trees would cause future issue when occupiers wish to fell or cut back trees to increase light to their properties. Overall there is an insufficient number of street trees to improve visual amenity and climate amelioration. There is currently no provision for a LAP or a LEAP the triggers for both are 10 units and 50 units respectively. These issues are due for consideration with the submission of any reserved matters application but it is worth highlighting the downfalls at this juncture, particularly as the need to provide a LAP and/or LEAP will have an impact on the number of dwellings that can be delivered on the site.

#### *Conclusion*

- 9.38. Officers consider that residential development of this site is generally acceptable in terms of the impact upon the character of the area and wider open countryside. This is demonstrated by a satisfactory Landscape Visual Impact Assessment although more wireframe visualisations are required at one viewpoint. Any harm that would be caused to the wider landscape setting would not be so significant to warrant a reason to refuse the application.

## Highway safety and vehicular access

### *Policy context*

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

### *Assessment*

- 9.43. All matters are reserved except access. The development would include a new access from Balmoral Road (south) to serve the new housing. This would extend from the existing highway where there is currently a field access at the end of the highway. Pedestrian footpath would also be included with the access connecting with the existing footpath on Balmoral Avenue.
- 9.44. The Local Highway Authority (LHA) advises the proposed vehicular access is acceptable based on the information submitted. In terms of traffic impact, the overall conclusions of the Transport Statement are accepted however it is difficult to know whether Queensway Roundabout should have been excluded from the junction analysis without being party to the reasoning behind its exclusion. The calculations to determine that the roundabout should not be subject to the junction analysis should be included in the transport statement. This information has been requested of the agent/applicant and will be updated to members at the committee meeting. Nevertheless, the LHA is content with the methodology used to generate the final trip generation figures and it is noted that the Balmoral Avenue/Broughton Road junction is within capacity.
- 9.45. The NPPF (Para. 109) states that: *‘Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway*

safety, or the residual cumulative impacts on the road network would be severe'. The LHA raises no objection to the application on the basis of highway safety.

- 9.46. The LHA also requests financial contributions to Bridge Street/Cherwell Street eastern corridor improvements. A361 Bloxham Road/Queensway/Springfield Avenue junction improvements, enhancement of public transport services by addition extended route options, hours and weekend hours to the B5 bus service on Bretch Hill and a rights of way contribution towards mitigation measures to footpaths within 2km of the site.

#### *Conclusion*

- 9.47. The LHA concludes that the proposal would not have a significant adverse impact upon the safe and efficient operation of the highway network subject to conditions, S106 contributions and an obligation to enter into a S278 agreement. On that basis the proposal complies with Local Plan Policy ESD15 in this regard and government guidance within the NPPF.
- 9.48. Whilst officers acknowledge the concerns of the local residents in respect of traffic flow through the village at peak times, given that it is considered that the proposals would not result in a significant increase in traffic movements officers see no reason to disagree with the LHA's assessment.

#### Rights of Way, access and pedestrian connectivity

#### *Policy Context*

- 9.49. The National Planning Policy Framework outlines three overarching objectives being economic, social and environmental. From a social perspective the NPPF discusses achieving sustainable development means supporting "strong, vibrant and healthy communities.... By fostering a well-designed and safe built environment". At paragraph 102(c) the NPPF requires transport issues to be considered at the earliest stages of development proposals so that opportunities to promote walking, cycling and public transport use are identified and pursued".
- 9.50. At paragraph 122 section c) the NPPF states that planning decisions should support development which make efficient use of land, taking into account "the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit car use".
- 9.51. Local Plan Policy SLE4 relates to improved transport and connections. It supports the NPPF where it states; "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."
- 9.52. Local Plan Policy Banbury 10 requires the layout of new development to enable a high degree of integration and connectivity with the existing communities and to support improve walking and cycling connections to the town centre.
- 9.53. The Cherwell Residential Design Guide SPD gives advice on routes for pedestrians and cyclists and states they "should be safe, direct, attractive and legible". The SPD sets out guidance on how developments should respond to the site context and this includes where can access and connection to the wider network be gained and whether there are existing movement routes that should be retained. The SPD also poses questions about how can the scheme connect into the surrounding street and

footpath/cycleway network and how does the site relate to existing public transport routes.

- 9.54. In addition, Oxfordshire County Council Residential Design Guide requires all developments of more than 50 homes to be served by at least an hourly bus service and for homes to be within 400m walkable distance of a bus stop.
- 9.55. Policy 34 of LTP4 states that "Oxfordshire County Council will require the layout and design of new developments to proactively encourage walking and cycling, especially for local trips, and allow developments to be served by frequent, reliable and efficient public transport". One of the ways this is done is "ensuring that developers promote and enable cycling and walking for journeys associated with new development, including through the provision of effective travel plans".

#### *Assessment*

- 9.56. A public right of way (footpath 120/24) follows the northern boundary of the site connecting the open countryside to Bretch Hill. The footpath is currently unsurfaced, unlit and runs along the tree line adjacent the boundary and then through the woodland to the northeast. The path is currently a muddy track, and in places is difficult to distinguish as a path because of the vegetation on and around it.
- 9.57. The site as proposed has insufficient pedestrian and cycle links to the surrounding residential area, bus stops and amenities. The nearest bus stops are in Bretch Hill as the bus stop on Broughton Road serves 4 buses a day and cannot be considered a credible bus service. The bus stops at Chepstow Gardens and Hampden Close on Bretch Hill are a 1 mile walk away using the Broughton Road access if no other credible pedestrian access is provided at the north of the site. These bus stops would be within 400m of the site if the public right of way is retained and upgraded as a pedestrian and cycle link or if a footpath is provided to join the development to Balmoral Avenue north.
- 9.58. In order to achieve the County Council's requirement for dwellings to be within 400m walking distance of a bus route the public right of way would need to be retained and utilised. However, given its current state, it is considered that the public right of way would require significant improvements to enable it to be utilised as a credible pedestrian link to the wider Bretch Hill area and Balmoral Avenue (north). The public right of way appears to be retained but this is shown only as a thin line marked on the indicative site layout. No improvements to the public right of way, or creation of a new footpath to Balmoral Avenue north, is referenced in the application documents. The application contains insufficient and contradictory information surrounding the retention of the footpath and connection to the wider area. On this basis it cannot be demonstrated that the dwellings on the development would be within 400m walking distance of an established bus route.
- 9.59. Oxfordshire County Council objects to the application on this basis. Development of the site would need to include provision for strong cycle and pedestrian links. Particularly from Balmoral Avenue north to south and onward to the Broughton Road. Unfortunately, this has not been implemented into the proposals as there is no pedestrian and cycle link to the wider residential area besides the Broughton Road access.
- 9.60. In addition to its retention and upgrading the route would need to be subject to "active surveillance" from the proposed dwellings. The indicative layout would not allow this to happen and would therefore not foster the creation of a safe route, but the indicative is not submitted for approval in itself. That said, whether or not the indicative layout provides for such is immaterial. Whatever layout comes forward,

natural and/or active surveillance would also require the felling of trees and parts of the woodland to allow the footpath to be opened up. This would contradict the proposal to retain the trees and woodland as per the Arboricultural Retention Plan. As the wooded area is a Priority Habitat a careful balance would need to be achieved as to how much, if any, of it could be removed.

- 9.61. The opening up of the public right of way to make it safer and more accessible, particularly through the woodland area, would be detrimental to ecology and biodiversity. The need to light the footpath would have an impact on species using the tree lined boundary as a foraging and migrating route.
- 9.62. Safeguarding the priority habitat and biodiversity net gain is a priority in planning and must be balanced against the need to firstly deliver much needed housing and then providing sustainable, safe and accessible connections to the existing built environment and facilities.

#### *Conclusion*

- 9.63. For the reasons set out above, the site as proposed has insufficient pedestrian and cycle links to the surrounding residential area, bus stops and amenities. The application contains insufficient and contradictory information surrounding the proposed use of the public right of way along the northern boundary as a pedestrian link. In view of the lack of information it cannot be demonstrated that the proposed development complies with national and local planning policy as listed in the paragraphs above. On this basis, the application is recommended for refusal.

#### Residential amenity

#### *Policy Context*

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

#### *Assessment*

- 9.65. The application is in outline only. Any detailed proposals would need to have due regard to requirements of Section 6 of the Residential Design Guide SPD about appropriate standards of amenity for both existing and future residents. Appropriate positioning and scale of dwellings, boundary treatments and the nature of such treatments could be given due consideration at reserved matters stage.
- 9.66. The nearest residential properties to the site would be on Balmoral Avenue north, Harlech Close to the north and Balmoral Avenue south to the south. In terms of the properties along Balmoral Avenue north and Harlech Close these are to the north of the boundary of the proposed site separated by well-established trees its entire length. It is considered that, subject to appropriate scale and design of any proposed dwellings along the northern boundary of the site, and retention and potential enhancement of existing boundary planting it is likely that a satisfactory layout could be achieved that would avoid any significant unacceptable impacts on the residential amenity of the neighbouring residential properties.
- 9.67. Existing properties along Balmoral Avenue South would sit side on to the site and face the access road. They are currently separated from the site by some shrubs,



hedgerow and fencing. Again, subject to a satisfactory layout being achieved and any proposed landscaping and planting, it would avoid any unacceptable impacts on the residential amenity of these neighbouring properties.

- 9.68. Assessment of internal amenity with the proposed dwellings would be a matter for consideration at any reserved matters or detailed application stage. Whilst only indicative at this stage, the concept layout indicates an appropriate layout that would provide for both public and private outdoor amenity space that would allow for an acceptable standard of living to be achieved for potential future occupants.

#### *Conclusion*

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

#### Affordable housing

#### *Policy Context*

- 9.70. The NPPF advises that in order to create sustainable, inclusive and mixed communities, Local Planning Authorities should plan for a mix of housing, reflect local demand and set policies for meeting affordable housing need. Policy BSC4 of the adopted Cherwell Local Plan part 1 2011-2031 requires new residential development to provide a mix of homes in the interests of meeting housing need and creating socially mixed and inclusive communities. Policy BSC3 requires development such as this are to provide 30% affordable housing on site and provides details on the mix that should be sought between affordable/social rent and shared ownership. Policy BSC2 requires that to make efficient use of land that new residential development should be provided at a net density of at least 30 dwellings per hectare.

#### *Assessment*

- 9.71. On a development of 70 units Policy BSC3 would require 21 units to be provided as affordable housing. Of these 212 affordable units, the Strategic Housing Team recommends an indicative mix of tenures and sizes of the following

- 4 x 1 bedroom 2 person maisonette for social rent
- 6 x 2 bedroom 4 person house for social rent
- 4 x 2 bedroom 4 person house for shared ownership
- 4 x 3 bedroom 5 person house for social rent
- 2 x 3 bedroom 5 person house for shared ownership
- 1 x 4 bedroom 7 person house for social rent

- 9.72. This represents a 70/30 split between social rent and shared ownership units as stated in the adopted Local Plan Part 1 Policy BSC3, but also blends the findings of the most recent county-wide Strategic Housing Market Assessment, with our own district-specific levels of in-house data to relate this mix which will best meet local needs.

- 9.73. The provision of flats for the affordable housing units is considered inappropriate, due to the issues associated with the management of flats, the service charges linked to the communal areas and the suitability of the property type with regards to housing families. The Affordable Housing provision would instead to comprise maisonettes for the 1 bed units and houses for the 2 bed units. The proposed

Affordable Housing Schedule and Illustrative Site Layout would therefore need to be re-worked in order to replace the flats. This would have an impact on the number of residential units which could be delivered at the site. The affordable housing provision would need to be secured through a Section 106 agreement.

### *Conclusion*

- 9.74. The current proposal and indicative layout does not provide a suitable affordable housing mix or layout and conflicts in this regard with Local Plan Policy BSC4. There is also an objection in the absence of a satisfactory Planning Obligation, which is discussed in greater detail in later paragraphs.

### Flood Risk and drainage

#### *Policy Context*

- 9.75. 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.
- 9.76. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.

#### *Assessment*

- 9.77. A site-specific Flood Risk Assessment (FRA) prepared BWB Consulting has been submitted in support of the application. The Environment Agency's flood maps indicate that site is not within a higher risk flood zone and are within Flood Zone 1 where residential development is acceptable in principle subject to no increased flood risk elsewhere as a result of proposal.
- 9.78. Oxfordshire County Council as Local Lead Flood Authority raises an objection to the development on the basis that the Flood Risk Assessment is not acceptable. The calculation files contradict the FRA in the methodology used to define flow and volume. In addition, the following comments were made:
- Awaiting detail to be provided from Thames Water in relation to the water tower, reservoir and awaiting consent to connect into highways drainage system.
  - Surface water post development flow path plan needs to be provided.
  - Soakage test results need to be provided including shallow testing.
  - Discharge at relevant return periods should be at greenfield rate.
  - The MicroDrainage calculations provided use default Cv values which are not representative of the site. It is recommended that values of 0.95 for roofs and 0.9 for paved areas area applied. The designer must justify where a Cv of less than 0.9 has been used. FEH methodology should be used for both run-off and attenuation requirements.
  - Calculations should be undertaken for all relevant return periods and identify the critical duration used. Greenfield run-off rates should reflect these return periods. Section 3.2 of the Sustainable Drainage Statement relates to underground tanking. It is felt that this could be designed out. [this would help mitigate further future maintenance and replacement.
  - Distributed site storage approach should be adopted. OCC recommends dividing the site into individual catchments.

- Long Term Storage is mentioned in point 3.2 but ruled out in point 3.28, this should be reconsidered.
- Gullies are mentioned as a means of conveyance and any conveyance should be on the surface via open dish channel.
- Areas to maximise permeable paving have not been fully exploited.
- A management and maintenance plan is required.
- Treatment and management train needs to be justified.
- Connection of proposed tanking to the pond needs to be confirmed if tanking is to be used. The Lead Local Flood Authority would advocate the removal of tanking if possible. If this is required a robust justification for its inclusion would need to be provided.
- Plan detailing sacrificial areas for shallow surface water ponding on site during exceedance events needs to be provided.
- Half drain down times of tanks and ponds needs to be confirmed.
- Confirmation required that only means of discharge is into Thames Water network, i.e. no infiltration potential or watercourse that could be used.
- Level of pipe entering pond to be confirmed.
- Mitigation measures need justifying in case of exceedance of failure of tank/pond.
- Woodland area should be considered for surface water SuDS
- Downpipe disconnection in to rain gardens or bio-retention to be explored.
- Shallow swales/basins for temporary storage of lesser return periods to be considered.
- Blue/Green roofs and rainwater harvesting to be examined as a potential.
- Green space must be maximised for on the surface SuDS feature. All surface water should be dealt with on or as close to the surface as possible.

9.79. Some of the above comments are relevant to a future reserved matters application and/or a drainage strategy. However, the contents of the Flood Risk Assessment should be addressed at the outline stage.

9.80. Third party comments have raised concerns with regards to the capacity of the sewage system and its ability to cope with additional load as a result of the proposed development. Thames Water, which provides waste water/sewage services, has raised concern regarding an inability of the existing foul water network to accommodate the needs of the development proposal. TW suggests this could be dealt with by an appropriately worded condition; however, further information is required as to what the necessary wastewater network upgrades are in order to ensure the network can accommodate the developments needs and without knowing this the works may not be deliverable. A sewage drainage strategy itself could be secured through an appropriate condition.

### *Conclusion*

9.81. Officers consider that, in light of there being a technical objection raised by the Lead Local Flood Authority and concerns raised by Thames Water, the proposals cannot, at this stage, be considered acceptable in terms of flood-risk and drainage. As such, the application is recommended for refusal on this basis.

### Ecology

#### *Legislative context*

9.82. 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.

- 9.83. 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.
- 9.84. 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.
- 9.85. 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:
- a) 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?
  - b) That there is no satisfactory alternative.
  - c) 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.
- 9.86. 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*

- 9.87. 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.
- 9.88. 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.

- 9.89. 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.
- 9.90. 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.
- 9.91. 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.
- 9.92. 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*

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

It also states that LPAs can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
  - an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 9.94. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site contains a number of dilapidated ruined buildings, is on the edge of the built up area of Banbury abutting open countryside and there are a number of mature trees including Priority Habitat Woodland and hedgerows within and adjacent the site, and therefore has the potential to be

suitable habitat for bats, breeding birds, badgers, reptiles, great crested newts, water voles and invertebrates.

- 9.95. In order for the LPA 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 LPA 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.
- 9.96. 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.
- 9.97. The application is supported by a detailed protected species survey which concluded that there is a bat assemblage of local level vale commuting and foraging round the boundaries of the Site. In addition, the habitats have potential to support other wildlife including breeding birds and potentially badger. Retained habitats and associated species interest have been buffered from the development footprint and recommendations for their protection during the construction, demolition and management during operation to ensure their long-term retention and enhancement. The report also proposed an ecological mitigation strategy for the scheme.
- 9.98. The site has been assessed within the Ecological Appraisal as habitat of relatively low ecological importance and poor quality. However, the Council's Ecologist is in disagreement with this assessment and feels the site should be elevated in importance due to the lack of this type of habitat close by. Grassland with scrub and woodland belts is not widespread in the surrounding area which is otherwise the urban edge of Banbury and largely arable land. Its loss is of greater important to wildlife in this location that the ecological appraisal outlines.
- 9.99. The surveys themselves are not a reason for refusal although additional ones are required especially for badgers. This could be controlled by condition on the basis that this is an outline application and the impact could be assessed at a later stage. This would also apply to further bat surveys in the woodland.
- 9.100. However, there is a concern regards the net loss of biodiversity across the site as a result of the proposed development. The ecological appraisal includes a biodiversity impact assessment metric which shows that there would be an overall net loss for biodiversity as a result of these proposals using the illustrative layout (even if the condition of the woodland is able to be improved). Policy for the conservation and enhancement of the natural environment at all levels aims to minimise impacts on biodiversity and provide net gains in biodiversity (NPPF para 170). Recent guidance adopted by the Council seeks a minimum of 10% net gain and this leaves the current proposal with a significant shortfall in 'biodiversity units'.
- 9.101. The report proposes off-site compensation. However, this should be a last resort and other means such as reduced housing numbers should be considered first. A financial contribution is not sufficient to discharge net gain responsibilities. In addition, no information has been submitted detailing a scheme to show how this could be delivered or if other means has been explored initially. The report states that this would be agreed with the LPA during the determination of the application but this fails to offer any assurance that a net gain or even no net loss is achievable from the scheme and this is necessary for any scheme to be considered acceptable.

9.102. Currently, there is no proposal put forward as to how the net loss of biodiversity can be managed neither is there any evidence that alternative levels of development have been explored to be able to achieve a net gain. Also, considering the concern surrounding the enhancement of the woodland whilst balancing the need and requirement for public amenity space. The lack of information relating to protecting and enhancing biodiversity through the development means the proposal conflicts with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance within the NPPF.

## Infrastructure

### *Policy Context*

9.103. New development often creates a need for additional infrastructure or improved community services and facilities, without which there could be a detrimental effect on local amenity and the quality of the environment. National planning policy sets out the principle that applicants may reasonably be expected to provide, pay for, or contribute towards the cost, of all or part of the additional infrastructure/service provision that would not have been necessary but for their development. Planning Obligations are the mechanism used to secure these measures.

9.104. Policy INF1 of the CLP 2015 states that: *“Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.”*

9.105. Policy BSC11 of the CLP 2015 states that: *“Development proposals will be required to contribute to the provision of open space, sport and recreation, together with secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in ‘Local Standards of Provision – Outdoor Recreation’. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement.”* Policy BSD12 requires new development to contribute to indoor sport, recreation and community facilities.

9.106. The Developer Contributions Supplementary Planning Document (SPD February 2018) sets out its position in respect of requiring financial and on site contributions towards ensuring the necessary infrastructure or service requirements are provided to meet the needs of development, and to ensure the additional pressure placed on existing services and infrastructure is mitigated. This is the starting point for negotiations in respect of completing S106 Agreements.

### *Assessment*

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

- 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

9.108. Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. In short, these tests exist to ensure that

local planning authorities do not seek disproportionate and/or unjustified infrastructure or financial contributions as part of deciding to grant planning permission. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them to ensure that any decision reached is lawful.

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

#### Cherwell District Council

- Provision of 30% affordable housing together with 70/30 tenure split between social rented and shared ownership;
- Provision of public open amenity space and future maintenance arrangements;
- Provision of a combined on-site LAP and LEAP together with future maintenance arrangements;
- Maintenance arrangements for on-site trees, hedgerows, and drainage features;
- Payment of a financial contribution towards the provision of refuse/recycling bins for the development;
- Off-site Outdoor Sports Contribution – 70 dwellings x £2,017.03 per dwelling contribution = £141,192.10 towards the development of a new artificial pitch at Hanwell Fields playing fields in Banbury.
- Off-site Indoor Sports Contribution – 70 dwellings x 2.49 avg. people per dwelling x £335.32 per person contribution = £58,446.28 towards the development of an indoor tennis centre at Hanwell Fields playing fields in Banbury.
- Community Hall Contribution – 70 dwellings x 2.49 avg. people per dwelling x £520 contribution per person = £90,636 towards improvements at the Sunshine Centre in Banbury.

#### Oxfordshire County Council

- Highway Works Contribution of £81,820 towards Bridge Street/Cherwell Street eastern corridor improvements and A361 Bloxham Road/Queensway/Springfield Avenue junction improvements;
- Public Transport Service Financial Contribution of £70,000 towards the enhancement of public transport services serving the site by improving the B5 bus service on Bretch Hill by adding additional route options, extended hours and extended weekend hours;
- Public Rights of Way Contribution of £5,000 to provide mitigation measures in the impact area up to 2km from the site to primarily improve the surfaces of all routes as well as new or replacement structures like gates, bridges, seating etc and improved signage and drainage;
- To secure entry into a S278 agreement (Highways Act 1980) to secure mitigation/improvement works, including: a dropped kerb facility to be provided at the origin of footpath 120/24 where it joins onto Bretch Hill, provision of site access and pedestrian footways as show by a plan agreed by the LHA, improvement of PROW 120/24 into a blacktop footpath connecting the development to Bretch Hill and Balmoral Avenue north or Harlech Close.



- Primary education contribution of £326,326 for the expansion of primary capacity serving the Banbury area.
- Secondary education (including sixth form) contribution of £469.255 towards a new secondary school in Banbury.

9.110. CDC's Developer Contributions SPD states that new residential development will be expected to contribute towards the provision of additional health care infrastructure generated by its population growth where there is insufficient existing capacity, well located to serve the development. Whilst the Oxfordshire Clinical Commission Group has been consulted, comments have not been received from this consultee and they have indicated they are only likely to comment on larger applications. Thus, officers do not consider that they can request contributions towards health care infrastructure.

### *Conclusion*

9.111. A number of items would need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts. Given the application is not acceptable for other reasons these matters have not been progressed. In the absence of a legal agreement to secure these matters the proposal is therefore contrary to Policies INF1, PSD1, BSC3, BSC10 and BSC11 of the Cherwell Local Plan (2011-2031) Part 1, the Developer Contributions SPD (2018) and Government guidance contained within the National Planning Policy Framework.

## **10. PLANNING BALANCE AND CONCLUSION**

10.1 The overall purpose of the planning system is to seek to achieve sustainable development as set out in the NPPF. The three dimensions of sustainable development must be considered in order to balance the benefits against the harm. Section 38(6) of the Planning and Compulsory Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise.

10.2 The application proposal seeks consent for up to 70 dwellings on the edge of Banbury, which is considered a sustainable location. Planning policy directs residential development towards Banbury and although the district benefits from a 3 year housing land supply the site has previously been allocated in the non-statutory local plan. As such, considering its location and the benefits of delivering further housing to meet the districts housing need, the principle of development is judged to be acceptable.

10.3 However, the proposed development fails to provide sufficient and coherent information regarding the retention and upgrading (if any) of the public right of way to the northern boundary of the site. Without ensuring the upgrade of this footpath to one that is well surfaced, accessible, lit and safe or the provision of a footpath link through to Balmoral Avenue north, there is no adequate connection to local bus stops meaning the proposal is contrary to the NPPF, Local Plan Part 1 Policy SLE4 and the Cherwell Residential Design Guide. In addition, there is a conflict between upgrading the section of the footpath through the woodland (Priority Habitat) and safeguarding biodiversity in this woodland through retention of trees, a sensitive lighting scheme and lack of public access.

10.4 The submitted Flood Risk Assessment fails to demonstrate that the development is acceptable in terms of flood risk and drainage. In light of the technical objection

raised by the Lead Local Flood Authority and concerns raised by Thames Water, the Local Planning Authority cannot be confident that the development complies with national and local planning policy.

- 10.5 In terms of ecology, the application proposal fails to demonstrate an overall biodiversity net gain and actually shows a net loss. There is no proposal put forward as to how this net loss of biodiversity can be managed, neither is there any evidence that alternative levels of development have been explored to be able to achieve a net gain. Also, there is a concern surrounding the enhancement of the woodland whilst balancing the need and requirement for public amenity space. As such, this is a sustainable and defensible reason for refusal on the grounds of lack of information relating to protecting and enhancing biodiversity through the development.
- 10.6 The current proposal and indicative layout does not provide a suitable affordable housing mix or layout and conflicts in this regard with Local Plan Policy BSC4, and which means it has not been demonstrated that 70 dwellings can be satisfactorily delivered at the site.
- 10.7 On balance, whilst the principle of development is acceptable and the development provides some benefits including delivering of housing including affordable units, which balances or outweighs any wider visual effects from development of the site, there are conflicting issues that require further investigation and information to be submitted to reach a development proposal that is both suitable and sustainable which connects to the existing built development and facilities, provides adequate protection from flooding, and safeguards biodiversity and protected species whilst providing a net gain of biodiversity across the site.
- 10.8 On this basis, it is therefore concluded that the proposal does not comply with national and local plan policy and the application is therefore recommended for refusal.

## 1. **RECOMMENDATION**

### RECOMMENDATION - **REFUSAL** FOR THE REASONS SET OUT BELOW

#### Reasons for refusal

1. The application and accompanying indicative layout fail to adequately take account of the policy requirements relating to recreation, outdoor sports provision and children's play space. The current proposal and indicative layout does not provide a suitable affordable housing mix which means it has not been demonstrated that 70 dwellings can be satisfactorily delivered at the site. The proposal is therefore contrary to Policies BSC4, BSC10, BSC11 and ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.
2. The proposed development, by reason of its relationship and poor pedestrian connections to existing built development, services and facilities (including bus stops) would not provide good access to services and facilities and public transport in the interests of reducing the need to travel and promoting sustainable transport options. The proposal is therefore contrary to Policy SLE4, Cherwell Residential Design Guide (SPD), Policy 34 of LTP4 and Government guidance contained within the National Planning Policy Framework.
3. The submitted Flood Risk Assessment is inadequate due to contradictions in the calculations and methodology and fails to provide sufficient and coherent information to demonstrate that the proposal is acceptable in terms of flood risk

and drainage. The proposal is therefore contrary to Policy ESD6 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

4. The application proposal fails to provide a biodiversity net gain across the site and fails to outline a scheme or means of mitigation as to how the net loss of biodiversity can be managed. As such, the proposal is contrary to policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.
5. In the absence of the completion of a satisfactory Planning Obligation, the Local Planning Authority is not satisfied that the necessary infrastructure (including education, open space, sports facilities, community facilities, highway infrastructure and affordable housing) directly required as a result of this development, in the interests of supporting the sustainability of the village and the development, mix and balanced communities, and in the interests of safeguarding public infrastructure and securing on site future maintenance arrangements, will be provided. This would be contrary to Policies INF1, PSD1, BSC3, BSC10 and BSC11 of the Cherwell Local Plan (2011-2031) Part 1, the Developer Contributions SPD (2018) and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Clare Whitehead

TEL: 01295 221650

**19/01160/F**

**Exham House  
Bloxham School  
Banbury Road  
Bloxham  
Banbury  
OX15 4PE**

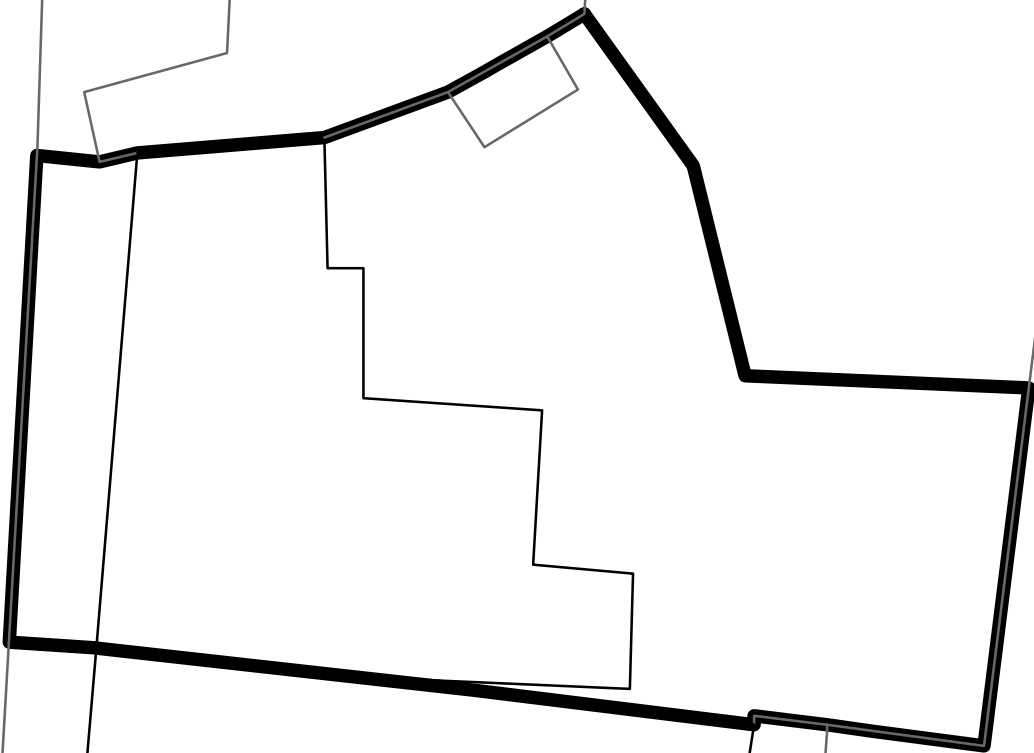
13

14

15 15

West West

View View



Hollyhock Cottage Hollyhock Cottage

Linden Linden

Dursington Cottage Dursington Cottage

Bankside Cottage Bankside Cottage

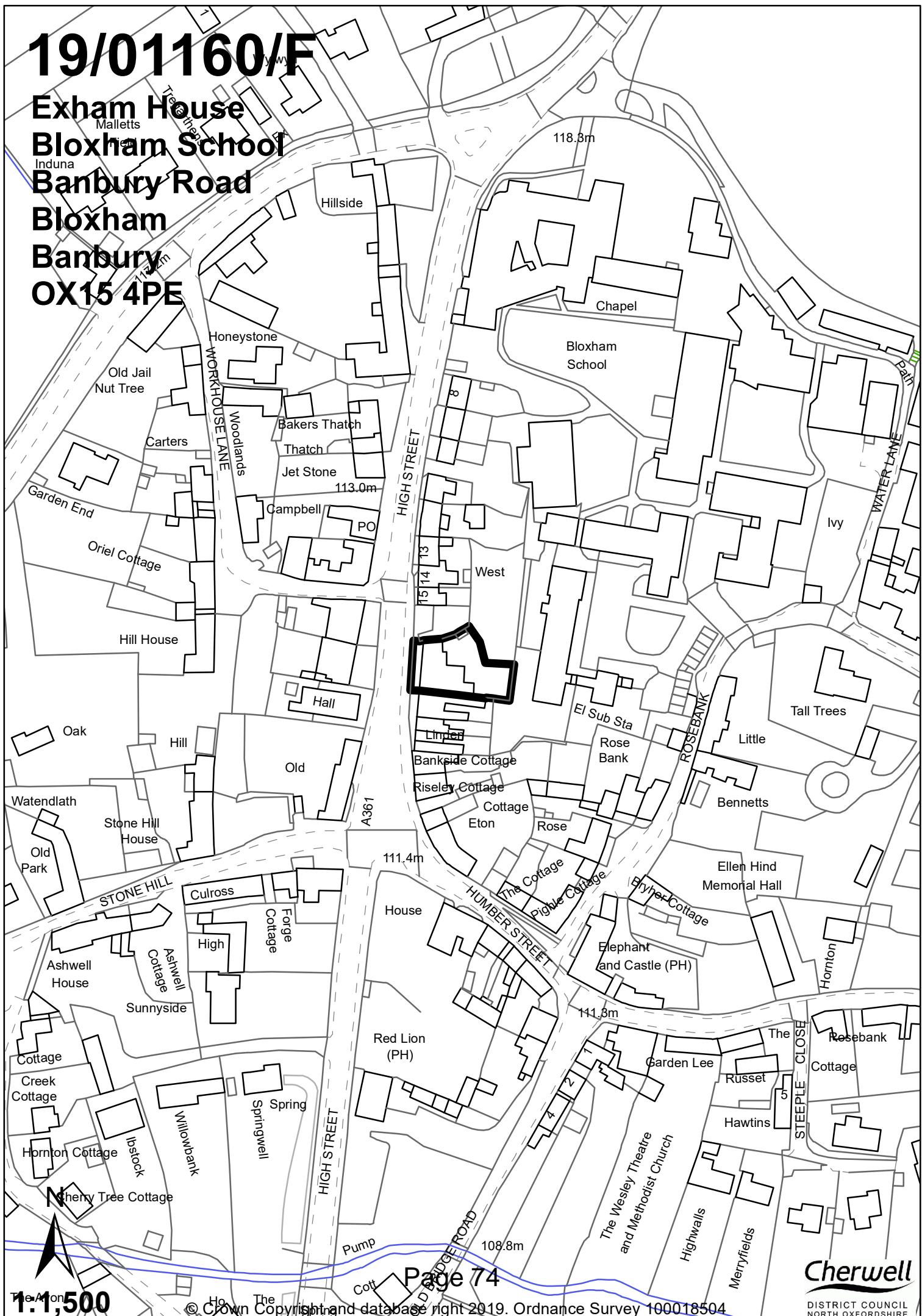
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**1:250**

# 19/01160/F

**Exham House**  
Malletts  
**Bloxham School**  
Induna  
**Banbury Road**  
**Bloxham**  
**Banbury**  
**OX15 4PE**



**Case Officer:** George Smith

**Applicant:** Bursar Bloxham School

**Proposal:** Change of Use to Exham House, from Class D1 to a mixed Class D1/A3 to allow public use of a cafe, and associated works.

**Ward:** Adderbury, Bloxham and Bodicote

**Councillors:** Cllr Mike Bishop, Cllr Chris Heath, Cllr Andrew McHugh

**Reason for Referral:** Called in by Councillor Heath for the following planning policy reasons: BL14 (6) and BL16 of the Bloxham Neighbourhood Plan, ESD15 of the CLP and C31 and C32 (saved policies).

**Expiry Date:** 19 November 2019

**Committee Date:** 14 November 2019

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**This application is subject to a Committee Members Site Visit, which is scheduled to take place on the day of committee.**

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

#### **RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS**

##### **Proposal**

The application seeks planning consent for the conversion of an existing D1 use (non-residential institution) into a part D1 and C3 (café) use. There are no external alterations proposed, with the café being accessed from the west off High Street.

##### **Consultations**

No consultee has raised **objections** to the application

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

- Bloxham Parish Council, OCC Highways, CDC Conservation, CDC Environmental Health

##### **Public comments**

21 letters of objection have been received and 52 letters of support have been received. 2 further letters have been received which neither object nor support.

##### **Planning Policy and Constraints**

The site is located within the Bloxham Conservation Area.

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

##### **Conclusion**

The key issues arising from the application details are:

- Principle of development
- 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. The application relates to Exham House, a characterful two-storey building constructed in cream render under a slate roof. The building is an end of terrace property with residential dwellings adjacent and village amenities, including a convenience store, takeaway and other retailers opposite the street to the west on High Street. The building faces westwards onto High Street, with an area of hardstanding to the front which separates the building from the pavement. The current lawful use of the building is as school teaching accommodation, with a staff flat.

### **2. CONSTRAINTS**

2.1. The application site is within the designated Bloxham Conservation Area. There are several Grade II Listed Buildings located towards the centre of Bloxham, with the nearest to the site being The Old Bakery, approximately 26m to the southwest.

### **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

3.1. The applicant seeks planning consent for the partial conversion of an existing school building, into a café. The front part of the ground floor layout would be accessible to the public, whereas the rear part of the ground floor would serve as a sixth form common room. The total area subject to the change of use is 60sqm. There are no external changes proposed to Exham House.

#### **Background information**

3.2. During the application there was discussion between the applicant and officers regarding the suitability of an access ramp; one of the reasons behind this was the third-party comments relating to pedestrian access. Subsequently, plans showing a ramp were submitted to officers for review but do not form part of the current application and have therefore not been externally consulted on.

3.3. Officers advised the applicant that, if the ramp was to form part of the application, the planning application would be recommended for refusal by virtue of the harm that the ramp would cause to the character and appearance of the Conservation Area.

3.4. Whilst the Council, as the public authority, must have due regard to S149 of the Equalities Act 2010, in this case your officers consider that, given the nature and extent of the impact and the duty placed on the local planning authority to give great weight to the harm caused to heritage assets, the latter must take precedence. Officers also note that ease of access to buildings is covered under separate

building regulation requirements (Approved Document M: Volume 2 – buildings other than dwellings).

- 3.5. Officers have advised the applicant that they would be happy to discuss different proposals for access, but that these would need to be conducted in the context of a paid pre-application enquiry, that it is very unlikely that any planning application for a ramp to the front of the building will be supported, and that the applicant will need to give consideration to other solutions for public access, e.g. by restoring the cart horse entrance to the building that previously existed.

#### **4. RELEVANT PLANNING HISTORY**

- 4.1. The following planning history is considered relevant to the current proposal:
- 4.2. CHN.359/91 - Change of use from public house to school teaching accommodation with staff flat – APPROVED 1991
- 4.3. 98/00500/F - Alterations to school building and first floor extension over existing single storey at rear – APPROVED 1998

#### **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 **28 September 2019**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. The comments raised by third parties are summarised as follows:

##### Support

- *Social / community benefit* – Would be positive addition to village there is currently no such provision; would diversify the village's service offer and would provide an alternative to a pub so would be more suitable for children / young families; would have all age appeal; would provide social amenity benefit for village residents; would help reduce social isolation and provide networking opportunities; would help integrate the school with the community
- *Economic benefit* – would support the existing businesses; would enhance Bloxham's economy; would provide for economic growth in the village; its location means visitors may be encouraged to visit the local shops and support other local businesses; those wanting to visit a café would not have to drive to Banbury or Adderbury for such a facility; sixth form students may gain work experience in the café
- *Location* – would be located central to other amenities and within good walking distancing from the rest of the village; Bloxham Mill café is not central to the village;



- *Lack of impact on residents* – would not impede residents during non-business hours; would not cause “nuisance” concerns i.e. noise outside of business hours; would not making existing parking difficulties any worse
- *Other* – Would allow a former public house to be used again by the public

### Object

- *Impact on character of area and heritage assets* – the proposed change of use would impact on the setting of the Old Bakery listed building and the character and appearance of the conservation area; would fundamentally change the use and appearance of the street; all of the village centre amenities are on the opposite side of the road – this would be the first on this side of the road where currently all properties are residential.
- *Impact on highway safety* – would conflict with Bloxham Neighbourhood Plan Policy BL9 in respect of parking, traffic and pedestrian safety, and with Policy ESD15 of the CLP 2031 in that it does not promote pedestrian movement or integrate different modes of transport and parking, instead exacerbating traffic and worsen parking congestion – the high street is already heavily congested through parking; the potential numbers to the café are significant; customers are likely to drive rather than walk esp. those at the edge of the village or from other villages; there would be nowhere for customers of the café to park.
- Parking on the High Street acts as traffic calming but causes a single file flow in either direction which extends traffic from the Bursars Office of Bloxham School to the Red Lion. Also leads to cars and lorries mounting the pavement. Exham House is located at the narrowest part of the road. A361 is 8th most dangerous road in the country, with 46% of accidents involving pedestrians or cyclists. This development would only worsen these statistics.
- *Impact on pedestrian safety* – the proposal would impede pedestrian movement; lights, signage and advertising at the café would result in increased pedestrian safety issues due to crossing A361. Crossing is 100m up the road so people would not use it and instead cross dangerously.
- *Lack of appropriate assessment* of existing traffic flow or parking issues or how the proposal would affect either; the applicant’s statements about parking lack accuracy, analysis, consistency or common sense.
- *Lack of social benefit* – Existing food facilities in the village are sufficient to service Bloxham’s needs; opposite Exham House there is post/office general store, a kitchen shop, a supermarket, a fish & chip shop, a pharmacy, a beauty salon and the Ex Serviceman’s Hall. The three existing pubs already provide a similar facility and are open in the day, all with off street parking; Bloxham Mill also provides a café facility; the small size of the proposed café means it would provide any significant benefit to local community
- *Impact on neighbours* – through music, pedestrian traffic, smoking, deliveries, waste collection and out of hours use. The steps would prevent less mobile elderly and disabled people accessing the facilities.
- *Impact on local businesses* – Businesses already lose custom due to lack of parking and this would make things worse. Most people now already avoid Bloxham, going to Deddington or other towns. Non-customers of businesses are already using their parking facilities. Impact on existing pubs (Joiners Arms and Red Lion).

- *Alternative locations* – Café should be elsewhere on school's grounds where there is more parking available.
- *Other* – Issues with contractors at the application site parking on the pavement causing pedestrian safety issues. Council has failed to consult many nearby properties. Consultation has taken place during school holidays, limiting the chance for public to voice concerns. Address of the property is labelled incorrectly so somewhat misleading.

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. BLOXHAM PARISH COUNCIL: **No objections**

#### CONSULTEES

7.3. CDC ENVIRONMENTAL PROTECTION: **No objections** – but if extractor fan is installed, details are required for its location, noise levels and odour suppression.

7.4. CDC CONSERVATION: **No objections** – to the change of use but would be interested to review the associated services in respect of the impact on the external appearance of the Conservation Area.

7.5. OCC HIGHWAYS: **No objections** – as the proposal is unlikely to result in significant harm to the local highways network for the following reasons;

- Café will most likely be used by village residents and passers-by.
- Primary use of the site is to remain in D1 use (sixth form facilities) leaving a relatively minor 60sqm as public café space.
- OCC promotes sustainable travel options and as such given the location of the proposal, is likely to encourage non-car modes such as walking and cycling.
- The number of sites and similar amenities in the area is expected to mitigate any potential large and sudden increase in traffic attempting to park near the site – particularly as locals are familiar with the traffic and congestion on the High Street thus making driving an unattractive option.
- Crash-mapping data shows no cause for concern regarding pedestrian safety on this stretch of road

## 8. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

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

- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development

- 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:

Bloxham Neighbourhood Plan (BNP 2016)

- BL3 – Connectivity
- BL5 – Parking standards for existing residential development
- BL9 – Residential amenity
- BL10 – Bloxham Conservation Area
- BL11 – Residential design
- BL13 – Protecting employment land
- BL14 – Encourage start-up and small business expansion

- 8.4. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Bloxham Conservation Area Appraisal (2007)

## **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 NPPF advises that the purpose of the planning system is the achievement of sustainable development including pursuing economic, social and environmental objectives in mutually supportive ways. Paragraph 83 of the NPPF states that planning development should enable: the expansion of all types of business in rural

areas including through conversion of existing buildings; and the retention and development of accessible local services and facilities.

- 9.3. Paragraph 84 of the NPPF adds that planning development should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent or beyond existing settlements, but that the use of previously developed land, and sites that are physically well related to existing settlements, should be encouraged where suitable opportunities exist.
- 9.4. Furthermore, Paragraph 91 of the NPPF states that planning development should aim to achieve healthy, inclusive and safe places which promote social interaction, including opportunities for meetings between people that might not otherwise encounter one other, for example through strong neighbourhood centres. Policy 92 adds that development should plan positively for the provision and use of community facilities and other local services to enhance the sustainability of communities and residential environments.
- 9.5. Policy BL16 of the BNP 2016 provides support for additional retail units in Bloxham on the High Street and Church Street, providing the impact of any additional traffic likely to be generated has been satisfactorily mitigated and not adversely affecting the highway network and pedestrian safety. Whilst the proposed use as a café is not strictly retail, officers consider that the objective of Policy BL16 is relevant in that it supports enhancement to the service office at Bloxham village centre where appropriate.

#### *Appraisal*

- 9.6. The applicant's supporting letter and planning statement states that the proposed change of use would provide a benefit to the local community by being open to the public (as well as for students and members of staff of the school). Whilst there would be an internal division between the public space and school canteen, the applicant states that it provides an opportunity to enable better relationships forged with residents, to the benefit of the school and local community.
- 9.7. Bloxham has an established village centre along the High Street, which includes a village convenience store, takeaway restaurant and other retail units. Officers consider that the proposal would accord with the intentions of the NPPF in supporting village communities through providing new local facilities, particularly in a location that is physically well related to the existing neighbourhood centre.
- 9.8. Whilst officers consider the part change of use of the D1 facility to be acceptable in general sustainability terms, it is worth also noting a temporary 'fall-back' position available to the applicant. Schedule 2, Part 4, Class D of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) provides a temporary flexible permitted development right for (amongst other changes) the conversion of all or part of a D1 use to an A3 use. This temporary change is for a period of 3 years and is acceptable providing certain conditions and parameters are met; including that the change of use relates to no more than 150sqm of floor space.
- 9.9. In principle, therefore, there is policy support for development of this nature (including Policy BL16 of the BNP 2016). However, the overall acceptability of the development is also dependent on other material considerations, including visual amenity, residential amenity and highway safety. These matters are discussed in more detail below.

## Design and impact on the character of the area, including designated heritage assets

### *Policy Context*

- 9.10. 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. Where development is in the vicinity of any of the District's distinctive natural or historic assets, delivering high quality design that complements the asset will be essential.'*
- 9.11. The site is within the Bloxham Conservation Area. 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. Likewise, Section 66 of the same Act states that: In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Therefore, significant weight must be given to these matters in the assessment of this planning application.
- 9.12. Conservation Areas are designated heritage assets, and Paragraph 132 of the NPPF states that: when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. 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 loss should require clear and convincing justification. Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.

### *Appraisal*

- 9.13. Whilst located within the designated conservation area, there are no external changes proposed as part of this application and therefore there would be no impact on the appearance of the building and wider area. Whilst the building frontage is likely to be more active i.e. patrons coming and going from the facility, this is not considered to have any detrimental impact on the site or wider area.
- 9.14. Overall, the proposal is not considered to cause detrimental harm to the site or wider Conservation Area and therefore complies with Policy ESD15 of the CLP 2031 and relevant paragraphs of the NPPF.

## Residential amenity

### *Policy Context*

- 9.15. Policy ESD 15 of the CLP 2031 (Part 1) requires new development to consider the amenity of both existing and future occupants, including matters of privacy, outlook, natural lighting and ventilation. Furthermore, Paragraph 127 of the Framework states that planning should create places *"with a high standard of amenity for existing and future users"*.
- 9.16. Policy BL9 of the BNP 2016 has regard for amenity of existing residents, to ensure that living conditions of neighbouring residents are not materially harmed.

- 9.17. Saved Policy ENV1 of the CLP 1996 seeks to protect against development proposals that are likely to cause materially detrimental levels of noise, vibration, smell, smoke, fumes or other environmental pollution.

#### *Appraisal*

- 9.18. The proposal does not seek to extend the building in any way nor introduce any new openings or windows. Officers therefore conclude that there is no impact on adjacent neighbours by way of loss of light, outlook, privacy or over-domination.
- 9.19. The Council's Environmental Protection Officer has commented on the proposal and raises no objections but has requested a condition be imposed in relation to extractor equipment should this be required. The applicant's agent has clarified that food preparation would not be undertaken within the property and as such, there are no requirements for extraction and that the fresh air vent would be continued to be used.
- 9.20. Overall, the change of use of the building from D1 to part D1/A3 is not considered to cause any significant disruption to surrounding residents, given its location towards the village centre and near other community facilities where the level of activity and pedestrian/vehicular movements are expected to be higher. The proposal is therefore considered to comply with Policy ESD15 of the CLP 2031, saved Policy ENV1 of the CLP 1996 and relevant paragraphs of the NPPF.

#### Highway safety

#### *Policy Context*

- 9.21. 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.
- 9.22. Policy BL9 of the BNP 2016 states that the impact of any additional traffic likely to be generated by a development shall be satisfactorily mitigated and will not adversely affect the highway. Similarly, Policy BL16 of the BNP 2016 gives support for retail units in this area subject to satisfactory mitigation and not adversely impacting the highway network or pedestrian safety.

#### *Appraisal*

- 9.23. Several third parties have objected to the proposals on the grounds of highway safety, for reasons relating to congestion, parking issues and pedestrian safety.
- 9.24. The Local Highways Authority (LHA) has not raised any objections to the proposal, on the basis that the proposal is small scale and likely to be used mostly by village residents or passers-by. The LHA also has regard for the likelihood of increased vehicle travel to the site and notes that it is well located within the village, that it would encourage other travel options given its central location within the village and the already congested centre of the village would make driving an unattractive option. Finally, the LHA considers that pedestrian safety is not a cause for concern. Officers have no reason to disagree with the LHA's assessment.
- 9.25. In light of the above, and whilst officers acknowledge the third-party comments in objection to the application on highway grounds, it is not considered that a reason

for refusal could be sustained in relation to highway safety matters. In any case, officers recognise the relatively small-scale nature of the café, its relationship to surrounding businesses where multi-trips may be encouraged, its location adjacent to a bus station and its accessibility in walking routes from within Bloxham. Therefore, officers consider that the proposal is acceptable regarding highway safety matters.

- 9.26. Third-party comments have referenced the dangerous nature of the A361, citing that it is the 8<sup>th</sup> most dangerous road in the country. Officers would clarify that the A361 is some 195 miles in length and the LHA confirms that this stretch of road within Bloxham is not a cause for concern when reviewing accident statistics.
- 9.27. Overall, the proposal is considered acceptable in relation to highway safety, compliant with Policy ESD15 of the CLP 2031, Policies BL9 and BL16 of the BNP 2016 and relevant paragraphs of the NPPF.

#### Other matters

- 9.28. Whilst Policy BL14 of the BNP 2016 has been put forward as a reason for the application call-in, this relates to the support for start-up and small business expansion. The proposed development does not relate to a combined living and small-scale employment space and officer therefore consider this not to be a relevant policy.
- 9.29. Several third-party comments have raised that the café could impact on other businesses as a result of a loss of trade. Competition is not a material planning consideration to which a planning application can be refused on. Where a loss of trade could be potentially resulted from increased parking/congestion as suggested by third-parties, it is clarified that the LHA have raised no objections in this regard.
- 9.30. Third-party comments related to construction work are noted. However, this is not a material planning consideration for this scale of development. Officers also note that internal works do not require planning permission in their own right.
- 9.31. Officers note comments regarding the consultation process, including neighbours not being consulted and the consultation period taking place during school holidays. An application for planning permission must be publicised, by the LPA to whom the application is made, by giving requisite notice by site display at in at least one place on or near the land for not less than 21 days, or by serving notice on any adjoining land owner or occupier. As set out in section 6 of this report, this duty has been completed.
- 9.32. Comments regarding the address within the application form have been noted, however the 'red-line' site plan submitted to accompany this application is clear and unambiguous.

#### Human Rights and Equalities

- 9.33. 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.
- 9.34. 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*

- 9.35. Officers have considered these matters and have resolved that, whilst there are potential rights in play, these would not be affected by the application given that the application has been publicised by way of neighbour letter and site notice giving affected third parties the opportunity to comment on the application and their views taken into account when considering the application.
- 9.36. 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*

- 9.37. 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.
- 9.38. 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.

#### *Duty under The Equalities Act 2010*

- 9.39. S149 of the Equalities Act 2010 ("EA") sets out what is known as the Public Sector Equality Duty ("PSED"). Under the PSED, the Council, as a public authority, must have due regard to the need to, inter alia, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and has to foster good relations between persons who share a relevant protected characteristic and persons who so not share it. The protected characteristics to which the PSED refers are: (a) age; (b) disability; (c) gender reassignment; (d) pregnancy and maternity; (e) race; (f) religion or belief; (g) sex; (h) sexual orientation.
- 9.40. Officers have considered the application and resolved that protected characteristics are potentially affected by the application, but that officers have had due regard to the act in the recommendation, balancing its duties under Equalities Act 2010 against its duties under the Planning Act 1990 and the requirement to give great weight to any harm caused to designated heritage assets.

## **10. PLANNING BALANCE AND CONCLUSION**

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

## **11. RECOMMENDATION**

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR



PLANNING AND DEVELOPMENT 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 form
- Site Location Plan
- Ground Floor Proposed Layout – 0GPL Rev B.
- First Floor Proposed Layout – 01PL Rev A.

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

**Details of extraction**

3. Prior to the installation of any ventilation required for the proposed A3 unit, full details of the method of mechanical ventilation shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, any mechanical ventilation shall be installed and brought into use in accordance with the approved details and shall be maintained as such thereafter.

Reason - In order to safeguard the amenities of the area and to minimise the risk of a nuisance arising from smells in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: George Smith

TEL: 01295 221899

**19/01082/F**

**65 Bicester Road  
Kidlington  
OX5 2LD**



# 19/01082/F

65 Bicester Road  
Kidlington  
OX5 2LD



64.6m

63.3m

Def

ED Bdy

1 to 16  
Gosford Hill Court

Shelter

CLEVELAND CLOSE

Page 88

1:1,500

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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Case Officer:** Matthew Chadwick

**Applicant:** Mr Richard Field

**Proposal:** Demolition of existing single level dwelling - Class C3(a) - and erection of 5 x flats in single, two level building - Class C3(a)

**Ward:** Kidlington East

**Councillors:** Councillor Maurice Billington  
Councillor Carmen Griffiths  
Councillor Ian Middleton

**Reason for Referral:** Called in by Councillor Middleton due to the level of public interest

**Expiry Date:** 18 November 2019

**Committee Date:** 14 November 2019

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

### **RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS**

#### **Proposal**

Planning consent is sought to demolish the existing bungalow on the site and erect a new building to accommodate five flats

#### **Consultations**

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

- Kidlington Parish Council

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

- CDC Building Control, CDC Environmental Health, CDC Housing Standards, OCC Highways, Thames Water

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

#### **Planning Policy and Constraints**

The proposal is not within a conservation area and is not within close proximity to any listed buildings. The site is within 2KM of the Rushy Meadows SSSI. The very rear of the site is within Flood Zone 2.

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
- Ecology impact

- Flood risk
- Environmental Health

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 on the north side of Bicester Road within Kidlington and is accessed from this same highway. The property, like others on this side of Bicester Road, benefits from a relatively long, spacious plot, and the dwelling is set on a similar line to most of the dwellings in the area, with 63 Bicester road to the west being the exception to this which is set back significantly further. The bungalow on the site is rendered with a tiled roof. The northside of Bicester Road mainly consists of residential dwellings, which vary in height (some single storey some two storey).

### **2. CONSTRAINTS**

- 2.1. The application site is within partially within Flood Zone 2, with only a small section of the rear of the site within the Flood Zone. The site is not located in a conservation area and is not in proximity of any listed buildings.

### **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. Planning permission is sought for the demolition of the existing dwelling on the site and its replacement with a 1 ½ storey building comprising 5 flats. The development would be finished in render, with a clay tiled roof. Five parking spaces would be provided to the front of the dwelling. To the rear, unit 3 would have a private patio area and further to the rear of this there would be a communal garden, with a bin store and bike store to the rear of this.
- 3.2. The proposals were amended during the course of the application. The application initially sought consent for six flats and the design of the proposals has been altered in response to concerns from officers regarding the impact on the neighbour to the north regarding a loss of light, overlooking and loss of privacy. This has resulted in a reduction in the number of flats to five.

### **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>
19/00018/F	Demolition of an existing dwelling and the erection of 6no new build flats with commensurate ancillary facilities	Application Permitted

- 4.2. The above application is at 63 Bicester Road, the neighbour to the west. This application was permitted on 1 May 2019.

### **5. PRE-APPLICATION DISCUSSIONS**

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

### **6. RESPONSE TO PUBLICITY**

- 6.1. This application has been publicised by way of a site notice displayed near the site and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments will

be 11<sup>th</sup> November 2019, although comments received after this report is finalised will be reported to planning committee by way of a written update.

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

- The proposal would increase on street parking in proximity to the school which would exacerbate highway safety issues.
- The proposal would increase traffic on the roads in Kidlington.
- Too many flats are being built in Kidlington.
- The construction phase would disturb residents.
- The proposals constitute overdevelopment of the site.
- Bicester Road should have new traffic measures put in place to accommodate the development.
- The development does not take into account climate change.
- Supports the proposal as it would provide much needed housing provision for young people in a sustainable area.

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

## 7. RESPONSE TO CONSULTATION

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

### PARISH COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. KIDLINGTON PARISH COUNCIL: **Objects** on the grounds of parking provision and highway safety.

### CONSULTEES

7.3. CDC BUILDING CONTROL: A full plans Building Regulations application will be required for proposals. Commented on the previous layout that the layouts of two units did not reflect guidance with regard to protection of a communal staircase.

7.4. CDC ECOLOGY: No comments received.

7.5. CDC ENVIRONMENTAL HEALTH: **No objections**, subject to a condition relating to EV charging points.

7.6. OCC HIGHWAYS: **No objections**, subject to a condition relating to cycle parking provision.

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

7.8. THAMES WATER: **No objections**.

7.9. CDC WASTE AND RECYCLING: No comments received.

## **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
- BSC1: District Wide Housing Distribution
- BSC2: The Effective and Efficient and Efficient Use of Land
- BSC4: Housing Mix
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15: The Character of the Built and Historic Environment
- Villages 1: Village Categorisation

### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

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

### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)
- Kidlington Masterplan (2016)
- 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”)

## **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
- Ecology impact
- Flood risk
- Environmental health

#### Principle of Development

##### *Policy Context*

- 9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 and the saved policies of the Cherwell Local Plan 1996.
- 9.3. The National Planning Policy Framework (NPPF) explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs. Paragraph 7 of the NPPF sets out the Government's view of what sustainable development means in practice for the planning system – the three strands being the economic, social and environmental roles. It is clear from this that as well as proximity to facilities, sustainability also relates to ensuring the physical and natural environment is conserved and enhanced as well as contributing to building a strong economy through the provision of new housing of the right type in the right location at the right time.
- 9.4. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that conflicts with the Local Plan should be refused unless other material considerations indicate otherwise (Para. 12). Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.
- 9.5. Cherwell District Council can demonstrate a five-year supply of deliverable housing sites. Therefore, the policies in the development plan guiding the provision of housing can be considered up to date and given significant weight in determining applications. In addition to this, the Written Ministerial Statement of 12th September 2018 now considers important policies for determining the application to be out of date only where a 3 year supply of deliverable sites cannot be demonstrated. The presumption in favour of sustainable development, as advised by the NPPF, will need to be applied in this context.
- 9.6. Policy ESD1 of the Cherwell Local Plan Part 1 states measures will be taken to mitigate the impact of development on climate change and deliver the goals of sustainable development. This includes distributing housing growth to the most sustainable locations as defined in the Local Plan and delivering development which reduces the need to travel. The local plan has a strong urban focus with large amounts of housing planned at Bicester and Banbury. The policies relating to rural housing growth are therefore more restrained.
- 9.7. Policy Villages 1 of the Cherwell Local Plan Part 1 provides a framework for housing growth in the rural areas and seeks to deliver some new development to the most sustainable rural locations. It does this by categorising the villages within the district

and allowing for some limited growth in the most sustainable villages based on services, facilities and size of settlements. The categorisation also takes into account clustering of villages. Kidlington is classified as a Category A village, and these villages are amongst the most sustainable rural settlements in the district where minor development, infilling and conversion may be permitted for new housing within the built up limits.

- 9.8. Theme 2 of the Kidlington Masterplan focusses on, 'creating a sustainable community' and in relation to the approach to housing development it states: *"A range of options for development within the existing built-up area should be considered including appropriate redevelopment, intensification and infill while protecting Kidlington's key assets. This may involve increasing housing densities, reconfiguring land uses and introducing mixed used development."*

#### *Assessment*

- 9.9. The proposal involves the demolition of the existing bungalow on the site and its replacement with a single building accommodating five flats, which is considered to constitute minor development within the built limits of the village. It is therefore considered that the proposal complies with Policy Villages 1 of the Cherwell Local Plan Part 1 and that the proposal is acceptable in principle. The overall acceptability of the proposals are subject to other material considerations, which shall be discussed below.

#### Design and impact on the character and appearance of the area

#### *Policy context*

- 9.10. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPF goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Further, Paragraph 130 of the NPPF states that permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 9.11. Paragraph 127 of the NPPF states that planning decisions should ensure that developments:
- Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change;
  - Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
  - Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 9.12. Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 states that: *"New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards."* The Cherwell Residential Design

Guide SPD also encourages development which is locally distinctive and the use of appropriate materials and detailing, but states that new development should avoid the creation of 'anywhere places' which do not respond to local context.

- 9.13. Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context as well as compatible with existing buildings.
- 9.14. The Cherwell Residential Design Guide SPD states that development within Kidlington should look to strengthen the character of the village. The Design Guide SPD also states that new development should avoid architectural focus on individual buildings rather than the overall street composition. The SPD goes on to state that individual buildings should be designed to relate well to their neighbours, creating a harmonious overall composition and work with site conditions.
- 9.15. Kidlington Masterplan SPD, Theme 2: Creating a sustainable community, subheading 'Securing high design standards' states that: *"The design of the site layout, access arrangements, scale, massing and appearance will be required to demonstrate a positive relationship with the immediate surrounding context of the site and respect and enhance the townscape character of Kidlington as a whole."*

#### *Assessment*

- 9.16. Planning permission has been granted at the neighbouring site to the west (63 Bicester Road) for the demolition of a bungalow and its replacement with a single building accommodating six flats. The current proposal has been designed to appear the same as this approved scheme from within the street scene.
- 9.17. The layout for the site provides vehicular parking between the building and highway. Amenity space is provided to the rear of the buildings as well as bin and cycle storage. This offers an overall layout that is akin to the character of the area and protects the quiet environment to the rear of properties along this street. The area to the front of the building would mainly comprise hardstanding and this is currently the situation at 65 Bicester Road, so no harm would be caused in this regard. The building would follow a relatively similar line to the existing development on the north site of Bicester Road. The layout of the proposal is therefore considered acceptable.
- 9.18. The bin and cycle storage areas would be sited behind the building, which would be screened from the public domain and this is welcomed. Full design details of these structures have yet to be submitted but would be secured by condition of any planning permission given.
- 9.19. The immediate context comprises a range of dwellings, but the existing dwelling on the site and the neighbouring dwellings to the side have the appearance of bungalows. The front elevations of the dwellings in the locality tend to be relatively simple in articulation and appearance. Fronting onto a straight section of highway, it is within this context that the frontage of the proposed building would be viewed. The building would have a similar height to the existing building on the site and would maintain a 1½ storey appearance, and this overall height is considered acceptable.
- 9.20. The building would clearly have a greater volume than the existing dwelling given its greater depth, and the proposed building would be of a greater volume than its neighbours to the east. However, given its relatively simple form when viewed from the highway, the building would appear broadly in keeping with the general scale and massing of the relatively modest suburban housing within the immediate vicinity of the site.

- 9.21. The proposed building would have two wide, front-facing gables, which would be identical in design to the approved dwelling at 63 Bicester Road. There is a mix of architectural designs in the area and in this context, it is considered that the dwelling would not appear incongruous. The walls of the building would be constructed from white render and given that this is the predominant construction material for walls within the locality this material is considered acceptable. Further details of this would need to be secured by condition.

#### *Conclusion*

- 9.22. It is therefore considered that the development would not cause harm to the character and appearance of the area and the proposal thus accords 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 NPPF.

#### Residential amenity

##### *Policy context*

- 9.23. Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy outlook, natural lighting, ventilation, and indoor and outdoor space.
- 9.24. Saved Policy ENV1 of the Cherwell Local Plan 1996 states that: *“Development which is likely to cause detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution will not normally be permitted.”*
- 9.25. Paragraph 127 of the NPPF states that planning decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

#### *Assessment*

- 9.26. The properties most likely to be affected by the proposed development are those on either side of the application site, these being No's.63 and 67 Bicester Road. The proposed building would be set back slightly from the existing bungalow on the site but would extend significantly further to the rear as the result of the proposals, at a distance of approximately 10m.
- 9.27. Concerns were raised with the applicant regarding the impact that the development would have on the neighbouring property to the east, 67 Bicester Road. The application initially sought consent for six flats on the site, with an identical design to the approved scheme at 63 Bicester Road. Officers considered that the proposed development would have an unacceptable impact upon 67 Bicester Road through loss of privacy, light and outlook. As a result, the proposals were reduced in scale (particularly the rear section), dropping from six units to five, while the rooflights facing towards 67 Bicester Road were removed and the development was pulled away from the boundary with the neighbour to ensure that the development did not result in a significant loss of light to the neighbour's rear habitable rooms.
- 9.28. The main 1½ storey element is in line with the rear wall of 67 Bicester Road and the element that extends to the rear is set a significant distance away from this neighbouring dwelling. It is thus considered that the proposed development would not cause harm to the amenities of the neighbour to the east. Some overlooking of the neighbour's garden would be achieved by the dormers in the rear of the

development, however this impact is common in a suburban context such as this and as a result is deemed to be acceptable.

- 9.29. As stated earlier in this report, the other dwelling that would be impacted upon is 63 Bicester Road. It is important to consider both the impact that this proposed development would have on the amenities of the existing dwelling at 63 Bicester Road *and* that of the future occupiers of the building approved under 19/00018/F.
- 9.30. This existing dwelling at 63 Bicester Road is anomalous in terms of its siting relative to other dwellings in the vicinity in that it is set further back than the other dwellings in the area, at a distance of approximately 11m from the existing dwelling at 65 Bicester Road. On the front elevation of 63 Bicester Road are a living room (situated on west of the building furthest away from the proposed development) and a dining room (situated on the east of the building).
- 9.31. The front façade of the proposed development would be set back approximately 3.8m from the existing bungalow on the site; however, the side elevation of the proposed development would be 2m closer to the existing dwelling at 63 Bicester Road. 65 Bicester Road at present does have a minor overbearing impact upon 63 Bicester Road, given how far it protrudes to the front of the neighbouring dwelling and the front façade of the proposed development being set back 3.8m is a significant benefit in this regard. However, the side elevation of the development moving 2m closer to 63 Bicester Road would cause some harm to the amenities of the occupiers of this dwelling with regard to an overdominating impact and loss of light, and this harm needs to be weighed into the planning balance.
- 9.32. With regards to the impact on the development approved at 63 Bicester Road, the two dwellings would be built on a broadly similar building line and therefore there would be no harm to the front of the properties.
- 9.33. Both the proposed development and the approved development at 63 Bicester Road have windows serving habitable rooms in the side elevations at ground floor level. Given the set back of both properties from the side boundaries, in particular the approved scheme at 63 Bicester Road, the height of both buildings, the pitching away of the roof of the proposed building from the shared boundary and the fencing between these properties already, and the fact that the proposed development is to the north of this neighbour, it is considered that a lack of light to these rooms would not be significantly detrimental.
- 9.34. Rooflights serving first floor rooms are proposed at the side, but these are proposed to be 1.7 metres above first floor level so as to prevent clear views of the neighbouring properties. It is considered that windows at ground floor levels would not cause materially greater levels of overlooking than currently exist.
- 9.35. Concerns have been raised regarding noise from the proposed development during its construction phase. Issues arising from the construction phase of development are not material planning considerations and would only be a temporary issue during the construction phase itself.

### *Conclusion*

- 9.36. It is considered that some harm would arise from the proposals with regard to the impact on both the existing and approved development at 63 Bicester Road. However, there would also be some benefits to the impacts on 63 Bicester Road through the development being set back further into the site. On balance, it is considered that the development would not cause significant harm to the amenities of existing and proposed occupiers and that the proposal thus accords with Policy

ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the NPPF.

### Highway safety

#### *Policy context*

- 9.37. Policy ESD15 of the CLP (2011-2031) Part 1 states, amongst other matters, that new development proposals should: “Be designed to deliver high quality safe...places to live and work in.” This is consistent with Paragraph 110 of the NPPF which states that: “Developments should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles.”
- 9.38. Policy SLE4 of the Cherwell Local Plan (2011-2031) Part 1 states that: “All development where reasonable to do so, should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling.”

#### *Assessment*

- 9.39. There have been a significant number of objections relating to the impact that the development would have on highway safety. It has been stated that there is significant on-street car parking in close proximity of a school and that the proposed development would exacerbate this issue further.
- 9.40. The local highway authority (LHA) has offered no objections to the scheme, subject to a condition requiring full details of the cycle parking to be provided. The LHA advises that given the site’s location along a bus route that has fast and frequent services to Oxford and Bicester, coupled with Kidlington being one of the more sustainable settlements in Cherwell, the parking provision for one space per unit is acceptable in this location.
- 9.41. The objections from residents are noted and it is recognised that the demolition of the bungalow and the erection of five flats would increase the number of vehicles accessing the site. However, it is considered that this increase in traffic would not be unacceptable, given that the LHA has not objected to the development and the relative sustainability of the site close to the centre of Kidlington, and overall therefore it is considered that the proposal complies with Policy SLE4 of the Cherwell Local Plan Part 1 and Government guidance contained within the NPPF and would not cause demonstrable harm to the safety of the local highway network.

### Ecology Impact

#### *Policy and legislative context*

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

- 9.43. Paragraph 170 of the NPPF states that: *“The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity.”*
- 9.44. 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.”*

#### *Assessment*

- 9.45. There are no records of protected species within the vicinity of the site. Given the modern construction of the dwelling and the urban location of the site it is considered that the proposal is unlikely to cause adverse harm to ecology. Any comments received from the Council's Ecologist will be reported at Planning Committee.

#### Flood Risk

- 9.46. A small section of the very rear of the site is within Flood Zone 2 (land assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding). The Environment Agency has set out that the Local Planning Authority should refer to the standing advice for such a proposal.
- 9.47. Section 14 of the NPPF and Policy ESD6 of the Cherwell District Council (2011 2031) Part 1 state inappropriate development in areas of flood risk should be avoided by directing development away from areas at highest risk through application of a sequential test.
- 9.48. However, regarding the sequential test and exception test, it is considered not to apply in this case given that no development is proposed at the very rear of the site and because the proposed building would replace an existing dwelling.
- 9.49. Furthermore, the proposed development is not considered to increase the flooding risk of the site or elsewhere given that no development is proposed within the higher risk flood zone. This higher risk flood zone only covers a small part of the site at the rear. The development would comply with Policy ESD6 of the Cherwell Local Plan Part 1 and would not be at significant risk of flooding or increase flooding elsewhere.

#### Environmental health

- 9.50. Policy ESD1 of the Cherwell Local Plan Part 1 states that measures will be taken to mitigate the impact of development within the District on climate change. The incorporation of suitable measures in new development to ensure that development is more resilient to climate change impacts will include consideration of the following:
- Taking into account the known physical and environmental constraints when identifying locations for development
  - Demonstration of design approaches that are resilient to climate change impacts including the use of passive solar design for heating and cooling
  - Minimising the risk of flooding and making use of sustainable drainage methods; and

- Reducing the effects of development on the microclimate.

9.51. Policy ESD2 of the Cherwell Local Plan Part 1 states that the Council will promote an energy hierarchy as follows:

- Reducing energy use, in particular by the use of sustainable design and construction measures
- Supplying energy efficiently and giving priority to decentralised energy supply
- Making use of renewable energy
- Making use of allowable solutions.

9.52. Policy ESD3 of the Cherwell Local Plan Part 1 states that all new residential development will be expected to incorporate sustainable design and construction technology to achieve zero carbon development through a combination of fabric energy efficiency, carbon compliance and allowable solutions. All development proposals will be encouraged to reflect high quality design and high environmental standards, demonstrating sustainable construction methods including but not limited to:

- Minimising both energy demands and energy loss
- Maximising passive solar lighting and natural ventilation
- Maximising resource efficiency
- Incorporating the use of recycled and energy efficient materials
- Incorporating the use of locally sourced building materials
- Reducing waste and pollution and making adequate provision for the recycling of waste
- Making use of sustainable drainage methods
- Reducing the impact on the external environment and maximising opportunities for cooling and shading (by the provision of open space and water, planting, and green roofs, for example); and
- Making use of the embodied energy within buildings wherever possible and re-using materials where proposals involve demolition or redevelopment.

9.53. The Council's Environmental Protection Officer has no objections to the development, subject to a condition that EV charging infrastructure be provided on the site. Concerns have been raised during the consultation process that the development has not considered climate change, with no charging points, solar panels or heat pumps being shown as part of the proposals.

9.54. These comments are noted. However, Policies ESD 1, 2 and 3 of the Cherwell Local Plan Part 1 do not *require* development to incorporate these measures, only that they are *encouraged*. It is considered unfortunate that the proposed development does not include any of the features mentioned in these policies, but in the absence of a requirement to do so, it is considered unreasonable to impose a



condition or to refuse the development on this basis. It is thus considered that the proposal is acceptable in this regard.

#### Human Rights and Equalities

- 9.55. 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.
- 9.56. 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*

- 9.57. 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 and site notice 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 officers have had regard to these comments 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*

- 9.58. 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.
- 9.59. 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.

#### *Duty under The Equalities Act 2010*

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

## 10. PLANNING BALANCE AND CONCLUSION

- 10.1. The principle of minor residential development in Kidlington is acceptable, and it is considered that the proposal would not cause detrimental harm to the character and appearance of the area, and on balance would safeguard the living conditions of neighbouring properties. In addition, the proposal would not have an adverse impact upon protected species, the safe and efficient operation of the highway network or the flooding risk of the site and elsewhere. The proposal is therefore considered to constitute sustainable development and is recommended for approval subject to conditions set out below.

## 11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT 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: Existing Block Plan (190265-A-Ex-80 Revision A); Proposed Block Plan (190265-A-Pr-80 Revision B); Proposed Site Plan (190265-A-Pr-90 Revision B); Proposed Floor Plans (190265-A-Pr-100 Revision B); Proposed Roof Plan (190265-A-Pr-100 Revision B); Proposed Main Elevations (190265-A-Pr-200 Revision B) and Proposed Side Elevations (190265-A-Pr-210 Revision B).

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**

3. Prior to the commencement of the development hereby approved above slab level, samples of the materials to be used in the construction of the external walls and roof of the building hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the samples so approved and shall be retained as such thereafter.

Reason: To ensure the satisfactory appearance of the completed development and to safeguard the character and appearance of the area 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.

### **Landscaping plan**

4. Prior to the commencement of the development hereby approved above slab level, 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, and
  - d) full details of the design and appearance of the bin storage area.

Thereafter, the development shall be carried out in accordance with the approved details. The hard landscape elements shall be carried out prior to the first occupation of the development 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 Policies ESD1 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.

### **Landscaping in accordance with British Standard**

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(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, to encourage the use of sustainable modes of transport and to comply with Policies ESD1 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.

### **Details of access and turning areas**

6. Prior to the commencement of the development hereby approved above slab level, full specification details of the vehicular accesses, driveways and turning areas to serve the dwellings, which shall include construction, layout, surfacing and drainage, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of any of the dwellings, the access, driveways and turning areas shall be constructed in accordance with the approved details, and shall thereafter remain free from obstruction for vehicles parking and turning.

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.

### **Cycle parking details**

7. 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 details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

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

### **PLANNING NOTES**

1. On the basis of information provided, Thames Water would advise that with regard to water network and water treatment infrastructure capacity, we would not have any objection to the above planning application. 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.
2. With regard to surface water drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website. <https://developers.thameswater.co.uk/Developing-a-large-site/Apply-and-pay-for-services/Wastewater-services>.
3. There are public sewers crossing or close to your development. If you're planning significant work near our sewers, it's important that you minimize the risk of damage. We'll need to check that your development doesn't reduce capacity, limit repair or maintenance activities, or inhibit the services we provide in any other way. The applicant is advised to read our guide working near or diverting our pipes. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>.
4. Should the existing access to the site need altering, a Section 184 agreement will be required. Please note this cannot be the full length of the frontage of the site. Further at no point can any vehicle be parked on land that is not within the applicants control or that is adopted highway including footway, this includes for manoeuvring purposes. Further details on a Section 184 agreement can be found via the following link; <https://www.oxfordshire.gov.uk/business/licences-and-permits/dropped-kerbs>.
5. Bats are a highly mobile species which move between a number of roosts throughout the year. Therefore all works must proceed with caution and should

any bats be found during the course of works all activity in that area must cease until a bat consultant has been contacted for advice on how to proceed. Under the Wildlife & Countryside Act 1981 (as amended) and the Habitat and Species Regulations 2010 it is illegal to intentionally or recklessly disturb, harm or kill bats or destroy their resting places.

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

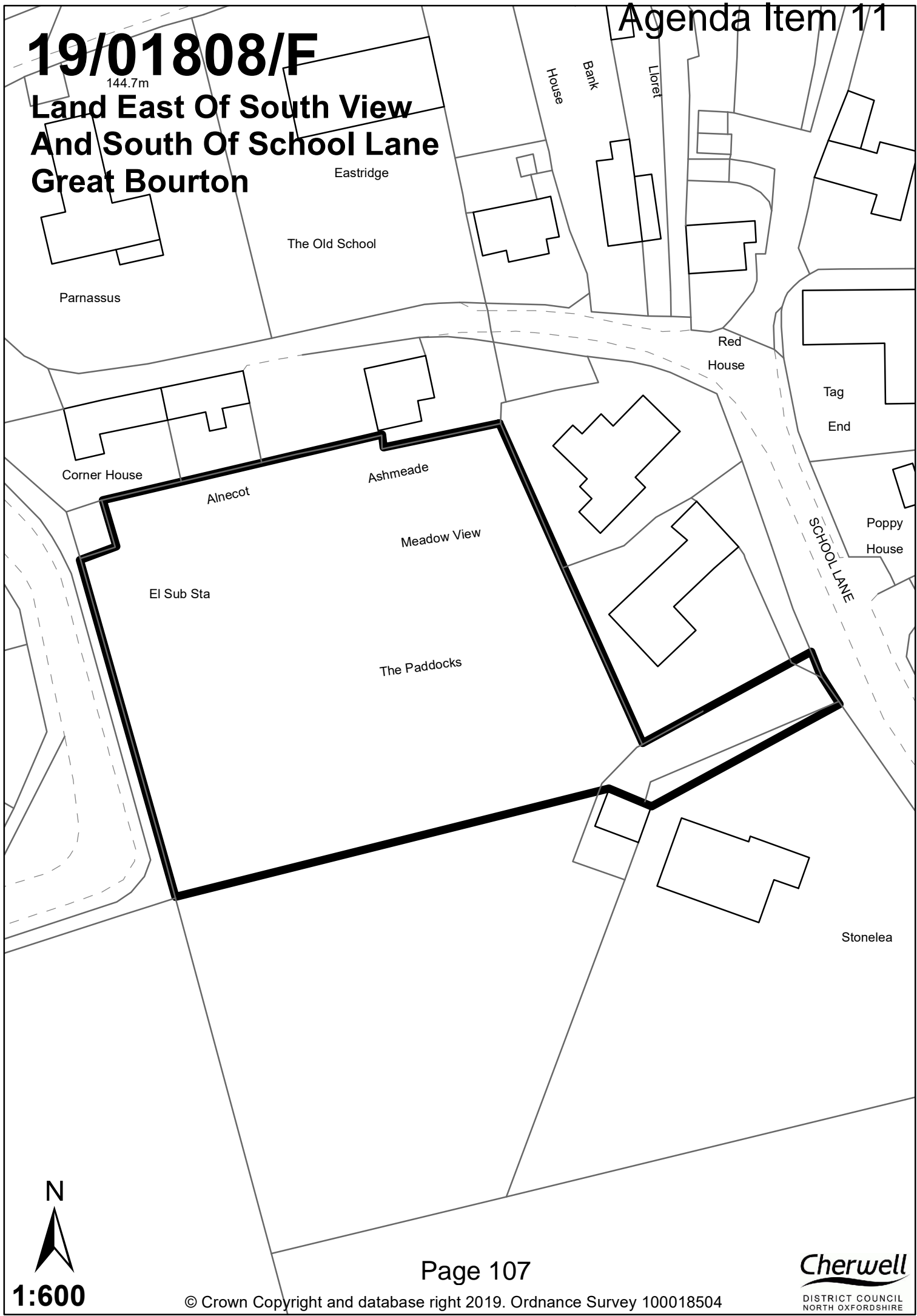
CASE OFFICER: Matthew Chadwick

TEL: 01295 753754

# 19/01808/F

144.7m

## Land East Of South View And South Of School Lane Great Bourton



1:600



**Case Officer:** Bob Neville

**Applicant:** Fernhill Land Holdings Ltd

**Proposal:** Erection of 3 No. dwellings and associated garages.

**Ward:** Cropredy, Sibfords and Wroxton

**Councillors:** Cllr Phil Chapman  
Cllr George Reynolds  
Cllr Douglas Webb

**Reason for Referral:** Called in by Councillor George Reynolds

**Expiry Date:** 18 November 2019

**Committee Date:** 14 November 2019

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

### **RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS**

#### **Proposal**

The application seeks planning permission for three 1½ storey detached dwellings (2 no. 3-bedroom and 1 no. 2-bedroom) with detached double garages; with associated access and landscaping.

#### **Consultations**

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

- The Bourtons Parish Council

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

- OCC Highways, OCC Archaeology, CDC Building Control, CDC Ecology

A petition with 79 signatures and 13 letters of objection have been received and no letters of support have been received.

#### **Planning Policy and Constraints**

In terms of site constraints, the application site is not within a conservation area and there are no listed buildings within the immediate vicinity of the site. There are listed buildings within the village to the north of the site, the nearest being the Coach House. The site is within an area of some (medium) archaeological interest and also an area known to be affected by Radon Gas.

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
- Ecology impact

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 an area of agricultural/paddock land (currently rough grassland) on the southern edge of the village of Great Bourton. The site is surrounded on three sides by existing residential properties with open countryside beyond the site's southern boundary. The topography within the site is relatively level, with no significant changes in the landform within the immediate area.
- 1.2. In terms of the surrounding highway network, School Lane to the north and east of the site is a predominantly narrow, single-track lane, which links to the main street to the north of the site and to Crow Lane and Foxden Way to the east of the site; which again are narrow rural routes.
- 1.3. The boundaries to the rear of the residential properties surrounding the site vary in terms of their type and scale; and include, hedgerow planting, timber fencing and post and wire fencing. The western boundary of the site is a mature hedgerow containing a number of trees. The southern boundary of the site consists of a post and rail fence, which is a more recent feature subdividing a large parcel of agricultural land.

### **2. CONSTRAINTS**

- 2.1. In terms of site constraints, the application site is not within a conservation area and there are no listed buildings within the immediate vicinity of the site. There are listed buildings within the village to the north of the site, the nearest being the Coach House. The site is within an area of some (medium) archaeological interest and also an area known to be affected by Radon Gas.

### **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The application seeks planning permission for three, detached, 1½ storey dwellings (2no. 3-bedroom and 1no. 2-bedroom) with detached double garages; with associated access and landscaping.
- 3.2. The proposals have been amended during the application, in response to officer comments, revising the proposed materials and also a minor re-siting of the garage

serving plot 3. As a result of the amendments, the dwellings are proposed to be of red brick finish under a natural slate roof. The proposed garages would be predominantly of timber construction sitting on a brick plinth and under a natural slate roof. The site would be accessed from the adjacent School Lane via a new access between the Paddocks and Stonelea east of the site.

- 3.3. The proposals include new hard and soft landscaping within the site, with a proposed new hedgerow to the southern boundary of the site. The proposals also retain the existing mature hedgerow along the western boundary of the site.
- 3.4. The application has gone beyond its original 8-week target as a result of the application being called-in for consideration by the planning committee. As such an extension of the determination period has been agreed with the applicant.

#### **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>
CHN.312/87	(Outline) 3 housing sites (2 detached houses and 1 bungalow).	Application refused

Application refused on the grounds of the development being contrary to the rural housing strategy (not constituting infill) and detrimental impacts on highway safety, through the intensification of traffic on nearby road junctions. Appeal subsequently dismissed.

CHN.769/88	(Outline) Bungalow and garage and accesses.	Application refused
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Application refused on the grounds of the development being contrary to the rural housing strategy (not constituting infill), expanding the village and encroaching into the open countryside.

#### **5. PRE-APPLICATION DISCUSSIONS**

- 5.1. The following pre-application discussions have taken place with regard to this proposal: 19/00064/PREAPP - Development of up to 5 No dwellings - outline proposal only.
- 5.2. The applicant was advised that, based on the information provided, it would unlikely that an application for five dwellings would be supported, on the basis that it would be contrary to the rural housing strategy in the Local Plan and would lead to an unjustified intrusion into the countryside. However, the applicant was also advised that there may be some potential for bringing forward development that would provide affordable housing, meeting an identified need; and that if there was an intention to progress such proposals further pre-application discussions may be advisable before submitting a formal planning application and once a more detailed scheme had been progressed. Response issued 10/04/2019.

#### **6. RESPONSE TO PUBLICITY**

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

**15 October 2019**, although comments received after this date and before finalising this report have also been taken into account.

6.2. 13 letters and a petition containing 79 signatures were received in objection to the application. The comments raised by third parties are summarised as follows:

- Great Bourton is a Category 2 village where new development should be restricted to conversions and infilling within the village. The proposals are infill.
- No need for further houses given the recent new estate on the western edge of the village.
- Highway safety issues including; increased vehicle numbers on the narrow lane with no passing points, detrimental impacts on existing verges where vehicles pull-over to allow passing and poor visibility at the access.
- Conflict between the proposed access and existing driveways.
- Adjacent highway not suitable for large vehicles, including those necessary for construction.
- No public transport within the village. Lack of access to services and facilities.
- Lack of footpath on School Lane means that pedestrians will be at greater risk as a result of increased traffic movements.
- Impact on village infrastructure; including insufficient capacity in the existing sewage system.
- Detrimental impacts on residential amenity; through noise and proximity of development to existing properties.
- Potential increased flood-risk.
- Inappropriate materials.
- The proposed development would cause unnecessary harm to the rural landscape setting of the village through inappropriate expansion of the village onto agricultural land.
- Inappropriate bin storage locations.
- Detrimental impact on wildlife.
- In appropriate landscaping details.
- Previous application on the site have been refused.
- Land ownership issues.

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. THE BOURTONS PARISH COUNCIL: **Objects**, making comments on the following issues:

- Highway safety concerns; particularly in relation to the narrow lanes from which the site would be accessed and increased vehicular movements having potential detrimental impacts on other highway users and pedestrians alike.
- Concerns with regard to the proposed access and driveway surfacing materials; likely resulting in increase in noise and create an additional intrusion for neighbouring properties.
- Concerns with regards to the waste and recycling storage and collection area.
- Concerns with regard to the timing and detail of the submitted ecology report and that the proposals do not appear to demonstrate a permanent gain in biodiversity.
- Further comments on the offer of a Community Orchard, by the applicant and that confirmation of this offer is required and that the developer provides a suitable, ongoing, funded and sustainable management plan.
- Advises of a cautious approach being required in relation to archaeological potential at the site.

#### CONSULTEES

- 7.3. BUILDING CONTROL: **No objections.**
- 7.4. ECOLOGY: **No objections** subject to conditions in relation to securing biodiversity enhancements and protection going forward.
- 7.5. LANDSCAPE SERVICES: No comments received.
- 7.6. OCC ARCHAEOLOGY: **No objections**; commenting that there were no archaeological constraints to the scheme.
- 7.7. OCC HIGHWAYS: **No objections**, subject to standard conditions in respect of width of the access, surfacing, drainage and visibility splays and securing a construction traffic management plan.
- 7.8. THAMES WATER: No comments received.

#### **8. RELEVANT PLANNING POLICY AND GUIDANCE**

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

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

- PSD1: Presumption in Favour of Sustainable Development

- Villages 1: Village Categorisation
- Villages 2: Distributing Growth Across the Rural Areas
- Villages 3: Rural Exception Sites
- SLE4: Improved Transport and Connections
- BSC1: District Wide Housing Distribution
- BSC3: Affordable Housing
- ESD1: Mitigating and Adapting to Climate Change
- ESD3: Sustainable Construction
- ESD7: Sustainable Drainage Systems (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the built and historic environment

#### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8: Sporadic development in the open countryside
- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- H18: New dwellings in the countryside

#### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide Supplementary Planning Document (SPD) (July 2018)
- 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”)

## 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
- Ecology impact

#### Principle of Development

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

#### *Policy Context*

- 9.3. In determining the acceptability of the principle of new dwellings regard is paid to Government guidance contained within The National Planning Policy Framework (NPPF). The NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 9.4. Paragraph 8 of the NPPF sets out the Government's view of what sustainable development means in practice for the planning system. It is clear from this that sustainability concerns more than just proximity to facilities, it clearly also relates to ensuring the physical and natural environment is conserved and enhanced as well as contributing to building a strong economy through the provision of new housing of the right type in the right location at the right time.
- 9.5. Policy PSD1 contained within the CLP 2031 echoes the NPPF's requirements for 'sustainable development' and that planning applications that accord with the policies in the Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.
- 9.6. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that conflicts with the Local Plan should be refused unless other material considerations indicate otherwise (para. 12). Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015 and can demonstrate a 5-year housing land supply and therefore the policies guiding the provision of new housing development can be given full weight in determining planning applications.
- 9.7. Policy Villages 1 of the CLP 2031 provides a framework for housing growth in the rural areas of the district and groups villages into three separate categories (A, B and C). Great Bourton is recognised as a Category B village where new residential development will be restricted to conversions, infilling and minor development within the built-up area of the settlement. Category B villages are satellite villages associated with a larger service centre, in this instance Bloxham. They do not 'score' highly enough in their own right to be included as Category A villages but are considered to be appropriate for minor development because of the benefits of access to a service centre within a village cluster.
- 9.8. Policy Villages 2 of the CLP 2031 is considered relevant only insofar as it details the Council's rural housing allocation. Policy Villages 2 allocates a total of 750 dwellings to 2031 across the District's 23 Category A settlements (this is over and above minor windfall developments within the built-up limits of the villages). This allocation is already committed, either through completions (271 as at 31 March 2019) or planning permissions (479 as at 31 March 2019, plus others since, including More recently the result of appeals having been allowed (including Tappers Farm, Bodicote in October 2019).
- 9.9. Notwithstanding the above, given that Great Bourton is a Category B village and proposals are for less than 10 dwellings the proposals do not find support from Policy Villages 2.
- 9.10. The proposals have not put been forwarded as a Rural Exception Site and therefore do not find support under Policy Villages 3.
- 9.11. Saved Policy H18 of the Cherwell Local Plan 1996 relates to new dwellings in open countryside and sets out that a new dwelling in the open countryside will only be granted planning permission where it is considered to be essential for agriculture or another existing undertaking or where it meets the criteria for the provision of

affordable housing and in either case where it does not conflict with any other policy in the development plan.

### *Assessment*

- 9.12. The proposals represent minor development for three additional dwellings. The village of Great Bourton does not have a defined settlement boundary within any development plan document, and as such the consideration of whether the site lies within or beyond the built-up limits of the village is a matter of judgement for the decision maker to determine whether the site is located within the built-up limits.
- 9.13. The context of the site is such that, whilst this is agricultural land, beyond the boundaries of residential properties on the edge of the village, there is residential development on three sides the site, and the proposals would have a close relationship with the existing built form.
- 9.14. As noted above applications have previously been refused in this location, in part due to the site being considered not to be within the built-up limits of the village - albeit that this was in a different policy context<sup>1</sup> prior to the adoption of the current Local Plan and the introduction of the NPPF - with a greater emphasis on supporting sustainable forms of development.
- 9.15. The position of the site being considered beyond the built-up limits of the village was upheld by Inspectors (ref. appeal in relation to application CHN.312/87). However, it should be noted that application CHN.312/87 and the subsequent appeal decision related to a larger site area that, whilst relating to the current site, also included land (and proposed development) beyond the southern boundary of the current application site and extended further southwards than the adjacent Stonelea.
- 9.16. If it is taken that the site is not within the built-up limits of the village, the proposals cannot be assessed against the provisions of Policy Villages 1 of the CLP 2031; but instead would stand to be assessed against Saved Policy H18 of the CLP 1996. In this respect the proposals are not for affordable housing and clearly would not be for an essential use and officers would not consider that open market housing would find support under Policy H18.
- 9.17. Officers consider that the judgement as to whether the site is or is not within the village is a very finely balanced one.
- 9.18. It is noted that Inspectors in recent appeals have taken different approaches when assessing the extent of the built-up limits of the village including have reached a different conclusion in this regard than that which was expressed in the 1987 appeal decision.
- 9.19. This is particularly evident in a recent appeal decision against the Council's decision to refuse application 18/01074/F, at an adjacent site (Stonelea) to the east of the site, for a proposal for two dwellings. Whilst the appeal was dismissed (primarily on the grounds of design and residential amenity), the Inspector took the view that the that the appeal site *was* physically connected to the village and the small scale of the proposal was appropriate to the size of the village and its level of service provision. Further that the appeal site, albeit on the edge of the village, was better related to the built-up limits of Great Bourton and would not specifically as a matter of principle cause undue visual intrusion into the open countryside or be out of place

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<sup>1</sup> Within the previous rural housing policy context Great Bourton was categorised as a Category 2 Village which allowed for conversions, infilling and 'other small-scale development that can be shown to secure significant environmental improvement within the settlement'.

with the character and form of the village. While that site was residential garden land and the current site is not, officers consider that the current proposals would be a less visually intrusive form of development than that considered acceptable, in terms of siting, by the Inspector at Stonelea.

### *Conclusion*

- 9.20. Policy Villages 1 of the CLP 2031 provides a categorisation of villages to guide the consideration of small-scale proposals for residential development within the built-up limits of settlements. Village categorisation helps understand which villages are in principle best placed to sustain different levels of residential development. If the proposals were clearly within the built-up limits of the village then the principle of the development would be considered acceptable. If the site was judged to be outside of the built limits of the village then the principle would not be acceptable.
- 9.21. In this instance that judgement is a very finely balanced one.
- 9.22. The Inspector at Stonelea (to the east of the site) considered that site to be acceptable in terms of the sustainability of the location for additional residential development. Officers consider the current site to be less visually intrusive than the Stonelea appeal site, though it is acknowledged this relates to its impact on the character of the area, rather than the *principle* of development.
- 9.23. On very fine balance, and specifically in light of the Stonelea appeal decision, whilst the proposed development would be on agricultural land, given the surrounding context and existing built-form, and that the proposals are considered not to result in significant detrimental impacts on the character and appearance of this edge of village location (discussed further below), officers conclude that the principle of development is acceptable in general sustainability terms, in accord with Local Plan Policy Villages 1. Overall acceptability being subject to further considerations below.

### Design, and impact on the character of the area

#### *Policy Context*

- 9.24. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. These aims are also echoed within Policy ESD15 of the CLP 2031 which looks to promote and support development of a high standard which contributes positively to an area's character and identity by creating or reinforcing local distinctiveness.
- 9.25. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development. Further, saved Policy C30 of CLP1996 states control will be exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 9.26. 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. Further that development that causes undue harm or visual intrusion into the open countryside would not be supported.



### *Assessment*

- 9.27. The proposals would see the infill of an area of agricultural land that cuts into the village. There is residential development surrounding the site and proposals would be seen in this context. Views from the public domain would potentially be experienced from the surrounding highways and public allotments south of the site along Foxden Way.
- 9.28. In terms of potential impacts on heritage assets, whilst the site is not within a conservation area, there are listed buildings within the village to the north of the site, the nearest being the Coach House. However, given the context and that there are buildings on intervening land it is considered that these heritage assets and their settings would not be affected by the proposed development.
- 9.29. The proposed development is 1½ storeys in scale in response to the surrounding context with bungalows, 1½ storey and 2 storey dwellings in close proximity to the site and the proposals are considered to be of a design that would not appear out-of-place in the edge of village location.
- 9.30. The proposed materials have been amended during the application to be more reflective of local vernacular and now include red brick external wall finish under natural slate roofs; again, this is considered to be consistent with the character and appearance of existing residential properties within the vicinity of the site. Specific samples of materials could be secured through appropriate conditions attached to any permission which the Council may resolve to grant to ensure the satisfactory appearance of any completed development
- 9.31. The proposals include additional landscaping to the boundaries of the site which would provide natural screening both in terms of providing visual relief and assisting in maintaining privacy for both existing surrounding residents and potential future occupants of the proposed development. Whilst no formal comments have been received from the Landscape Officer it is considered that the proposed landscaping is largely acceptable in terms of its approach and nature.
- 9.32. Whilst concerns have been raised in third party comments in relation to species within the landscaping scheme and further in respect of the hard-landscaping, i.e. driveways, it is considered that appropriate details could again be secured in terms of both specific hard and soft landscaping details by way of appropriate conditions.

### *Conclusion*

- 9.33. It is considered that, subject to appropriate materials and landscaping details being secured and approved by way of appropriate conditions, the proposals would be sympathetic to the character and rural edge of village context, embracing the design principles expressed within Cherwell's Residential Design Guide. The proposals would not significantly intrude into the wider open countryside or be to the detriment of the visual amenities of the site or its wider setting, sustaining the character and appearance of this edge of village location.

### Residential amenity

### *Policy Context*

- 9.34. Para. 180 of the NPPF advises of the need Planning policies and 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.

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

#### *Assessment*

- 9.36. The proposals would provide for an appropriate standard of both internal and external amenity with appropriately sized rooms and substantial residential garden areas that would provide from an acceptable standard of living for potential future occupants and is acceptable in this regard.
- 9.37. The site would be located to the rear of several properties that bound the site to the north and west, and proposals would likely affect these properties to the greatest extent.
- 9.38. The proposed dwellings would be 1½ storey in height with limited openings at first floor level and would not result in any significant opportunities for loss of privacy through over-looking; boundary treatments would further assist in maintaining acceptable standards of amenity.
- 9.39. The submitted plans demonstrate appropriate separation distances (>20m) between the existing properties and the 1½ storey elements of the proposed dwellings to ensure that existing residential amenity would not be significantly affected in terms of loss light, outlook or over-domination. The proposals are therefore considered acceptable in this regard.
- 9.40. Concerns have been raised in third party comments with regards to detrimental impacts on amenity through noise associated with the proposed development. Any noise would be residential in its nature and whilst intensified by the addition of three additional dwellings would not be significantly different in nature than that experienced from relative neighbouring properties. Whilst comments in relation to noise emanating from the use of the proposed gravel driveway are duly noted, it is considered that any such noise arising from cars crossing the gravel is not likely to result in such significant noise levels that would be to the detriment of residential amenity that would warrant a reason to refuse the application on such grounds.

#### *Conclusion*

- 9.41. Given its scale and nature, and the context of the site, it is considered that the proposal would not likely result in any significant detrimental impacts on the residential amenity of surrounding properties whilst providing an acceptable standard of living environment for potential future occupants. The proposals are therefore considered acceptable in terms of residential amenity.

#### Highway safety

#### *Policy Context*

- 9.42. The NPPF (Para. 108) states that the planning system should actively manage patterns of growth in support of the achievement of promoting sustainable transport. However, notes that opportunities to maximise sustainable transport solutions will

vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

9.43. The NPPF (Para. 108) advises that in assessing specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

9.44. Both Policies ESD15 and SLE4 of the CLP 2031 reflect the provision and aims of the NPPF. Policy ESD15 of the CLP 2031 states that: *“New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions”*.

#### *Assessment*

9.45. The LHA has assessed the application and, following the submission of additional information in respect of passing vehicle speeds on the adjacent highways and in terms of demonstrating appropriate vision splays at the access, raises no objections subject to conditions (variously relating to the specific construction, surfacing, layout and drainage details of the proposed access road, parking and manoeuvring areas; the vision splays at the access point, and a Construction Traffic Management Plan). Officers agree with this assessment and consider that these details could be secured through appropriate conditions attached to any such permission to ensure that the proposed development would be acceptable in terms of highway safety.

9.46. Concerns are raised by the parish and by local residents in respect of highway safety. The adjacent highway (School Lane) from which access would be taken is narrow largely single carriageway and, in some places, does not allow for two vehicles to pass. There is also no pedestrian footpath.

9.47. The LHA has considered these issues and notes that this is an existing situation that is not a result of the proposed development. Pedestrians and vehicles both use the existing lane and are already required to have due regard for each other. The submitted speed survey demonstrates that typical vehicle speeds are relatively low (<20mph) on the adjacent roads/lanes and the LHA is satisfied that appropriate visibility at the access can be satisfactorily achieved.

9.48. Para. 109 of the NPPF advises that: *‘Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe’*. Whilst the proposals would potentially intensify the use of School Lane, the site could also be access via Crow Lane and Foxden Way, and it is considered that the additional traffic generated by the proposed development of three additional dwellings would not so significant that it would result in a severe impact on the local highway network of safety.

9.49. Concerns are also raised in respect of large vehicles attending the site particularly in relation to construction vehicles. In this respect the LHA propose a CTMP is secured by way condition to ensure that appropriate traffic management can be achieved during the construction phase of any such development.

## *Conclusion*

9.50. The proposals would not have any adverse impact upon local highway safety. As such it is considered that the proposals would be broadly consistent with the above-mentioned policies and acceptable in terms of highway safety.

## Ecology Impact

### *Legislative context*

9.51. 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.

9.52. 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.

9.53. 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.

9.54. 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.

9.55. 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*

- 9.56. 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.
- 9.57. Paragraph 175 states that when determining planning applications, local planning authorities (LPAs) 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.
- 9.58. 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.
- 9.59. 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.
- 9.60. 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.
- 9.61. 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.
- 9.62. 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 LPAs 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*

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

It also states that LPAs can also ask for:

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

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

9.65. In order for the LPA 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.

9.66. 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.

9.67. The application is supported by a detailed Ecology Walkover Survey prepared by EDP which concluded that the site is of inherently low intrinsic ecological value such that development of the site is unlikely to result in significant loss of biodiversity.

9.68. The Council's Ecologist has assessed the submitted report and is satisfied with the detail of the report and its conclusions considering the detail within the report to be sufficient to ensure biodiversity is protected (with an additional 3-month pre-commencement protected species check) and to ensure an overall net gain on site. However, the Ecologist considers it both necessary and appropriate to secure further information by way conditions with regards to potential biodiversity enhancement measures to ensure a net gain in biodiversity opportunities at the site, in accordance with Policy ESD10 and national guidance. Your officers agree with this assessment.

### *Conclusion*

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

### Flooding Risk and Drainage

#### *Policy Context*

- 9.70. 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.
- 9.71. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.

#### *Assessment*

- 9.72. Notwithstanding third-party comments suggesting that the existing field is susceptible to flooding, the Environment Agency's flood maps indicate that site is not within a higher risk flood zone and are within Flood Zone 1 where residential development is acceptable in principle subject to no increased flood risk elsewhere as a result of proposal. Surrounding properties have existing surface water drainage provision and officers are not aware of any significant flooding issues within the vicinity of the site.
- 9.73. Whilst no surface water drainage details are included within the current submission it is considered that an appropriate drainage strategy, embracing SUDs principles, could be achieved and such details could be secured by way of appropriate conditions attached to any such permission; and that the lack of this detail does not warrant a reason to refuse the application.
- 9.74. Concerns are raised in respect of the capacity within the existing sewerage system. Whilst no formal comments have been received from Thames Water, as the relevant water authority, at the time of preparation of this report, it is considered that additional capacity required to support an additional three dwellings is unlikely to be significant. The applicant indicates that sewerage would be disposed of by way of mains sewer. This would require the permission of Thames Water to connect to the existing sewerage system, which is presumed would not be granted if there was a capacity issue. Should such a situation then arise then the developer would then need to look at an alternative on-site solution such as a Klargestor Biodisc system. As such this is not considered a reason to withhold planning permission.

#### *Conclusion*

- 9.75. Officers consider that subject to appropriate conditions securing an appropriate surface water drainage scheme for the site, based on sustainable drainage principles, that the proposals would provide appropriate drainage and would meet the requirements of policies ESD6 and ESD7 of the CLP 2031 and be considered acceptable in terms of flood-risk and drainage.

#### Other matters:

- 9.76. Matters relating to land ownership issues have been raised in third party comments. Whilst the applicant has provided further information in respect of title deeds confirming ownership of the development site, land ownership is not a material planning consideration. Such matters do not constitute a reason to refuse planning permission.
- 9.77. The Parish Council makes comment with regard to the proposed offer of additional land for the potential future purposes as a community orchard. This area of land sits outside of the application site and during the application plans were amended by the applicant removing reference to the community orchard. The proposed offer of this

land is not considered necessary to make the scheme acceptable in planning terms and as such has not been considered in the context of the application. The Parish Council would need to take this matter up directly with the applicant/developer outside of planning if they wish to pursue this offer of land for a community use.

#### Human Rights and Equalities

9.78. 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.

9.79. 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*

9.80. 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 and site notice 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*

9.81. 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.

9.82. 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.

#### *Duty under The Equalities Act 2010*

9.83. S149 of the Equalities Act 2010 (“EA”) sets out what is known as the Public Sector Equality Duty (“PSED”). Under the PSED, the Council, as a public authority, must have due regard to the need to, inter alia, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and has to foster good relations between persons who share a relevant protected characteristic and persons who so not share it. The protected characteristics to which the PSED refers are: (a) age; (b) disability; (c) gender reassignment; (d) pregnancy and maternity; (e) race; (f) religion or belief; (g) sex; (h) sexual orientation.



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

## **10. PLANNING BALANCE AND CONCLUSION**

10.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 advises that the three dimensions to sustainable development (economic, social and environmental), which are interdependent; need to be pursued in mutually supportive ways.

10.2. Government guidance within the NPPF supports the plan-led system and advises that applications that accord with an up-to-date plan should be approved without delay.

10.3. In reaching an informed decision on planning applications there is a need for the Local Planning Authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. It is also necessary to recognise that Section 38 of the 1990 Act continues to require decisions to be made in accordance with the development plan and the NPPF highlights the importance of the plan led system as a whole.

10.4. The site is unallocated in the adopted CLP 2031. Great Bourton is designated a Category B Village under Policy Villages 1 of the CLP 2031 and as such is suitable for minor development within its built-up limits. Given the context of the site, its relationship with surrounding residential development, and a recent appeal decision on an adjacent site, officers consider on very fine balance that the proposal can be considered acceptable in principle against the requirements of Policy Villages 1.

10.5. The proposals are considered acceptable in terms of highway safety and neighbour amenity. The siting, scale and design of the proposed new dwellings is considered appropriate for the edge of rural village location. It is further considered that an acceptable drainage solution is achievable at the site that would ensure that flood-risk is not exacerbated. It is acknowledged that the proposals would result in the loss of a greenfield site and agricultural land, but that such impacts could be largely be mitigated through the introduction of an acceptable landscaping scheme sustaining the edge of village setting.

10.6. The development would make a contribution to housing delivery and there would also be some economic benefit in the support of construction jobs. Against this must be balanced the harm through development of an agricultural field.

10.7. Given the above assessment and in light of current guiding national and local policy set out in the report, your officers consider that the harm would not significant and demonstrably outweigh the benefits and that the proposal would amount to sustainable development and is therefore recommended for approval.

## **11. RECOMMENDATION**

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT 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: Application form, Ecology Walkover Survey prepared by EDP and drawings numbered WG843 001B, WG843 002C, WG843 003g, WG843 004A, WG843 005C, WG843 006, WG843 007B, WG843 008A and 502.0067.001A.

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.

### **Transport**

3. Prior to the commencement of the development hereby approved, full specification details of the access road, parking and manoeuvring areas, including construction, surfacing, layout, drainage and road markings, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first use of the access road the development shall be constructed in accordance with the approved details.

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

4. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved CTMP shall be implemented and operated in accordance with the approved details and the development shall not be carried out other than in accordance with the approved CTMP.

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

5. The vision splays shall not be obstructed by any object, structure, planting or other material of a height exceeding 0.6m measured from the carriageway level.

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

### **Materials:**

6. Prior to the commencement of the development hereby approved above slab level, a brick sample panel, to demonstrate brick type, colour, texture, face bond and pointing (minimum 1sqm in size) shall be constructed on site, inspected and approved in writing by the Local Planning Authority. The external walls of the development shall not be constructed other than in strict accordance with the

approved brick sample panel and shall be retained as such thereafter.

Reason: To ensure the satisfactory appearance of the completed development and to safeguard the character and appearance of the area 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. Prior to the commencement of the development hereby approved above slab level, samples of the slate to be used in the construction of the roof of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the samples so approved and shall be retained as such thereafter.

Reason: To ensure the satisfactory appearance of the completed development and to safeguard the character and appearance of the area 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 above slab level, samples of the timber cladding to be used in the construction of the walls of the proposed garages shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the samples so approved and shall be retained as such thereafter.

Reason: To ensure the satisfactory appearance of the completed development and to safeguard the character and appearance of the area 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.

### **Landscaping**

9. Notwithstanding the details submitted, prior to the commencement of the development hereby approved above slab level, 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.

(d) details of all boundary treatments.

Thereafter, the development shall be carried out in strict accordance with the approved landscaping scheme and the hard landscape elements shall be carried out before the first occupation of the development 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 safeguard the character and appearance of the area 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.

10. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

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.

11. The existing hedgerow along the western boundary of the site shall be retained and properly maintained at a height of not less than 3m metres, and if any hedgerow plant dies within five years from the completion of the development it shall be replaced and shall thereafter be properly maintained in accordance with this condition.

Reason: In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

**Ecology and Biodiversity**

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

Reason: To 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.

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

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

the scheme.

14. Notwithstanding the information submitted, prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, a method statement for enhancing the biodiversity opportunities at the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall not be carried out other than in accordance with the approved details including the timeframes set out therein, and shall be retained as such thereafter.

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.

#### **Drainage**

15. Prior to the commencement of the development hereby approved, a detailed scheme for the surface water 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 the site the approved surface water drainage scheme shall be carried out and prior to the first occupation of any building to which the scheme relates the scheme shall be implemented.

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 Cherwell Local Plan 1996, Policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

#### Planning Notes:

1. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.
2. The applicant's and/or the developer's attention is drawn to the requirements of the Control of Pollution Act 1974, the Environmental Protection Act 1990 and the Clean Air Act 1993, which relate to the control of any nuisance arising from construction sites. The applicant/developer is encouraged to undertake the proposed building operations in such a manner as to avoid causing any undue nuisance or disturbance to neighbouring residents. Under Section 61 of the Control of Pollution Act 1974, contractors may apply to the Council for 'prior consent' to carry out works, which would establish hours of operation, noise levels and methods of working. Please contact the Council's Environmental Protection Team Leader for further advice on this matter.
3. The County Archaeologist has indicated that the proposal does not appear to directly affect any presently known archaeological sites. However, the County Council's records do show the presence of known archaeological finds nearby and this should be borne in mind by the applicant. If archaeological finds do occur during development, the applicant is requested to notify the County

Archaeologist in order that he may make a site visit or otherwise advise as necessary.

4. In respect of condition 4 the CTMP should look to detail:
  - The CTMP must be appropriately titled, include the site and planning permission number.
  - Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
  - Details of and approval of any road closures needed during construction.
  - Details of and approval of any traffic management needed during construction.
  - Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
  - Details of appropriate signing, to accord with the necessary standards/requirements, for pedestrians during construction works, including any footpath diversions.
  - The erection and maintenance of security hoarding / scaffolding if required.
  - A regime to inspect and maintain all signing, barriers etc.
  - Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.
  - The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.
  - No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will be parked and occupiers transported to/from site to be submitted for consideration and approval. Areas to be shown on a plan not less than 1:500.
  - Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.
  - A before-work commencement highway condition survey and agreement with a representative of the Highways Depot – contact 0845 310 1111. Final correspondence is required to be submitted.
  - Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution.
  - Any temporary access arrangements to be agreed with and approved by Highways Depot.
  - Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.
5. Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be necessary if protected species or habitats are affected by the development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0300 060 3900.
6. Bats are a highly mobile species which move between a number of roosts

throughout the year. Therefore all works must proceed with caution and should any bats be found during the course of works all activity in that area must cease until a bat consultant has been contacted for advice on how to proceed. Under the Wildlife & Countryside Act 1981 (as amended) and the Habitat and Species Regulations 2010 it is illegal to intentionally or recklessly disturb, harm or kill bats or destroy their resting places.

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

CASE OFFICER: Bob Neville

TEL: 01295 221875

## Cherwell District Council

### Planning Committee

14 November 2019

#### Appeals Progress Report

### Report of Assistant Director Planning and Development

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

**19/00688/F – 2 Deene Close, Adderbury, OX17 3LD** - Remove existing garage roof and trusses, build on top of existing garage walls to form a first floor bedroom, re-install trusses and re-roof in the original roof tiles; partition off existing bedroom to form hallway and study room

**19/00848/F – 3 Denbigh Close, Banbury, OX16 0BQ** - Change of Use from HMO within Class C4 to 7 bed HMO (sui generis) and new access from Broughton Road

**18/02002/F – 76 Sinclair Avenue, Banbury, OX16 1DW** – Two storey side extension

##### 2.2 New Enforcement Appeals

None

##### 2.3 Appeals in progress



**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

**18/01894/OUT - OS Parcel 4300 North Of Shortlands And South Of High Rock, Hook Norton Road, Sibford Ferris, Oxfordshire, OX15 5QW** - Outline planning permission with all matters reserved for up to 25 dwellings with associated open space, parking and sustainable drainage

**Method of determination:** Hearing – Wednesday 25th September

**Key Dates:**

**Start Date:** 23.07.2019    **Statement Due:** 27.08.2019    **Decision:** Awaited

**18/02079/F - 59 West End, Launton, Bicester, OX26 5DG** - Conversion of pool house into a two-bedroom dwelling (existing unauthorised) (revised scheme of 17/01008/F)

**Method of determination:** Written Reps.

**Key Dates:**

**Start Date:** 30.08.2019    **Statement Due:** 04.10.2019    **Decision:** Awaited

**19/00231/Q56 - Brockford Farm Agricultural Building, Tadmarton Heath Road, Hook Norton, OX15 5BU** - Change of use of building and curtilage from agriculture to single dwellinghouse with associated physical works.

**Method of determination:** Written Reps.

**Key Dates:**

**Start Date:** 26.07.2019    **Statement Due:** 30.08.2019    **Decision:** Awaited

**19/00444/F – 2 Boxhedge Terrace, Boxhedge Road, Banbury, OX16 0BX** - Erection of single storey porch (Retrospective)

**Method of determination:** Householder (Fast Track)

**Key Dates:**

**Start Date:** 30.08.2019    **Statement Due:** N/A    **Decision:** Awaited

**19/00596/OUT – Land to the West of Northampton Road, Weston On The Green** - Residential development of up to 18 dwellings with associated access, internal roads, car parking, public open space, landscaping, drainage and other associated infrastructure.

**Method of determination:** Hearing – 29<sup>th</sup> October 2019

**Key Dates:**

**Start Date:**    **Statement Due:**    **Decision:** Awaited

**19/00637/F – 30 Causeway, Banbury, OX16 4SL** – Dormer on rear roof slope

**Method of determination:** Householder (Fast Track)

**Key Dates:**

**Start Date:** 17.09.2019    **Statement Due:** N/A    **Decision:** Awaited

**19/00661/F – Purbeck End, 5 Vicarage End, Kidlington, OX5 2EL -**  
RETROSPECTIVE - Change of Use of attached garage to independent dwelling unit

**Method of determination:** Written Reps.

**Key Dates:**

**Start Date:** 23.09.2019      **Statement Due:** 28.10.2019 **Decision:** Awaited

**19/00667/Q56 – Godwins Farm, Somerton Road, North Aston, Bicester, OX25 6AA –**  
Change of use of an agricultural building to dwellinghouse

**Method of determination:** Written Reps.

**Key Dates:**

**Start Date:** 11.09.2019      **Statement Due:** 16.10.2019 **Decision:** Awaited

**19/00775/F – Land Adjacent to 26 Winchester Close, Banbury, OX16 4FP**  
– Detached Dwelling

**Method of determination:** Written Reps.

**Key Dates:**

**Start Date:** 24.09.2019      **Statement Due:** 29.10.2019 **Decision:** Awaited

**19/00885/F - 97 Isis Avenue, Bicester, OX26 2GR -** Demolition of existing conservatory; erection of single storey front and rear extensions and conversion of garage to habitable accommodation.

**Method of determination:** Householder (Fast Track)

**Key Dates:**

**Start Date:** 10.09.2019      **Statement Due:** N/A      **Decision:** Awaited

**19/00910/F - OS Parcel 6091 East Of Duiker House, Fencott, OX5 2RD -**  
Erection of 1no single storey dwelling and ancillary carport/garden workshop

**Method of determination:** Written Reps.

**Key Dates:**

**Start Date:** 03.09.2019      **Statement Due:** 08.10.2019 **Decision:** Awaited

**19/00962/F - Sycamore House, Shepherds Close, Weston On The Green, Bicester, OX25 3RF -**  
Erection of building to form 1-bed dwelling, on the siting of the previously demolished barn, with courtyard garden and dedicated parking space - re-submission of 18/01644/F

**Method of determination:** Written Reps.

**Key Dates:**

**Start Date:** 11.09.2019      **Statement Due:** 16.10.2019 **Decision:** Awaited

**19/01043/F - Penny Meadow, 2 The Ridgeway, Bloxham, OX15 4NF -**  
Addition of rooflights to front and rear elevation and dormer to rear elevation to facilitate loft conversion

**Method of determination:** Householder (Fast Track)

**Key Dates:**

**Start Date:** 24.09.2019      **Statement Due:** N/A      **Decision:** Awaited

### Enforcement appeals

None

2.4 Forthcoming Public Inquires and Hearings between 15 November and 18 December 2019

None

## 2.5 Results

Inspectors appointed by the Secretary of State have:

- 1. Dismissed the appeal by Mr Stuart Henderson for Amendment to 11/00860/F from a single and two storey rear extension to a two storey rear extension. 107 Woodstock Road, Yarnton, Kidlington, OX5 1PT - 19/00692/F  
Officer recommendation – Refusal (Delegated)**

The Inspector considered the main issue to be the proposal's effect on the living conditions of neighbouring residents.

The Inspector agreed with the Council that the impact of the two-storey rear extension along the shared boundary would be harmful to the amenity of the neighbouring residents as it would 'overwhelm and have an unacceptably dominant and overbearing effect on the occupiers of No 105' from views out of the window serving the rear bedroom. The Inspector also found that scale and mass of the proposed extension would block light to the ground floor conservatory, albeit predominantly in the late afternoon.

The Inspector had regard to the fall-back position of the 2011 scheme, which had no two-storey element along the boundary, finding that there was a clear difference in the level of harm between the two schemes. The Inspector gave little weight to an approved development elsewhere in the vicinity, as insufficient information was provided by the appellant in order to fully consider it. The Inspector found no material public benefits that outweighed the identified harm.

Accordingly, the Inspector upheld the Council's decision and dismissed the appeal.

- 2. Allowed the appeal by Mr H.L Foster for 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. OS Parcel 9635 North East Of HM Bullingdon Prison, Widnell Lane, Piddington – 17/01962/F  
Officer recommendation - Approval (Committee)**
- 3. Allowed the appeal by Hollins Strategic Land LLP for 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. Land At Tappers Farm, Oxford Road, Bodicote, Banbury, OX15 4BN – 18/00792/OUT  
Officer recommendation - Approval (Committee)**

The first issue related to the provision of 750 dwellings under Policy Villages 2. The Inspector focussed his decision on the basis that Policy Villages 2 requires the delivery of 750 units and not a grant of planning permission, noting that currently only 271 dwellings have been delivered, although a further 425 are under construction. He further states that the Council's predicted delivery under PV2 assumes that all permissions that have been granted will not only be implemented, but also completed, and considers it to be unrealistic that there will be 100% delivery of all permitted schemes. In this respect he references the Council's AMR (2018) which identifies that permission for 33 dwellings had either lapsed or not been issued, suggestive that some permitted schemes may not be delivered. Further, even if all the sites were delivered, it was accepted, as previously agreed, that an additional 46 dwellings would not lead to a material increase over the 750 which is not a ceiling or a limit.

The Inspector also noted that PV2 does not require a spatial distribution of new dwellings across the 23 Category A Villages, and that given the close proximity of Bodicote and the appeal site to Banbury and access to services, the site would be one of the most accessible locations for new residential development which is reflected in Policy Villages 1 as a Category A village. He notes that there was no mention of conflict with Policy Villages 1 in the Council's reason for refusal.

In terms of the second issue, and the importance of this site as an important gap between Bodicote and Banbury, the Inspector was of the opinion that the existing development already diminished the distinction between Bodicote and Banbury and that the introduction of development on this site would not materially worsen this. He also found that the existing vegetation north of the site, and the flyover itself provided a much stronger visual break between the settlements. He stated that the open space proposed to the northern part of this site would reinforce the visual break provided by the existing landscaping and provide a green link with the mature trees and landscaping along Salt Way, thus maintaining the distinction between Banbury and Bodicote.

In terms of the Section 106, this was agreed by both parties prior to the hearing. The inspector agreed that all requests were necessary to make the development acceptable. The signed Section 106 was therefore accepted.

### **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:

Kelly Wheeler, Business Partner, 01295 225170,  
[Kelly.wheeler@cherwell-dc.gov.uk](mailto:Kelly.wheeler@cherwell-dc.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](mailto: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](mailto: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
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