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Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Committee: Planning Committee
Date: Thursday 18 June 2020
Time: 2.00 pm
Venue: Virtual meeting

Membership

Councillor James Macnamara (Chairman)

Councillor Andrew Beere
Councillor Phil Chapman
Councillor Conrad Copeland
Councillor Chris Heath
Councillor David Hughes
Councillor Cassi Perry
Councillor George Reynolds
Councillor Les Sibley

Councillor Maurice Billington (Vice- Chairman)

Councillor Hugo Brown
Councillor Colin Clarke
Councillor Ian Corkin
Councillor Simon Holland
Councillor Mike Kerford-Byrnes
Councillor Lynn Pratt
Councillor Barry Richards
Councillor Katherine Tyson

Substitutes

Councillor Mike Bishop
Councillor Nick Cotter
Councillor Timothy Hallchurch MBE
Councillor Tony Mephram
Councillor Richard Mould
Councillor Bryn Williams
Councillor Sean Woodcock

Councillor John Broad
Councillor Surinder Dhesi
Councillor Tony Ilott
Councillor Ian Middleton
Councillor Douglas Webb
Councillor Barry Wood

AGENDA

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

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

3. **Requests to Address the Meeting**

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

4. **Minutes** (Pages 1 - 19)

To confirm as a correct record the Minutes of the meeting of the Committee held on 4 June 2020.

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.

Planning Applications

7. **OS Parcel 3300 North of Railway Line, Adjoining Palmer Avenue, Lower Arcott** (Pages 22 - 59) **20/00871/F**
8. **Land Adjacent To The M40 South Of Overthorpe Road Banbury** (Pages 60 - 85) **20/00608/F**
9. **Bicester Sports Association, The Tudor Jones Building, Akeman Street, Chesterton, Bicester OX26 1TH** (Pages 86 - 124) **19/00934/F**
10. **Land Adj to Bullmarsh Close, Off Middleton Park, Middleton Stoney** (Pages 125 - 129) **20/01223/NMA**
11. **4 Drapers House, St Johns Road, Banbury, OX16 5BE** (Pages 130 - 137) **20/00693/LB**

Review and Monitoring Reports

12. **Appeals Progress Report** (Pages 138 - 143)

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 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.

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, 01295 221591

Yvonne Rees
Chief Executive

Published on Wednesday 10 June 2020

Cherwell District Council

Planning Committee

Minutes of a meeting of the Planning Committee held at Virtual meeting, on 4 June 2020 at 2.00 pm

- Present: Councillor James Macnamara (Chairman)
Councillor Maurice Billington (Vice-Chairman)
- Councillor Hugo Brown
Councillor Phil Chapman
Councillor Colin Clarke
Councillor Conrad Copeland
Councillor Ian Corkin
Councillor Chris Heath
Councillor David Hughes
Councillor Mike Kerford-Byrnes
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 Simon Holland)
Councillor Sean Woodcock (In place of Councillor Andrew Beere)
- Also Present: Councillor Ian Middleton, local ward member, Kidlington East for item 7
Councillor Andrew McHugh, local ward member, Adderbury, Bloxham and Bodicote for item 8
- Apologies for absence: Councillor Andrew Beere
Councillor Simon Holland
- Officers: David Peckford, Assistant Director: Planning and Development
Sarah Stevens, Interim Senior Manager – Development Management
Alex Keen, Major Projects Manager and Deputy Senior Manager
Nat Stock, Minors Team Leader
Matt Chadwick, Principal Planning Officer
Jennifer Crouch, Solicitor
Karen Jordan, Deputy Principal Solicitor
Natasha Clark, Governance and Elections Manager
Lesley Farrell, Democratic and Elections Officer

18 **Urgent Business**

There were no items of urgent business.

19 **Declarations of Interest**

There were no declarations of interest.

20 **Requests to Address the Meeting**

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

21 **Minutes**

The Minutes of the meeting held on 21 May 2020 were agreed as a correct record to be signed by the Chairman in due course.

22 **Chairman's Announcements**

The Chairman made the following announcement:

1. The Chairman reminded Members of the remote meeting etiquette and asked all Members to ensure they complied with the protocol.
2. The Chairman advised Members that there were no site visits proposed and reminded Members that in light of the current Government restrictions and measures to minimise the spread of Covid-19, the Committee would need to give serious consideration to the necessity of site visits and Planning officer were considering on a case by case basis.

23 **Kidlington Green Social Club, 1 Green Road, Kidlington, OX5 2EU**

The Committee considered application 19/02341/F for a redevelopment to form 30 apartments for older people (60 years of age and/or partner over 55 years of age), guest apartment, communal facilities, access, car parking and landscaping at Kidlington Green Social Club, 1 Green Road, Kidlington, OX5 2EU for Churchill Retirement Living.

Councillor Ian Middleton, local ward member, addressed the Committee.

Jamie Smith, local resident, addressed the Committee in objection to the application.

Simon Carter, agent for the applicant, addressed the meeting in support of the application.

In reaching its decision the Committee considered the officer's report and presentation, the addresses of the ward member and public speakers and the written update.

Resolved

- (1) That authority be delegated to the Assistant Director for Planning and Development to grant permission for application 19/02341/F subject to:
 - (i) The completion of a planning obligation under section 106 of the Town and Country Planning Act 1990, substituted by the Planning and Compensation Act 1991, to secure the following (and any amendments as deemed necessary):
 - a) Payment of a financial contribution towards affordable housing of £348,147.
 - b) Payment of a financial contribution, towards off site indoor sports and recreation provision in the locality, of £12,876.29 (index linked).
 - c) Payment of a financial contribution towards community facilities being the refurbishment of Exeter Hall of £17,622.20
 - d) Payment of a financial contribution towards the provision of refuse/recycling bins for the development of £111 per dwelling (index linked)
 - e) Payment of the Council's monitoring costs of £3,819.46
 - f) Improvements to the access (to be secured via a S278 agreement)
 - g) A contribution towards the primary healthcare infrastructure in the Kidlington area.
 - (ii) The following conditions (and any amendments to those conditions as deemed necessary);

TIME LIMITS AND GENERAL IMPLEMENTATION CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from 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. The development shall not be carried out otherwise than in complete accordance with the approved plans being drawing nos. 10105KT/PA10 received by the Local Planning Authority on the 22 October 2019 and drawing nos. 10105KT/PA01, 10105KT/PA02, 10105KT/PA03, 10105KT/PA04, 10105KT/PA05, 10105KT/PA06, 10105KT/PA07, 10105KT/PA08 all received by the Local Planning Authority on 17 February 2020 unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country

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

Reason: To clarify the permission and for the avoidance of doubt.

3. The development hereby permitted shall be carried out in accordance with the recommendations set out in sections 4.8 and 4.10 of the Ecological Assessment (reference 12532_R02_SB_MM) prepared by Tyler Grange and dated 14th October 2019 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect habitats and/or species of importance to nature conservation from significant harm in accordance with the Government's aim to achieve sustainable development as set out in Section 15 of the National Planning Policy Framework.

PRE-COMMENCEMENT CONDITIONS

4. No development shall take place until the existing tree(s) to be retained as identified on the 'Tree Protection Plan' drawing no. 19085-BT5 have been protected in accordance with the approved Tree Protection Plan and Arboricultural Assessment and Method Statement (reference 19085-AA2-PB) prepared by Barrell Tree Consultancy dated 4th October 2019 unless otherwise agreed in writing by the Local Planning Authority. The barriers shall be erected before any equipment, machinery or materials are brought onto the site for the purposes of development and demolition and shall be maintained until all equipment machinery and surplus material has been removed from the site. Nothing shall be stored or placed within the areas protected by the barriers erected in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made, without the written consent of the Local Planning Authority.

Reason: To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

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

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

6. If a potential risk from contamination is identified as a result of the work carried out under condition 5, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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

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

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

8. No development shall take place, including any works of demolition until a Construction Method Statement has been submitted to, and approved

in writing by the Local Planning Authority. The statement shall provide for at a minimum:

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

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

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

9. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal in compliance with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

10. Prior to the first occupation of the development, a scheme for the provision of at least 10 vehicular electric charging points to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The vehicular electric charging points shall be provided in accordance with the approved details prior to the first occupation of the development and retained as such thereafter.

Reason: To comply with policies SLE 4, ESD 1, ESD 3 and ESD 5 of the adopted Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework.

CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE
SPECIFIC CONSTRUCTION WORKS TAKE PLACE

11. The external walls, dormers and roof(s) of the development shall be carried out in accordance with the schedule of materials and finishes referred to in the Design and Access Statement (page 30) prepared by Planning Issues and Churchill Retirement Living dated 12 February 2020 or in accordance with an alternative schedule of materials that have been first submitted to and approved in writing by the Local Planning Authority prior to the commencement of that work.

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

12. A scheme for landscaping the site shall be provided to and approved in writing by the Local Planning Authority which shall include:-

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

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

Such details shall be provided prior to the commencement of those works or such alternative time frame as agreed in writing by the developer and the Local Planning Authority. The approved scheme shall be implemented by the end of the first planting season following occupation of the development.

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

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

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

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

Reason: To protect the amenities of nearby residents 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

15. A method statement for enhancing biodiversity on site, to include features integrated into the fabric of the buildings and to include colonial provision for swifts and features for bats, shall be submitted to and approved in writing by the Local Planning Authority prior to the development reaching slab level. Thereafter, the biodiversity enhancement measures approved shall be carried out prior to occupation and retained in accordance with the approved details.

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

CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE OCCUPATION

16. A schedule of landscape maintenance for a minimum period of 5 years shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the development. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule unless otherwise approved in writing by the Local Planning Authority.

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

17. A plan detailing the proposed parking and turning/loading/unloading provision for vehicles to be accommodated within the site (including details of the proposed surfacing and drainage of the provision), shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The approved parking and turning/loading/unloading facilities shall be laid out and completed in

accordance with the approved details before the first occupation of the building. The car parking, turning/loading/unloading spaces shall be retained for the parking, turning/loading/unloading of vehicles at all times thereafter.

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

18. Prior to the first use or occupation of the development hereby permitted, a minimum of 2 covered cycle parking spaces shall be provided on the site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The covered cycle parking facilities so provided shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.

Reason: In the interests of promoting sustainable transport modes in accordance with Government advice in the National Planning Policy Framework.

19. Prior to first occupation of the development hereby permitted, vehicular visibility splays shall be provided in both directions at the point of access from Green Road in accordance with submitted drawing 536.0006.001 E (Appendix F to the Transport Statement by Paul Basham Associates Ltd dated October 2019). Thereafter, the visibility splays shall be kept permanently free from obstruction to vision above 0.6 metres in height over the whole of each visibility splay area.

Reason: To ensure that adequate visibility is retained in the interest of road safety in accordance with Government guidance in Section 12 of the National Planning Policy Framework.

20. Prior to first occupation of the building the bins stores as shown on the approved plans shall be provided in accordance with those approved details and permanently retained as ancillary to the development and used for no other purpose whatsoever.

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

21. If remedial works have been identified in condition 6 the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 7. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the

environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

22. No building or use hereby permitted shall be occupied or the use commenced until the sustainable drainage scheme for this site has been completed in accordance with the submitted details. The sustainable drainage scheme shall be managed and maintained thereafter in perpetuity in accordance with the agreed management and maintenance plan. A stand-alone Management and Maintenance document to be submitted

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and maintained thereafter and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

ONGOING REGULATORY CONDITIONS TO BE COMPLIED WITH AT ALL TIMES

23. No construction work including site clearance and delivery of materials shall be carried out except between the hours of 07.30 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturdays and at no times on Sundays, Bank and Public Holidays.

Reason: In order to protect the amenities of occupiers of nearby properties from noise outside normal working hours and to comply with Saved Policy ENV1 of the Cherwell Local Plan 1996

24. None of the residential units hereby approved shall be occupied other than by a person of an age of 60 years or over (and partners aged 55 years plus).

Reason: In the interest of highway safety and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in Section 12 of the National Planning Policy Framework.

25. An additional condition securing full details of the design and appearance of the electricity substation. (should that be required)
26. An additional condition securing approval and implementation of a scheme for installation of PV on the roof of the building.

24

OS Parcels 3309 And 4319, Adjoining And North of Milton Road, Adderbury

The Committee considered application 19/02796/F for the erection of a sports and community pavilion with associated car parking and sport facilities (outdoor pitches and MUGA) following planning consent for the change of use of agricultural land to sport/recreation and community use (18/00220/F) at 1OS Parcels 3309 and 4319 Adjoining and North of Milton Road Adderbury for Mrs Theresa Goss (on behalf of Adderbury Parish Council).

Councillor Andrew McHugh, local ward member, addressed the Committee.

Lawrie Mayer, local resident, addressed the Committee in objection to the application.

Diane Bratt and Gareth Jones, Adderbury Parish Council, addressed the Committee in support of the application.

It was proposed by Councillor Sean Woodcock and seconded by Councillor Barry Richards that application 19/02796/F be approved subject to an additional condition limiting the hours of use for the car park lighting.

In reaching its decision the Committee considered the officer's report and presentation, the addresses of the ward member and public speakers and the written update.

Resolved

- (1) That authority be delegated to the Assistant Director for Planning and Development to approve application 19/02796/F subject to the following conditions (and any amendments to those conditions 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: Site Location Plan (7354(08)00 Rev A); Site Plan as Proposed (7354(08)02 Rev E); Elevations as Proposed (7354(08)04 Rev D); Elevations as Proposed 2 (7354(08)05 Rev D); Ground Floor Plan (7354(08)03 Rev F); Roof Plan (7354(08)06 Rev B); Sections (7354(08)07 Rev A); Tree Works Plan with mitigation planting (7354(08)11) and Proposed Site Layout (220021-002 Rev A).

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

3. Prior to commencement of development, an application shall be made for Secured by Design accreditation on the development hereby approved. The development shall be thereafter carried out in accordance with the

approved details and shall not be occupied or used until confirmation of SBD accreditation has been received by the local planning authority.

Reason – To ensure that the development complies with Secured by Design and creates a safe development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the NPPF.

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

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

5. Other than the access hereby approved no other means of access whatsoever shall be formed or used between the land and the highway.

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

6. Prior to the commencement of the development hereby approved, full details of the access vision splays, including layout and construction shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first use of the development the vision splays shall be constructed in accordance with the approved details and the land and vegetation within the vision splays shall not be raised or allowed to grow above a maximum height of 1.5m above carriageway level.

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

7. Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the turning area and 141 parking spaces within the curtilage of the site, arranged so that motor vehicles may enter, turn round and leave in a forward direction and vehicles may park off the highway, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Thereafter, and prior to the first occupation of the development, the turning area and car parking spaces shall be constructed in accordance with the approved details and shall be retained for the parking and manoeuvring of vehicles at all times thereafter.

Reason - In the interests of highway safety, to ensure the provision of off-street car parking and to comply with Government guidance contained within the National Planning Policy Framework.

8. Prior to the first use of any new public footpath, the new footpath shall be formed, constructed, surfaced, laid and marked out, drained and completed in accordance with specification details which shall be submitted to and

approved in writing by the Local Planning Authority prior to its formation and/or laying out.

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

9. 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 ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework.

10. A method statement for enhancing biodiversity on site, to include integrated provision for bats and swifts and 10 nesting boxes for other birds shall be submitted to and in writing by the Local Planning Authority prior to the development reaching slab level. Thereafter, the biodiversity enhancement measures approved shall be carried out prior to occupation and retained in accordance with the approved details.

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

11. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods (including fully detailed cross-sectional drawings of all SuDS and drainage related features to be provided and a full list of all SuDS features to be employed on site to be provided) has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing.

Construction shall be in accordance with the principles set out in documents: FEDS-220021 SuDS Drainage Calculations Rev A
24926 - Adderbury Milton Road Muga - 191025 REV B
FEDS-220021-001-A Existing Site Plan(1)
FEDS-220021-002-A Proposed Site Plan(2)
FEDS-220021-003-A
Topographical Survey and BRE 365 TP Location
Land north of Milton Road, Adderbury, Oxon - trial trench evaluation report
V2
7354(08)02E
7354(08)11
7354(08)06B
7354(08)03F

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

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

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

13. The development hereby permitted shall not commence until full Detailed Design details of the proposal, implementation, maintenance and management of a surface water drainage scheme have been submitted to and approved in writing by the local planning authority. Those details shall include:

a) Information about the design storm period and intensity (1 in 30 & 1 in 100 (+40% allowance for climate change), discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters;

b) Any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant);

c) Flood water exceedance routes, both on and off site;

d) A timetable for implementation; and

e) Site investigation and test results to confirm infiltrations rates.

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

14. Prior to any demolition and the commencement of the development a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation,

relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority.

Reason - To safeguard the recording of archaeological matters within the site in accordance with the NPPF (2019)

15. Following the approval of the Written Scheme of Investigation referred to in condition 14, and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

Reason – To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the NPPF (2019).

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

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

17. Prior to the first occupation of the development, a scheme for the provision of vehicular electric charging points to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The vehicular electric charging points shall be provided in accordance with the approved details prior to the first occupation of the building they serve, and retained as such thereafter.

Reason - To comply with Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the adopted Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework.

18. The multi-use games area shall not be used between the hours of 21:30 and 08:00 and not before 09:00 on Sundays and/or Bank or Public Holidays.

Reason - To safeguard the amenities of the occupants of the adjoining

premises and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

19. The floodlighting for the multi-use games area shall not be used between the hours of 21:30 and 08:00 and not before 09:00 on Sundays and/or Bank or Public Holidays.

Reason - To safeguard the amenities of the occupants of the adjoining premises and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

20. Prior to the commencement of the development hereby approved above slab level, samples of the stone to be used externally in the construction of the walls 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 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.

21. Prior to the commencement of the development hereby approved above slab level, samples of the metal cladding to be used in the construction of the walls and roofs 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 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.

22. Prior to the commencement of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

(a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,

(b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,

(c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps, and

(d) details of the boundary treatments including their materials, appearance and height.

The development shall be carried out in accordance with the approved landscaping scheme and the hard landscape elements and boundary treatments 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 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.

23. 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.

24. Prior to any works to change site levels, a plan showing full details of the existing and proposed site levels 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 site levels plan.

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

25. Except to allow for the means of access and vision splays, the existing hedgerow/ trees along the Southern boundary of the site shall be retained and properly maintained at a height of not less than 1.5m and any hedgerow/ tree which may die within five years from the completion of the development shall be replaced and thereafter properly maintained in accordance with this condition.

Reason - In the interests of the visual amenities of the area and to comply

with Policy ESD15 of the Cherwell Local Plan 2011- 2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

26. Prior to the first public use of the site for pitches, a Management Plan for the site to include hours of use shall be submitted to and approved in writing by the Local Planning Authority. The site shall not be run other than in accordance with the approved Management Plan.

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

27. Other than those expressly approved under this planning permission, no external lights/floodlights shall be erected on or within the site.

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

28. Notwithstanding the provisions of Class A of Part 12, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, no buildings, storage containers or areas of hard standing (other than those identified within this application) shall be placed on the land without the grant of further specific planning permission from the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the amenities of the area and ensure that future development is of an appropriate design and layout in accordance with saved Policy C28 of the Cherwell Local Plan 1996.

29. Prior to the first use or occupation of the development, the building shall be provided with solar PV in accordance with a scheme which shall firstly be submitted to and approved in writing by the Local Planning Authority.

Reason - To support the delivery of renewable and low carbon energy in accordance with Government guidance contained within the National Planning Policy Framework.

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

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of 'Biodiversity Protection Zones';
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);

- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- h) Use of protective fences, exclusion barriers and warning signs

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

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.

31. A restriction on the hours of use for the car park lighting.

The meeting ended at 3.55 pm

Chairman:

Date:

Agenda Annex

CHERWELL DISTRICT COUNCIL

PLANNING COMMITTEE

18 June 2020

PLANNING APPLICATIONS INDEX

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

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

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

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

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

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

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

Human Rights Implications

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

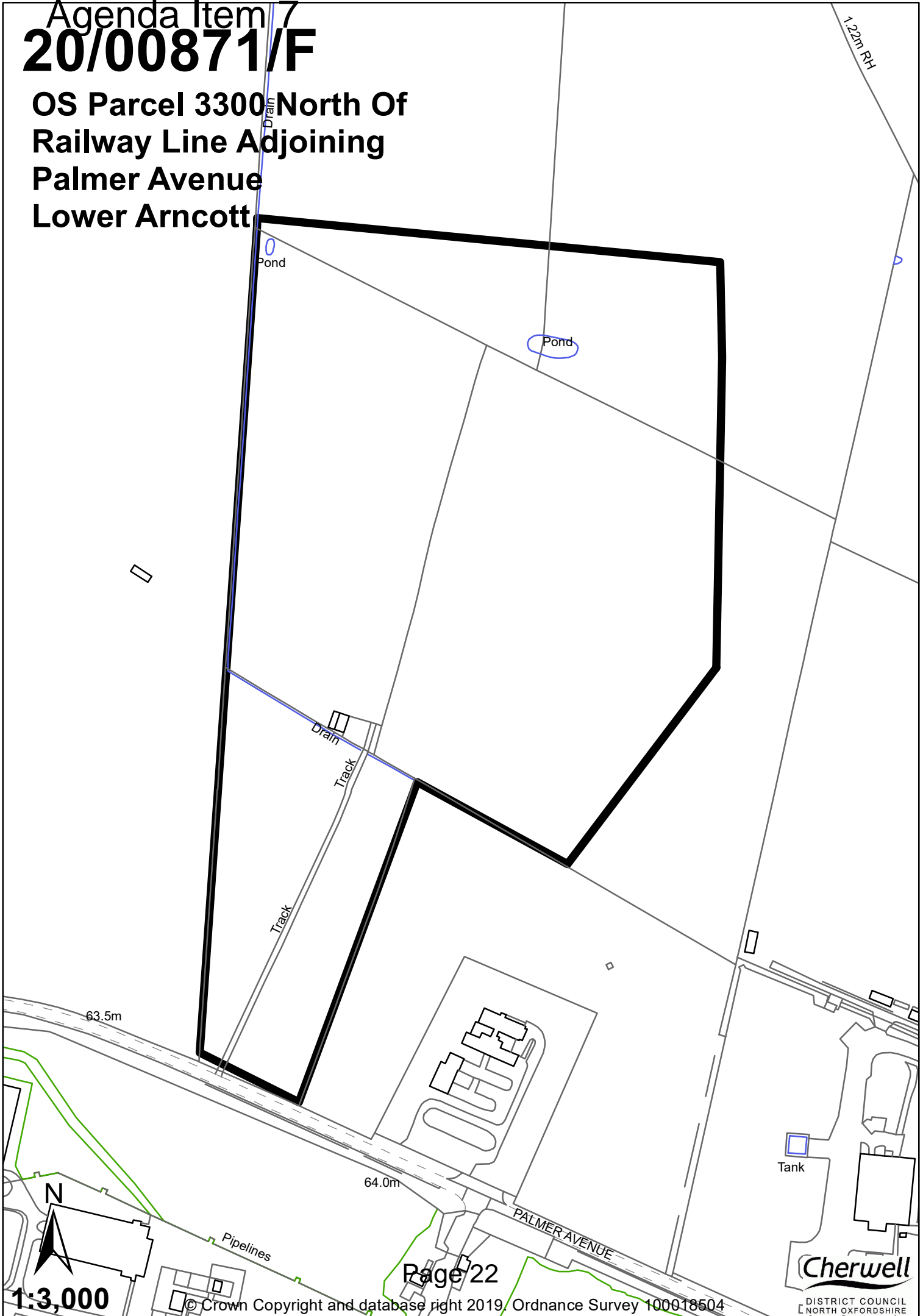
Background Papers

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

	Site	Application No.	Ward	Recommendation	Contact Officer
7	OS Parcel 3300 North of Railway Line Adjoining Palmer, Lower Arcott	20/00871/F	Launton and Otmoor	Refusal	Bob Neville
8	Land Adjacent to The M40 South of Overthorpe Road Banbury	20/00608/F	Banbury Grimsbury and Hightown	Grant Permission	Samantha Taylor
9	Bicester Sports Association the Tudor Jones Building Akeman Street Chesterton Bicester OX26 1TH	19/00934/F	Fringford and Heyfords	Refusal	James Kirkham
10	Land Adj To Bullmarsh Close Off Middleton Park Middleton Stoney	20/01223/NMA	Fringford and Heyfords	Grant Permission	James Kirkham
11	4 Drapers House St Johns Road Banbury OX16 5BE	20/00693/LB	Banbury Cross and Neithrop	Grant Permission	Lewis Knox

Agenda Item 7 20/00871/F

OS Parcel 3300 North Of
Railway Line Adjoining
Palmer Avenue
Lower Arccott



1.22m RH

Drain

Pond

Pond

Drain

Track

Track

63.5m

64.0m

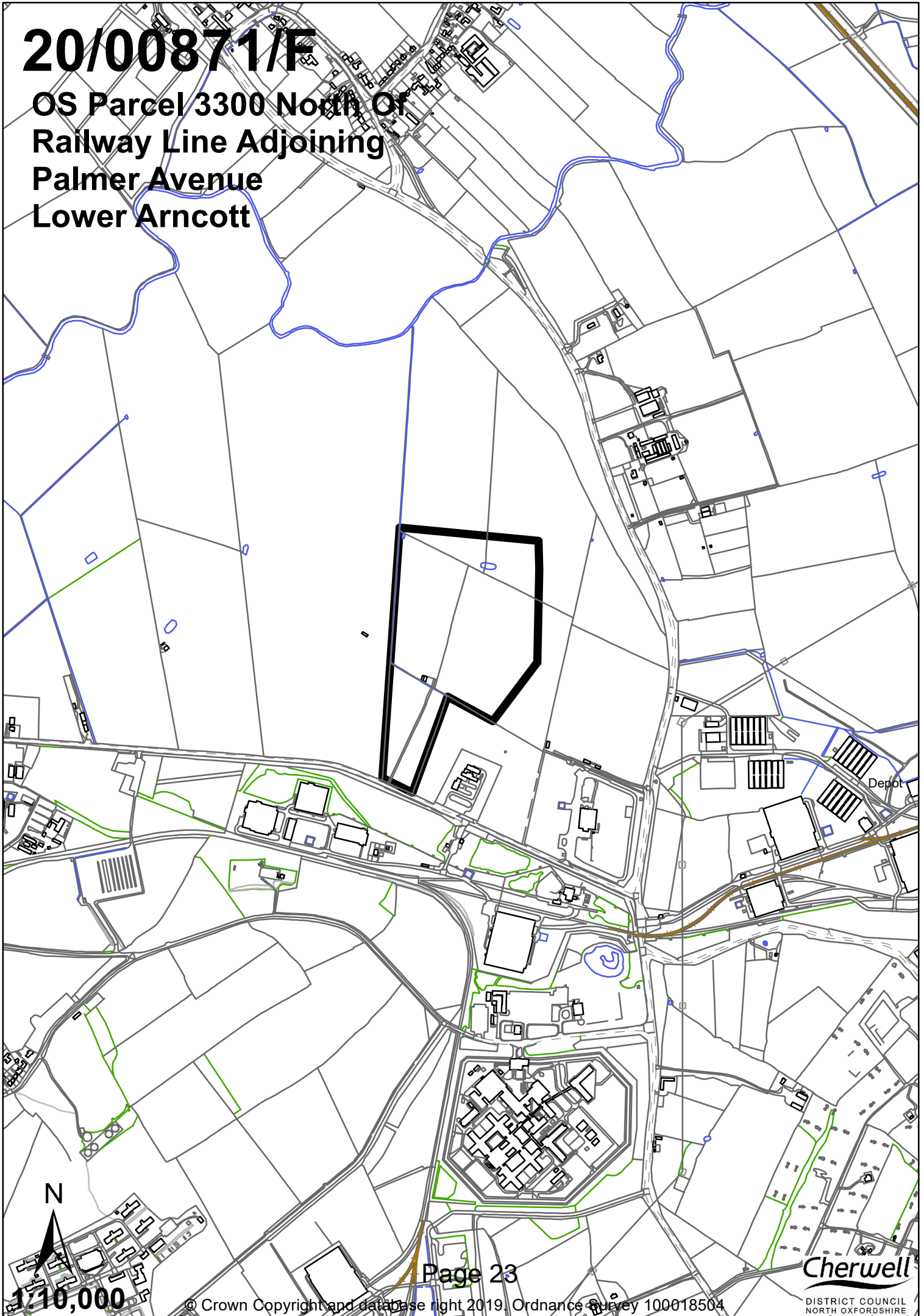
Tank

Pipelines

PALMER AVENUE

20/00871/F

OS Parcel 3300 North Of Railway Line Adjoining Palmer Avenue Lower Arccott



Depot

N

1:10,000

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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Case Officer: Bob Neville

Applicant: W Potters & Sons Ltd

Proposal: Erection of a free-range egg production unit, gatehouse and agricultural workers dwelling including all associated works - re-submission of 19/00644/F

Ward: Launton And Otmoor

Councillors: Cllr Timothy Hallchurch MBE
Cllr Simon Holland
Cllr David Hughes

Reason for Referral: Major development

Expiry Date: 24 June 2020

Committee Date: 18 June 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: REFUSE PERMISSION

Proposal

The current application, a revised scheme of 19/00644/F, withdrawn in 2019, again seeks planning permission for the erection of a new free-range egg production unit, with associated gatehouse, agricultural workers dwelling with detached garage, new access track and access onto Palmers Avenue.

The proposed poultry building would be a profiled metal clad building measuring 159m (l) x 35m (w) x 7.96m (h) with 8no feed hoppers, 22 roof mounted extract fans and which would house 59,000 birds.

The proposed gatehouse would be constructed of timber cladding walls and juniper green box profile metal sheeting roof measuring 10m (l) x 7.5m (w) x 4.07m (h).

The proposed dwelling would be a 2 storey 3-bedroom constructed with a brick finish under a tiled roof with a proposed footprint of approximately 130 sq m and overall ridge height of 7.36m. The associated domestic garage would be a double-garage, again of brick and tile construction, measuring 6m (l) x 6m (w) x 4.75m (h).

Consultations

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

- Arcnott Parish Council, Blackthorn Parish Council, Piddington Parish Council, Agricultural Consultant, Berks, Bucks and Oxon Wildlife Trust (BBOWT), CDC Building Control, CDC Campaign to Protect Rural England (CPRE), Ecology, OCC Drainage, Environment Agency, OCC Highways and Historic England,

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

- Ambrosden Parish Council, CDC Environmental Protection, Natural England and Thames Water

195 letters/emails of objection have been received and 2 letters/emails of support have

been received.

Planning Policy and Constraints

The site sits relatively centrally in relation to a number of villages, being approximately 1km from the villages of Lower and Upper Arnott which lie to the west and south-west of the site respectively, Blackthorn ~840m to the north, with the village of Piddington ~1.5km to the east and Ambrosden ~1.8km to the north-west. The River Ray flows across land to the north of the site at a distance of ~410m at its closest point to the application boundary. The site is partially within an area of high flood risk (Flood Zones 2 & 3). The majority of the site is within the Ray Conservation Target Area. The Field South of River Ray Local Wildlife Site (LWS) lies to the west/north-west of the site approximately 340m away and Meadow Farm Meadows LWS lies approximately 440m to the north/north-east. A Public Right of Way (PRoW) (ref. Footpath 110/1/10) crosses land west/north of the site.

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

Conclusion

The key issues arising from the application details are:

- Principle of the Development
- Landscape and Visual Impact
- Environmental Pollution and Nuisance
- Residential Amenity
- Ecological & Biodiversity
- Highways Safety
- Flooding Risk & Drainage

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

1. Proposals represent unjustified sporadic new residential development within open countryside;
2. Adverse visual effects;
3. Ecological Impacts and lack of nett Biodiversity gain;
4. Drainage and flood-risk issues.

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 land to the north of Palmer Avenue located approximately 1km east of the village of Lower Arcott. The surrounding area of land is typically characterised by open agricultural fields with hedgerow boundaries, with no significant variation in land levels across the site. In terms of built form there is an existing single store structure within the site and a further small single storey building immediately adjacent the site to the west of the site. There is a group of single storey structures adjacent to the east of the site bounded by mature hedgerows and trees enclosing the site. Palmer Avenue bounds the site to the

south, with the B4011 running parallel to the east of the site; with views available from these highways across the site.

- 1.2. The site is located relatively centrally in relation to a number of villages, being approximately 1km from the villages of Lower and Upper Arnott which lie to the west and south-west of the site respectively, Blackthorn ~840m to the north, with the village of Piddington ~1.5km to the east and Ambrosden ~1.8km to the north-west. To the east and south of the site are existing MOD facilities. Bullingdon Prison lies approximately 540m south of the site.

2. CONSTRAINTS

- 2.1. The application site is located in open countryside with typical agricultural field hedgerows bounding the site. The River Ray flows across land to the north of the site at a distance of ~410m at its closest point to the application boundary. The northern and north-west corner of the site lies within an area of high flood risk (Flood Zone 2 & 3), and there are records of two ponds being within the site. The Ray Conservation Target Area washes over the majority of the site. The Field South of River Ray Local Wildlife Site (LWS) lies to the west/north-west of the site approximately 340m away and Meadow Farm Meadows LWS lies approximately 440m to the north/north-east. Arcott Bridge Meadows SSSI lies ~1.2km to the west of the site. A Public Right of Way (PRoW) (ref. Footpath 110/1/10) crosses land west/north of the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application comes following the withdrawal of a similar scheme in 2019 under ref. 19/00644/F. Whilst the current proposals are of a similar nature and quantum of proposed development to the previously assessed scheme, the layout is revised, and revised/additional supporting information is submitted particularly in respect of: the need for the proposed dwelling; flood-risk and drainage; ammonia mitigation measures and ecological and biodiversity (including landscaping) details, in an attempt to address concerns previously raised by officers during the assessment of the previous application 19/00644/F.
- 3.2. The application again seeks planning permission for the erection of a free-range egg production unit, with associated gatehouse, agricultural workers dwelling with detached garage, new access track and access onto Palmers Avenue.
- 3.3. The proposed poultry building would be a profiled metal clad building measuring 159m (l) x 35m (w) x 7.96m (h) with 8 no. feed hoppers, 22 roof vents, a 15m x 6m 'Muck Store' and which would house 59,000 birds.
- 3.4. The proposed gatehouse would be constructed of timber cladding walls and juniper green box profile metal sheeting roof measuring 10m (l) x 7.5m (w) x 4.07m (h).
- 3.5. The applicant contends that the proposed dwelling is necessary for the running of the business. The proposed two-storey dwelling would have 3 bedrooms, would be externally faced in brick under a tiled roof, with a proposed footprint of approximately 130 sq m and overall ridge height of 7.36m. The associated domestic garage would be a double-garage, again of brick and tile construction, measuring 6m (l) x 6m (w) x 4.75m (h).
- 3.6. In terms of the operation of the business the applicant indicates that the birds have a laying cycle of 56 – 58 weeks. After 14 months the flock is removed and the whole building fully cleaned down internally and the new flock introduced to restart the egg production cycle. The birds would have direct access from the east and west

elevations of the building to dedicated pasture, which would be electric fenced (1.2m high fencing) to keep out predators.

- 3.7. The proposed poultry farm would require bulk food delivered to the farm by six or eight-wheeler HGVs 3 times a month and stored in the silos on site. The applicant further indicates that the proposed farm business has a provisional contract with a company (Noble Foods) to supply the free-range eggs, and which would collect the eggs in a 7.5 tonne lorry three times a week.
- 3.8. Waste from the chickens is proposed to be cleared out by way of a conveyor belt system. With an internal conveyor belt system transferring to an external conveyor belt into a parked trailer outside the building. The manure would be removed from the site using a sheeted tractor and trailer. The 'Management Plan' indicates that the conveyor belt system would be operated every 10 days, removing approximately 14 tonnes of waste. However, there is conflicting information within the application's other supporting documents as to how often the conveyor belt would be operated and, whilst officers have sought clarification from the applicant's agent on this matter, no response had been received at the time of the preparation of this report.
- 3.9. Officers have advised the applicant's agent of a number of further inconsistencies, errors and a general lack of information within the application that give rise to significant concerns and have given the applicants the opportunity to address deficiencies in the submission; however, no response has been received on the majority of the issues raised. Further information was received from the applicant's agent at a late stage in response to objections from the Environment Agency (EA) and the Lead Local Flood Authority (LLFA) and further a revised planting plan; the flood-risk information was forwarded to the EA and the LLFA but at the time of the preparation of this report no further formal response had been received. If any such response is received prior to the committee meeting any matters raised will be reported in a written update.
- 3.10. Given the nature and scale of the proposed development the application has been screened in accordance with the requirements of the Town and Country Planning (Environmental Impact Assessment (EIA)) Regulations 2017. Whilst the proposal is Schedule 2 development by virtue of being an 'Intensive livestock installation' with a floor area greater than 500 sq m, which exceeds the relevant threshold and therefore falls under category 1(c) of the schedule, it was considered that the proposal would not have more than local importance. It was therefore concluded with regard to EIA regulations that, given the nature of the development – being an above ground installation, unlikely resulting in levels of waste, pollution, nuisances or detrimental impacts on human health that would be 'significant' in EIA terms, and not producing significant traffic movements or emissions – the proposals were unlikely to give rise to complex, long term or irreversible impacts and did not, therefore, require the submission of an Environmental Statement (ES). NB. While the impacts were not considered to be of such 'significance' to necessitate submission of an EIA, this should not be treated as a surrogate for officers' judgement on the proposals' environmental impacts, particularly on a more local level, which are discussed in the relevant section of this report.

4. RELEVANT PLANNING HISTORY

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

Application: 19/00644/F	Application	8 August 2019
	Withdrawn	

Erection of a free-range egg production unit, gatehouse and agricultural

workers dwelling including all associated works

4.2. Application 19/00644/F was withdrawn prior to presentation to planning committee with a recommendation of refusal on the grounds of:

- Proposals representing unjustified sporadic new residential development within open countryside;
- Adverse visual effects;
- Detrimental ecological Impacts and lack of nett Biodiversity gain;
- Drainage and flood-risk issues.

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 notices displayed near the site and in surrounding villages, 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 **20 May 2020**, although comments received after this date and before finalising this report have also been taken into account.

6.2. 195 letters/emails of objection have been received and 2 letters/email of support have been received. The comments raised by third parties are summarised as follows:

6.3. Comments in support:

- Benefits – Proposals supporting local workers, local production and pushing forward production at a time where investment in our countryside and self-sufficiency are a vital and important matter.
- Alternatives – Proposed chicken farm better than further housing being built.
- It is a rural area, residents should expect rural smells.

6.4. Comments in objection:

- Odour impacts – Surrounding area already suffers from odour issues arising from existing farms and facilities (including Ambrosden Poultry Unit, Blackstone Farm (animal disposal) Blackthorn and Evigo at Shaws Farm (rat breeding factory) Blackthorn). Additional odour from the proposed development will further exacerbate such issues detrimentally impacting on the amenity of surrounding properties and general living environment.
- The Council should commission their own independent odour impact assessment;
- Noise impacts – The area is already affected by noise pollution from the M40, additional traffic to and from HMP Bullingdon and the Motocross site. There would potentially further detrimental noise impacts, as a result of additional vehicular movements, extract fans, and noise generated by the chickens;
- Increased air pollution (including dust and ammonia deposition) having a detrimental impact on health and wellbeing and general living environment; including impacts on nearby residents, prison, business offices, workshops, MOD offices, hotel and schools;

- Lack of appropriate flood-risk assessment. The site is in an area of high flood risk and prone to regular flooding, and there is the potential for chicken faeces to filter into the river, contaminating the water, which provides a source of drinking water for livestock and wildlife;
- Ground pollution risk from waste from the chickens, and the potential contamination of surface water run-off leaking into the water table.
- Area already suffers from infestation of flies. The proposals would likely exacerbate this issue with potential health and nuisance issues arising from increased infestation of insects and vermin;
- Not an appropriate location. This sort of operation needs to be placed in a more secluded location and not right next to villages.
- Landscape impact – The submitted Landscape and Visual Impact Assessment is misrepresentative. There would be detrimental visual impacts of such a large building on valued rural landscape and the Conservation Target Area and the amenity of users of the Public Rights of Way
- Highway safety issues: Bicester and the surrounding area has seen significant new development with a significant increase in traffic. The increased traffic to the area as a result of the proposed development would be to the further detriment of road network and surrounding villages; which already suffer from excessive traffic including HGVs going to the MOD sites, Oxford or picking up the M40 and A34.
- Drainage – Concerns with regards to the disposal of foul sewage as a result of a lack of information within the application;
- Detrimental ecological impacts; including impacts on LWS, Nature Reserve and surrounding flora and fauna from ammonia deposition and waste from chickens being washed into the River Ray during the times of flood which affect the area;
- The proposals do not protect and enhance the biodiversity of our natural environment and further is not a sustainable development with no footpaths or bus stops linking to existing residential areas;
- Inconsistencies and inaccuracies within the supporting information (including how much waste will be produced and also the distance to the closest residential property); further whilst it is stated that there is agreement for disposal of the waste it is not clear where the waste would actually be disposed of;
- The submitted reports do not consider the potential impacts of chickens roaming externally; including waste and ammonia;
- There is a need for an Environmental Impact Assessment to be undertaken;
- Limited benefit arising from the proposals, and no need for addition poultry units given that there are already three existing units within the area and limited employment opportunities for the local community;
- There has been too much development in the general Bicester area, and the Arcott area has seen a number of unwelcome and unwanted projects;
- The need for a dwelling on site is tenuous and this could be seen as a way to secure further future residential development on the site.
- No consultation undertaken by the applicants with the local communities;
- Detrimental impacts of the proposed development would drive people away from the area;
- Security – Given its rural location the site cannot be overlooked
- Impacts on electricity and water utilities;
- Property devaluation [Officer comment: this is not a material consideration].

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. AMBROSDEN PARISH COUNCIL: **No objections**, subject to conditions being imposed in respect of:

- Traffic routing
- Lighting
- Control over waste management
- Limit on the number of chickens

7.3. ARNCOTT PARISH COUNCIL: **Objects**, on the following grounds:

- Lack of need for an additional poultry unit; given there are three existing units in the area
- Odour would be a significant issue within the village and parish and potentially a constant problem.
- Dust during the summer months.
- The area is a flood plain and is subject to flooding during periods of wet weather.
- Highway safety issues through increased traffic, including HGVs, on roads in a poor state of repair.
- Storage of waste at the site would present issues with smell, dust, and vermin, associated with such effluent.
- Detrimental impacts on the nearby prison.
- As the site is relatively rural, security of it cannot be overlooked.
- Would not significantly improve employment opportunities within the area.
- Concerns raised in respect of potential outbreaks of disease at the site and what mitigation and controls would be put in place to limit the spread and reduce the risk to people in the area.
- Concerns relating to potential future further residential development on the site.
- Detrimental impact on the rural landscape and not in keeping with the surrounding countryside.
- Noise impacts.
- Air pollution from ammonia, odour & dust.
- Raises significant concerns with regards to the application's supporting documents, citing a number of inconsistencies between documents, ambiguity in submitted details and lack of appropriate assessment; particularly in relation to the impacts of chickens roaming externally.
- Considers that the proposals require a full Environmental Impact Assessment.

7.4. BLACKTHORN PARISH COUNCIL: **Objects**, on the following grounds:

- Odour: Odour is an existing issue in the area. The odour impact assessment, whilst showing odour to be at acceptable levels, does not allow for cumulative impacts. Blackthorn has already experienced the odours from deceased chicken carcasses, and if such are stored on site awaiting collection this will further add to the odour from the chickens and their waste.
- Pestilence: At a time of great concern over COVID-19, adding a new facility which would increase the opportunities for bird flu would seem unwise.
- Pollution: The areas where the chickens run include flood plains and there is potential for pollution of River Ray, (and then Cherwell & Thames).

7.5. PIDDINGTON PARISH COUNCIL: **Objects**, on the following grounds:

- Additional poultry unwarranted given existing units in the area.
- Odour and existing issue
- Dust during the summer months.
- The area is a flood plain and is subject to flooding during periods of wet weather.
- Highway safety issues through increased traffic, including HGVs, on roads in a poor state of repair and which will have damaging environmental impacts
- The storage of waste would present issues with smell, dust, and vermin associated with such effluent.
- The proposed dwelling is not essential development and is outside the Arcott Village envelope.

CONSULTEES

7.6. AGRICULTURAL CONSULTANT: Advises that if consent is granted for the free range poultry unit as proposed there would be agricultural support for a *temporary* agricultural workers' dwelling for a period of three years to enable the new trading business to become established, and to provide evidence that it can sustain the cost of a permanent dwelling after the three year trial period expires.

However, further advises that if the applicant company provides evidence that the business will be part of W. Potters & Sons (Poultry Limited) and that there is a provisional contract in place for the eggs to be produced and the contract is for a period of time that would enable the unit to become established i.e. more than three years, that there would be agricultural support for a permanent dwelling as that business is currently financially viable, and has been profitable over the last three years.

7.7. BERKS, BUCKS AND OXON WILDLIFE TRUST (BBOWT): **Objects** on the following grounds:

- *Potential water quality impacts, particularly in relation to impacts on the wildlife of Arcott Bridge SSSI, Field South of the River Ray LWS, Meadow Farm LWS, the River Ray itself and potentially other designated sites within the River Ray catchment.*
- *Potential impact from odour and dust on staff and volunteers based at Meadow Farm, and on visitors to the site, and therefore on our office, reserve, educational and visitor operations carried out at the site.*
- *Potential impact from ammonia emissions and aerial borne dust on the wildlife of Meadow Farm Local Wildlife Site and BBOWT nature reserve, and*

other designated sites and BBOWT reserves in the Upper Ray Meadows area.

- 7.8. BUILDING CONTROL (CDC): **No objections**; proposals would require a separate Building Regulations approval.
- 7.9. CAMPAIGN TO PROTECT RURAL ENGLAND (CPRE): **Objects**. Considers the proposals to represent a factory farm requiring industrial units, with the storage and disposal of tons of manure as well as the efficacy of the removal of ammonia produced in the sheds causing a concern. Questions the appropriateness of the location being too close to several villages as well as being adjacent to an important local wildlife site at BBOWT's Meadow Farm, and further that the development would also negatively affect the public amenity of the PRow. Raises further concerns with regards odour levels being intolerable for villagers and visitors to the nature reserve, and the lack of any environmental impact assessment. Further notes that there are 5 local wildlife sites within one kilometre of the site which is also within the Upper River Ray Conservation Target Area, and that biodiversity enhancements should be targeted to this area rather than be threatened by pollution from development.
- 7.10. DESIGN AND CONSERVATION: No comments to make.
- 7.11. ECOLOGY (CDC): **Objects**. Whilst noting that the current proposals are an improvement on the previous scheme, and would provide benefits through additional planting, remains concerned with the potential impacts on locally ecologically important sites but notes BBOWT may be better placed to comment on this aspect as regards the LWS. Further detail required with regards to proposed planting and proposed Biodiversity enhancements.
- Notes the lack of acknowledgement within the ecology report that the site is within a Conservation Target Area (CTA) and that the development needs to help meet the aims of the CTA. Further notes the main outstanding issue for this is the potential for an impact on water quality; given that the site and ranging fields for the poultry is within an area of flood risk there is potential for manure from these events to enter watercourses and be deposited elsewhere, which could have ecological impacts.
- 7.12. ENVIRONMENT AGENCY: **Objects**. The Flood Risk Assessment (FRA) is not considered to adequately assess the flood risks posed by the development. In particular, the FRA fails to:
- Assess the impact of climate change using the latest guidance and appropriate climate change allowances.
 - Demonstrate that the proposed development has finished floor levels above the 1% annual probability (1 in 100) flood level with an appropriate allowance for climate change.
- 7.13. ENVIRONMENTAL HEALTH (CDC): **No objections**, subject to conditions securing: specific details in relation noise associated with the machinery to be used; a system of electrical vehicle charging to serve the development; the monitoring of the odour/ammonia levels at the boundary with the findings being available for inspection by a council officer; and a scheme for dust management.
- 7.14. HISTORIC ENGLAND: No comments to make.
- 7.15. LANDSCAPE SERVICES (CDC): **Objects**, on the grounds of visual and landscape impact; commenting: *'From a landscape impact point of view there isn't an effective way of mitigating the presence of the building'*. There is a lack of landscaping information: no indication where the planting is located, and large standard trees are shown on the plan but not in the schedule.

7.16. LICENSING (CDC): No formal comments received

7.17. LEAD LOCAL FLOOD AUTHORITY OCC (LLFA): **Objects**, noting the following key issues:

- Insufficient surface water management, flood risk, SuDS use, mitigation measure information provided to enable technical assessment of the proposal.
- Site partially in Flood-zone 3 – evidence required of consultation with EA.
- Proposal is not aligned with Local or National Standards in its current iteration.
- Significant surface water flood risk has not been addressed.

7.18. LOCAL HIGHWAY AUTHORITY OCC (LHA): **Objects**; commenting that: *'It has not been demonstrated that the visibility splay is adequate to provide a safe and suitable access'*.

Key issues highlighted:

- A visibility splay appropriate to the speed limit or measured speeds is required
- A S278 agreement will be necessary for a bell-mouth junction
- The proposed development will have minimal impact on the highway network in terms of trip generation

7.19. MOD PROPERTY: No formal comments received

7.20. NATURAL ENGLAND: **No objection**, referring to comments previously made against 19/00644/F; which recommends that officers seek further information from the Berks, Bucks and Oxon Wildlife Trust to ensure the Council has sufficient information to fully understand the impact of the proposal on LWSs before determining the application.

7.21. THAMES VALLEY POLICE: No formal comments received.

7.22. THAMES WATER: **No objections**.

8. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

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

- PSD1: Presumption in Favour of Sustainable Development
- SLE4: Improved Transport and Connections
- ESD1: Mitigating and Adapting to Climate Change
- ESD3: Sustainable Construction

- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems
- ESD8: Water Resources
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD11: Conservation Target Areas
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment
- ESD17: Green Infrastructure
- Villages 1: Village Categorisation
- INF1: Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18: New dwellings in open countryside
- TR7: Development attracting traffic on minor roads
- TR10: Heavy Goods Vehicles
- AG2: Construction of farm buildings
- AG3: Siting of new or extension to existing intensive livestock and poultry units
- AG4: waste disposal from intensive livestock and poultry units
- C8: Sporadic development in the countryside
- C14: Countryside management projects
- C28: Layout, design and external appearance of new development
- ENV1: Development likely to cause detrimental levels of pollution
- ENV12: Development on contaminated land

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- 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
- Noise Policy Statement for England 2010 (NPSE)
- Cherwell Countryside Design Summary (1998)
- Oxfordshire Wildlife & Landscape Study (OWLS)
- Oxfordshire County Council: Local Transport Plan 4 (2015-2031)

9. APPRAISAL

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

- Principle of the Development
- Landscape and Visual Impact
- Environmental Pollution and Nuisance
- Residential Amenity
- Ecological & Biodiversity
- Highway Safety
- Flooding Risk & Drainage

Principle of Development

- 9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 and the saved policies of the Cherwell Local Plan 1996 as well as a number of Adopted Neighbourhood Plans (although none of which are relevant to the application site in this instance).

Policy Context

- 9.3. The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having 3 dimensions: economic, social and environmental.
- 9.4. Whilst considered as a whole, the proposals include a number of distinct elements including both agricultural development and residential development.
- 9.5. In terms of the agricultural elements, the NPPF advocates the support of the sustainable growth and expansion of all types of business and enterprise in rural areas, both through the conversion of existing buildings and well-designed new buildings. This also includes the development and diversification of agricultural and other land-based rural businesses.
- 9.6. Saved Policy AG2 of the CLP 1996 is similarly supportive of the principle of farm buildings in the countryside, in that it supports new farm buildings where they are designed and sited such that they do not intrude into the landscape or residential areas.
- 9.7. Cherwell District Council can demonstrate a 4.6-year supply of deliverable housing sites (i.e. less than the 5-year supply required in the NPPF). Notwithstanding this, the Written Ministerial Statement of 12th September 2018 provides for a 'temporary change to housing land supply policies as they apply in Oxfordshire'. Until the adoption of the Joint Statutory Spatial Plan, the Oxfordshire Authorities are required to demonstrate a 3-year supply of deliverable housing sites (as well as meeting their requirements in respect of the Housing Delivery Test).
- 9.8. As such, policies for determining the application are only to be considered out of date (in accordance with paragraph 11d – footnote 7 of the NPPF) where a 3-year supply of deliverable sites cannot be demonstrated. A 3-year supply can be demonstrated in this case and so the presumption in favour of sustainable development, as advised by the NPPF, will need to be applied in this context.
- 9.9. In respect of the proposed new residential dwelling, as the site is located on agricultural land in the middle of open countryside this element of the proposals stands to be assessed against Saved Policy H18 of the Cherwell Local Plan 1996.
- 9.10. Policy H18 of the Cherwell Local Plan 1996 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.

- 9.11. Paragraph 79 of the NPPF states planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:
- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
 - b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
 - c) the development would re-use redundant or disused buildings and enhance its immediate setting;
 - d) the development would involve the subdivision of an existing residential dwelling; or
 - e) the design is of exceptional quality, in that it:
 - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

Assessment

- 9.12. The nature of proposed development remains largely as previously assessed under withdrawn application 19/00644/F. In looking to address concerns raised in respect of the previous application the applicant has revised both the position of the egg production unit and the proposed dwelling. The applicant has further stated that the proposed business would run as part of an existing trading account part of W Potters & Sons (Poultry Ltd).
- 9.13. As noted above the proposals include several distinct elements including both agricultural development and residential development; with the applicant contending the proposed dwelling is necessary for the operational needs of the proposed new egg production business. Given the nature of the proposals the Council has again sought advice from an independent agricultural consultant (AC) in respect of the proposed scheme.
- 9.14. The application is supported by an Assessment of Need & Design and Access Statement, which sets out a limited overview of the business, a description of the proposals, a statement with regards to the functional need and drawing a conclusion.
- 9.15. The applicants have also provided detailed accounts for their existing business, W Potters & Sons (Poultry Ltd), and the AC confirms that the last three years' trading accounts show this to be a viable business. In addition, a cash flow document has also been provided showing that after initial investment the Arncott business would trade profitably.
- 9.16. The PPG advises of considerations that it may be relevant to take into account when applying paragraph 79a of the NPPF; these could include:
- evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise (for instance, where farm animals or agricultural processes require on-site attention 24-hours a day

and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products);

- the degree to which there is confidence that the enterprise will remain viable for the foreseeable future;
- whether the provision of an additional dwelling on site is essential for the continued viability of a farming business through the farm succession process;
- whether the need could be met through improvements to existing accommodation on the site, providing such improvements are appropriate taking into account their scale, appearance and the local context; and
- in the case of new enterprises, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period.

9.17. Taking these points in turn:

1. In terms of a functional need, as the proposal is for a large free-range poultry unit for 59,000 laying hens, the building would incorporate computer-controlled systems for feed, water, temperature and ventilation, with alarm systems to alert staff of any failures in the building's controlled systems. The applicants have reviewed local housing opportunities and discounted a number of options within the supporting assessment of needs document, considering that the needs of the business can only be accommodated by a new dwelling on the site. The AC has reviewed the supporting information and considers that for a unit of this size and nature there is an essential need for one person to live at or near the poultry unit to deal with any failures in the automated systems, and to protect the welfare of the poultry housed within the buildings; together with providing security for the unit to prevent crime, vandalism, etc. The AC considers that this consideration has been satisfied.
2. In terms of confidence that the business would remain viable, the existing business, W. Potters & Sons (Poultry Limited), have provided three years trading accounts which show that the existing business is financially viable. Previously concerns were raised in respect that the proposed unit at Lower Arcott would be run as a separate trading account from the main business, which would effectively mean that this would be a new business with no trading history. As noted above, whilst the applicants state that the business would be run as part of an existing trading account part of W Potters & Sons (Poultry Ltd), no evidence has been submitted in this regard nor is there any guarantee that this would be the case.

The applicants have also provided a letter of intent from Noble Foods Ltd that they would be in a position to work closely with the business to enable contracting the volume of egg from the proposed free-range egg facilities. However, this is not a formal contract and at this stage carries limited weight in consideration as to whether there is a need for the proposed unit.

If this unit is to be run as a separate trading business to W. Potters & Sons (Poultry Limited), then it is considered that this would be a new business, with no trading history, and therefore could not satisfy this consideration as the enterprise would not currently be established, or financially viable, or show that it has been profitable for any one of the last three years. On this point the AC concludes that, if this is a new trading business, this consideration has not been satisfied.

3. In respect of whether the provision of an additional permanent dwelling on site is essential, the AC considers that if the proposed unit is to be run as a

separate trading business it could not satisfy this consideration as it is not currently financially viable, as it has not yet been established.

4. With regard to whether the need could be met through improvements to existing accommodation on the site, this is a new enterprise in this location and there is no existing accommodation on site therefore, this criterion is not relevant to this application.
5. With regards to whether it is appropriate to consider granting planning permission for a temporary dwelling for a trial period, i.e. if this large free-range poultry unit is to be run as a separate trading business to W. Potters & Sons (Poultry Limited). The AC considers it would be a new enterprise, and as such it would be appropriate to consider granting planning permission for a *temporary* dwelling for a trial period of three years.

9.18. Overall, having regard to the guidance within the PPG and the relevant policies the AC draws the following conclusions:

- If consent is granted for the free-range egg production unit as proposed, there would be agricultural support for a temporary agricultural workers' dwelling for a period of three years to enable the new trading business to become established, and to provide evidence that it can sustain the cost of a permanent dwelling after the three-year trial period expires.
- However, if the applicant company provides evidence that the business would be part of W. Potters & Sons (Poultry Limited) and that there is a provisional contract in place for the eggs to be produced and the contract is for a period of time that would enable the unit to become established i.e. more than three years, then there would be agricultural support for a permanent dwelling as the business is currently financially viable, and has been profitable over the last three years.

9.19. Officers see no reason not to agree with the AC's advice, albeit that the AC does not comment on the availability of housing in nearby settlements, and the applicant has not demonstrated that they have explored all options in terms of security systems, alarms, etc. Whilst the requirements of the enterprise demonstrate a functional need for an agricultural worker to reside at the site, due to a lack of contractual supporting information there is no confidence that the business would not represent a new enterprise and further it has not been demonstrated that such a new enterprise would be viable going forward.

9.20. The applicant has provided several extracts from appeal decisions (for similar types of development and need for an essential dwelling) to support the current application. Whilst these decisions reflect a snap shot of decisions made by Planning Inspectors, and their assessment of the issues in relation to the relevant individual applications, (1) there are other decisions which have concluded the other way, (2) some of those decisions relate to temporary dwellings rather than permanent dwellings and (3) planning law requires that each application must be assessed on its own merits and in the context in which it is set. The context of the applications on which the Inspector comments are made may have very different circumstances to those of the current application and as such officers have given little weight to the consideration of the appeal decision extracts in reaching their conclusion with regard to whether an essential need is demonstrated.

9.21. As noted above Saved Policy AG2 of the CLP 1996 is supportive of the principle of farm buildings in the countryside, where they are designed and sited such that they do not intrude into the landscape or residential areas. In this instance officers have significant concerns with regards to both the potential visual and environmental impacts of the proposed main egg production building (discussed below) and do not consider the proposals acceptable in this regard. Further, notwithstanding the

above comments, with the egg production unit not being considered acceptable officers consider there would be no essential need for dwelling in this location.

Conclusion

- 9.22. Whilst it is considered that there is general policy support for new agricultural buildings and rural businesses in many situations and rural locations, in this instance there are significant concerns with regards to the environmental impacts of the proposed development, both physical and perceptual. In addition, it has not been satisfactorily demonstrated that an essential need exists for a new *permanent* dwelling in this location (whereas there may be a justification for a temporary dwelling – albeit this is not what is proposed here). The proposals would see a substantial new agricultural building, associated development and a new residential dwelling being introduced on what is currently a greenfield site in open countryside. As the proposed dwelling cannot be justified based on an identified essential need, and it is considered that the overall development would result in undue environmental harm, in part through intrusion into the valued rural landscape, the proposals significantly conflict with the provisions of the Development Plan policies identified above (discussed further below) and are therefore considered by officers to be unacceptable in principle.

Landscape and Visual Impact

Policy Context

- 9.23. 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.
- 9.24. Policy ESD13 of the CLP 2031 states that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not normally be permitted if they would cause undue visual intrusion into the open countryside, cause undue harm to important natural landscape features and topography, be inconsistent with local character, or impact on areas judged to have a high level of tranquillity.
- 9.25. 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. Saved Policy AG2 of the CLP 1996 states that farm buildings should normally be sited so they do not intrude into the landscape or residential areas and where appropriate landscaping schemes should be included and materials should be chosen so that development fits sympathetically into its rural context.

Assessment

- 9.27. The landscape around the site is located within both the Alluvial Lowlands character type and the Wooded Farmland character type within the Oxfordshire Wildlife & Landscape Study (OWLS) 2004.
- 9.28. The OWLS notes that the Alluvial Lowlands is characterised by a regular pattern of medium-sized hedged fields with permanent pasture and arable cropping. Broad alluvial plains. The OWLS set out that the key characteristics comprise of a mixed farming pattern with regular fields with both arable cropping and pasture; densely scattered hedgerow trees of ash and willow; dense willow corridors bordering a large number of ditches and is sparsely settled.
- 9.29. The OWLS notes in relation to the nearby Local Wildlife Site (LWS) 'Field south of River Ray' notes that: '*This field of wet pasture is used for cattle grazing. The field has not been agriculturally improved through the use of fertilizers or herbicides or through ploughing and reseeded. Meadows such as this are a nature conservation priority in the UK. This field lies next to another County Wildlife Site which together form a much larger continuous area of this habitat. The field has a distinct ridge and furrow pattern which is a sign of medieval ploughing.*
- 9.30. The OWLS states that the Woodland Farmlands is characterised by a mosaic of woodland, enclosed pasture, arable fields as well as scattered farms and settlements. The OWLS set out that the key characteristics comprise of large blocks of ancient woodland and a large number of plantations; a varied field pattern of arable land and pasture enclosed by woodland and hedges; species rich hedgerows with many hedgerow trees and dispersed settlement pattern with settlements and scattered farms.
- 9.31. The Council's Countryside Design Summary (1998) encourages sensitive and appropriate development across the District and sets out specific advice relevant to this case. This divides the Cherwell District into four broad areas and this site is identified as lying within the Clay Vale of Otmoor area. The landscape of the area is described as generally flat, low-lying area crossed by the meandering Rivers Ray and Cherwell, which drain into the Thames at Oxford. The Design Summary also sets out that arable farming is the primary agricultural land use of the area, and that the wider Otmoor area is of significant ecological importance. The Countryside Design Summary sets out that new development should look to prevent damage to ecologically important habitats and to maintain its capacity to take floodwater; new development will not normally be acceptable within the floodplain. Further that Loss of hedgerows should be avoided, as this will damage landscape character by creating monotonous exposed plains.
- 9.32. The application is supported by a Landscape and Visual Impact Assessment (LVIA), as submitted during the previous application, which considers the potential impacts on the landscape character and amenity of the site and surrounding area. The visual assessment was carried out by Viento Environmental Limited; fieldwork was undertaken to identify several viewpoints (six) in the immediate and wider setting of the site. Further information has also been submitted in respect of a proposed planting scheme; updated during the application.
- 9.33. Officers note that the LVIA has not been updated from the previous application and does not reflect the revised positioning of the egg production building or the revised location of the proposed dwelling; as such officers therefore question the value of the assessment made within this document in relation to the current application, in that does not accurately reflect the likely potential visual impacts of the proposed development.

- 9.34. Notwithstanding the above, in respect of potential landscape impacts, the LVIA considers that there is medium landscape character sensitivity and that, when considering the scale and nature of the development changes would result in moderate/minor or minor impacts on landscape character; concluding that: *'In landscape character and visual amenity terms, in combination with the landscape enhancement proposals, the proposed development would be a suitable fit within the context of its immediate surroundings and would result in limited changes to views and landscape character within the local area...'*. As with the previous scheme, officers do not agree that the level of landscape effect would be minor.
- 9.35. From visiting the site, officers consider that the site and surrounding land is more typical of the Alluvial Lowlands character type, given the level, openness and the large-scale arable fields with long distance views across the site. The landscape officer (LO) shares this view and notes the landscape in the vicinity is very flat with low hedges and very scattered trees, which do not provide much screening.
- 9.36. Both the proposed dwelling and proposed poultry building would be sited in an isolated position in the middle of open countryside. Within the supporting DAS the applicant has stated that: *'The building is sited within a natural hollow of the landscape and does not affect long distance views from amenity areas therefore minimising the impact of the building on the landscape, in addition to this there is a proposed landscaping planting scheme'*. Whilst the proposed poultry building would be sited in a slight natural depression, both the LO and the case officer consider this would not be sufficient to screen what would be a substantial new building.
- 9.37. The proposed dwelling, detached garage and gate house structure would be sited in excess of 260m north of the adjacent highway in open countryside and would be prominent features in the rural landscape. The proposals include additional planting that looks to mitigate the visual impacts of the proposed development.
- 9.38. In respect of the proposed planting the LO notes that there is a lack of information as to where proposed species-rich grassland planting and further a lack specific detail in respect of where larger trees would be planted. It is further noted that the trees would take at least 25-years for the trees to develop a mature size, this is probably not far off the life of the building so for the majority of the time there would not be effective screening. Scattered trees are proposed, but all are relatively close to the building so there would not be the cumulative effect of planting at different distances from the building. Any planting subjected to flooding would struggle to establish. Some of the species proposed are not considered suitable as they do not like heavy soils as experienced at the site, others don't like varying ground water levels. The LO also notes that more flooding like that experienced this year would kill most young plants.
- 9.39. The building is very large and as such very difficult to mitigate the impact of it in such a flat landscape as there is no intervening topography to help screen it. Continuous planting which would create a green wall would only serve to emphasise the scale of the building and is not good practice. From a landscape impact point of view there isn't an effective way of mitigating the presence of the building, and it is an established planning principle that landscaping cannot be used to make acceptable an otherwise unacceptable form of development.
- 9.40. The proposed dwelling and gate house would sit in a similar open position as an existing single storey structure in the adjacent field to the west of the site and would likely have similar level of prominence in the open landscape.

- 9.41. The Landscape Strategy as expressed within OWLS looks to maintain the tranquil nature of the landscape and promote the restoration and enhancement of hedgerows, hedgerow trees and tree-lined watercourses. Including:
- Strengthening the field pattern by planting up gappy hedges using locally characteristic species such as hawthorn, and hedgerow trees such as oak and ash.
 - Promoting environmentally-sensitive maintenance of hedgerows, including coppicing and layering when necessary, to maintain a height and width appropriate to the landscape type.
 - Enhancing and strengthening the character of tree-lined watercourses by planting willows and ash and, where appropriate, pollarding willows.
 - Conserve the surviving areas of permanent pasture and promote arable reversion to grassland, particularly on land adjacent to watercourses.
- 9.42. The proposals, with potentially significant new tree planting and removal of hedgerows required to facilitate the construction of the proposed poultry building, would be in direct conflict with the OWLS landscape strategy which looks to protect and sustain the character and appearance of the valued rural landscape.

Conclusion

- 9.43. The proposals would result in a substantial new poultry building, gatehouse and new dwelling being introduced on an area of open countryside; and it is considered that it has not been demonstrated that the impacts of such development could be successfully mitigated through an appropriate landscaping scheme. It is considered that the proposals would cause undue visual intrusion into the open countryside and be to the detriment of the general character and appearance of the surrounding valued rural landscape. The proposals therefore significantly conflict with the provisions and aims of the Development Plan policies identified above and are therefore considered by officers to be unacceptable in terms of landscape and visual impacts.

Environmental Pollution and Nuisance

Policy Context

- 9.44. Saved Policy ENV1 of the adopted Cherwell Local Plan states that development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke other type of environmental pollution will not normally be permitted.
- 9.45. Policy ESD8 states that: *'Water quality will be maintained and enhanced by avoiding adverse effects of development on the water environment. Development proposals which would adversely affect the water quality of surface or underground water bodies, including rivers, canals, lakes and reservoirs, as a result of directly attributable factors, will not be permitted'*.
- 9.46. Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 states that: *'Development should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space'*.
- 9.47. Saved Policy AG3 of the adopted Cherwell Local Plan notes that in the interests of the avoidance of pollution, new intensive livestock and poultry units or extension to existing units that require planning permission will be resisted where they would have a materially detrimental effect on nearby settlements or dwellings due to smell.

- 9.48. Saved Policy AG4 of the Cherwell Local Plan 1996 states that proposals for new intensive livestock or poultry units or extensions to existing units as may be permitted in the plan area will be required to include suitable provision for waste disposal. The text supporting saved Policy AG4 notes that when inadequate provision is made for waste disposal, there is a serious risk of smell problems or pollution to watercourses and ponds.
- 9.49. Paragraph 183 of the NPPF states that: *“The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.”*

Assessment

- 9.50. The proposals would require an Environmental Permit, as the proposed number of birds exceeds the threshold limit of 40,000. Whilst no formal comments have been received from the Environment Agency (EA) in this regard on the current application, they previously advised during application 19/00644/F that as part of the application the applicant would need to prove there would be no detrimental impact from ammonia releases on sensitive receptors as well as having an odour management, manure management and pest control management plans agreed before the permit is granted or have agreed to improvement conditions stipulating such works/targets would be achieved within a specified time period. The IPPC permit covers issues such as on-site noise, emissions (including odour) and waste generated on site and their management as well as issues of concern in relation to the surrounding environment. Notwithstanding the above the Local Planning Authority will need to be satisfied that the proposed use can be regulated effectively, without undue environmental harm.
- 9.51. Given its nature, the proposed development has the potential to produce noise and odours. There are some residences and commercial properties in the areas surrounding the site of the proposed poultry unit. The closest residential dwellings and commercial buildings in relation the application site boundary are at:
- Wild Meadow, approximately 250 metres to the north-west of the boundary of the application site;
 - Bridge Farm approximately 420 metres to the north-west of the boundary of the application site;
 - Meadow Farm, approximately 500 metres to the north-west of the boundary of the application site;
 - MOD facilities to the east and south of the site.
 - Bullingdon Prison approximately 540m south of the site.
 - Those within the surround settlements of Lower and Upper Arnott which lie to the west and south-west of the site respectively, Blackthorn ~840m to the north, with the village of Piddington ~1.5km to the east and Ambrosden ~1.8km to the north-west.
- 9.52. Further sites of ecological importance also have the potential to be affected by the proposed development.
- The Field South of River Ray Local Wildlife Site (LWS) approximately 340m west/north-west of the site;
 - Meadow Farm Meadows LWS approximately 440m to the north/north-east of the site.
 - Arccott Bridge Meadows SSSI approximately 1.2km to the west of the site.

Assessment of Noise

- 9.53. The application is supported by a Noise Impact Assessment (NIA) prepared by 'Matrix Acoustic Design Consultants', which reviews plant (for example ventilation) and transport noise (for example manoeuvring, unloading and loading) generated from the proposed development. The submitted NIA alongside the application has been conducted in accordance of BS4142:2014 'Methods for Rating and Assessing Industrial and Commercial Sound', to determine the typical background noise levels at the nearest dwellings to the proposed development.
- 9.54. It is noted that the proposed fans have yet to be confirmed, but for the purpose of the assessment typical units used in free-range egg units have been assumed, (namely Big Dutcham FF091-6DT units). The NIA states that the fans are to be thermostatically controlled, with the total number of fans operating at any one time dependent on the bird's ventilation requirements. The document states the high stage (100% ridge extract fans operating) would typically only be triggered when the external temperature exceeds 23°; this therefore is only expected to occur during the daytime period (07:00 – 20:00hrs), and that during the evening and night this temperature is not expected to be exceeded (20:00-07:00).
- 9.55. In addition, the NIA states that the majority of transport movements, for example egg collections, will only occur during the working day (07:00 – 20:00hrs). The NIA concludes that the nearest residential receptors would experience, at worst, very low to negligible levels of noise as a result of the transport activities. The NIA concludes that: *'On the basis that the proposed development (assessed using typical extract fans and assumed very low background noise levels) will not result in an adverse noise impact at the nearest dwellings, we conclude that on noise grounds it is acceptable'*.
- 9.56. The Council's Environmental Protection Officer (EPO) has reviewed the NIA and considers it appropriate in terms of method of assessment and the conclusions reached. In noting a discrepancy between the number of fans detailed within the noise report and that stated within the management plan it is noted the noise report was based on the higher number (22) and the EPO therefore remains satisfied to its contents. The EPO raises no objections on the grounds of potential noise impacts, considering that specific details could be secured through appropriate conditions should the Council be minded to approve the application. Officers see no reason to reach a different conclusion than that of the EPO.
- 9.57. It is worth noting that the IPPC permit covers that matter of noise pollution beyond the installation boundary. Given the above, officers consider that the proposed poultry unit can be regulated effectively so as not to produce materially detrimental levels of noise pollution.

Assessment of Odour

- 9.58. The applicants have submitted Odour Impact Assessment (OIA) ('Dispersion Modelling Study of the Impact of Odour' report) and 'Odour Management Plan' during the application in response to officer and third-party concerns.
- 9.59. The OIA identifies that the main source of odour from the proposed poultry house would be from the chimneys of the ridge/roof mounted fans, and in hot weather, from the gable end fans, with some further emissions from open pop holes. The chickens would have access to daytime ranging areas outside of the house and some odour would arise from the manure deposited on the ranging areas.

- 9.60. The Odour Impact Assessment uses computer modelling to assess the impact of odour emissions from the proposed poultry building. The odour emission rates from the proposed poultry houses have been assessed and quantified based upon an emissions model that takes into account the internal odour concentrations and ventilation rates of the poultry building. The odour emission rates obtained were then used as inputs to an atmospheric dispersion model which calculates exposure levels in the surrounding area.
- 9.61. The result of the modelling indicates, the Odour Impact Assessment concludes, that the 98th percentile hourly mean odour concentration at all nearby residential properties and commercial businesses would be below the EA's benchmark for moderately offensive odours. Thus, based on this, such odours should not give rise to a significant proportion of complaints when referring to research by UK Water Industry Research (UKWIR).
- 9.62. Concerns have been raised by third parties regarding the storage of manure created by the proposal in terms of odour and the potential issues this may create in terms of pests.
- 9.63. There are significant discrepancies and inconsistencies within the application in respect of the amount and proposed method of disposal of chicken manure from the site. The applicant states ('Manure Management Plan') that the method of disposal of the poultry manure produced by the development is through export from the application site including a letter of confirmation from Severn Trent Green Power that they would be able take in chicken litter into their Anaerobic Digestion (AD) plant at either Cassington or Wallingford; subject to the chickens being bedded on shavings rather than straw. The 'Management Plan' document, however, states: *'...all of the muck will be taken off the farm and utilised on family owned farmland'*.
- 9.64. It is worth noting that the spreading of manure as a sustainable fertilizer is controlled by the Nitrate Pollution Prevention Regulations 2015, and the DEFRA Code – Protecting our Water, Soil and Air: A Code of Good Agricultural Practice (CoGAP); further that exporting manure to other farmers is an acceptable practice under the NVZ and Environmental Permitting Regulations.
- 9.65. The applicant indicates that the manure is proposed to be disposed of by way of a conveyor belt system which would remove manure from the internal conveyor belt systems via an external conveyor belt into a parked trailer outside the building. However, officers again note significant inconsistencies with regards to the amount of manure that would be removed and frequency of such operations; depending on which document you read this could be the conveyor being operated: every 10 days removing 14 tonnes (DAS); every 5-7 days removing approximately 16 Tonnes (Management Plan Section 1; also noting that the Management Plan then refers to a 10 cycle later at Section 7) and then every four days as expressed in the Odour Impact Report.
- 9.66. The EPO has reviewed the submitted documents and notwithstanding the discrepancies highlighted above has raised no objections in relation to odour pollution, subject to the OMP being implemented and secured going forward. The EPO has indicated that the OIA sufficiently establishes that the odour at the nearest sensitive receptors would be within the applicable guidelines; and further that additional controls in respect monitoring the site could be secured by way of appropriate conditions were the Council minded to approve the application.
- 9.67. Whilst there is potential for odour, officers see no reason to disagree with this assessment from the EPO. Officers are also aware that the Environmental Permit

will ensure that odour and waste arising from the proposal is controlled by the EA to statutory standards and this is a significant consideration. Thus, Officers are satisfied that the proposed poultry unit could be regulated effectively, without causing materially detrimental levels of odour pollution to nearby receptors.

- 9.68. Whilst it is acknowledged that third parties have raised concerns with the use of this modelling to represent the odour impacts of the proposal and that the Council should undertake its own independent assessment, Officers consider the submitted evidence to be robust. Furthermore, no alternative technical evidence of harm has been provided to counter the applicant's submission.
- 9.69. As with a previous recent application 19/00423/F for proposed poultry units at Mixbury, Officers again consider it appropriate to refer Members to an appeal within the district from 2017 for a similar sized poultry unit (see 16/01706/F and APP/C3105/W/17/3166498). Modelling was utilised when formulating the Odour Impact Assessment, and this outlined that the proposal would not cause materially detrimental levels of odour pollution to nearby receptors. The Council's Environmental Protection Officer did not object to the application on this matter. However, the application was refused by the Council in relation to odour emissions. The appeal was subsequently allowed as the Inspector was satisfied with the submitted Odour Impact Assessment. The Inspector was also mindful of the advice within paragraph 183 of the NPPF in that the operation of the enterprise and any emissions would be tightly controlled by an Environmental Permit that has been issued by the Environment Agency. The Inspector also awarded costs to the Appellant on the grounds that the Council failed to produce evidence to substantiate this reason for refusal amounted to unreasonable behaviour.
- 9.70. Concerns have been raised from third parties regarding fly infestation and vermin. During the assessment of previous applications, it has been noted that fly infestation is not a problem associated with modern poultry units; as flies breed in damp litter, and new modern poultry houses with biomass heating systems maintain dry litter conditions. Whilst the proposals indicate an external muck store, the applicants state that there would be no storage of used litter outside the houses at any time, litter is transported in covered trailers, fly infestation would not be in the best interests of the proposed business. Appropriate control could be achieved in respect of manure storage at the site could be secured by way of appropriate conditions were the Council minded to approve the application.
- 9.71. Third party concerns are also raised in respect of the lack of assessment of the impact of odour from chickens roaming externally. The proposals would see the chickens managed in rotated pasture areas, which when appropriately managed would allow the ground to recover and prevent a build up of waste and associated odours. As noted above odour emissions would again be regulated by the Environmental Permit.
- 9.72. Concerns have also been raised from third parties regarding vermin. The proposed development is required to operate a pest control protocol and have formal pest control contracts in place. Dead birds would be collected by an approved contractor of the National Fallen Stock Disposal Scheme prior to this they will be stored in a secure container in line with the animal by-products Regulations 2003. Pest control for rats would be carried out by an approved agency. Preventative measures would be used to control flies to include fly screens and fly controls replaced periodically to prevent the flies entering the building from the outside. Furthermore, the submission notes that the design of the development includes sealed buildings which are vermin proof and enclosed feeding systems with no external storage of feedstuffs which could attract vermin.

Assessment of Air Quality and Dust

- 9.73. Concerns have been raised in relation to dust pollution and the potential for poor air quality. The assessment of dust from poultry farms formed part of a DEFRA research project. The results of DEFRA project AC0104 confirmed with research that dust was diluted over short distances of 100m to normal background levels. As there are no receptors within 100 metres it is considered that the proposal does not pose a risk of public health issues in this respect.

Assessment of Pollution to Watercourses & Ponds

- 9.74. The River Ray flows across land north of the approximately 410m site and a large area of the application site falls with the flood plain of this main river.
- 9.75. The submitted FRA presents a surface water management plan for the site based on attenuation, with runoff from the main impermeable surfaces to be routed to an attenuation basin. Again, it is noted that the main FRA document has not been updated to reflect the amendments to the proposed scheme from that assessed under 19/00644/F but is supported by a further report commenting on the revised proposals. Further that the application site boundary shown within the report is inconsistent with the application site boundary shown of the application's site location plan (Drwg. No. RJC-MZ275-02).
- 9.76. As noted above the proposals would require an IPPC permit which requires that dirty water is contained within an approved containment system and further that the effluent of containment system must conform to the requirements of Schedule 2 of 'The Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010.
- 9.77. As with the previous application the Lead Local Flood Authority (LLFA) raises objections to the application considering the FRA to be inadequate. Officers consider that there has not been sufficient consideration of potential contamination issues within the application and how such could be mitigated against; with the potential existing for pollutants arising from the site potential seeping into the nearby watercourse and water-table, particularly in times of flooding which are known to occur, thereby detrimentally impacting on water resources. In this respect such potential is identified in Section 7. Off Site Impacts of the FRA, stating that: *'Also, in the event the attenuation basin cannot cope with a certain rainfall event, exceedance runoff will naturally flow north towards River Ray'*.
- 9.78. It is also noted that the EA objects to the proposals, advising the FRA is lacking in terms of its detail. At the time of preparation of this report the applicant's agent submitted further information with regards to looking to address the objections of the EA and LLFA; however, at this point no response had been received from either consultee to this additional information.
- 9.79. The application is supported by 'Method Statement and Pollution Prevention Plan' which looks to secured mitigation measures to prevent ground water pollution and pollution of nearby water course. However, this does not address issues relating to the potential for pollutants such as chicken manure being washed into the River Ray at times of flooding, which is a known issue within the application's site boundary being within flood zones 2 & 3.
- 9.80. Given the lack of robust detail of the proposed drainage of the site and lack of assessment of potential for contamination from manure from the site (including external ranging areas), officers consider that it has not been demonstrated that

the development could take place without it causing materially detrimental levels of pollution to watercourses and ponds.

Assessment of Lighting

- 9.81. The application is supported by a 'Lighting Design Report', which indicates that the proposed poultry installation means that some light sources will be required to allow safe and effective activities within the site to take place.
- 9.82. Whilst the proposals would see the introduction of a light source where currently none exists, it is proposed at a level that would be consistent with such typical agricultural installations and is at a level that would unlikely result in any significant impacts on visual amenity or ecology in this instance.

Conclusion

- 9.83. Whilst the proposals could be considered acceptable in terms of noise, odour, air quality and lighting, it is considered that it has not been demonstrated that the proposed development could be undertaken without it causing materially detrimental levels of pollution to watercourses and ponds, contrary to the provisions and aims of development plan policies identified above and guidance within the NPPF.

Residential Amenity

Policy Context

- 9.84. 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

- 9.85. The potential impacts on residential amenity of the proposed development in terms of odour, noise, air quality and light are assessed above, and are considered acceptable in these regards.
- 9.86. In respect of the proposed new dwelling, given the rural context of the site and that it is not located in close proximity to any residential properties it is considered that there would be no significant harm resulting from the proposed development of new dwelling on the site on the residential amenity of neighbours.
- 9.87. The proposed poultry building would be a significant structure in the open countryside, however given its relatively remote location and relationship with neighbouring properties it is considered that the building would not result in any direct impacts on residential amenity.

Conclusion

- 9.88. It is considered that, given the context of the site and its relationship with neighbouring properties, the proposal would not have any significant impact on neighbour amenity in terms of loss of light, loss of privacy or over domination, and that the proposed dwelling would provide for an acceptable living environment. The proposals are therefore considered acceptable in terms of residential amenity.

Ecology & Biodiversity

Legislative context

- 9.89. 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' (EPS), and the adaptation of planning and other controls for the protection of European Sites.
- 9.90. 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.
- 9.91. 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.
- 9.92. 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.
- 9.93. 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

- 9.94. 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.
- 9.95. 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.
- 9.96. 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.
- 9.97. 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.
- 9.98. 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.
- 9.99. 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.
- 9.100. 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

- 9.101. 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.
- 9.102. 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').

- 9.103. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard there are mature trees and hedgerows within and adjacent the site, which therefore has the potential to be suitable habitat for bats and breeding birds. With further ecologically important sites as identified above also being in close proximity to the site.
- 9.104. 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, LPAs 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.
- 9.105. 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 (NE) will not grant a licence then the Council should refuse planning permission; conversely, if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.
- 9.106. The application is supported by an Ecological Mitigation and Biodiversity Net Gain report (EMaBNG) including including a Protected Species assessment, which sets out to establish the base-line ecological condition of the site and to identify and evaluate any potential impacts which the scheme may have, taking account of any mitigation and enhancement to the ecology which the scheme can offer. The EMaBNG acknowledges that the proposed change of land-use would have implications for habitats and species of ecological significance, including the loss of a 50m section of hedgerow, thus necessitating an assessment of the ecological value of the site; however, considers the majority of the site to consist of improved grassland of minimal ecological value.
- 9.107. As noted during the assessment of the previous application, an assessment of wider impacts has been made through a Modelling of the Dispersion and Deposition of Ammonia report. This has considered ammonia deposition on protected and notable sites in the vicinity and concludes that they are sufficiently far away for level to be below the Environment Agency's threshold. Natural England (NE) had previously reviewed the ammonia report during the assessment of 19/00644/F and was content that the proposed development would not damage or destroy the interest features for which the nearest SSSI (Arcott Bridge Meadows) and therefore had no objection. This report has been updated to support the current application; including further mitigation measures (a Munter Air Cleaning system to be installed) to further reduce the potential for detrimental impacts of ammonia emissions. NE reiterates its comments in respect of the current application and raises no objections.
- 9.108. BBOWT and the Council's Ecologist (CE) have both again sustained objections to the proposals from the outset. There remain concerns with regard to the lack of assessment of the potential impacts on the LWSs in proximity to the site, in particular chicken faeces being deposited in the external roaming areas of the site; potentially resulting in contamination of ecologically important sites during times of flooding; as experienced at the site earlier this year. BBOWT also remain

concerned with regards to potential detrimental impacts on Meadow Farm LWS as a result of odour, dust and ammonia.

- 9.109. The CE considers the submitted ecological report and its conclusions is acceptable with regards to protected species which are not a particular constraint on site (with the exception of nesting birds and lighting issues for bats). However, she again notes that the report omits to say that the site is within the Ray Conservation Target Area (CTA). The report makes suggestions for ecological enhancement which may be beneficial in this location and fit in with the general aims of the CTA (pond restoration, hedgerow management etc.); however, very little detail is included as to where such mitigation/enhancements would be located, and the CE considers this makes it a too vague to address by way of planning condition.
- 9.110. The applicants have submitted a proposed landscaping plan (Figure LV3 - Revised May 2020) (as part of the LVIA) updated during the application, which shows proposed planting of native trees and new hedgerows; however, there is no detailed information in respect of the improved species rich grasslands put forward within EMaBNG on this plan. As with the previous application it is acknowledged that the proposed trees are likely to have some biodiversity value. It is unclear as to why they have chosen these in this location and how and to what extent this would mitigate the proposals' impacts. A new tree belt or belts would have the potential for assisting in mitigating potential ammonia emissions, but this requires careful consideration about the types of trees and their positioning in relation to the proposed source of the emissions; something that appears lacking from the current submission with a somewhat random pattern of tree planting shown on the submitted landscaping plan.
- 9.111. The CE considers that more information is needed to demonstrate that impacts on biodiversity on site will be mitigated fully and importantly that there will be an overall net gain for biodiversity as required by policy, in particular a net gain which is within the aims of the CTA in which the site is situated.

Conclusions

- 9.112. The NPPF (Conserving and enhancing the natural environment) and Policies ESD 10 and ESD 11 of the CLP 2031 requires that a net gain in biodiversity is sought in new development. This is achieved by protecting, managing, enhancing and extending existing resources, and by creating new resources. If significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, or if such development would prevent the aims of a Conservation Target Area being achieved, then development will not be permitted.
- 9.113. As noted above there are concerns with regard to potential for pollutants to find their way into the nearby River Ray and also seeping into the water-table; which could potentially have wider impacts on the nearby Local Wildlife Sites identified above and surrounding agricultural land. Notwithstanding the relatively low ecological value of the site itself, the proposals include elements that would be to the detriment of ecological and biodiversity value for which there appears to be very little detail of mitigation or compensatory measures of such impacts.
- 9.114. Officers consider that it has not been adequately demonstrated that the proposed development would not result in detrimental impacts on the ecological and biodiversity at the site and nearby designated Local Wildlife Sites and further would not provide a net gain in biodiversity opportunities. The proposals are therefore considered to be contrary to the provisions and aims of both national and local development plan policies identified above and unacceptable in this regard.

Highway Safety

Policy Context

- 9.115. National and local policy looks to promote sustainable transport options whilst ensuring that new development proposals do not cause harm to the safety of the highway network.
- 9.116. The NPPF (Para. 108) advises of the need to have due regard for whether new development includes:
- appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
 - safe and suitable access to the site can be achieved for all users; and
 - 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.
- 9.117. 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 in. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions.”*
- 9.118. Policy SLE4 of the CLP 2031 states that: *“New development in the District will be required to provide financial and/or in-kind contributions to mitigate the transport impacts of development.”* Policy SLE4 also 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...Development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported.”*
- 9.119. Saved Policy TR7 of the CLP 1996 states that: *“Development that would regularly attract large commercial vehicles or large numbers of cars onto unsuitable minor roads will not normally be permitted.”*
- 9.120. Saved Policy TR10 of the CLP 1996 states that: *“Development that would generate frequent Heavy Goods Vehicle movements through residential areas or on unsuitable urban or rural roads will not be permitted.”*

Assessment

- 9.121. The Management Plan supporting this application states that: *‘Proposed poultry farm will once in use need bulk food delivered to the farm by six or eight-wheeler HGVs, the usual sized vehicle for agricultural use in this rural area. The feed will be delivered 3 times a month and stored in the silos on site. The farm business has a provisional contract with a company to supply the free-range eggs, which will collect the eggs in a 7.5 tonne lorry three times a week’.*
- 9.122. Further movements would be required in relation to the disposal of manure from the site. The frequency and number of these movements would be dependent on the amount of manure to be disposed of; which as noted above there is some inconsistency within the submitted information as to the actual figures in this respect. Access would be taken directly from Palmers Avenue via an improved access point into the site.

- 9.123. The LHA objects to the proposals, advising that it has not been demonstrated that the visibility splay is adequate to provide a safe and suitable access to the site. The LHA notes, however, that as there is a grass verge on the south side of Palmer Avenue and that the visibility splay at the bend could pass over that which is within the highway boundary, which is most likely to be along the highway edge of the ditch. The LHA provides detailed conditions in this respect were the Council minded to approve the application.
- 9.124. The LHA's position here is opposed to its comments at the time of the application 19/00644/F in which it advised of no objections, subject to conditions requiring details of the proposed access to be approved and vision splays being created and maintained going forward; and further that a Section 278 agreement would be necessary to create the bell-mouth access from the highway.
- 9.125. Given the context of the site and geometry of the road network officers consider that, whilst not currently demonstrated, it is likely that acceptable vision splays could be achieved to give safe and suitable access to the site; and rather than constitute a reason to refuse the application on these grounds alone, that appropriate details could be secured by way of appropriate conditions.
- 9.126. Palmer Avenue is a busy road used by cars and HGVs. The LHA considers that, notwithstanding that the number of potential employees is unclear (14.8 no. equivalent full-time employees suggested in the needs assessment, whilst only 2 no. indicated on the application forms), the vehicle movements associated with the operation of the site would likely have a negligible impact on the highway network. Notwithstanding the discrepancies on the required level of manure disposal, taking the higher figures, the proposals are unlikely to result in significant further vehicle movements.
- 9.127. In relation to parking and turning areas on the site, officers are content that there is adequate space on the site for parking and manoeuvring.
- 9.128. Taking all transport matters into account, including the third-party objections submitted during the application, officers consider that, subject to securing the requirements of the LHA, in respect of vision splays and access arrangements, the proposal would unduly impact upon the safe and efficient operation of the surrounding road network.

Conclusion

- 9.129. Subject to conditions and a Section 278 agreement, it is considered that the proposal would not cause significant detrimental harm to the safety and convenience of highway users and is therefore considered acceptable in terms of highway safety.

Flooding Risk & Drainage

Policy Context

- 9.130. 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 and further, that development should be safe and remain operational in the event of flooding. In addition to safeguarding floodplains from development, opportunities will be sought to restore natural river flows and floodplains, increasing their amenity and biodiversity value.

- 9.131. 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

- 9.132. A site-specific Flood Risk Assessment (FRA) been submitted with the application. Whilst the main FRA document has not been updated to reflect the amendments to the proposed scheme from that assessed under 19/00644/F a further 'Response to LLFA on FRA-SWMP' report (Response Report) has been submitted which looks to address concerns previously raised by the County Council as Lead Local Flood Authority (LLFA) and reflects the updated scheme.
- 9.133. The Response Report indicates that that the proposed egg-laying area has a low to medium risk of surface water flooding. The map also shows that the northern corner of the site boundary, an open field, has a high-risk area of surface water flooding. Whilst no ground investigations appear to have been undertaken at the site, the 'Response Report' notes that from data from nearby testing (2 East View and Westbury Farm Blackthorn) indicate that it is understood that the surface water flooding is not from groundwater.
- 9.134. The submitted FRA and Response Report presents a surface water management plan for the site based on attenuation. A single attenuation basin is proposed for managing the surface water runoff from egg-laying unit and the access road which will run through a system of swales prior to discharge to the existing drain, and end in River Ray.
- 9.135. The Environment Agency's flood maps indicate that whilst the main poultry building, gatehouse and dwelling is not within a higher risk flood zone and is within Flood Zone 1, the northern end and north-west corner of the application's site boundary is within Flood Zones 2 & 3. The FRA and 'Response Report' recommendations are based on the development as being only being in flood zone 1 only.
- 9.136. The Environment Agency (EA) raises an objection given the lack of appropriate flood-risk assessment; the LLFA echo these concerns also sustaining an objection on these grounds. As noted above the case officer and ecologist share these concerns.
- 9.137. Policy ESD 7 requires that where a site-specific FRA is required in association with development proposals, they should be used to determine how SuDS can be used on particular sites and to design appropriate systems. Given that the assessment of flood risk at the site has not been based on the correct flood zone classification for the whole of the site, it is considered that appropriate SuDS compliant drainage cannot be properly assessed, to ensure that development would allow for satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property.
- 9.138. During the application the applicant's agent questioned the objections from the EA and LLFA, considering them to be unfounded given the submitted flood risk assessment information. The concerns of the agent have been forwarded on to the EA and LLFA for further comment, but at the time of the preparation of this report no further formal response had been received from either body. Such responses will be report to the planning committee by way of written update should such be received.

Conclusion

9.139. It is considered that the applicants have failed to demonstrate that the proposals would not increase the flooding risk on the site or elsewhere and would remain operational in the event of flooding and therefore does not accord with Policies ESD6 and ESD7 of the Cherwell Local Plan (2011-2031) Part 1.

Other matters:

9.140. Third party comments are made with regards to the area seeing a number of unwanted developments coming forward in the past. Each application must be assessed on its own merits at the time of application and needs to be assessed in the context in which it sits. Previous development is not considered to materially affect the acceptability or otherwise of the application assessed above.

9.141. Third parties have also raised concerns with regard to devaluation of property. This does not constitute a material planning consideration and therefore has not been assessed within the context of the application.

Human Rights and Equalities

9.142. 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.

9.143. 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

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

Article 8 and Article 1 of the First Protocol

9.145. 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.

9.146. 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

- 9.147. S149 of the Equalities Act 2010 (“EA”) sets out what is known as the Public Sector Equality Duty (“PSED”). Under the PSED, the Council, as a public authority, must have due regard to the need to, inter alia, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and has to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics to which the PSED refers are: (a) age; (b) disability; (c) gender reassignment; (d) pregnancy and maternity; (e) race; (f) religion or belief; (g) sex; (h) sexual orientation.
- 9.148. 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 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 10.2. Given the above assessment in the light of current guiding national and local policy context, it is considered that proposals represent an inappropriate form of development, including new residential development beyond the built-up limits of the village, for which no essential or identified need has been demonstrated. Whilst the proposals are considered acceptable in terms of residential amenity and highway safety it is considered that they fail to preserve the overriding character and appearance of the area and would result in significant environmental impacts.
- 10.3. The addition of this sizeable new building, new dwelling and associated infrastructure would detrimentally affect and result in significant harm to the rural character and appearance of the landscape. In addition, officers consider that there would be significant harm to the immediate locality and harm to the enjoyment of users of the nearby Public Rights of Way.
- 10.4. In addition to the above, it is considered that insufficient information has been submitted in relation to ecology and biodiversity, flood risk, drainage and pollution control to enable the LPA to properly consider and assess these matters and conclude that the development would be acceptable in these respects.
- 10.5. However, there remains a need 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 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.
- 10.6. The proposed development would create new employment on the site, albeit on a limited basis, and would support jobs within the associated services industry within the poultry sector, for example, haulage contractors, chick suppliers, poultry feed suppliers, veterinary and medicine, cleaning contractors and pest control contractors. New development also provides some construction opportunities. In

terms of social benefits, the proposal would contribute in meeting national food security.

- 10.7. Officers consider that in this instance that there would be significant adverse impacts to the natural environment, through intrusive development which fails to reflect or reinforce the local distinctiveness, which further conflicts with the environmental and sustainability policies of the Development Plan. As such it is considered the economic and social benefits identified above are clearly outweighed by the identified significant environmental harm and the conflict with development plan policy.
- 10.8. The proposals are therefore considered contrary to the above-mentioned policies and as such the application is therefore recommended for refusal for the reasons set out below.

RECOMMENDATION - REFUSAL FOR THE REASONS SET OUT BELOW

REASONS FOR REFUSAL:

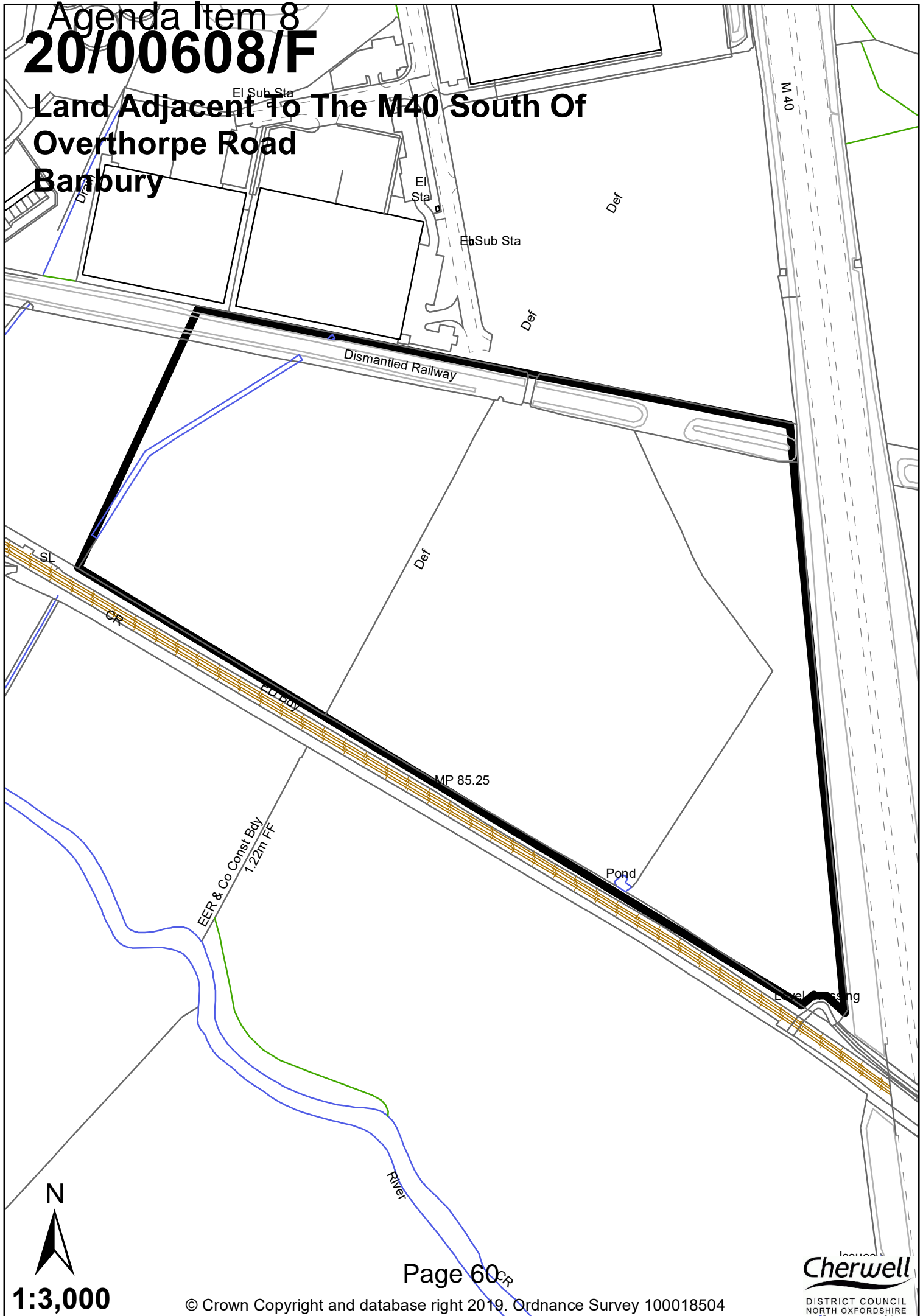
1. The proposed permanent dwelling constitutes sporadic residential development in the open countryside, beyond the built-up limits of the nearest settlement, for which it has not been demonstrated that there is an essential need. In its proposed location the dwelling would therefore be an unjustified and unsustainable form of development. As such the proposal is contrary to saved Policies C8 and H18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.
2. By virtue of its scale and siting, the proposed development would result in significant and demonstrable harm to the character and appearance of the area, and harm to the landscape character of the area, the enjoyment of users of the nearby Public Right of Way, and this harm significantly and demonstrably outweighs the need for the proposal and the benefits arising from the proposal, including the production of food. The proposal is therefore contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policies AG2, C8 and C28 of the Cherwell Local Plan 1996 and government guidance in the National Planning Policy Framework.
3. The applicants have failed to adequately demonstrate that the proposed development would not result in detrimental impacts on the ecological and biodiversity at the site and nearby designated Local Wildlife Sites, and further would not provide a nett gain in biodiversity opportunities at the site. The proposals would also prevent the aims of the Ray Conservation Target Area being achieved. The proposal is therefore contrary to Policies ESD10 and ESD11 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance in the National Planning Policy Framework with regards to 'Conserving and enhancing the natural environment'.
4. The applicants have failed to demonstrate that the proposed development could be undertaken without it causing materially detrimental levels of pollution to the River Ray and ponds within the vicinity of the site. The proposal is therefore contrary to Policy ESD8 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policies AG3, AG4 and ENV1 of the Cherwell Local Plan 1996 and government guidance in the National Planning Policy Framework.
5. By virtue of an inadequate Flood Risk Assessment the applicants have failed to demonstrate that the proposed development would not increase the flooding risk on the site or elsewhere and would remain operational in the event of flooding and therefore does not accord with Policies ESD6 and ESD7 of the Cherwell Local

CASE OFFICER: Bob Neville

TEL: 01295 221875

Agenda Item 8 20/00608/F

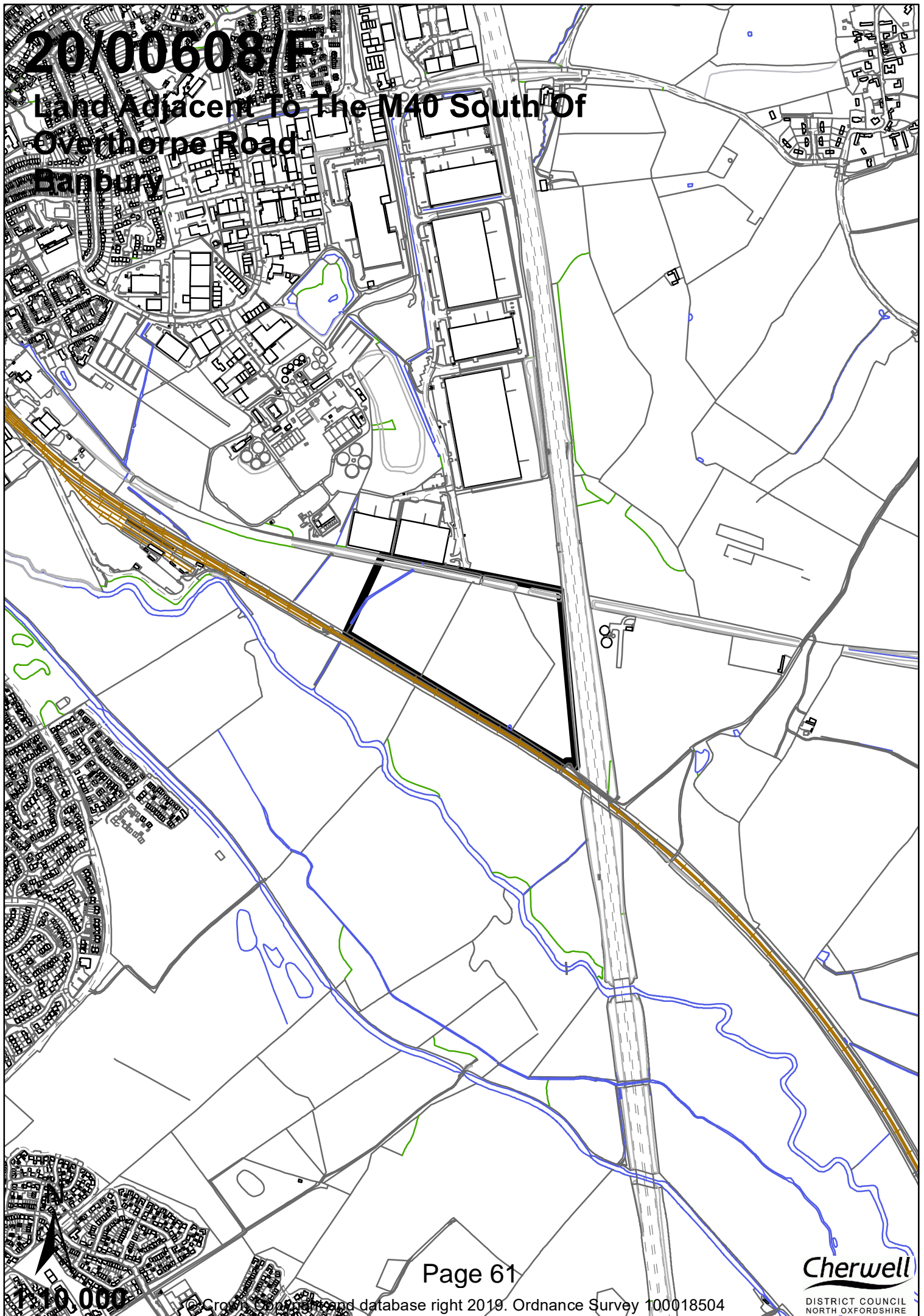
Land Adjacent To The M40 South Of Overthorpe Road Banbury



1:3,000

20/00608/F

Land Adjacent To The M40 South Of
Overthorpe Road
Banbury



Case Officer: Samantha Taylor

Applicant: Tritax Symmetry Ltd

Proposal: Full planning permission for 21,839 sq.m / 235,073 sq.ft. of logistics floorspace within Class B2 or B8 of the Town and Country Planning (Use Classes) Order 1987, with ancillary Class B1(a) offices together with the extension of Chalker Way, access from Chalker Way, associated site infrastructure including lorry parking, fuelling bay and vehicle wash facility (Unit 9 only), landscaping, amenity open space and surface water attenuation works

Ward: Banbury Grimsbury and Hightown

Councillors: Cllr Andrew Beere; Cllr Shaida Hussain; Cllr Perran Moon

Reason for Referral: Major development and departure from policy

Expiry Date: 9 July 2020

Committee Date: 18 June 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

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

Proposal

The application seeks full planning permission for the provision of two new logistics warehouses with associated parking, access and extension to Chalker Way. This application is a cross-boundary application with the buildings, car parking and servicing being situated within South Northamptonshire District and the access, part of the front landscaped area and extension to Chalker Way falling within Cherwell District. As such, Cherwell District Council can only consider the proposed works that are to be undertaken within the confines of the District.

The application proposes similar development to an earlier application 19/00771/F, previously considered by the Planning Committee on 12th March 2020, where Members resolved to grant planning permission subject to the completion of a s106 agreement. That application is awaiting the completion of the s106 agreement.

Consultations

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

- CDC Planning Policy, Thames Valley Police Design Advisor, CDC Environmental Protection, Network Rail, Banbury Town Council, CDC Landscape Officer, OCC Transport and OCC Drainage

Planning Policy and Constraints

The application site is partially located within Cherwell District, and the part of the site within Cherwell District is allocated for employment purposes (B1, B2 and B8) under the Local Plan Policy Banbury 6. The land that falls within Cherwell District is proposed for the

extension to Chalker Way, access into the site and part of the landscaping associated with the development. The remaining area allocated within Policy Banbury 6 will remain as open space, including reptile mitigation.

The site as a whole falls largely within Flood Zone 2 and partially within Flood Zone 3. The land within South Northamptonshire (the eastern part of the application site) was previously used as an area of ecological mitigation for the translocation of reptiles. These have subsequently been moved, prior to the submission of the application.

The application has 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:

- Procedural Matters
- Principle of Development
- Design, Landscaping and Visual Impact
- Highway Safety and Access
- Flood Risk and Drainage
- Ecology
- S106 Obligations and Contributions

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 approximately 11.9 hectares in size, with 3.31ha falling within Cherwell District. The site lies to the south of the existing mixed use employment development along Chalker Way known as Central M40, which also forms part of the Policy Banbury 6 allocation. The area of land within the application site is currently open space, and deemed of lesser value.
- 1.2. The site is located on the eastern edge of Banbury, bounded to the east by the M40 and to the south by the main Chiltern railway line. There is a disused railway embankment running along the northern boundary of the site, separating it from the existing Central M40 development. Whilst the buildings and majority of the development fall within South Northamptonshire District, due to the physical characteristics of the site and its relationship to existing development, the proposed development would be read as part of the urban form of Banbury.

2. CONSTRAINTS

- 2.1. The site falls within Flood Zones 2 and 3, with part of the site within the functional floodplain. The River Cherwell Local Wildlife Site (non-statutory designation) is located around 150m to the south of the site.
- 2.2. There are no landscape designations on or around the site, nor is the site within a Conservation Area. There are no designated heritage assets on the site and there are no designated heritage assets with a direct relationship to the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks full planning permission for two new units consisting of B2 (general industrial) and/or B8 (distribution and warehousing), with ancillary B1(a) offices, extension of Chalker Way, associated infrastructure, landscaping, amenity space and sustainable drainage system.
- 3.2. The built development and most of the engineering works fall within the administrative boundary of South Northamptonshire Council. The extension to Chalker Way, borrow pit, open space to be used for ecological mitigation and land safeguarded for the Banbury South East Relief Road and potential Western Link are part of the proposal within Cherwell District.
- 3.3. Given that only part of the site falls within the jurisdiction of Cherwell District only the works within the District boundary can be assessed along with the principle of this type of development due to its proximity to the District.
- 3.4. The development proposes an extension to the existing 8-unit commercial scheme of two additional B2/B8 units with ancillary office space and a total internal floor area of 21,233sqm. The application follows an earlier application, 19/0771/F, for a similar development seeking to make amendments to the earlier proposal. The following is summary of the amendments sought:
 - Unit 9 has been re-designed to fulfil an end user's requirements
 - Changes have been made to both units in respect of heights, floorspace, footprint, and parking
 - Revised borrow pit location and new connection to the ditch, with additional bunding
- 3.5. Unit 9 would provide 7,781sqm of internal floorspace with parking for 90 No. cars (incorporating 4 No. disabled spaces and 10 No. electric vehicle charging bays), 20 No. covered bicycle stands and 57 HGV parking bays. In comparison to the earlier scheme, Unit 9 is reduced in size (3701.5sqm less) with 30 fewer parking spaces and increased HGV parking bays. In terms of height, the unit is proposed to be 10m to the eaves, compared to the previous 12 and 15m eaves and ridge height of Unit 9.
- 3.6. Unit 10 would provide 13,452sqm of floorspace with parking for 126 No. cars (incorporating 6 No. disabled spaces and 12 No. electric vehicle charging bays), 40 No. covered bicycle stands and 29 No. HGV parking bays. The two units would also feature service yards and docking bays for HGVs. The building height for Unit 10 is proposed at the highest part at 18.75m, with an eaves height of 15m, compared to the earlier application that had a height of 15.75m and 12m respectively.
- 3.7. Both the proposed units would feature the same barrel vaulted roof design used on the existing units in Chalker Way and the same pallet of materials and colour finishes in dark greys and silver. In addition to the retention of existing tree and hedge planting at the perimeter of this site the proposals include new soft landscaping and tree planting within the site.
- 3.8. Two ponds are proposed within the red line site area. Of these one is a large attenuation pond and the second is a habitat pond. To replace the existing attenuation/wildlife pond that will be lost if the site is developed and to provide continued capacity to deal with surface water from the existing units, a new pond and ecological mitigation area is proposed on land outside of the red line within CDCs boundary, which is also within the applicant's control.

3.9. The dual application being considered by South Northamptonshire District Council is ref: S/2020/0598/MAF.

4. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
11/01878/OUT	Erection of up to 115,197sqm of floorspace to be occupied for either B2 or B8 use classes or a mixture of both B2 and B8 use classes. Internal roads, parking and service areas, landscaping and the provision of a sustainable urban drainage system incorporating landscaped area with balancing pond and bund	Approved
14/00180/OUT	Erection of up to 115,197sqm of floorspace to be occupied for either B2 or B8 use classes or a mixture of both B2 and B8 use classes. Internal roads, parking and service areas, landscaping and the provision of a sustainable urban drainage system incorporating landscaped area with balancing pond and bund (To raise the roof height of unit 1 to 16.75m)	Approved
14/00175/REM	Reserved matters application pursuant to 14/00180/OUT – Condition 5 (Phase 1) approval of appearance, landscaping, layout and scale of 2 no. B2 and B8 (distribution and storage) units.	Approved
15/02206/REM	Reserved matters application pursuant to 14/00180/OUT – Condition 5 (Phase 2) approval of access, appearance, landscaping, layout and scale.	Approved
19/00487/F	Unit 6 – 17,768sqm of logistics floorspace within Class B2 or B8 including ancillary B1(a) offices, service yard and access to Chalker Way	Approved
19/00771/F	Full planning permission for 27,685 sq.m / 298,000 sq.ft. of logistics floorspace within class B2 or B8 of the town and country planning use classes order 1987, with ancillary class b1(a) offices (units 9 and 10), and ancillary retail and trade showroom (unit 10 only), not to exceed 300 sq.m (excluding convenience goods) together with the extension of Chalker Way, access	Resolved to Approve

from Chalker Way, associated site infrastructure including lorry parking, landscaping, amenity open space and sustainable drainage system

5. PRE-APPLICATION DISCUSSIONS

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

<u>Application Ref.</u>	<u>Proposal</u>
18/00230/PREAPP	Erection of two Logistics Buildings with Class B8 including Class B1(A) Offices Phase 4

5.2. The principle of locating the employment buildings/uses allocated under Policy Banbury 6 to the land within South Northamptonshire was broadly considered acceptable subject to further works such as design, flood risk mitigation, landscape and visual impact considerations.

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 **12 May 2020**, although comments received after this date and before finalising this report have also been taken into account.

6.2. No comments have been raised by third parties.

7. RESPONSE TO CONSULTATION

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

7.2. BANBURY TOWN COUNCIL: **no objections**

7.3. OCC HIGHWAYS: **no objections** subject to conditions as recommended under application 19/00771/F and the necessary S106 contributions towards public transport improvements and travel plan monitoring.

7.4. OCC LOCAL LEAD FLOOD AUTHORITY: **no objections**, subject to the earlier requested conditions under application 19/00771/F.

7.5. CDC ENVIRONMENTAL HEALTH: **no objection**.

7.6. CDC BUILDING CONTROL: **no objection**, development would require a Full Plans building regulations application. A robust fire strategy will be required with facilities and access for fire fighting vehicles to reflect guidance in Approved Document B5. Access and inclusive design to reflect guidance in Approved Document M.

7.7. THAMES VALLEY POLICE: **no objection**, recommends that secure by design accreditation is secured by way of condition.

8. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

- PSD1 – Presumption in favour of sustainable development
- SLE1 – Employment development
- SLE4 – Improved transport and connections
- BSC2 – Effective and efficient use of land
- ESD1 – Mitigating and adapting to climate change
- ESD2 – Energy hierarchy and allowable solutions
- ESD3 – Sustainable construction
- ESD4 – Decentralised energy systems
- ESD5 – Renewable energy
- ESD6 – Sustainable flood risk management
- ESD7 – Sustainable drainage systems
- ESD8 – Water resources
- ESD10 – Biodiversity and the natural environment
- ESD13 – Local landscape protection and enhancement
- ESD15 – Character of the built environment
- ESD17 – Green infrastructure
- INF1 – Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

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

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- 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”)
- Banbury Vision and Masterplan SPD (2016)
- CDC Planning obligations SPD (February 2018)
- Design and Layout of Employment Sites – A Guide SPG 1996

- Cherwell Economic Development Strategy 2011-2016

9. APPRAISAL

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

- Procedural Matters
- Principle of Development
- Design, Landscaping and Visual Impact
- Highway Safety and Access
- Flood Risk and Drainage
- Ecology
- S106 Obligations and Contributions

Procedural Matters

- 9.2. The application site for the proposed development crosses the District boundary, with the majority of the site including the buildings located within South Northamptonshire District. Given the location of the development, it is principally the responsibility of South Northamptonshire District Council to consider the planning merits of the buildings and their associated works, including parking, landscaping, vehicle turning, flood risk and drainage.
- 9.3. That said, as discussed below, the development will be read as an extension to the urban form of Banbury and the principle of development rests on the allocation for employment development under Policy Banbury 6 of the Cherwell Local Plan 2011-2021. It is therefore proper that Cherwell District Council considers the merits of the development as a whole, in terms of the impact on Cherwell District.

Principle of Development

- 9.4. As noted above, whilst the proposed built development would be located within South Northamptonshire, the area of the application site that is within Cherwell District Council is part of the wider strategic allocation of Policy Banbury 6 in the adopted Cherwell Local Plan 2011-2031 for a 35ha mixed employment development of B1, B2 and B8 Use Classes. This part of the allocation has been brought forwards separately, following the relatively recent approvals and construction of similar developments within the allocation site to the north.
- 9.5. Other than the land used for access, the land within Cherwell District will remain as open space, to be used for ecological mitigation and reserved for the potential South East Relief Road and Western Link Road.
- 9.6. Whilst the buildings are proposed to be located outside the District and therefore outside the allocation, much of the application land located within the Banbury 6 allocation lies within Flood Zone 3a, where there is a higher risk of flooding. Therefore, whilst not in strict accordance with Policy Banbury 6 and the allocation, given the flood risk constraints on the site, positioning the built development outside of the allocation is considered acceptable in order to deliver the development the policy envisaged. In addition, the siting of the employment buildings immediately to the south of the existing buildings would be a logical extension to the Central M40 estate and would be read as part of the existing development.
- 9.7. This application follows an earlier planning application (ref: 19/00771/F) which was heard by the Committee on 12th March 2020. The proposal at that time was for a similar development, albeit with some differences to unit layout, footprint, building height and bore pit/drainage details. The Committee resolved to approve the earlier

application. Given the similarities between the two planning applications and that the changes proposed under the current application 20/00308/F do not materially affect the consideration of the principle of development, Officers consider the principle of this development has been established.

- 9.8. In light of the above Officers considered the principle of the development and the siting of the development is acceptable.

Design, Landscaping and Visual Impact

- 9.9. Policy ESD15 of the Local Plan requires development proposals to accord with the character and context in which they are situated. ESD1 requires proposals to pay attention to existing site characteristics, having regard to the neighbouring land and buildings. Development proposals should make a positive contribution to the built and natural environment, incorporating local materials and architectural details, to mitigate any visual harm to the local area.
- 9.10. Whilst the matters of design, landscaping and visual impact are largely for consideration by SNC, this Authority must be satisfied that the proposal would not cause unacceptable harm to the visual amenity of the local area and that the design is compatible with existing development. This is because despite the proposed buildings' location outside of Cherwell District, due to the close proximity to the District and existing development, and with access being taken from Chalker Way within the District, the new buildings would be read as part of the existing Central M40 employment site within Banbury.
- 9.11. The proposed units are large industrial units that would be viewed alongside and in the context of the Central M40 employment site, within the presence of a series of commercial buildings. The buildings have a modern, functional design that accords with the design and general scale of existing development along Chalker Way, and it is considered that the design and scale is acceptable being read as part of the existing development to the north.
- 9.12. The proposal walls and roofing would have a mid-dark grey finish, with silver used at lower levels for the offices. The offices would be sited on the principal elevations of the buildings, facing toward the car parks and Chalker Way. There would be tones of grey used within the elevations to help break-up the bulk of the building and add interest. This approach would help to reduce their visual prominence within the landscape and make them less visually intrusive, whilst providing an appropriate level of visual interest and active frontage to Chalker Way. The buildings would have barrel-vaulted roofs, following the general aesthetic of the buildings to the north and providing the Central M40 development with a sense of cohesion.
- 9.13. Landscaping will also be provided to the front of the site, in a landscape buffer between the units, access road and area of reserved land for the South East Relief Road. This will help soften the impact of the development when viewed along the Chalker Way extension.
- 9.14. Whilst the proposed commercial buildings are large, and positioned on the edge of Banbury outside of the allocated site, the buildings would be viewed as part of the existing industrial estate with appropriate scale, design, materials and landscaping, Therefore, it is considered the proposed development would accord with ESD15 of the Local Plan.

Highway Safety and Access

- 9.15. The access arrangements are similar to those considered acceptable for the earlier application, with a shared single point of access extending from Chalker Way. The application submission is supported by a Transport Assessment and Framework Travel Plan. Following initial concerns from Oxfordshire County Council (OCC) regarding the safeguarding of the land for the South East Relief Road, amended plans have been received along with an updated Technical Note which have addressed those concerns.
- 9.16. The Transport Assessment demonstrates that the site is accessible by a variety of transports modes and that the traffic generated would not have a detrimental impact on the local or wider highway network. The Technical Note confirms the revised access is safe and will sufficiently meet the needs of the vehicles (including HGVs) using it.
- 9.17. Whilst the technical matters of site and parking layout are for SNC to determine, Oxfordshire County Council Highways have confirmed they have no objection to the proposal provided that suitable planning conditions are imposed and subject to the agreement of S106 contributions towards improvements to public transport services and travel plan monitoring and securing the land reservation for the South East Relief Road.
- 9.18. Overall, it is considered that the access arrangement and development subject to the recommended conditions and S106 contributions would be acceptable in highway safety terms. As such, the proposal would comply with PSD1 and SLE4 of the Local Plan.

Flood Risk and Drainage

- 9.19. Policies ESD6 and ESD7 of the Local Plan seek to ensure that flood risk and drainage are properly addressed and mitigated by development proposals, having regard to national planning policy and guidance. The application is supported by a Flood Risk Assessment, along with proposals for a Sustainable Drainage System and attenuation pond.
- 9.20. In terms of the proposed use for general industry and storage, these are classified as 'less vulnerable' use in terms of flooding and are thereby acceptable within Flood Zone 2 as outlined within the PPG for Flood Risk and Coastal Change.
- 9.21. In order to justify the areas which fall within Flood Zone 3, the applications are required to demonstrate that the loss of floodplain would not result in additional flooding off site and that the surface water run-off for the proposed development and existing development at the Central M40 area can be satisfactorily attenuated.
- 9.22. The proposed surface water and foul water strategy for Units 9 and 10 closely follows the existing drainage strategy for the existing phases of the Central M40 Industrial development. The proposal seeks to utilise existing drainage infrastructure constructed at the time of the earlier phases while adding additional drainage measures to ensure the Council's requirements are met for the entirety of the site.
- 9.23. With respect to surface water the Surface Water Drainage Team at Northamptonshire County Council (who are Lead Local Flood Authority for the majority of the site) have no objections to the proposals subject to the imposition of conditions. Likewise, Oxfordshire County Council has raised no objections subject to the conditions recommended by Northamptonshire.

- 9.24. Similarly, the Environment Agency have raised no objections, submitting their formal comments to the lead authority, SNC. The EA have accepted that there are no other sequentially preferable sites for the proposed development outside of Flood Zones 2 and 3.
- 9.25. As such, Officers are satisfied that the proposal would not cause additional flooding elsewhere, and that appropriate surface water drainage for the site and surrounding area can be achieved.
- 9.26. Overall, it is considered that that the proposal would be acceptable in terms of flooding and drainage. The proposal therefore would accord with policies ESD6 and ESD7 of the Local Plan, subject to the recommended conditions.

Ecology Impact

Legislative context

- 9.27. 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.
- 9.28. 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.
- 9.29. 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.
- 9.30. 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.

9.31. 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

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

9.33. 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.

9.34. 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.

9.35. 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.

9.36. 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.

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

9.38. The Planning Practice Guidance dated 2014 post dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

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

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

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

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

9.40. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the area within South Northamptonshire was previously used for reptile mitigation as part of the earlier phases of the Central M40 site. In August 2018, further reptile mitigation was undertaken in advance of the current planning application, to relocate the reptiles immediately to the west within Cherwell District. This land is part of the Banbury 6 allocation and is within the applicant's ownership and annotated by the blue edge on the site location plan. This land will now remain as an area of ecological mitigation to be retained.

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

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

9.43. The application is supported by an Extended Phase 1 Survey and detailed Phase 2 surveys relating to bird, bats, otters, water vole, badgers, Great Crested Newts and reptiles. In addition, a Biodiversity Impact Assessment (BIA) has also been submitted. Overall, these surveys conclude that there is limited nature conservation potential on site and that these do not constitute a significant ecological constraint. The BIA confirms that there would be a net gain for diversity resulting from the proposals through the retention and enhancement of the 10.5ha of habitat and provision of new hedgerow as well as the creation of other new habitats and provision of specific measures such as bird and bat boxes.

9.44. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected

species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

S106 Obligations and Contributions

9.45. As outlined above, the proposal generates a need for infrastructure and other contributions through a planning obligation, to ensure the transport impacts of the development can be adequately mitigated and the development is acceptable in planning terms. Policy INF1 of the Cherwell Local Plan states that 'development proposals will be required to demonstrate that infrastructure requirements can be met, including the provision of transport infrastructure and improvements'. Contributions can be secured via a 106 Agreement, provided they meet the tests of Regulation 122 of the Community Infrastructure Regulations 2010.

9.46. The following obligations have been sought and agreed by the applicant:

Financial contributions:

£187,500 (index linked) towards the provision of a local bus service to make necessary improvements to public transport services

£2,346 (index lined) towards the Travel Plan monitoring

Obligations:

Land reservation for the South East Relief Road as marked on the submitted plans

Land reservation for the Western Relief Road as marked on the submitted plans

PLANNING BALANCE AND CONCLUSION

10.1. The application site forms part of the Policy Banbury 6 mixed employment allocation within the adopted Cherwell Local Plan 2011-2031. The development is a cross boundary application with the buildings and associated parking, landscaping, drainage situated within the South Northamptonshire District area and within their control as a Planning Authority. Within Cherwell District, the development proposes an extension to Chalker Way and access into the development site with land retained as open space and safeguarded for future road improvements. The consideration of this application must focus on the development which falls within Cherwell District and whether in principle, employment use on the South Northamptonshire site would be acceptable.

10.2. Under Policy Banbury 6, mixed employment development was envisaged which following further investigation is constrained by the flood risk on the allocated site. This application seeks to vary the siting of the employment development outside of Flood Zone 3A on the land within South Northamptonshire. This land is directly adjacent to the site and would deliver the employment development envisaged by Policy Banbury 6. Following the submission of amended plans, the access arrangements are considered acceptable.

10.3. Having regard to the above, the application is considered to contribute to delivering the intention of Policy Banbury 6 and the associated policies within the adopted Cherwell Local Plan 2011-2031, saved policies as above within the Cherwell Local Plan 1996 and Government Guidance within the NPPF and PPG. Approval of the scheme would secure the employment development envisaged as an extension to the Central M40 site as allocated within the Cherwell Local Plan 2011-2031, thereby

enabling the delivery of new employment development to support economic growth and the growth of the District.

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

S106 Obligations:

- £187,500 (index linked) towards the provision of a local bus service to make necessary improvements to public transport services
- £2,346 (index lined) towards the Travel Plan monitoring
- Land reservation for the South East Relief Road as marked on the submitted plans
- Land reservation for the Western Relief Road as marked on the submitted plans.

Conditions:

TIME LIMITS AND GENERAL IMPLEMENTATION CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from 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. The development shall not be carried out otherwise than in complete accordance with the approved plans and details unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The approved plans and details are:

DRAWINGS:

Site Location Plan (dwg. no. 6422-180 Rev. A) dated 03 April 2020;
Proposed Site Layout Plan (dwg. no. 6422-181 Rev. A) dated 03 April 2020;
Proposed Site Plan – External Finishes & Fencing (dwg. no. 6422-182 Rev. A) dated 03 April 2020;
Proposed Site Plan Illustrating Constraints (dwg. no. 6422-183 Rev A) dated 03 April 2020;
Unit 9 Proposed Building Plan (dwg. no. 6624-10 Rev. E) dated 03 April 2020;
Unit 9 Proposed Office Floor Plans (dwg. no. 6624-007 Rev. D) dated 03 April 2020;
Unit 9 Proposed Elevations (dwg. no. 6624-11 Rev. E) dated 03 April 2020;
Unit 9 Proposed Roof Plan (dwg. no. 6624-28 Rev. B) dated 03 April 2020;
Unit 10 Proposed Building Plan (dwg. no. 6422-184) dated 02 April 2020;
Unit 10 Proposed Ground, First and Second Floor Office Plan (dwg. no. 6422-185)

dated 03 April 2020;
Unit 10 Proposed Elevations (dwg. no. 6422-186) dated 02 April 2020;
Unit 10 Proposed Roof Plan (dwg. no. 6422-187) dated 03 April 2020;
Planting Plan Overview (dwg. no. 6849/ASP.PP.DBS9.1.0 Rev J) dated 08 April 2020;
Planting Plan 1 of 3 (dwg. no. 6489/ASP. PP.DBS9.1.1 Rev J) dated 08 April 2020;
Planting Plan 2 of 3 (dwg. no. 6849/ASP. PP.DBS9.1.2 Rev J) dated 08 April 2020;
Planting Plan 3 of 3 (dwg. no. 6849/ASP. PP.DBS9.1.3 Rev J) dated 08 April 2020;
Site Wide Drainage Strategy (dwg. no. C14935-C-002 Rev P6) dated 12 December 2014;
Drainage Layout Sheet 1 (dwg. no. C08749-HYD-XX-XX-DR-C-3001 Rev. P2) dated 14 May 2020;
Drainage Layout Sheet 2 (dwg. no. C08749-HYD-XX-XX-DR-C-3002 Rev. P2) dated 14 May 2020;
Drainage Layout Sheet 3 (dwg. no. C08749-HYD-XX-XX-DR-C-3003 Rev. P2) dated 14 May 2020;
Drainage Layout Sheet 4 (dwg. no. C08749-HYD-XX-XX-DR-C-3004 Rev. P2) dated 14 May 2020;
Catchment Plan (dwg. no. C08749-HYD-XX-XX-DR-C-3005 Rev. P2) dated 14 May 2020;
External Levels Sheet 1 (dwg. no. C08749-HYD-XX-XX-DR-C-3101 Rev. P1) dated 03 April 2020;
External Levels Sheet 2 (dwg. no. C08749-HYD-XX-XX-DR-C-3102 Rev. P1) dated 03 April 2020;
External Levels Sheet 3 (dwg. no. C08749-HYD-XX-XX-DR-C-3103 Rev. P1) dated 03 April 2020;
External Levels Sheet 4 (dwg. no. C08749-HYD-XX-XX-DR-C-3104 Rev. P1) dated 03 April 2020;
Standard Details sheet 1 (dwg. no. C08749-HYD-XX-XX-DR-C-3010 Rev. P1) dated 03 April 2020;
Standard Details sheet 2 (dwg. no. C08749-HYD-XX-XX-DR-C-3011 Rev. P1) dated 03 April 2020;
Standard Details sheet 3 (dwg. no. C08749-HYD-XX-XX-DR-C-3012 Rev. P1) dated 03 April 2020;
Standard Details sheet 4 (dwg. no. C08749-HYD-XX-XX-DR-C-3013 Rev. P1) dated 03 April 2020;
Basin Sections (dwg. no. C08749-HYD-XX-XX-DR-C-3105 Rev. P1) dated 03 April 2020;
External Works Sheet 1 (dwg. no. C08749-HYD-XX-XX-DR-C-3301 Rev. P1) dated 03 April 2020;
External Works Sheet 2 (dwg. no. C08749-HYD-XX-XX-DR-C-3302 Rev. P1) dated 03 April 2020;
Dbs9 External Indicative Electrical Services Layout (dwg. no. 190029-RGL-09-GFDR-E-70-0101 D2 Rev. P02) dated 03 April 2020;
Dbs10 External Indicative Electrical Services Layout (dwg. no. 190029-RGL-10-GFDR-E-70-0001 D2 Rev. P02) dated 03 April 2020;
Proposed Cycle Shelter (dwg. no. 6422-035) dated 15 August 2019;
Area for Ecological Mitigation (dwg. no. 6422-115) dated 02 May 2019.

REPORTS:

Design and Access Statement by AJA Architects dated April 2020;
Planning Statement by Frampton ref: PF/10353 dated April 2020;
Flood Risk Assessment by Hydrock ref: C08749-HYD-XX-XX-RP-D-5001 Rev P02 dated 08 April 2020;
Technical Note - Drainage Strategy by Hydrock ref: C08749-HYD-XX-XX-RP-C-301 Rev P1 dated 03 April 2020;
Transport Assessment Addendum by Hydrock ref: C08749-HYD-XX-XX-RP-

TP1002-P07 dated 08 April 2020;
Framework Travel Plan by Hydrock ref: C08749=HYD-XX-XX-RP-TP-6002 Rev P02 dated 08 April 2020;
Landscape and Ecology Management Plan by Aspect Landscape Planning ref: 6489.LEMP.003.VF dated May 2020;
Biodiversity Impact Assessment by The Environmental Dimension Partnership ref: edp1419_r019e received 09 April 2020;
Reptile Mitigation Strategy Addendum by The Environmental Dimension Partnership ref: edp1419_r014e dated April 2020;
Landscape and Visual Impact Assessment Addendum by Aspect Planning ref: 6489.LVIA Addendum.003_Phase 4 (9+10) dated April 2020;
Arboricultural Impact Assessment by Aspect Arboriculture ref: 10057_AIA.001 Rev F dated 08 April 2020;
Arboricultural Method Statement by Aspect Arboriculture ref: 10057_AMS.001 dated May 2020;
External Lighting Report by Rolton Group ref: 19-0029 Rev P09 dated 07 April 2020;
Noise Assessment Technical Note by RSK Environment Ltd ref: 297918-RSK-TN 002(02) dated 08 April 2020;
Construction Environmental Management Plan by The Environmental Dimension Partnership ref: edp1419_r0020a dated May 2020;
Construction Method Statement by A&H Construction and Developments PLC Ver 1 dated 12 May 2020;
Heritage Assessment by Archaeology Collective Ref: AC947A, Issue 2, dated April 2019;
Archaeological Evaluation by Thames Valley Archaeological Services Ref: ORB 15/150 dated September 2019;
Archaeological Written Scheme of Investigation (trial trenching) by Thames Valley Archaeological Services Ref: ORB 15/150evph4 dated 13 February 2018;
Archaeological Written Scheme of Investigation (geophysical survey) by Thames Valley Archaeological Services Ref: ORB 15/150geo dated 13 February 2018;
Archaeological Written Scheme of Investigation (archaeological excavation) by Thames Valley Archaeological Services Ref: ORB 15/150exc dated 28 October 2019;
Ecological Appraisal by The Environmental Dimension Partnership ref: edp1419_r015d dated April 2019;
Phase 1 Desk Study by Hydrock ref C08779-HYD-XX-XX-RP-GE-1000-P02-S2 dated 29 April 2019;
Odour Assessment by RSK Environment Ltd Ref: 443276-01(02) dated 08 April 2019;
Vibro Method Statement by Trittech received 28 May 2020

Reason : To clarify the permission and for the avoidance of doubt.

3. The development shall be implemented in accordance with the approved Construction Method Statement by A&H Construction and Developments PLC Ver 1 dated 12 May 2020 unless otherwise agreed in writing by the Local Planning Authority.

Reason : To ensure the environment is protected during construction in accordance with Policy G3 of the South Northamptonshire Local Plan, Policy ENV1 of the Cherwell Local Plan 1996, and Government guidance contained within the National Planning Policy Framework.

4. The development shall be implemented in accordance with the approved Construction Environmental Management Plan by The Environmental Dimension Partnership ref: edp1419_r0020a dated May 2020 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy BN2 of the West Northamptonshire Joint Core Strategy, Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1, and Government guidance contained within Section 15 of the National Planning Policy Framework.

5. The development shall be carried out in accordance with the approved Landscape and Ecology Management Plan by Aspect Landscape Planning ref: 6489.LEMP.003.VF dated May 2020 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy BN2 of the West Northamptonshire Joint Core Strategy, Policy ESD10 of Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework.

6. All site clearance (including the removal of any vegetation or works to hedgerows) should be timed so as to avoid the bird nesting season, this being during the months of March until August inclusive unless alternative provisions have been previously agreed in writing by the Local Planning Authority.

Reason: To ensure that the development will conserve and enhance the natural environment and will not cause significant harm to any protected species or its habitat in accordance with the Government's aim to achieve sustainable development as set out in Section 15 of the National Planning Policy Framework.

7. The development hereby permitted shall be carried out in accordance with the recommendations set out in the Ecological Appraisal dated April 2019, ref. edp1419_r015d; the Reptile Mitigation Strategy Addendum by The Environmental Dimension Partnership ref: edp1419_r014e dated April 2020; and the Area for Ecological Mitigation dwg. no. 6422-115 dated 02 May 2019 unless otherwise agreed in writing by the Local Planning Authority.

Reason : To protect habitats and/or species of importance to nature conservation from significant harm in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and the Government's aim to achieve sustainable development as set out in Section 15 of the National Planning Policy Framework.

PRE-COMMENCEMENT CONDITIONS

8. If the development hereby approved does not commence by April 2021, no development shall take place until a revised ecological appraisal has been undertaken to establish changes in the presence, abundance and impact of protected species. The survey results, together with any necessary changes to the mitigation plan or method statement shall be submitted to and approved in writing the Local Planning Authority prior to any development taking place. Thereafter, the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy BN2 of the West Northamptonshire Joint Core Strategy, Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

9. No development shall take place until the existing tree(s) to be retained in accordance with Planting Plan Overview (dwg. no. 6849/ASP.PP.DBS9.1.0 Rev J) dated 08 April 2020 have been protected in accordance with the Arboricultural Impact Assessment by Aspect Arboriculture ref: 10057_AIA.001 Rev F dated 08 April 2020 and the Arboricultural Method Statement by Aspect Arboriculture ref: 10057_AMS.001 dated May 2020 unless otherwise agreed in writing by the Local Planning Authority. The barriers shall be erected before any equipment, machinery or materials are brought onto the site for the purposes of development and shall be maintained until all equipment machinery and surplus material has been removed from the site. Nothing shall be stored or placed within the areas protected by the barriers erected in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made, without the written consent of the Local Planning Authority.

Reason : To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policies G3(A) and EV21 of the South Northamptonshire Local Plan, Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

10. No development shall take place within the area of archaeological interest (as outlined in orange on the County Archaeologist's plan provided with the consultation response dated 15th October 2019) until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. This written scheme will include the following components, completion of each of which will trigger the phased discharging of the condition:

- (i) Approval of a Written Scheme of Investigation;
- (ii) Fieldwork in accordance with the agreed Written Scheme of Investigation;
- (iii) Completion of a Post-Excavation Assessment report and approval of an approved Updated Project Design: to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the Local Planning Authority;
- (iv) Completion of analysis, preparation of site archive ready for deposition at a store (Northamptonshire ARC) approved by the Local Planning Authority, production of an archive report, and submission of a publication report: to be completed within two years of the completion of fieldwork, unless otherwise agreed in advance with the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded and the results made available, in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and the NPPF Paragraph 199. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

11. No development shall take place until details of the surface water attenuation have been submitted to and agreed in writing by the Local Planning Authority. The surface water attenuation shall be implemented in accordance with the agreed scheme unless otherwise agreed in writing by the Local Planning Authority prior to its implementation.

Reason: To protect the adjacent railway from the risk of flooding, pollution and soil instability in accordance with Policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the NPPF. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

12. No development shall take place until full details of ground levels, earthworks and excavations to be carried out near to the railway boundary have been submitted to and approved in writing by the Local Planning Authority. All changes to ground levels, earthworks and excavations close to the railway boundary shall be carried out in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority prior to the commencement of those works.

Reason: To protect the adjacent railway from soil instability, in accordance with Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE SPECIFIC CONSTRUCTION WORKS TAKE PLACE

13. No development shall take place above slab level until full details of the surface water drainage scheme for the site, based on the approved Technical Note - Drainage Strategy by Hydrock ref: C08749-HYD-XX-XX-RP-C-301 Rev P02 dated 14 May 2020 have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- a) Details (i.e. designs, diameters, invert and cover levels, gradients, dimensions and so on) of all elements of the proposed drainage system, to include pipes, inspection chambers, outfalls/inlets and attenuation basins;
- b) Cross sections of all control chambers (including site specific levels mAOD) and manufacturers' hydraulic curves for all hydrobrakes and any other flow control devices; and
- c) A detailed scheme for the maintenance and upkeep of every element of the surface water drainage system proposed on the site.

Reason: To ensure that the development/site is served by sustainable arrangements for the disposal of surface water, to comply with Policy G3(M) of the South Northamptonshire Local Plan, Policy BN7 of the West Northamptonshire Joint Core Strategy, Policies ESD5 and ES7 of the Cherwell Local Plan 2011-2031 Part 1 and Government advice in the National Planning Policy Framework.

14. No development shall take place above slab level until a detailed scheme for the ownership and maintenance of every element of the surface water drainage system proposed on the site has been submitted to and approved in writing by the Local Planning Authority and the maintenance plan shall be carried out in full thereafter. The scheme shall include:

- a) a maintenance schedule setting out which assets need to be maintained, at what intervals and what method is to be used;
- b) a site plan including access points, maintenance access easements and outfalls;
- c) maintenance operational areas to be identified and shown on the plans, to ensure there is room to gain access to the asset, maintain it with appropriate plant and then handle any arisings generated from the site;
- d) details of expected design life of all assets with a schedule of when

replacement assets may be required; and

- e) details of which organisation or body will be the main maintaining body where the area is multifunctional (e.g. open space play areas containing SuDS), with evidence that the organisation/body has agreed to such adoption.

Reason : To ensure that the development/site is served by sustainable arrangements for the disposal of surface water, to comply with Policy G3(M) of the South Northamptonshire Local Plan, Policy BN7 of the West Northamptonshire Joint Core Strategy, Policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government advice in the National Planning Policy Framework.

- 15. No development shall take place above slab level until full details of the fire hydrants and/or sprinklers to be provided on the site have been submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the development, the fire hydrants and sprinklers shall be provided in accordance with the approved details and retained as such thereafter.

Reason : To ensure adequate water infrastructure provision is made on site for the local fire service to tackle any property fire in accordance with Government Guidance contained within the National Planning Policy Framework.

- 16. Details of the proposed construction, materials and surfacing of the access road and its junction with the public highway shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The development shall be carried out in accordance with the approved details before first occupation of the building(s) and thereafter permanently maintained as such.

Reason : In the interests of highway safety, to comply with Policy G3(B) of the South Northamptonshire Local Plan, Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in Section 12 of the National Planning Policy Framework

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

Reason: To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Policy G3(E) of the South Northamptonshire Local Plan, Policy BN9 of the West Northamptonshire Joint Core, Policy PSD1 of the Cherwell Local Plan 2011-2031 Part 1, Policy ENV1 of the Cherwell Local Plan 1996, and Section 15 of the National Planning Policy Framework.

- 18. The existing trees and hedge along the northern boundary of the site shall be retained in accordance with the approved landscaping plans: (Planting Plan overview dwg. no. 6849/ASP.PPDBS9.1.0 Rev G dated 23 September 2019; Planting Plan 1 dwg. no. 6849/ASP.PPDBS9.1.1 Rev G dated 23 September 2019; Planting Plan 1 dwg. no. 6849/ASP.PPDBS9.1.3 Rev G dated 23 September 2019; and the approved Landscape Management Plan Ref: 6489.Land.Man.002 dated April 2019 unless otherwise agreed in writing by the Local Planning Authority.

Reason : To provide an effective and attractive screen for the development in the interests of visual amenity and to accord with Policies G3(L) and EV29 of the South

Northamptonshire Local Plan and Policies ESD10 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

19. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner, and shall be maintained in accordance with the approved Landscape and Ecology Management Plan by Aspect Landscape Planning ref: 6489.LEMP.003.VF dated May 2020. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

Reason : To ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity and to accord with Policies G3(L) and EV29 of the South Northamptonshire Local Plan, Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

20. All species used in the planting proposals associated with the ecological mitigation area as identified in the Area for Ecological Mitigation dwg. no. 6422-115 dated 02 May 2019 shall be native species of UK provenance.

Reason: To conserve and enhance biodiversity and prevent the spread of non-native species in accordance with Policy BN2 of the West Northamptonshire Joint Core Strategy, Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework.

21. The development hereby permitted shall be constructed to at least a BREEAM Very Good standard.

Reason : To ensure energy and resource efficiency practices are incorporated into the development in accordance with the Government's aim to achieve sustainable development as set out in the National Planning Policy Framework and Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained in the NPPF.

CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE OCCUPATION

22. Prior to the first use or occupation of the development hereby approved, the proposed access, parking, turning, loading and unloading facilities shall be provided in accordance with the approved plans. The access, parking, turning, loading and unloading facilities shall thereafter be retained for use in connection with the development for those purposes only.

Reason : In the interests of highway safety, to ensure the provision of adequate offstreet car parking and turning/loading/unloading to comply with Policy G3(B) of the South Northamptonshire Local Plan, Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in Section 12 of the National Planning Policy Framework.

23. Prior to the first use or occupation of the development hereby approved, details of a turning area to be provided within the application site so that buses may turn around with the site, shall be submitted to and approved in writing by the Local Planning

Authority. Thereafter, and prior to the first occupation of the development, the turning area shall be provided in accordance with the approved details and shall be retained for the manoeuvring of buses at all times thereafter.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in Section 12 of the National Planning Policy Framework.

24. Prior to the first use or occupation of the development hereby approved, the walls and roofs of the buildings hereby approved shall be finished and thereafter maintained in accordance with the colour scheme approved as set out in drawings ref: Unit 9 Proposed Elevations (dwg. no. 6624-11 Rev. E) dated 03 April 2020 and Unit 10 Proposed Elevations (dwg. no. 6422-186) dated 02 April 2020 unless otherwise agreed in writing by the Local Planning Authority.

Reason : In order to safeguard the visual amenities of the area in accordance with Policy G3(A) of the South Northamptonshire Local Plan and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

25. Prior to the first use or occupation of the development hereby approved, the external lighting/security lighting/floodlighting (including the design, position, orientation and any screening of the lighting) shall be implemented in accordance with the approved External Lighting Report by Rolton Group ref: 19-0029 Rev P09 dated 07 April 2020. The lighting shall be installed and operated in accordance with the approved scheme at all times thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason : In the interests of visual amenity and highway safety and to comply with Policy EV35, Appendix A of the South Northamptonshire Local Plan, Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government advice in The National Planning Policy Framework.

26. Prior to the first use or occupation of the development hereby approved, a Verification Report for the installed surface water drainage system for the site shall have been submitted in writing by a suitably qualified independent drainage engineer and approved by the Local Planning Authority based on the approved Technical Note Drainage Statement ref Drainage Strategy by Hydrock ref: C08749-HYD-XX-XX-RP-C-301, Issue No. P02 dated 14th May 2020. The report shall include:

- a) Any departure from the agreed design is keeping with the approved principles
- b) Any As-Built Drawings and accompanying photos
- c) Results of any Performance Testing undertaken as a part of the application process (if required / necessary)
- d) Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc.
- e) Confirmation that the system is free from defects, damage and foreign objects

Reason: To ensure the installed Surface Water Drainage System is satisfactory and in accordance with the approved reports for the development site, to comply with Policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained in the NPPF.

27. Prior to the first use or occupation of the development hereby approved, either:

- a) all water network upgrades required to accommodate the additional flows from

the development shall have been completed; or

- b) an infrastructure phasing plan shall have been agreed with Thames Water to allow additional properties to be occupied. Where an infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed infrastructure phasing plan.

Reason - The development may lead to no / low water pressure and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional demand anticipated from the new development, in accordance with Policy ESD8 and INF1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the NPPF.

28. Prior to the first use or occupation of the development hereby approved, the development shall be fully implemented and carried out in accordance with the submitted flood risk assessment (FRA) (by Hydrock ref: C08749-HYD-XX-XX-RP-D-5001 Rev P02 dated 08 April 2020), including its timing/phasing arrangements dated 15 April 2019 and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 90.00 metres above Ordnance Datum (AOD)
- Compensatory storage shall be provided to demonstrate no loss of flood plain storage or detrimental impact to third party land as per section 4.2.3 of the FRA.

The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason : To reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided in accordance with Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1 and Section 14 of the NPPF.

ONGOING REGULATORY CONDITIONS TO BE COMPLIED WITH AT ALL TIMES

29. No external lighting shall be installed at any time within the ecological mitigation area as identified on plan no. 6422-115 dated 02/05/2019 without the express planning permission of 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 BN2 of the West Northamptonshire Joint Core Strategy, Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

30. The buildings hereby approved shall be used only for purposes falling within Classes B2 and/or B8 with ancillary office space as specified in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that class in any statutory instrument revoking, amending or re-enacting that order and for no other purpose(s) whatsoever.

Reason : To ensure that there is adequate on-site parking provision in the interests of highway safety and to protect the vitality and viability of the town centre in accordance with Policies G3(B) and R6 of the South Northamptonshire Local Plan and Policies SLE1, SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

31. Notwithstanding the provisions of section 55 (2A) of the Town and Country Planning Act 1990 (as amended by Section 49 of the 2004 Act), Part 10 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as

amended) and Part 7, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), no internal operations increasing the floor space available within the buildings hereby permitted shall be carried out without the prior planning permission of the Local Planning Authority.

Reason : To enable the Local Planning Authority to retain planning control over the provision of additional floorspace in order to maintain a satisfactory layout and sustain an adequate overall level of parking provision and servicing on the site in accordance with Policy G3 of the South Northamptonshire Local Plan, Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

32. Notwithstanding the provisions of Part 7, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order) the approved buildings shall not be extended without the prior planning permission of the Local Planning Authority.

Reason : To enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the amenities of the area and to sustain a satisfactory overall level of parking provision and servicing on the site in accordance with Policy G3 of the South Northamptonshire Local Plan and Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

33. No goods, materials, plant or machinery shall be stored, repaired, operated or displayed outside the buildings unless otherwise approved in writing by the Local Planning Authority.

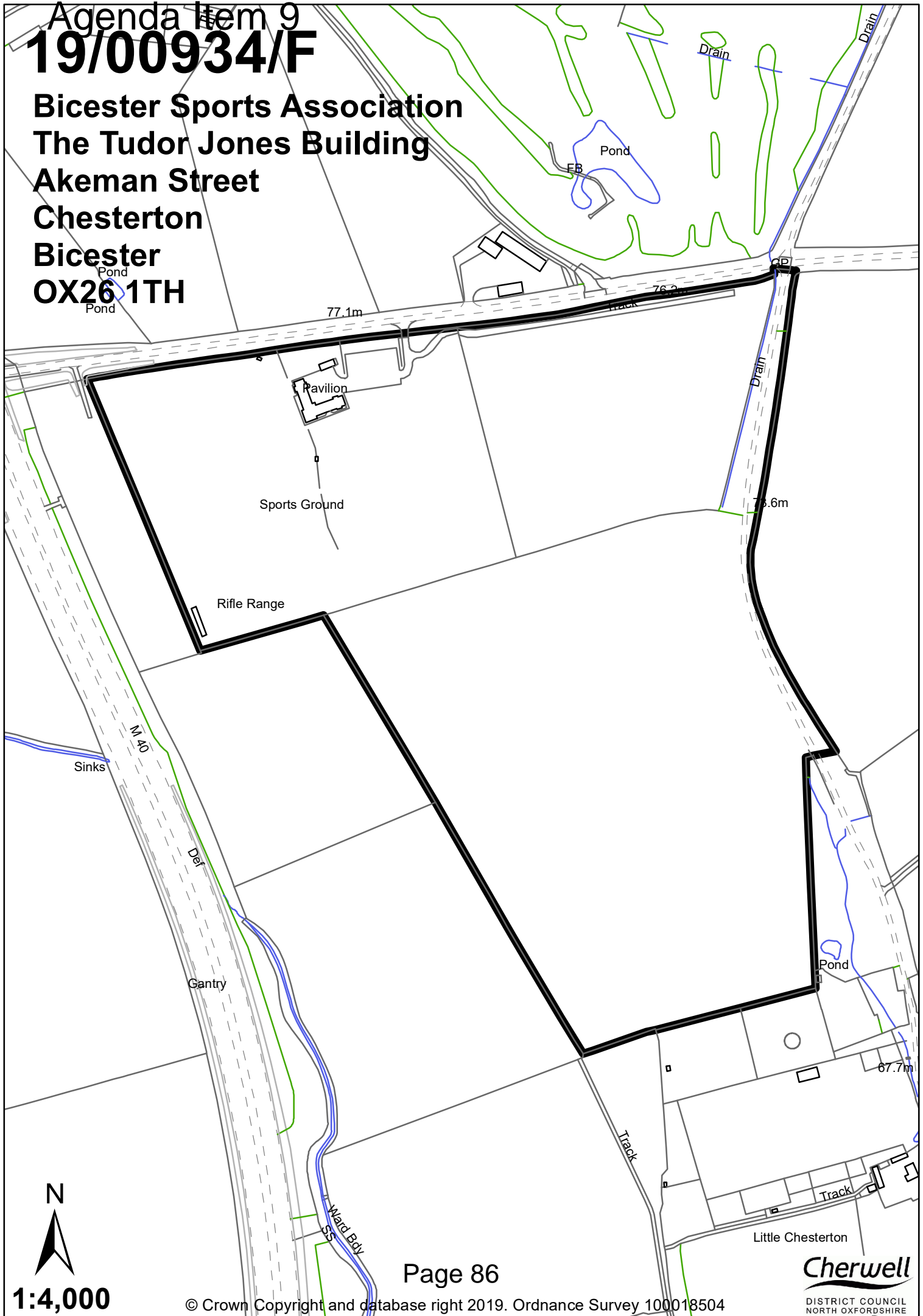
Reason : In order to safeguard the visual amenities of the area in accordance with Policy G3(A) of the South Northamptonshire Local Plan and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

CASE OFFICER: Samantha Taylor

TEL: 01295 221689

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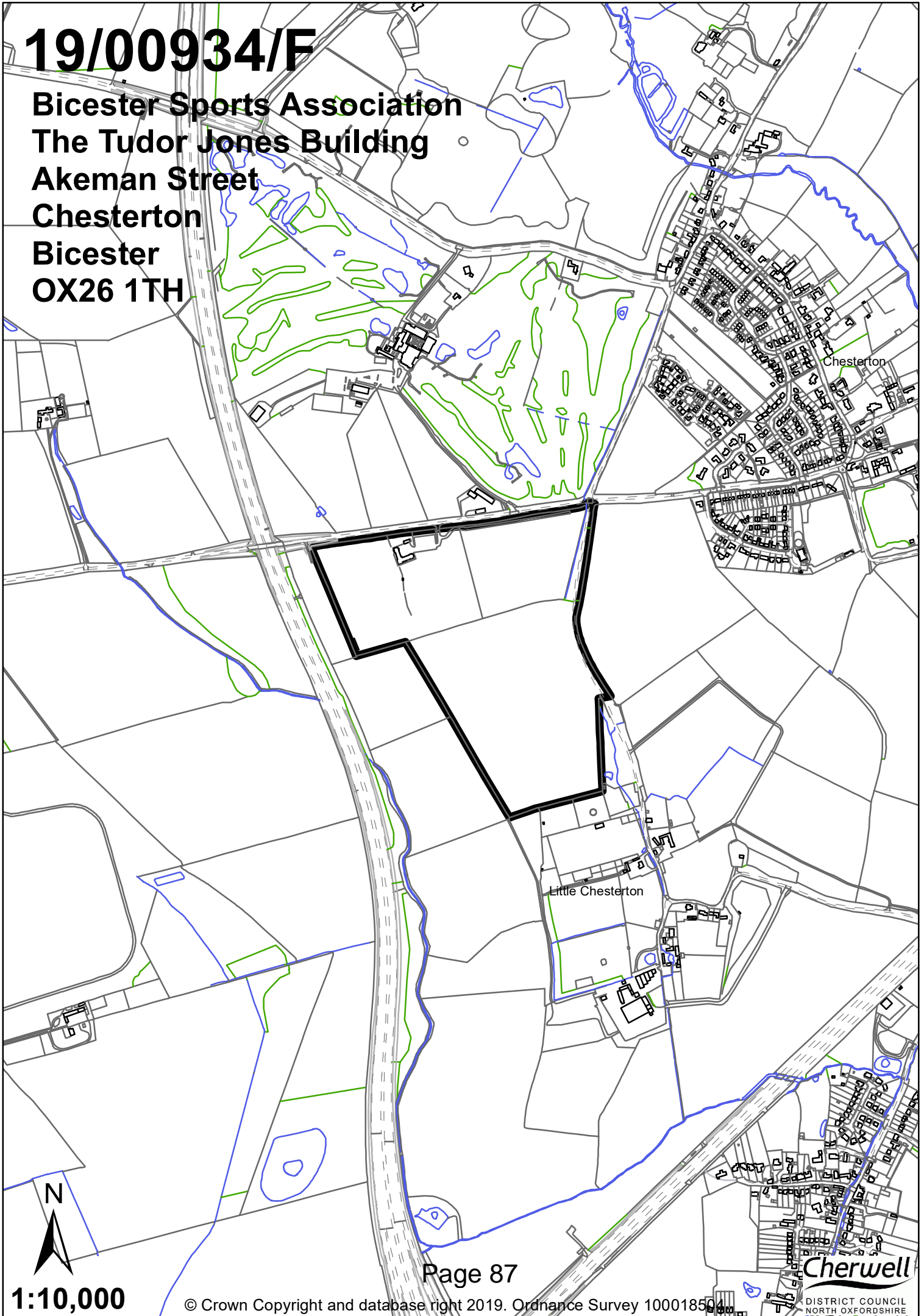
**Bicester Sports Association
The Tudor Jones Building
Akeman Street
Chesterton
Bicester
OX26 1TH**



1:4,000

19/00934/F

Bicester Sports Association
The Tudor Jones Building
Akeman Street
Chesterton
Bicester
OX26 1TH



N
1:10,000

Case Officer: James Kirkham

Applicant: Bicester Sports Association

Proposal: Change of Use of agricultural land and extension of the existing Bicester Sports Association facilities for enhanced sports facilities including relocation and reorientation of existing pitches and archery zone, 2no training pitches with floodlighting, 2no match pitches, new flexible sports pitch, new rugby training grids, new clubhouse with events space, new rifle and shooting range, cricket scorers building, storage and maintenance buildings and provision of associated car parking, amended access, landscaping and other associated works

Ward: Fringford and Heyfords Ward

Councillors: Cllr Ian Corkin, Cllr James Macnamara and Cllr Barry Wood.

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: REFUSE PERMISSION

Proposal

The current application seeks permission to change the use of an agricultural field to the south of the existing Bicester Sports Association (BSA) sports ground in Chesterton and construct a new two storey club house, single storey rifle and shooting range, and flood lit pitches with associated parking and landscaping. This is being put forward as a replacement facility for the BSA site in Bicester on Oxford Road which the BSA have sold and need to vacate.

Consultations

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

- Chesterton Parish Council, Bicester Town Council, Weston-on-the Green Parish Council, Bicester Delivery Team, Oxfordshire Playing Fields Association, OCC Highways, CDC Landscape, CPRE

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

- Sport England (but raise some concerns in non-statutory capacity), CDC Lighting Consultant, CDC Environmental Protection, CDC Ecology, CDC Tree Officer, Natural England, OCC Lead Local Flood Authority, OCC Archaeology, Thames Water, CDC Rights of Way, Highways England, Ministry of Defence, National Air Traffic Safeguarding, Thames Valley Policy, Environment Agency, CDC Building Control, OCC Minerals and Waste, Historic England

The following consultees comment on the application:

- CDC Wellbeing, CDC Planning Policy,

47 letters of objection have been received and 199 letters of support have been received.

Planning Policy and Constraints

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

Conclusion

The key issues arising from the application details are:

- Principle of development
- Landscape and Visual Impact and Design
- Transport and Highways
- Residential amenity
- Ecology impact
- Archaeology
- Sustainable construction
- Flood risk and drainage
- Other matters

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

:

1. The site is an inaccessible and unsustainable location to accommodate this scale of replacement or new sports provision to serve Bicester and the surrounding area. It would not reduce the need to travel or offer genuine choices for transport options and would not result in an accessible sporting facility.
2. The proposal would result in adverse visual effects on the character and appearance of the locality.

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 to the south of Green Lane approximately 300 metres to the south west of the village of Chesterton. Little Chesterton is located to the south of the site and Bicester Hotel Golf and Spa to the north of the site.
- 1.2. The northern part of the site is currently used for sport pitches and is approximately 11.5 hectares in size. It is operated by Bicester Sports Association and includes two county level cricket pitches and associated pavilion, 12 rugby pitches of various sizes, 8 football pitches of various sizes, an outdoor shooting range, changing rooms and associated parking.
- 1.3. The remaining part of the site (to the south) forms part of a large open agricultural field and the land falls gently in a southerly direction.

2. CONSTRAINTS

- 2.1. There are records of Great Crested Newts and Badgers within proximity of the site. Public footpath 161/5/10 runs adjacent to the eastern boundary of the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The current application is made by Bicester Sports Association (BSA) which is a private trust that makes sports land available for subsidised use by local amateur sports clubs. This includes Bicester United Football Club, Bicester Town Colts, Bicester Rugby Union Club, Bicester and District Rifle and Pistol Club, Bicester and North Oxfordshire Crick Club, Womens Oxfordshire First XI Cricket Team, Bicester Archers and others.
- 3.2. The BSA currently operate from two sites including the northern part of the application site and a further site on Oxford Road in the built limits of Bicester. The BSA have recently sold the Oxford Road site in Bicester and are required to provide vacant possession by no later than 31st May 2021.
- 3.3. The current application proposes to develop and expand the current site at Chesterton to accommodate the activities that currently take place at Oxford Road at Chesterton along with some further enhanced facilities to create a new sporting hub. The applicant states that this application is for replacement and enhanced facilities for the loss of the Oxford Road site and the proposals are therefore assessed on that basis. However, it is important to note that the current application does not proposed the change of use or redevelopment of the Oxford Road site in Bicester the lawful planning use of which would remain as existing.
- 3.4. The current application seeks to provide a modern multi-sports centre for Bicester and the surrounding area and in particular seeks permission for the following:
- To change the use of approximately 13ha of land to the south of the existing site to sports fields including reorientation of existing rugby pitches and archery zone, 2 new training pitches with flood lighting (15m high) (1 football and 1 rugby union), 2 new match pitches (1 football and 1 rugby union), new flexible sports pitch and new rugby training grids
 - New 2 storey clubhouse with events space (1,175sqm total). The ground floor of this would largely accommodate changing rooms, plant and office space. The first floor would largely be a function space with kitchen and bar and would include an outdoor terrace. It would be constructed of blockwork at ground floor with a mix of timber cladding and metal cladding on the upper parts.
 - New indoor pistol and rifle range in the northern part of the site adjacent to the existing pavilion to be constructed of metal and timber cladding.
 - New storage and shelter buildings to be located adjacent to the new car park serving the club house.
 - Cricket scoreboard
 - Provision of car parking spaces and 4 coach parking spaces
 - Cycle parking
 - Revised access from Akeman Street and new emergency access points to east of the site on lane to Little Chesterton
- 3.5. It is proposed to provide new landscape screening to the boundaries of the site in particular to the eastern, southern and western boundary.
- 3.6. Several off-site highway works are also proposed to improve connectivity between Chesterton and Bicester. These are outlined elsewhere in this report.

3.7. *Timescales for Delivery*: The applicant/agent has advised that, in the event that planning permission is granted, they anticipate commencing development imminently as they have to vacate the Oxford Road site.

4. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
CHS.264.89	Change of use from agriculture to use as playing fields and provision of sporting facilities.	Appeal Dismissed

This application also proposed to relocate the BSA Oxford Road facilities to the site. Application refused and dismissed at appeal due to visual and landscape impacts of large buildings (some 2 storey), flood lights and associated infrastructure on the rural character and appearance of the area.

CHS.10.92	Sports ground with ancillary changing, car park and new access	Appeal Dismissed
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Application refused and dismissed at appeal. The key issue here was the provision of a new dwelling. The Council had concerns of setting a precedent for future applications however this concern was not supported by the Inspector. However, the Inspector considered the provision of a grounds persons dwelling not to be appropriate or justified.

CHS.548.92	Development of sport ground with ancillary changing facilities, car parking and a new access	Refused
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CHS172.93	Development of sport ground with ancillary changing facilities, car parking and a new access	Approved
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This was the first approval for the use of land as a sports ground and relates to the western half of the current site. There was a condition stating the noise levels of the firing range should not exceed the ambient noise level from the closest property.

97/01954/F	Change of use from agricultural land to playing fields	Approved
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This related to the eastern part of the existing site. It included a condition that only allowed it to be used for rugby and mini-rugby to restrict the pressure for additional development on the site.

99/01585/F	Change of use to provide three football pitches and a training area. Construction of an all-weather surface as an additional training area and for hockey matches. New changing rooms and associated car parking.	Refused
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New driveway for access

This related to the northern part of the existing agricultural field to the south of the existing sports fields. The application was refused for being an intrusive form of development in the countryside, the proposal being remote from the catchment location and unsustainable in transport terms, and being premature.

08/01763/F 2no football pitches Refused

This related to a small part of the existing proposed site (in the north west corner of the existing agricultural field). It was refused due to it the unsustainable location, the detrimental impact on the countryside and the lack of parking and sustainable transport options.

5. PRE-APPLICATION DISCUSSIONS

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

<u>Application Ref.</u>	<u>Proposal</u>
17/00082/PREAPP	Redevelopment of BSA's Oxford Road site for retail led mixed use development, construction of new car park and new vehicular access from Oxford Road. Change of use of agricultural land and extension of existing BSA facility at Akeman Street, Chesterton for sports provision including new car park and club facilities

Council's advice: Oxford Road site – The retail element requires a sequential test and retail impact assessment. Site analysis required. Site opportunities and constraints plan required. Vision statement required. Detailed advice given on layout and design. Heritage assessment required. Archaeology assessment. Transport Assessment required. Footway/cycleway improvements and detailed highway proposals required. Loss of sports pitches a very significant constraint, including but not limited to comment that any playing field lost would need to be replaced with equivalent or better in terms of quantity, quality and accessibility. Flood Risk Assessment required. Chesterton site – The site is outside Bicester, would not directly serve the population of Bicester. Should the redevelopment of the existing BSA site be acceptable in principle then the replacement facilities should be located at Bicester.

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 **28/10/2019**, 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:

47 letters of objections

- Unsustainable location – Site is inaccessible apart from by car. Site is inaccessible apart from by cars due to lack of footpaths and distance. Inaccessible location would limit access to younger and more disadvantaged members of the community from participating in sport.
- Development is to meet the recreational needs of Bicester and should be located closer to Bicester to serve the residents and be accessible to all members of the community.
- The sports facilities should remain in Bicester to support the growing population.
- Rugby club has not committed to the location.
- Impact on the character of the area – Detrimental impact to setting of village. Site is a sensitive location in the open countryside. New buildings and flood lights visually intrusive and out of character with locality. Landscaping mitigation will have little impact on winter months. New buildings and flood lighting should be restricted to the north of the site. Coalescence between Chester and Little Chesterton.
- Environmental pollution – Light pollution from flood lighting in an open countryside location. Air pollution
- Impact on amenity – Increase in noise and disturbance from increased usage and light pollution to neighbouring properties and adjacent equestrian use. Noise pollution from rifle range
- Impact on highway safety – Increase in risk of accidents. Increase in traffic on local roads and through Chesterton. Increase in use of narrow road through Little Chesterton which is unsuitable. Other nearby roads such as The Hale are also narrow. Transport statement is inadequate and does not take account of all uses. The road network needs to be improved if the development is granted. Inadequate parking provision particularly given the extent of uses on the site particularly for larger events.
- Alternative sites – The use of other facilities such as Whitelands and Graven Hill should be given consideration. There is significant demand for the Oxford Road site.
- Loss of facilities – The proposal would lead to the loss of football ground that can accommodate a Step 5 club and there is not substance to the claims that the Oxford Road ground was erroneous in meeting the Step 5 ground criteria.
- Impact on wildlife and ecology from proposals including lighting. Badgers and otters are present near the site
- Other matters
- Electricity use for flood lighting is unsustainable and higher levels of sustainable construction should be sought.
- Loss of agricultural land.
- Flood risk and drainage concerns.

- Landscaping and drainage could impact on neighbouring land.
- Impact on archaeology.
- Similar applications have been refused before.
- Application needs to be considered in the context of the Great Wolf application nearby.
- Queries regarding the structure, legality and life span of the BSA as a private trust
- Many of the letters of support are not from Bicester or Chesterton.

199 letters of support

- Need – Good quality additional sports facilities are required in the area to support the rapid growth of Bicester. The proposal is needed to replace the Oxford Road facility.
- Benefits – The new facilities are a vast improvement on the existing site both in terms of quality and quantity. It would be good to have all the facilities in one place. Proposal would relieve some of the traffic impact in Bicester. The proposal supports clubs/sports which otherwise may not be supported.
- Design – Wheelchair accessible provision is supported. Proposals are well considered in design terms.
- Impacts – Users of the Oxford Road site already also use Chesterton so there would be no impact.
- Facility is well run and can only be good for the area.
- The objectives of the Trust should be supported, and the proposal would protect subsidised provision of sport. The BSA does not use public funds.

Bicester Rifle and Pistol Club supports the proposal advising the proposal is critical to their success and for the club to flourish. No alternative sites are available. The BSA are supportive of the objectives of the club. The new facilities will greatly benefit Bicester and grass roots sport.

Bicester and North Oxfordshire Cricket Club supports the application on the basis that it would support grass roots sport.

Bicester Rugby Club questions the proposal being treated as replacement facilities and Sport England being a statutory consultee as no development or being proposed on the Oxford Road site at the current time.

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. CHESTERTON PARISH COUNCIL: **Objects.** The site is not accessible or sustainable other than by car with inadequate bus, walking or cycling facilities. It therefore does not reduce the need to travel as required by planning policy. Increase in traffic underestimated in the Transport Statement given the number of other uses as are the number of accidents. Increase in traffic on narrow local roads and increase in accidents would be unacceptable. Access by coaches would be inappropriate. The Hale needs widening, and a footpath introduced. The footpath now proposed is welcome and signs to deter the use of the lane to Little Chesterton are required at both ends if the application is approved. Any link through the Country park needs to be secured and lit. The submission indicates of further development in the future which will increase impacts.
- 7.3. Lighting impacts will be unacceptable and further investigation is required on heritage. Also concerns regarding air and noise pollution.
- 7.4. The Rugby Club have not committed to the site so the traffic impact could be higher.
- 7.5. BICESTER TOWN COUNCIL: **Objects.** Raise concerns regarding traffic and the geographically unsustainable location of the site only accessible by car. This could also limit access to sport to those with private transport. Cumulative effects with other proposed development would be unacceptable to the site and light pollution.
- 7.6. WESTON-ON-THE-GREEN PARISH COUNCIL: **Objects.** Unsustainable location only accessible by car and should be located within Bicester. Concerns regarding noise and visual intrusion (including light pollution) into the open countryside and leading to urban sprawl. The roads serving the development are not suitable for increased traffic.

CONSULTEES

- 7.7. CDC WELLBEING: **Comment.** The proposed development of pitches and facilities at the BSA site in Chesterton should be viewed in the context of losing the facilities centrally based in Bicester, off the Oxford Rd.
- 7.8. The proposals exceed the loss of pitch provision, in terms of area, however they do not mitigate the recognised Football Association ground grading of one of the pitches at Oxford Rd. An acceptable position has been found, in that the BSA have allowed for the future development of one of the pitches, so that if required, it could be upgraded / developed into a Step 5 FA standard facility.
- 7.9. Strategically, the additional football facilities are not required to service the future needs of Bicester. The 2018 Cherwell Sports Studies outline that future grass football pitch demand will be met through the expected provision on new strategic sites. However, new rugby pitches are required, with the sports studies outlining that Bicester RUFC requires a four pitch single site with access to a clubhouse.
- 7.10. Concerns remain over the sustainability of the operational model being proposed for the new facilities, however, having produced and submitted an indicative business plan, the wellbeing team conclude that this is a reasonable position for the BSA to take at planning application stage.
- 7.11. The Wellbeing team neither supports or objects to the application. Our comments are intended to provide some strategic context to the proposed sports facilities.

7.12. SPORT ENGLAND: **No objection.** The applicant has stated that the proposals are to mitigate the loss of the site at Oxford Road thus meeting Sport England’s planning policy exception E4. The consultation with Sport England is therefore a statutory requirement. Sport England will oppose the granting of planning permission for any development which would lead to:

the loss of, or would prejudice the use of:

- all or any part of a playing field, or
- land which has been used as a playing field and remains undeveloped, or
- land allocated for use as a playing field

unless, in the judgement of Sport England, the development as a whole meets with one or more of five specific exceptions.

7.13. The proposal is being assessed against three of Sport England’s planning policy exceptions: E2, E3, E4 and E5.

Sport England Policy Exceptions	
E2	The proposed development is for ancillary facilities supporting the principal use of the site as a playing field, and does not affect the quantity or quality of playing pitches or otherwise adversely affect their use.
E3	The proposed development affects only land incapable of forming part of a playing pitch and does not: <ul style="list-style-type: none"> • reduce the size of any playing pitch; • result in the inability to use any playing pitch (including the maintenance of adequate safety margins and run-off areas); • reduce the sporting capacity of the playing field to accommodate playing pitches or the capability to rotate or reposition playing pitches to maintain their quality; • result in the loss of other sporting provision or ancillary facilities on the site; or • prejudice the use of any remaining areas of playing field on the site.
E4	The area of playing field to be lost as a result of the proposed development will be replaced, prior to the commencement of development, by a new area of playing field: <ul style="list-style-type: none"> • of equivalent or better quality, and • of equivalent or greater quantity, and • in a suitable location, and • subject to equivalent or better accessibility and management arrangements.
E5	The proposed development is for an indoor or outdoor facility for sport, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss, or prejudice to the use, of the area of playing field.

7.14. Exception E2 - The increased car park and new car parking areas on the existing playing field is considered to meet planning policy exception E2, in that the car park is for ancillary facilities supporting the principal use of the site as a playing field, and does not affect the quantity or quality of playing pitches.

7.15. Exception E3 - The proposed footpaths to the north and west of the site are considered to be on land incapable of forming part of a playing pitch

7.16. Exception E4 - The Oxford Road site which is now sold, has a footprint of over 3.75 hectares of playing field and ancillary provision including buildings and car parking. The proposed new playing fields cover 12.38 hectares, a quantitative improvement. There would be a new clubhouse; however, there would not be a replacement facility for a FA step 5 club. As there is no step 5 club requiring such facilities, or step 6, it is not considered justifiable to insist that these are replaced on the current site. There is a need for step 7 facilities on this site which should be created in order to meet our exception E4. However, Sport England does require that the site can

accommodate a step 5 club in the future and the applicant in its letter dated 21st February 2020 have demonstrated that this would be possible in the future.

- 7.17. The quality of the pitches would need to be secured by a planning condition.
- 7.18. The location is a question mark being out of town. However, the applicant, the FA and RFU have all confirmed that the majority of the users access the existing Oxford Road site by car. It is noted that 19% of rugby users did walk. It is suggested that a travel plan condition is attached to ensure easy accessibility for walkers who require to access the new site. Whilst it is not ideal, on balance it could create more car users; a travel plan could reduce the overall car use by encouraging car share.
- 7.19. The management arrangements for both football and rugby will be no worse than the current one year rolling lease/licence arrangement, unless planning permission* is achieved then the clubs appear to be offered a 21 year lease/licence. Ideally Sport England would like to see at least a lease/licence which the cricket club have. As minimum a 25 year lease/licence for each club is required in order for the clubs to access public funds.
- 7.20. Exception E5 - The proposed rifle and pistol range is an indoor facility for sport and it is my opinion that the provision would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss, or prejudice to the use, of the area of playing field.
- 7.21. Given the above assessment, Sport England does not wish to raise an objection to this application as it is considered to broadly meet exception 4 of the above policy subject tot conditions.

Non-Statutory Comments from Sport England

- 7.22. Sport England has significant reservations with the proposed business plan. As you are aware, we (Sport England) did have an independent specialist look at the submitted business plan and they have raised a number of issues some of which have not been fully addressed. The hire costs should be on par with the bench marked pitch hire/lettings costs within Cherwell. There should be transparency over the investments and day to day the site should be, at worst, generating a financial balance or better a basic financial surplus which can be reinvested into the site;
- 7.23. Sport England is concerned about the management of the site. There is no transparency on the election to the BSA Trust and there is concern that the clubs moving onto the site will not be able to influence any changes/future development to the site for sport; and
- 7.24. As mentioned above, the lease/licence arrangements for the new sports is a cause for concern. The lack of equity does need to be addressed.
- 7.25. If these items could have been reasonably covered within the statutory element of Sport England's role, we would have objected to the planning application. As it is we would like these comments to be noted and hopefully the BSA will address them moving forward in order to create a truly robust, sustainable and first rate sporting hub for the residents of Bicester.
- 7.26. CDC PLANNING POLICY: **Comments.** These form part of the officer assessment.
- 7.27. CDC BICESTER DELIVERY TEAM: **Objects.** Observations are confined to the principle of development here as it is this that needs to be addressed before any consideration of the detail of the application.

- 7.28. In order to meet the planning policy requirements alternative provision needs to be as good as or better than the facilities being replaced. It also needs to be suitably located. Others are better placed to comment on the quality of the facilities being provided.
- 7.29. It is the location of the proposed development together with the quantum proposed that is a cause of specific concern. Currently, access to the site by car is through narrow, rural roads and the proposed development will only serve to increase the amount of car borne traffic (plus coaches) through the surrounding rural road network. There is currently no public transport service to Chesterton and opportunities for safe cycling and walking to the site are poor. These circumstances coupled with the scale of development proposed mean that without mitigations, the development will cause an unacceptable impact on the character of the local area through the increased vehicular traffic accessing the site through local roads. Even if the proposed mitigations were to be put in place, there is some scepticism that they would significantly reduce vehicular traffic because of the nature of the uses being proposed which tend to encourage visitors by car / coach and also because of the distance of the site from Bicester and Bicester transport hubs, which will mean that non-car modes of travel are likely to be less attractive to users of the proposed facilities. Thus, the site cannot be considered a sustainable location for this use.
- 7.30. As such there is a fundamental concern regarding the principle of this development. Any consideration of the application details and potential benefits that the development could provide need to be carefully considered against the above concerns, including, if consented, CDC's ability to resist future intensification / expansion of the use in this location, as suggested by the application documentation.
- 7.31. OXFORDSHIRE PLAYING FIELDS ASSOCIATION: **Objects.** Consider it is vital for people of all ages to have easy local access to high quality outdoor open space for sport, play and recreation. Whilst this planning application does offer alternative playing field space, it does not adequately make up for the loss of the Oxford Road site. Bicester is growing and it is vital that good quality playing field space is provided in a more central location that can be easily accessed without having to resort to travel by car. The Cherwell Playing Pitch Strategy states that the Oxford Road site should be retained unless its loss is mitigated by the replacement of an equivalent site. OPFA would consider that the proposed replacement site is not an equivalent due to its location outside the town.
- 7.32. OCC HIGHWAYS: A number of comments have been received from the Local Highway Authority during the course of the application. This summary provides their final position. **Objects.** The proposed development is situated in a location that is inaccessible by sustainable modes of transport. There is no suitable public transport service in the vicinity of the site, the site is beyond a reasonable walking distance from any major residential area and there is a lack of suitable walking and cycle routes to the site. This is contrary to the NPPF, Local Plan and Local Transport Plan policies which require development to be suitably located to exploit opportunities for sustainable travel.
- 7.33. The level of car and cycle parking is considered acceptable being based on survey data from the existing site and adjusted to take account of the modal share. The site access is acceptable in terms of geometry, visibility and capacity.
- 7.34. The methodology for the trip generation and trip origins is considered acceptable and the peak time for the development is considered to be outside the highway network peak. The submitted information demonstrates that the development would

be unlikely to lead to any significant traffic impacts during the peak hours of the development or peak hours of the highway network.

- 7.35. The use of the road through Little Chesterton is not ideal however its use is likely to be limited given the accessibility of this route, trip distribution and other more attractive routes being available to users of the site who are familiar with the location.
- 7.36. Traffic accident data in the area indicates a number of incidents at the crossroads of The Hale / Akeman St / Green Lane / Little Chesterton over the past five years however these related to driver error and do not identify any highway defect.
- 7.37. Whilst the measures to improve pedestrian/cycle measures are welcome, they are unlikely to make any significant modal shift. If approved the footpath the footpath along The Hale and the proposals to improve pedestrian accessibility between the site and the PROW 161/1. The proposals to contribute towards measures to encourage safer cycling through additional / enhanced signage is welcomed and would be required to provide safer access to the site should the development be permitted. The signage to Little Chesterton to discourage traffic is also welcome. In regard to the link through the Country Park there is no certainty that a pedestrian and cycle link to link Chesterton to Vendee drive could be delivered as not all of the required land is within the control of the county council or Cherwell District Council. Any potential future link through the Country Park cannot therefore be relied upon to provide a sustainable transport link to the development site. The loss of the proposed link along Green Lane into Chesterton is also unfortunate.
- 7.38. Relocation of the BSA site from Oxford Road in Bicester to Chesterton on a speculative basis that is not planned for in Cherwell's Local Plan would not be making the best use of infrastructure, would not be supporting sustainable transport and would not be reducing the need to travel.
- 7.39. Given the lack of alternatives the most suitable measure to reduce single car occupancy trips to the site will be to encourage car sharing. The Travel Plan team has been consulted on the application and the draft Travel Plan that has been submitted with the application. The Travel Plan team has concluded that it would not be realistic to request a condition to secure the implementation of a Framework Travel Plan or Travel Plan Monitoring fees due to the location of the site which, as outlined above, dictates that the majority of site users would travel to the site by car.
- 7.40. The applicant has offered a minibus service for 5 years; however, this could not be secured in perpetuity and if the minibus service is withdrawn, the site would be entirely inaccessible by sustainable transport modes. Even with the minibus service (which the County Council accepts would be beneficial), the site remains beyond a reasonable walking distance from Bicester and the cycle route remains unattractive, taking in sections of unrestricted and unlit classified roads, and so the proposed development is therefore not well located for its intended use.
- 7.41. CDC LANDSCAPE OFFICER: **Objects**. Raises concerns over the local visual impacts of the development in the short term (i.e. first 15 years) particular in views from the road to Little Chesterton to the east of the site, views from the open space and properties in Vespasian Way to east of the site and the edge of Chesterton and from views around Grange Farm in Little Chesterton to the south of the site.
- 7.42. CDC LIGHTING CONSULTANT (DESIGN FOR LIGHTING): **No objections** subject to conditions. Documentation provided demonstrates that the lighting associated with the proposed development has been appropriately outlined and assessed, demonstrating that lighting could be implemented sensitively and no give

rise to significant neighbour amenity issues. A series of planning conditions are suggested to address outstanding issues.

- 7.43. CDC ENVIRONMENTAL PROTECTION OFFICER: **No objections.** Having visited the site and reviewed the information whilst there may be some glow noticeable in the sky from the proposed lighting this will not cause light nuisance to neighbouring properties. Request condition for EV charging points.
- 7.44. CDC ECOLOGY: Originally requested more information in regard to Ecological Reports and net gain in biodiversity. Further to additional information raises **no objection** subject condition including pre-commencement badger survey, full details of lighting scheme, biodiversity enhancement and a Construction Environmental Management Plan.
- 7.45. CDC TREE OFFICER: **No objection.** The proposal includes minimal tree loss and provides mitigate for any loss. The relevant protection measures should be conditioned.
- 7.46. OCC ARCHEOLOGY: Originally objected due to lack of field evaluation. Further to the submission of further information further to trial trenching raises **no objections** to the scheme subject to a condition securing a programme of archaeological investigation.
- 7.47. OCC LEAD LOCAL FLOOD AUTHORITY: **No objection** subject to a condition securing a detailed drainage design and associated management and maintenance of the surface water.
- 7.48. NATURAL ENGLAND: **No objections.** The proposal would not damage or destroy the interest features for which the Wendlebury Meads and Mansmoor Closes SSSI is notified. Requests the drainage strategy is the FRA is conditioned.
- 7.49. CPRE: **Objects.** Loss of agricultural fields and open countryside between Bicester and M40. Unsustainable location and not served by public transport. Increase in traffic on rural roads and through villages. Flood lighting will not be compatible with dark skies and detrimental to wildlife.
- 7.50. CDC RIGHTS OF WAY: **No objections.**
- 7.51. HIGHWAYS ENGLAND: **No objections.**
- 7.52. MINISTRY OF DEFENCE: **No objections.**
- 7.53. NATIONAL AIR TRAFFIC SAFEGUARDING: **No objection**
- 7.54. THAMES VALEY POLICE: **No objection** but request Secured by Design is conditioned.
- 7.55. THAMES WATER: **No objection.** Surface water would not be disposed of into the public network. Sufficient capacity exists in regard to the foul water sewage network and water network to accommodate the development.
- 7.56. ENVIRONMENT AGENCY: **No objections.** Foul water should be connected to the main sewer.
- 7.57. CDC BUILDING CONTROL: **No comments.**
- 7.58. OCC MINERALS AND WASTE: **No comments.**

7.59. HISTORIC ENGLAND: **No comments.**

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
- BSC10: Open Space, Outdoor Sport and Recreation Provision
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD4: Decentralised Energy Systems
- ESD5: Renewable Energy
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Strategy
- ESD8: Water Resources
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built Environment
- ESD17: Green Infrastructure
- Policy Bicester 7: Meeting the Need for Open Space, Sport and Recreation
- INF1: Infrastructure
- Policy Villages 4

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- TR7: Minor roads
- C8: Sporadic development in the open countryside
- C28: Layout, design and external appearance of new development
- C30: Design control
- ENV1: Pollution control

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Local Transport Plan 4
- Open Space, Sport and Recreation Strategies: Playing Pitch Strategy (2018)
- Sport England Playing Field Policy and Guidance (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
- Landscape and Visual Impact and Design
- Transport and Highways
- Residential amenity
- Ecology impact
- Archaeology
- Sustainable construction
- Flood risk and drainage
- Other matters

Principle of Development

Policy Context

9.2. The current application is being put forward by the applicant as replacement and enhanced facilities to replace the loss of the Oxford Road site from where they currently operate. The application is therefore assessed on that basis.

9.3. Policy BSC 10 of the CLP (2015) states that the Council will ensure there is sufficient quantity and quality of, and convenient access, to open space, sport and recreation through protecting existing sites and through addressing deficiencies in provision through enhancement to existing sites or securing new provision. In determining the nature of new provision the Council will be guided by the evidence base and consult with parish and town councils. The supporting text notes that development which result in the loss of facilities will be assessed in accordance with the NPPF and will not be permitted unless the Council is satisfied that a suitable alternative site of at least equivalent community benefit in terms of quantity and quality is provided in an agreed time period. Paragraph B.161 notes that sites for new provision will also be identified in the Local Plan Part 2 (now the review of the Local Plan). Policy Bicester 7 states that, as part of the measures to address current and future deficiencies in open space, sport and recreation, the Council will seek to protect the existing network of green spaces.

9.4. The NPPF advises that the social objective of sustainable development includes supporting well designed and accessible services and open spaces (paragraph 8). Paragraph 91 emphasises that planning decisions should aim to achieve healthy and inclusive places including through the provision of safe and accessible sports facilities. Paragraph 92 advises that planning decisions should guard against the loss of valued facilities, particularly where this would reduce the community’s ability to meet its day to day needs. Paragraph 96 advises access to a high-quality open space and opportunities for sport are important for the health and wellbeing of communities and planning policies should be based on robust and up to date assessments. Paragraph 97 states:

Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or

b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or

c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

- 9.5. Sport England's Play Fields Policy (March 2018) outlines Sport England's approach when proposals lead to the loss of playing field. Generally, they will object to applications which lead to the loss of playing fields unless a relevant exception is made. In this case the most relevant exception is Exception E4. This states:

The area of playing field to be lost as a result of the proposed development will be replaced, prior to the commencement of development, by a new area of playing field:

- of equivalent or better quality, and*
- of equivalent or greater quantity, and*
- in a suitable location, and*
- subject to equivalent or better accessibility and management arrangements*

- 9.6. Strategic objective 13 of the adopted Cherwell Local Plan 2011-2031 aims to reduce the dependency on the private car as a mode of travel and to increase opportunities for travelling by other modes. Policy ESD1 also aims to mitigate the impact of development on climate change by delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce the dependence on private cars.

- 9.7. Policy SLE4 of the CLP (2015) has similar objectives where it sets out that: "*The Council will support the implementation of the proposals in the Movement Strategies and the Local Transport Plan to deliver key connections... New development in the District will be required to provide financial and/or in-kind contributions to mitigate the transport impacts of development.*" It goes on to state 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. Encouragement will be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.

- 9.8. Policy ESD1 seeks to guide development to mitigate the impact on climate change by delivering development which reduces the need to travel and which encourages sustainable transport options.

- 9.9. The Oxfordshire Local Transport Plan 4 (LTP4) at Policy 17 states that OCC will seek to ensure through co-operation with the districts and city council that the location of development makes the best use of existing and planned infrastructure, provides new or improved infrastructure and reduces the need to travel and supports walking, cycling and public transport. The LTP4 goes on to state that it is essential that planning applications for new developments are assessed in terms of their location, so that they reduce the need for travel and can be served by sustainable modes of travel other than the car. The Bicester Area Strategy states that there is a need for a significant increase in the proportion of trips to be made by

public transport, cycling and walking if the anticipated level of growth is to be accommodated. It is essential to provide high quality access to key locations by walking and cycling and the public transport network.

- 9.10. The transport impacts of the development must be considered against these policies and the requirements of Section 9 of the NPPF.
- 9.11. Paragraph 103 of the NPPF states that: *“The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, 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.”*
- 9.12. Paragraph 108 of the NPPF states that: “In assessing sites that may be allocated for development in plans, or 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.”

Assessment

(a) Is it a replacement facility?

- 9.13. During the course of the application the applicant has been asked to clarify whether the proposal is being put forward as a replacement facility to the Oxford Road site sports provision, which the BSA has sold but which has not been redeveloped and whose lawful use remains that of sport and recreation. The applicant states the current application is proposed as a replacement facility and as such, and while this is not straightforward, officers have assessed the application *principally* on this basis and having regard to the policies and guidance relating to replacement facilities.
- 9.14. Like third parties, officers do have some reservations regarding whether the proposals can truly be regarded as replacement facilities as there are no current proposals to redevelop the Oxford Road site and the Oxford Road site is no longer within the BSA’s ownership. Therefore, the BSA has no control over whether or not the Oxford site is redeveloped, which impacts on the link between the two sites and therefore the matter of whether or not the current proposal is really a replacement facility.
- 9.15. This matter has also been discussed with Sport England (“SE”) which has considered the application as a replacement facility on the basis, SE advises, that it would always wish to see the replacement facilities provided prior to the loss of the existing facilities. Whilst there is no current planning application to redevelop the Oxford Road site, SE indicates that if the current proposal was fully delivered at Chesterton SE would consider it to be acceptable replacement facilities and would not object to future redevelopment of the Oxford Road site.
- 9.16. Clearly, there would be no duty on the applicant to deliver all the facilities in one go, and it is a fundamental principle of planning that one cannot require a development

to be completed. Importantly, if the current proposals were only partially delivered, SE reserves its right to object to any future planning application which resulted in the loss of the Oxford Road site for sport and recreation. Officers consider that SE's assessment (i.e. as a replacement facility) to be appropriate and that there are relevant safeguards in place. It does, however, mean that if the Planning Committee were to conclude that the proposals were acceptable replacement facilities then *this would be a significant material consideration in determining any application for the future redevelopment of the Oxford Road site.*

- 9.17. The applicant also states that the Oxford Road site would be lost as playing fields even if the current application is not permitted, because the BSA has sold the site. The Oxford Road site is listed as an Asset of Community Value, which also demonstrates it is a valued facility to the local community and this is a material consideration in the determination of any planning application.
- 9.18. The applicant has provided a letter from the new owner of the site, Oxford Road Holdings Limited ("ORHL"), who have stated that at the current time it has no plans for the site, but that it anticipates engaging in the emerging Local Plan process. ORHL also states the BSA lease expires at the end of May 2021 and at that time ORHL will obtain vacant possession of the site. It is ORHL's intention that the site remains vacant until a future use has been determined. As such ORHL's intention for the future use of the site is currently unclear. The ORHL's future aspiration for the Oxford Road site is only given limited weight by officers.
- 9.19. Importantly, the lawful use of the site will remain as playing fields and any material change of use of the land would require planning permission, which would need to be assessed against the Development Plan and in light of other material considerations.
- 9.20. Whilst there is the potential that ORHL would cease to allow the site to actively be used by sporting clubs, in officers' view this cannot be given significant weight in favour of the current proposal. To give this matter elevated weight would undermine the policy objective to protect playing fields from loss and result in the policy having little application in land use terms as it would be purely governed by the intentions of owners. Officers consider it is the lawful use of the land that needs to be considered and given primacy rather than any future intentions of the landowner.

(b) Is it in accord with the Council's Strategy?

- 9.21. The Council has had a Playing Pitch Strategy (2018) undertaken as part of the evidence base for the review of the Local Plan. In summary, in relation to Bicester, it states that the Oxford Road site should be retained unless a suitable replacement is provided. In relation to football it states a replacement Step 5 stadia pitch (to meet the ground grading requirement of the Football Association) should be provided if the Oxford Road site is lost to development.
- 9.22. It also identifies that there is not currently a deficiency in grass football pitches in the Bicester area and states that between 5ha to 8ha of additional playing fields needs to be provided to meet the needs up to 2031. The Council's Wellbeing Team states this requirement will be met by the new strategic development around Bicester.
- 9.23. In terms of Rugby Union the Playing Pitch Strategy (2018) focuses more on club level needs. It highlights the long-term objective of Bicester RFC to operate from a single site (the Club currently plays from both Chesterton and Oxford Road) but goes on to highlight the concerns the Council has previously had regarding the sustainability of the Chesterton site, as shown in the planning history of refusals. It states the Rugby Club will require the equivalent of 4 pitches plus clubhouse

facilities to generate revenue. There is currently no identified alternative single site to which the Bicester RFC can move. Until a single alternative site is identified and secured, and the replacement facilities and pitches provided, it advises that the existing pitches and clubhouse at Oxford Road will need to be retained. These matters are not determinative as to the acceptability or otherwise of the current proposal, but officers consider the above to be material to the current application.

9.24. Turning to the matter of whether the proposed development would be appropriate replacement facilities there are a number of matters to consider. The policy requires the replacement facilities to be equivalent or better provision in terms of quantity and quality and also for an assessment to be made of whether they are in a suitable location. Case law (*R (Turner) v. Secretary of State for Communities and Local Government [2015] EWHC 375*) indicates that it is not necessary in all cases for the provision of at least equivalent standard in terms of both quantity and quality and a balanced judgement needs to be made having regard to the specifics of the case. Therefore, the enhancement of one element may outweigh the loss of a different element.

9.25. First, in terms of quantity, the proposed development would clearly lead to an overall increase in the amount of sporting provision and supporting infrastructure when compared to the Oxford Road site. The below table provides a comparison between the existing and proposed overall playing field areas:

Site	Playing Field Area		
	Now	Future	Difference
Oxford Road	10.3 acres/ 4.2 ha	0	0
Chesterton	28 acres/ 11.4 ha	60 acres/ 24.5 ha	+32 acres/ +13.1 ha
Total	38.3 acres/ 15.6 ha	60 acres/ 24.5 ha	+21.7 acres / +8.9 ha

9.26. As can be seen there would be an 8.9ha increase in area. This would include the provision of (but not limited to) the following additional proposals:

- Increase in size of rugby training pitch from three-quarters to full size pitch and improved floodlighting
- 1 additional full size football training pitch with floodlighting
- 1 additional full size flexible pitch for rugby or football
- Addition of rugby training pitches (floodlit)
- Additional changing rooms for officials (3 additional), football team (2 additional) and 1 accessible changing room, which would all be DDA compliant and meet the sporting bodies guidelines.
- Larger function and bar space for clubs
- Replacement 25 rifle range with 2 additional firing points and 10m indoor pistol range

9.27. Overall it is considered that there would be an increase in the quantity of facilities at the site, which may help meet some of the rugby needs identified in the Playing Pitch Strategy (2018). It is, however, noted that the needs of the Rugby Club, who

are a key element of the Playing Pitch Strategy recommendations, which is club-specific, have remained neutral on the current application and have residual concerns, and it is not been demonstrated that the Rugby Club would move to the current site. This tempers the benefits that can be attached to the provision of the proposed facility. Furthermore, the development would be providing for the sporting needs of the growth town of Bicester on a site which is located outside of Bicester and is relatively inaccessible to the residents of Bicester.

- 9.28. In terms of quality of provision, the applicant argues that the condition and quality of the pitches and supporting infrastructure (such as changing rooms etc) at the Oxford Road site is poor and not suitable for the BSA or clubs' requirements. The applicant states that the pitches and building need approximately £500,000 spent on them to bring them up to an acceptable standard. Whilst it is accepted a level of investment is required to bring the site up to a better standard, it is not clear why such management and maintenance of the site was not undertaken by the BSA to maintain the site to a good standard which, until recently, owned the site for a number of years; therefore this matter is not given significant weight.
- 9.29. Furthermore, the BSA no longer owns the site so such investment would be unlikely to be undertaken by them and should have been reflected in the price paid for the site by the new owner.
- 9.30. However, it is accepted that the new facilities at Chesterton would provide an improved quality of facility being a largely new build development (e.g. DDA compliant changing rooms) and pitches to a modern standard and this could be secured by a relevant planning condition. It is further noted that Bicester Rifle and Pistol Club and the Cricket Club both support the current application.
- 9.31. The main concern regarding whether the site is of equivalent or better quality relates to the loss of a stadia-accredited football pitch at the Oxford Road site. The football pitch at the Oxford Road site has been classified by Sport England/The Football Association as one that meets the requirements of hosting football matches at the Step 5/6 level (this relates to the competitive level of the football can be played at the site – Step 1 being the highest). The Oxford Road site secured this when Bicester Town FC played at the site some years ago in a higher league. The club that now plays at the site, Bicester United, play at Step 8 level and the new replacement football facility has been designed to meet their requirements. The applicant also states that when assessed against the relevant criteria in the FA's standards the Oxford Road site does not meet the requirements of hosting matches at Step 5/6 level and the facilities are deficient, particularly in terms of changing provision and spectator accommodation.
- 9.32. During the course of the application extensive discussions have taken place between the applicant, SE and the Council's Wellbeing Team. Whilst the loss of a facility for a Step 5 club is regrettable, and in conflict with the recommendations of the Playing Pitch Strategy (2018), on balance SE and the Council's Wellbeing Team have not raised any objection in this particular regard. The concerns regarding the quality of the existing Step 5 facility at Oxford Road are noted and SE advises that, as there is currently no Step 5 club requiring such facilities (or Step 6), in its view it would not be justifiable to insist they are replaced on the current site. There is a need for a facility to accommodate a Step 7 club and SE confirms that the current proposal would achieve this. The applicant has also provided information to demonstrate to SE's satisfaction that the site has been laid out to accommodate the upgrading to a Step 5 club in the future if it is required and viable at the time (albeit this would be likely to have further visual impacts (such as spectator stands, further flood lighting and fencing)) and also subject to the approval by the BSA.

- 9.33. On balance, in light of the above including SE's view on this matter as a statutory consultee, and that of the Council's Wellbeing Team, and the other improvements to provision outlined above, the fact the site does not include a facility capable of accommodating a Step 5 club is considered not to justify refusal of the application.
- 9.34. In addition to the enhanced quantitative provision outlined above the proposal would have some qualitative improvements associated with it. This includes the improved changing and social provision for clubs, and the pitches being constructed to appropriate standards with modern drainage (which will improve playing surfaces and reduce the number of cancellations) which could be controlled by condition. The new site also offers the potential for further potential expansion in the future such as the provision of 3G Artificial pitches (if which the Playing Pitch Strategy indications there is a need) whereas the Oxford Road is more constrained in size.
- 9.35. SE considers the proposed parking areas on the existing parts of the site to be acceptable as they are for ancillary facilities supporting the principal use of the site as a playing field, and do not affect the quantity or quality of playing pitches. Furthermore, SE advises the access proposed to the north and west of the site is on land incapable of forming part of a playing field.
- 9.36. Whilst SE raises no objection to the application in its statutory capacity, it does still have concerns regarding the proposed business plans, and it raises concerns over the proposal's longer term sustainability, and notes the day to day running of the site should at worst generate a financial balance and at the current time the SE is not convinced of this. Many of these issues remain outside of the scope of the consideration of the planning application, such as the election to the Trust of the BSA, its governance structures, the lease/licence arrangements and the ability of clubs to be able to influence any changes at the site. However, these matters do raise concerns over the future benefits of the site and whether the current proposals are sustainable in the long term, and it is impossible to say that, if the BSA does move to the application site, the same arguments would not be made in support of another site in the future.

(c.) Is it a suitable location?

- 9.37. In this respect officers have very significant concerns regarding the geographical sustainability and accessibility of the site, having regard to the scale of the proposal. It is accepted that the site at Chesterton is already used for sports by the BSA and that many of the BSA members already use both sites (albeit the dance classes, cheerleaders, line dancers, etc. only use the Oxford Road site).
- 9.38. However, the current proposal would lead to a significant intensification of the use at Chesterton with the relocation of all activities to this site and also the likely future potential to attract further clubs/uses in the future attracting further trips. These relocated activities (which are significant in number and are detailed in Table 3 of the applicant's Sporting Need Document accompanying the application) would all result in further trips to the site and users of the site have little option but the drive to the Chesterton site.
- 9.39. Whilst it is noted that SE has not objected to the application on this ground its remit is understandably limited in focus, and it is the role of the Local Planning Authority to assess the sustainability of the site when viewed in the context of the Development Plan as a whole and various other consultee share the concerns of Officers.
- 9.40. The application site is located approximately 300m to the south west of Chesterton in an open countryside location. It is separated from the village of Chesterton by open fields and currently no footpath connections exist between the village and the

existing site. The site is located over 1.2km (as the crow flies) from the closest edge of the new built limits of Bicester (Vendee Drive) and in excess of 3km from the town centre. These distances are increased when travel by road is taken into account. The distance to some other residential parts of Bicester is significantly greater.

9.41. The roads between the application site and the town are not considered to be attractive for cyclists or pedestrian with significant elements being unlit, not accommodating footpaths and being 60mph speed limits. There is extremely limited public transport serving Chesterton with 1 single service morning bus service on Monday to Friday at 07:25 and no return service. This would therefore be of no use to the users of the proposal. Therefore, it is considered that there are extremely limited opportunities to encourage sustainable forms of travel, such as walking and cycling, between the site and the wider built up limits of Chesterton and Bicester at the current time given the distance and quality of the routes.

9.42. The application includes the provision of a number of off-site highways works in order to attempt to improve pedestrian and cycle connections between the site, Chesterton and Bicester and also other measures to reduce car use. These include:

- *Provision of a new continuous footpath along the eastern part of The Hale to link the site to the new footpath to the northern end of The Hale which was delivered as part of the Taylor Wimpey scheme at The Paddock.* This would provide a more direct walking route to the A4095 through Chesterton although it is noted that the footpath would not be ideal in terms of width reducing to approximately 1 metre in places. It is not clear if this would have street lighting.
- *Works to the A4095 to provide crossing points and a small area of additional footpath to provide better connections for pedestrians to link the public right of way (161/1), which runs through fields (unpaved and unlit) to the north of Chesterton and links back to the outskirts of Bicester.* The proposals originally included pedestrian islands on the A4095. However, the LHA advises that islands are not needed or deliverable due to the width of the road.
- *Contributions to improved signage for along the A4095 to Vendee Drive to improve cycle connections*
- *Implementation of a Framework Travel Plan which seeks to encourage car sharing and appointment of a Travel Plan Co-ordinator*
- *Provision of cycle parking and changing and shower facilities*
- *Provision of a bespoke minibus service as part of the Travel Plan. The effectiveness of this would be reviewed on an annual basis and either continued or ceased depending on its success.* The applicant has now stated that it would provide the facility for a minimum of 5 years. It is proposed that the BSA would make available a minibus for clubs to hire at a cost. The clubs that wish to use the minibus would have to arrange use of the bus from the BSA and then have to arrange a minibus shuttle bus service to a designated local pick up /drop off point for their members. The BSA would have the final say over who is able to use the minibus.

9.43. The applicant originally suggested that some links may be provided to the east of the village along Tubbs Lane and through the new country park which is proposed between the Vendee Drive and Chesterton (19/01351/CDC). However, there is no current plan for such a link to be provided and it is understood that it would rely on third party land. Therefore, this is not considered to be a matter that can be given any weight in looking at the connections to the site. The applicant has offered a

financial contribution toward the creation of a future link; however, given the above conclusion it is not considered this would pass the relevant legal tests.

- 9.44. The applicant also originally proposed a new 2m wide footway along the southern part of Akeman Street/ Green Lane to connect the site to the footpath in Chesterton village to the east at Vespasian Way. However, given the applicant is now proposing a footpath along The Hale it has withdrawn this offer and considers the access along the Hale to serve a similar purpose. This is unfortunate as it would mean residents living in the southern part of the village who wish to access the site would need to take an indirect and inconvenient route to access the site on foot and some may choose to walk along the carriageway leading to safety issues. Officers therefore consider this weighs further against the accessibility of the proposals.
- 9.45. The proposed development is likely to generate significant levels of trips at peak times during its use, and it is of a scale that seeks to provide substantial levels of sporting provision at the site to serve the residents/clubs of Bicester and the wider area. The postcode data of BSA members identified a high number of their current users come from the built up area of Bicester.
- 9.46. Although the above measures to improve the accessibility of the site are welcome, officers consider they are unlikely to result in any meaningful level of modal shift away from the private motorcar due to the location of the site (i.e. distance from Bicester and public transport) and the poor quality of the routes and connections for walking and cycling.
- 9.47. The site is considered to be beyond a reasonable walking distance from major residential areas. The applicant's own evidence suggests that virtually all trips to the existing Chesterton site are made by private car (97%) and it is considered that even with the proposed improvements the proposed expansion would lead to a very high level of access by private car and not provide genuine other opportunities to travel to the site.
- 9.48. Whilst the proposal for a mini-bus service is positive it is not considered to result in a convenient or acceptable alternative to suitable public transport and convenient walking/cycle routes to overcome the issues with the accessibility of the site. The operation of the service is likely to be administratively complex and the complex mix of users of the site and likely different training time etc are not likely to make it a convenient or attractive alternative which is likely to discourage use. Furthermore, it would not be secured in perpetuity and would be reviewed on annual basis after 5 years. It is therefore not considered to overcome the central concern regarding the inaccessible location of the site.
- 9.49. The Oxford Road site is much more accessible than the proposed expanded site in Chesterton and has numerous walking routes, public transport opportunities and is in proximity of the town centre and residential areas. Whilst the level of trips to the existing Oxford Road site by means other than car may not be ideal at the current time (according to the applicant's survey 21% of trips made by non-car modes at the Oxford Road site) there are at least viable and attractive opportunities to access the site by means other than private car which people visiting the site could use.
- 9.50. The planning system cannot require people to use non-car methods of travel. However, it does require that planning policies and decisions seek to guide development to reduce the need to travel by car and that development is planned to provide genuine options to reduce the need to travel by placing new development in accessible and sustainable locations.

- 9.51. The social objectives of the NPPF also require facilities to be located in convenient and accessible locations to allow access to all parts of the community. The proposal to relocate the sporting facilities to Chesterton would be a in a significantly less accessible location for the residents of Bicester and the surrounding area, which the development is intended to serve and many of the users of the site come from.
- 9.52. In officers' view this weighs significantly against the development and results in the development being an unsustainable form development even when weighed against the sporting benefits. Officers consider the site is not an appropriate location for this scale of sporting facilities which is intended to meet the needs of the communities of Bicester and surrounding area, and that – as stated by national and local planning policy – development of the nature and scale proposed here should be directed to a more sustainable location, which is conveniently accessible by a variety of sustainable forms of travel both in terms of providing social access to the sports facilities as well as reducing the need to travel and mitigating the impacts on climate change

(d.) Would there be the same concerns if the proposal was treated as additional sporting provision rather than a replacement facility?

- 9.53. Officers have given this consideration because of the concerns set out earlier in this report as to whether the proposals should be treated as replacement facilities. Officers consider the significant weaknesses to the accessibility and sustainability of the location would remain and therefore a planning application would not be supported on this basis whether the facilities were additional or replacement.
- 9.54. Officers acknowledge that the Council does not currently have any sites allocated to meet the needs of the Rugby Club in the relatively new Playing Pitch Strategy. However, this is part of the evidence base that will inform the plan making process of the review of the Local Plan. It has not yet been subject to examination and whilst it is accepted that the proposal may have sporting benefits in meeting some of the identified needs this is not considered to outweigh the harm arising from the proposal.

Conclusion

- 9.55. The proposed development has been put forward as replacement facilities for the Oxford Road site. Officers consider that the quantity of provision is acceptable and would lead to an increase in sporting provision, and would potentially meet some of the needs for rugby highlighted in the Playing Pitch Strategy; however, this is tempered by the rugby club not actively supporting the proposal. In terms of the quality of the provision, on balance, this is also considered to be acceptable although the loss of the facility to accommodate a Step 5 football club is regrettable, but when weighed against the other matters is considered acceptable.
- 9.56. Officers' main concern, however, relates to whether the proposal would be a suitable location for this scale of sports provision which is being provided to meet the needs of Bicester. In this respect, given the site's poor accessibility and the lack of sustainable transport opportunities to the site, the proposal fails to accord with Policy ESD1, SLE4 and BSC10 of the Cherwell Local Plan Part 1 and Government guidance in the NPPF, which seeks to reduce the need to travel, provide genuine choices on transport and plan new recreation and sports provision in accessible locations. The site's location weighs heavily against the proposal.

Design and landscape and visual impact

Policy Context

- 9.57. Policy ESD13 of the Cherwell Local Plan advises that development will be expected to respect and enhance local landscape character and a number of criteria are highlighted including that development is not expected to cause visual intrusion into the open countryside, must be consistent with local character and must not harm the setting of settlements, buildings or structures.
- 9.58. Policy ESD15 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.
- 9.59. 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. Saved Policy C8 seeks to resist sporadic development in the open countryside. The accompanying text for Saved Policy C8 includes that development in the countryside must be resisted if its attractive, open, rural character is to be maintained. The NPPF at paragraph 170 states that planning decisions should recognise the intrinsic character and beauty of the countryside.
- 9.60. 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.
- 9.61. National Planning Policy Framework, Section 12 'Achieving well-designed places', paragraph 127 states that planning decisions should:
- (a) function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - (b) be visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - (c) be sympathetic to local character and history, including the surrounding built environment and landscape setting,
 - (d) establish or maintain a strong sense of place.
- 9.62. Paragraph 130 states permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of the area and the way it functions.

Assessment

- 9.63. The application is supported by a Landscape Visual Impact Assessment. This assesses the predicted effects on landscape features and character and on views resulting from the proposed development and then seeks to identify the significance of these effects.
- 9.64. The site is not located in a designated landscape and it is not considered that it can be regarded as a 'valued' landscape as outlined in paragraph 170 of the NPPF on which there is significant caselaw. However, that is not to say the landscape is not attractive or the landscape or visual impacts and impact on character and appearance of the area can be ignored. The site lies within the open countryside to the west of Chesterton and is separated from the village by open fields. To the

south of the site is Little Chesterton and to the west of the site is open fields and the M40 motorway. To the north of the site is Bicester Golf Club. There are several public rights of way in the vicinity of the site including footpath 161/5/10 immediately to the east of the site and footpath 161/4/10, which links Little Chesterton to Chesterton to the east of the site. There are also footpaths to the west of the site on the opposite side of the motorway. The site is broadly level. The site consists of two elements: The existing sports ground to the north with single storey ancillary structures and an arable agricultural field to the south.

- 9.65. In terms of landscape character at a local level the site is split between two Landscape Types: Wooded Estatelands, which includes the majority of the Site; and Clay Vale, which includes the south-eastern tip of the Site as outlined in the Oxfordshire Wildlife and Landscape Study (OWLS). The key characteristics of the Wooded Estatelands Landscape Type relevant to the site include regularly-shaped field patterns dominated by agriculture and the reference to the vernacular character of villages. The landscape character guidance focuses on the reinforcement of the landscape pattern by restoration of hedgerows and vegetation flanking watercourses. The key characteristics of the Clay Vale Landscape Type relevant to the site, include dense, tree-lined streams and a flat, low-lying landform, and mixed land uses. Again, the character guidelines focus on strengthening vegetation patterns.
- 9.66. The proposed development seeks to provide a 10 metre wide area of new roadside trees and understorey planting to the eastern boundary of the southern field (currently this is open with no hedgerow or planting) and also further planting to the southern boundary which is also currently relatively open to the fields and Little Chesterton to the south. Additional planting is also proposed to the western boundary of the southern field. The idea behind the planting is to screen the development in from views outside of the site.
- 9.67. The Landscape Officer has reviewed the LVIA and agrees with its assessment in terms of the impact on landscape features and landscape character. This concludes that in relation to landscape features there would be a minor beneficial impact to ditches and hedgerows/trees as a result of the proposed landscaping at year 1 which would be moderate beneficial at year 15 given the establishment of the new planting on the boundaries which is a feature of the landscape. There would, however, be moderate adverse impact as a result of the loss of the agricultural field being replaced with amenity grassland and supporting infrastructure which would change the character of the land use.
- 9.68. In terms of visual impacts, the northern boundary of the wider site and the existing sports fields already have a larger degree of visual containment in the wider landscape given the existing planting on the boundaries. However, views of the buildings and infrastructure are available from the surrounding particularly in the winter months and from the site entrance. The southern field, which is currently in agricultural use, is much more open to views in the surroundings given the limited screening particularly to the eastern boundary with the narrow lane to Little Chesterton and southern boundary with Little Chesterton. The Landscape Officer agrees with many of the findings in the applicant's LVIA that there would be minor or negligible impacts from view points to the north and west of the site. However, the Landscape Officer does raise concerns regarding some of the localised visual impacts to the south and west of the site.
- 9.69. It is considered that the most significant impact would be on users of the narrow road immediately to the west of the site and these are considered to be Major Adverse in the context of the LVIA particular prior to the new landscape features becoming established which is likely to take a number of years. People using this

route include drivers and walkers who focus on the landscape. The openness of the southern part of the site (the arable field) currently provides an attractive and pleasant route which is experienced whilst walking along the road. The proposed development, including the club house, flood lighting and car parking, would be clearly visible from this route and would result in a significant adverse change. Whilst views from this area would diminish over time with the growth of the boundary treatment, they would remain prominent and adverse for a number of years.

- 9.70. Medium adverse impacts are also considered to exist to the south of the site from Little Chesterton, around Grange Farm where views of the proposals would be apparent. There are also likely to be partial views of the proposal through parts of Little Chesterton at night which would be more prominent due to the floodlighting and the fact that the village currently has a very rural and isolated character.
- 9.71. The Landscape Officer also states that the views of the club house and infrastructure from the public open space and properties in Vespasian Way are also likely to be higher than outlined in the LVIA and result in major medium significance of effect. It is considered these views would be harmful particularly prior to the proposed landscaping on the eastern boundary becoming established. At year 15 it is predicted, with the growth of the landscaping, that the club house would be largely screened, from ground level viewing points; however, the tops of the flood lights are still likely to be visible and prominent especially when in operation and in the context of the open countryside location.
- 9.72. As outlined elsewhere in this report the lighting scheme has been designed to reduce the impact on neighbouring properties and reduce glare and skyglow. However, the proposal would still lead to the introduction of new significant light sources in the form of 2 flood lit pitches (with 15 metre high flood lights) and street lighting serving the car park and access (6 metres height) which would be visible from the surrounding area. These light sources are spread across the site and include one flood lit pitch in the northern part of the site and one in the south. This would further exacerbate their visual impact.
- 9.73. Whilst it is accepted there are other sources of light in the locality such as Bicester Golf Club, the proposal would introduce a further, more significant source of light and would result in the introduction of a series of blocks of light in an open countryside location. This would be detrimental to the rural character and appearance of the locality and would harm the visual amenities of the area. Views of the lighting are likely to be particularly prominent from the east and south of the site where more views are available and are considered to appear incongruous. The proposed landscaping would help to reduce some of these views, albeit not eliminate them, and would take a number of years to have any real impact.
- 9.74. The landscape officer has had a number of discussions with the applicant with the objective of achieving a robust landscaping strategy and has no objection to the detailed landscaping scheme now proposed. However, the landscaping would take years to fully establish and provide significant levels of screening to the site and the shorter to medium term harm cannot be discounted in making the assessment. Even with the landscaping in place the visual impacts of the development would still lead to some adverse impacts on the locality.
- 9.75. In terms of the buildings the proposed new club house building would be a relatively large, two-storey building located to the centre of the wider site (to the north of the field currently in agricultural use). A large parking area would be located to the north of this. The building would be externally faced in blockwork on the ground floor (bathstone coloured) and a mixture of timber cladding and insulated metal panels to

the first floor and roof. It would accommodate a first floor external terrace area for outdoor seating and recreation and an external metal stair case.

- 9.76. The siting of the club house is designed to be central to the site to allow all the pitches to surround it which is logical in an operational sense. However, the two-storey scale of the building (compared to the existing buildings which are all single storey) and its central location away from the existing buildings on site and within the more open and visually exposed part of the site would exacerbate the visual impacts of the development as outlined above.
- 9.77. The applicant contends that the design approach references agricultural buildings which might be found in the surroundings. However, officers consider that, whilst the materials may reference such buildings, its location – alongside the complexity of some of the design elements such as the first floor external terrace, external staircases and fenestration – all result in a building which would appear incongruous and dominant in the rural surroundings.
- 9.78. The other elements of the scheme such as the parking and additional buildings would also result in an urbanising impact on the site to a lesser degree.

Conclusion

- 9.79. Overall, therefore, the proposal is considered to lead to harm to the rural character and appearance of the area and result in an urbanisation of the site. The short to medium term (first 15 years) visual impacts of the scheme are considered to be greatest and of significant weight against the proposal. Whilst the landscape and visual impacts of the development, including the flood lights and club house, would reduce over time with the long term establishment of the new planting, there would remain adverse visual impacts which would be harmful to the rural character and appearance of the area. The proposed development is therefore considered to be contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan Part 1 (2015), Saved Policy C8 and C28 of the Cherwell Local Plan 1996 and advice in the NPPF which seeks to promote development which is sensitive to the character of an area and recognises the intrinsic character and beauty of the open countryside.

Transport and highways

Policy Context

- 9.80. Policy SLE4 of the CLP 2015 states that development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported. Paragraph 109 of the NPPF states: "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."

Access and traffic impact

- 9.81. The current application seeks to enlarge the existing site access and provide internal access roads to accommodate the increase in vehicle traffic and coaches using the site.
- 9.82. The application is accompanied by a Transport Statement which has been considered by the Local Highway Authority (LHA). Originally queries were raised regarding the traffic impact analysis and the peak hour used in the assessment not reflecting the peak hour on the surrounding highway network. This has since been addressed by the applicant and the LHA is satisfied that the level of assessment

within the submitted documents is adequate to make a robust assessment of the traffic impacts.

- 9.83. The LHA considers the enlarged vehicular access to the site and visibility splays would provide a safe and suitable means of access to accommodate the increase in traffic including coaches and vehicles. It is noted that all vehicles would be able to enter and leave the site in a forward. The junction capacity assessment which has been provided also demonstrates that the site access would operate comfortably within capacity in future years and queuing and congestion are unlikely.
- 9.84. In terms of trip generation this has been estimated based on the sum of two-way trips to both the Oxford Road and Chesterton sites with a proportional uplift applied to the existing Oxford Road survey data to take account of the higher number of people likely to travel to the Chesterton site by car (assumes 97% car mode share). The traffic surveys were undertaken at the BSA Oxford Road site and the existing BSA Chesterton site during busy periods of a weekday and a weekend with the surveys coinciding with a rugby match at the Oxford Road site and a weekday training season and weekend cricket match at the Chesterton site. At peak times for the development it is expected to generate around 109 two-way movements during the busiest weekday hour which would be between 18:30 and 19:30. This does not correspond with the highway network peak which is typically 17:00 – 18:00. The LHA notes the third party comments that have been made regarding the robustness of the traffic impact but is satisfied with the methodology used which included monitoring the existing sites and the distribution of trips which is based on the postcode data for members of the BSA.
- 9.85. The LHA has considered the information submitted in the TS and subsequent additional information and does not consider that the proposed development would lead to a severe traffic impact. This is a high threshold for traffic impacts and is the test outlined in the NPPF and which must be used to assess the application against. Therefore, based on the technical advice provided the proposal is considered to be acceptable in terms of highway capacity and traffic impact. The LHA has also reviewed the accident data for the surrounding area, in particular the crossroads to the north east of the site and considers the proposal would not result in highway safety concerns. In light of this officers have no objection on this basis.
- 9.86. The LHA has considered the concerns that have been raised regarding the use of the route from the A41 through Little Chesterton, which is a narrow single track access that would not be suitable for significant increases in amounts of traffic. The applicant has stated that the use of this route would be limited as it is narrow and there are more attractive routes available. However visiting teams who are unfamiliar with the local highway network may be directed to travel this route as certain Satnav systems show this route. Due to the fact that the Little Chesterton road is only accessible from the northeast bound carriageway of the A41, this route would only potentially be used for arrivals to the site from the southwest (A34 / M40) and is unlikely to be used for any departures.
- 9.87. The traffic distribution exercise undertaken indicates that c.30% of trips to the site are expected to originate from the southwest direction (A34 / M40). However, the actual percentage of arrivals using the route through Little Chesterton is likely to be much lower as not all visitors arriving from the southwest would choose this route. For instance, members of the BSA who frequently travel to the site are more likely to avoid this route, being more aware of the local highway network. The applicant has also offered a contribution to provide signage to discourage the use of this route where it meets the A41 such as a sign stating: 'No access to Bicester Sports Association'. The LHA therefore considers that while the development does have the potential to increase traffic flows through Little Chesterton, this increase in traffic

flow is likely to be small, even during the development's peak hours, and therefore would not be considered severe.

Parking

- 9.88. The proposal includes the provision of 267 parking spaces across the site and 4 coach parking spaces. The level of parking provision is based on parking accumulation surveys undertaken on busy days at the existing Oxford Road BSA site and Chesterton BSA site. The figures have been adjusted and uplifted to reflect the higher car mode share of trips that would likely to be generated from the Chesterton site compared to the existing site at Oxford Road. The LHA has examined this and accepts the methodology and the level of parking proposed and on this basis officers consider the level of parking to be acceptable to serve the needs of the development.
- 9.89. The proposal also includes 66 cycle parking spaces which are located next to the buildings on site and this is considered to be acceptable to serve the development.

Conclusion

- 9.90. The proposal is therefore considered to accord with Local Plan Policy ESD15 and Government guidance in the NPPF in this regard.

Residential Amenity

Policy Context

- 9.91. Policy ESD15 advises of the need for new development to consider the amenity of both existing and future development. Local Plan Saved Policy ENV1 states development likely to cause materially detrimental levels of noise, vibration or other types of environmental pollution will not normally be permitted.

Assessment

- 9.92. The application has been accompanied by an Environmental Lighting report which sets out the broad strategy for the lighting of the site and looks at the impact of on the residents and users of the locality. This includes consideration of the flood lighting to the sports pitches (15m high) and the lighting serving the access and parking areas serving the development. This concludes that the proposed development would be acceptable and no give rise to undue intrusion to neighbouring properties which are some distance from the site and any intrusion would be within acceptable limits. The lighting report has been assessed by both the Council's Environmental Protection Officer and an external consultant employed by the Council who have raised no objection to the scheme subject to appropriate conditions including a fully detailed lighting scheme. Whilst it is accepted that the lighting will be visible from neighbouring properties this in itself is not a reason for refusal on residential amenity grounds. Therefore, the proposed development is considered to be acceptable in this regard.
- 9.93. The proposal would lead to an increase in vehicular traffic through Chesterton. From the trip distribution outlined in the Transport Statement the peak this is predicted to be Saturday morning. Outside of this peak the traffic associated with the development would be significantly less and for much of the time there would be little impact. Whilst the increase in traffic would increase noise and disturbance to some degree it is not considered that a reason for refusal could be sustained on residential amenity matters as the roads are already in use and any increase in noise and disturbance is not considered to be significant.

- 9.94. The site is located some distance from residential properties and whilst the increase use of the site for sport and recreation would raise further noise and disturbance this is not considered to result in significant impacts to neighbouring properties and no objection has been raised by the Council's Environmental Protection Officer in this respect. Furthermore, full details of the noise and mitigation measures from the indoor riffle range could be secured by condition as could hours of use of the sports ground and flood lighting.
- 9.95. Overall, therefore, the impact on residential amenity is considered acceptable and to accord with Local Plan Policy ESD15 and Government guidance in the NPPF in this regard.

Ecology Impact

Legislative context

- 9.96. 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.
- 9.97. 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.
- 9.98. 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.
- 9.99. 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.

9.100. 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

9.101. 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.

9.102. 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.

9.103. 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.

9.104. 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.

9.105. 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.

9.106. 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

- 9.107. The application site contains large areas of undeveloped land with hedgerows and also other features of interest. The application is therefore supported by a detailed Ecological Appraisal and various updates to ensure the surveys remain up to date.
- 9.108. The Ecological Appraisal included an extended Phase 1 Habitat survey and then additional further surveys for protected species and habitats including bats, dormice, great crested newt, badger and breeding birds. The additional surveys found presence of small populations of great crested newts to the north of the site but given the low suitability of the habitat and distance they are not considered to be significantly impacted. There were no records of bats roosts within the site and levels of bat activity were relatively low. Presence of breeding birds was restricted to the hedgerows and largely consist of species common in Oxfordshire. The reports include a number of recommendations including the retention of hedgerows, provision of new semi-improved grassland, additional hedgerow and tree planting and provision of bird and bat boxes on the site.
- 9.109. The Councils Ecologist (CE) is satisfied with the scope and level of information provided. However, a number of records of badger have been reported to the south of the site and therefore the CE recommends a re-survey for badgers not more than 6 months prior to the commencement of the development to ensure badgers do not need to be further considered in terms of mitigation. The CE has also requested conditions for a Construction Environmental Management Plan (CEMP) to outline reasonable avoidance measures during construction relating to great crested newts and other biodiversity.
- 9.110. A concern has been raised by a local resident that there are Otters near to the site which could be impacted by the proposed development. However, the CE advises that the site does not have suitable habitat to support Otters but may be used by Otters to access other watercourses. Subject to the CEMP the CE is satisfied there would be no adverse impact on Otters.
- 9.111. The CE is satisfied with the proposal to achieve a marginal net gain in biodiversity on the site but requests further enhancements on the site through the provision of bat and bird box provision integrated into the buildings on site and a number of other measures which can be controlled by condition. The CE raises some concern regarding the lighting in the north eastern corner of the site given that bat activity is likely to be concentrated along this eastern edge. Full details of the lighting scheme could be controlled through condition.

Conclusion

- 9.112. Officers are satisfied, on the basis of the CE's advice and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land would continue and would 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.

Archaeology

- 9.113. Policy ESD15 states that proposals that affect non designated heritage assets will be considered taking account of the scale of any harm or loss. It states where archaeological potential is identified applicants should include appropriate assessments and field evaluation where necessary. The NPPF advises that heritage assets are irreplaceable and should be conserved and given significant weight in any planning decisions.

9.114. In this case the site lies in an area of significant archaeological potential with the proposed site being located south of the Roman Road of Akeman Street. Furthermore, the field immediately to the west of the site contain crop-marked features of a trackway, enclosures and possible buildings which is thought to represent a Roman settlement. A crop-marked Bronze Age ring ditch is also visible immediately to the south west of the proposed site. A hoard of Roman coins has been found in the locality and it is thought likely that this represents the presence of a Roman villa somewhere in the vicinity.

9.115. The application was originally submitted with an Archaeological Desk Based Assessment and a Geophysical Survey. This concluded that further information from field observation will be required to establish the archaeological potential of the site. The County Archaeologist (CA) therefore originally objected to the application stating that insufficient information existed to make an informed judgement on the impacts on underground heritage assets.

9.116. During the course of the application the applicant has undertaken trial trenching at the site to further explore the archaeological potential. This largely focused on the southern part of the site which is currently in agricultural use and found little in the way of archaeology. The CA has considered this information and has noted that the northern section of the site (the existing playing fields) that were excluded from the fieldwork and are closest to the Roman road have the highest archaeological potential for prehistoric and Roman deposits which could be disturbed by the proposed works. As such the CA requests a further programme of archaeological investigation will be need prior to the commencement of development but is satisfied this can be secured by a planning condition.

9.117. In conclusion, having regard to the information provided and the CA's advice, officers are satisfied the proposal would not have an unacceptable impact on archaeological interests.

Sustainable construction

9.118. Local Plan Policy ESD1: Mitigating and Adapting to Climate Change requires developments to be designed to reduce carbon emissions and use resources more efficiently including water. ESD1 contains the requirement to reduce the need to travel and encourage sustainable travel options including walking, cycling and public transport. It also promotes the use of decentralised and renewable or low carbon energy where appropriate.

9.119. Policy ESD2 of the Local Plan requires developments to achieve carbon emissions reductions by use of an energy hierarchy as follows:

- Reduce energy use, in particular by the use of sustainable design and construction measures
- Supplying energy efficiently and give priority to decentralised energy supply
- Make use of renewable energy
- Make use of allowable solutions

9.120. Local Plan Policy ESD3 relates to Sustainable Construction. It requires developments to achieve BREEAM level Very Good and to maximise both energy demand and energy loss, passive solar lighting and natural ventilation and resource efficiency. Local Plan Policy ESD4 covers Decentralised Energy Systems and promotes the use of such systems providing either heating or heating and power to

all new developments. ESD5: Renewable Energy states that the Council supports renewable and low carbon energy provision wherever any adverse impacts can be addressed satisfactorily.

9.121. The application includes an Energy Statement which outlines that the Club House building and the rifle range would be constructed to BREEAM 'very good' standard in accordance with Policy ESD3 of the Local Plan.

9.122. The applicant has also undertaken a feasibility assessment of the use of low and zero carbon technologies for the site; however, given the expected intermittent occupancy the buildings are likely to have (mainly at weekends and evenings) and seasonal variance in occupation the power and heat loads are expected to be intermittent which reduced the viability of these. Therefore, no low or zero carbon technologies are proposed in the scheme. Officers' consider further discussions could take place with the applicant to encourage the use of Solar PV or Solar Thermal technologies if the development were considered to be acceptable in other regards. Discussions could also take place regarding the provision of electric vehicle charging points in the car park.

Flood risk and drainage

9.123. A Flood Risk Assessment and drainage strategy is submitted with the application in line with the requirements of Policy ESD6 of the Local Plan and the NPPF. Policy ESD7 of the Local Plan requires the use of Sustainable Urban Drainage Systems to manage surface water drainage systems. This is all with the aim to manage and reduce flood risk in the District.

9.124. The site is located in Flood Zone 1, which has the lowest probability of flooding and is considered to be appropriate for such facilities. The site is currently drained by a number of on-site ditches collecting water and discharging it to the south east. Parts of the site are subject to higher risk of surface water flooding, but these areas are intended to be used for pitches rather than buildings.

9.125. The site is currently largely undeveloped so the provision of new buildings and hardstanding will include the impermeable areas on site. Infiltration testing at the site indicated that shallow infiltration devices, such as swales and permeable paving, will be suitable for the treatment of surface water drainage from the development. The outline drainage strategy includes a number of SUDs including soakaways, permeable paving and swales. In the southern part of the site the strategy has been designed to store some of the surface water from the car park and building in a new storage pond which would then be used to irrigate the sports pitches when required. The drainage system is to be designed to cater for 1 in 100 year storm events with 40% allowance for climate change. This information has been considered by the Lead Local Flood Authority which raises no objection to the proposals subject to a condition requiring a detailed drainage strategy with further considers some SUDs techniques.

9.126. In regard to foul water drainage the proposal seeks to discharge to the existing pumping station to the north of the development site. Thames Water have been consulted and have raised no objection to the proposal on this basis.

9.127. Overall, given no objections are raised by the statutory consultees in regard to flood risk and drainage, officers considered these matters can be satisfactory addressed by condition.

Other matters

- 9.128. The proposed development will lead to some economic benefits and the applicant states that the proposal represents a £7.8m investment. There will be some short term economic benefits associated with the construction phase and some modest economic benefits in the longer terms in relation to the provision of jobs. The BSA also state that moving to a single site would also make the BSA trust more financially sustainable and reduce costs however this is largely a private benefit.
- 9.129. The site is identified largely as Grade 4 agricultural land so is not best and most versatile land and therefore its loss is not considered to represent an objection to the proposal.
- 9.130. Concerns have been raised over legal matters to do with the BSA being a Private Trust. These matters, however, relate to other legal processes or requirements which fall outside the scope of the planning application and which are not material in the determination of the current application.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. Planning law requires that development proposals are determined in accordance with the Development Plan unless material consideration indicate otherwise. The NPPF is a material consideration and states that the purpose of the planning system is to contribute to the achievement of sustainable development with 3 overarching objectives which are interdependent and need to be pursued in mutually supportive ways. This include an economic objective, a social objective and environmental objective. Paragraph 11 of the NPPF states that planning decisions should apply the presumption in favour of sustainable development which in this context means approving development proposals that accord with an up to date development plan without delay.
- 10.2. The proposal is being considered as a replacement facility for the loss of the Oxford Road site and on balance the proposal is considered an acceptable replacement provision in terms of quantity and quality. In this case the proposal would bring provide some sporting provision to the district for use by residents and clubs and may go some way to addressing some of the needs identified in the Councils Playing Pitch Strategy (2018) and resulting in the potential closure of the site at Oxford Road in Bicester albeit the lawful use of the Oxford Road site would remain as playing fields. Whilst occupied by the BSA it is also likely to include the provision of subsidised pitches and facilitates This is a social benefit which weighs in favour of the development. The proposal would also result in some modest economic benefits in terms of construction phases and the provision of a limited number of jobs and some marginal biodiversity net gain.
- 10.3. However, the proposal would result in detrimental environmental and social impacts through the site being located in an area which is not considered to be conveniently accessible by means other than by private car to serve the needs of the residents of Bicester and the surrounding area. It would not reduce the need to travel of provide and accessible recreational space. The mitigation measures proposed are not considered to overcome this matter for the reasons outlined above. This would conflict with Policies SLE4, ESD1 and BSC10 of the Cherwell Local Plan Part 1. The proposal is also considered to result in further environmental harm to the character and appearance and visual amenities of the area through the detrimental visual impacts arising from the development. This would be contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan and Saved Policy C8 and C28 of the 1996 Local Plan.
- 10.4. When considered in the context of the Development Plan as a whole the proposed harm is considered to outweigh the benefits of the scheme and there are not

considered to be any other materials considerations which would outweigh the harm. It is therefore recommended that planning permission be refused.

11. RECOMMENDATION

RECOMMENDATION - REFUSAL FOR THE REASONS SET OUT BELOW

REASONS FOR REFUSAL

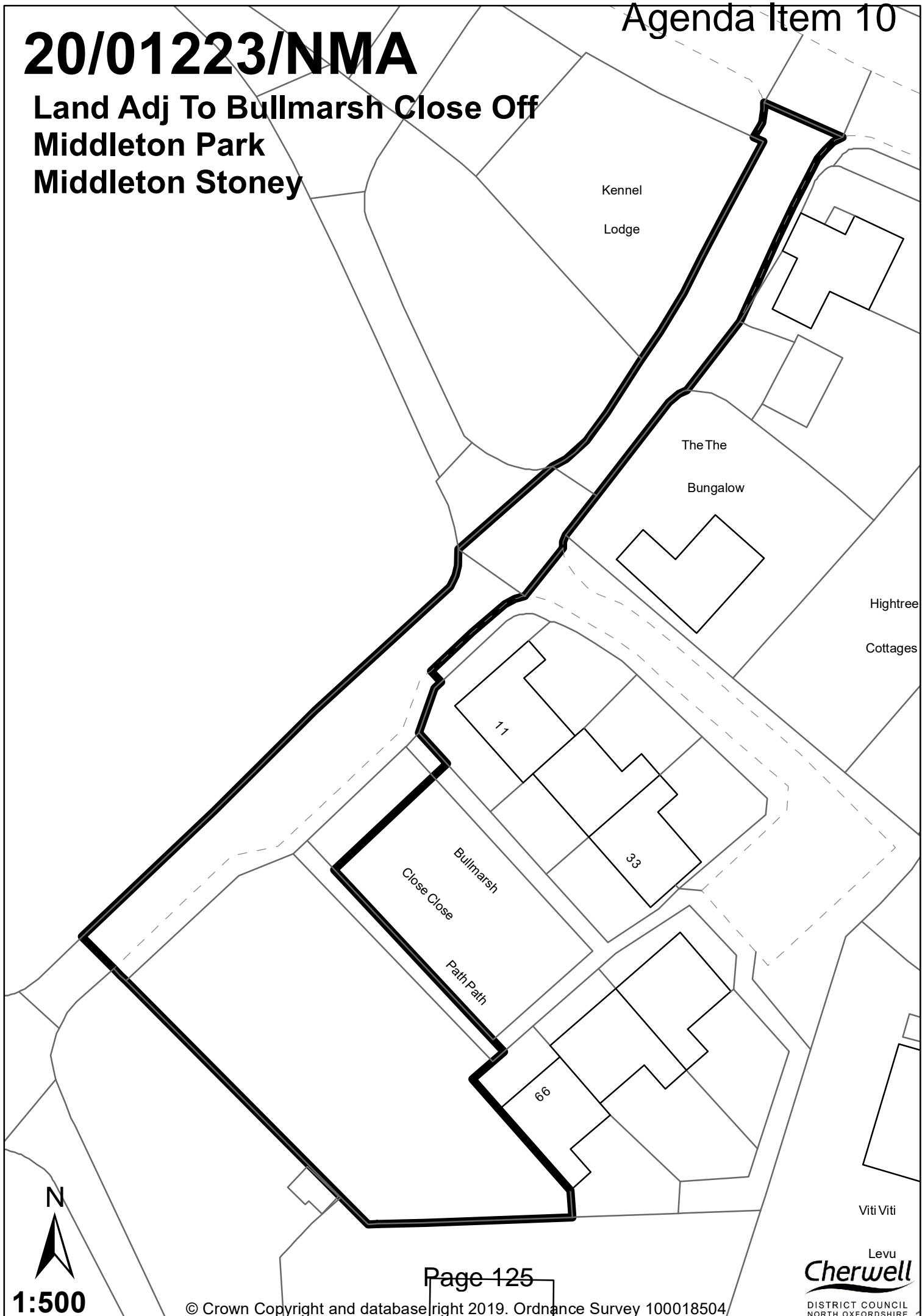
1. The proposed development would result in the creation of a significant replacement recreation facility to serve Bicester and the surrounding area in a geographically unsustainable location. It has no access via public transport and poor walking and cycling routes and would not reduce the need to travel or be accessible or offer a genuine choice of alternative travel modes over the private motor vehicle. The site would therefore not be an appropriate location for this scale of development whether considered as a replacement facility or a new facility. The proposal therefore conflicts with Policies SLE4, ESD1 and BSC10 of the Cherwell Local Plan Part 1 (2015) and Government guidance in the National Planning Policy Framework.
2. The proposed development would detrimentally impact on the rural character and appear of the area by virtue of being a prominent and visually intrusive form of development in an open countryside location. The proposal is therefore contrary to Policy ESD13 and ESD15 of the Cherwell Local Plan Part 1 (2015) and Saved Policy C8 and C28 of the Cherwell Local Plan 1996 and Government guidance in the National Planning Policy Framework.

CASE OFFICER: James Kirkham

TEL: 01295 221896

20/01223/NMA

Land Adj To Bullmarsh Close Off
Middleton Park
Middleton Stoney



Kennel
Lodge

The The
Bungalow

Hightree
Cottages

11

33

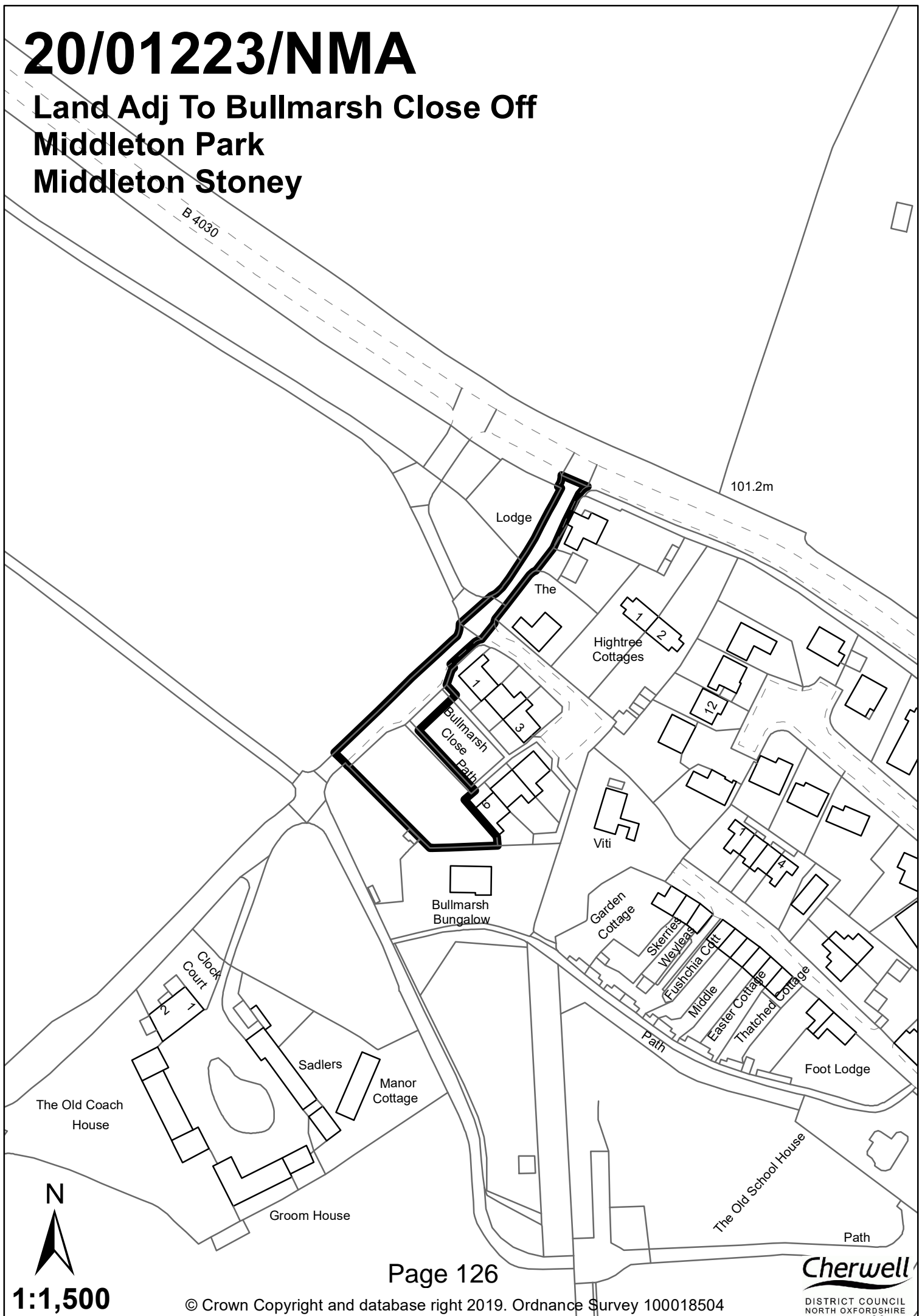
Bullmarsh
Close Close
Path Path

66

Viti Viti

20/01223/NMA

Land Adj To Bullmarsh Close Off
Middleton Park
Middleton Stoney



101.2m

Lodge

The

Hightree Cottages

Bullmarsh Close Path

Viti

Bullmarsh Bungalow

Garden Cottage

Skerries Weyless

Fushchia Cdt

Middle

Easter Cottage

Thatched Cottage

Foot Lodge

The Old School House

Path

The Old Coach House

Sadlers

Manor Cottage

Groom House

Clock Court



1:1,500

Case Officer: James Kirkham

Applicant: Cherwell District Council

Proposal: Changes to eaves and windows to the rear elevation and a simplification of the ridge (proposed as non-material amendments to 19/01709/CDC)

Ward: Fringford And Heyfords

Councillors: Cllr Ian Corkin, Cllr James Macnamara and Cllr Barry Wood

Reason for Referral: The Council is the applicant

Expiry Date: 8 June 2020

Committee Date: 18 June 2020

1. APPLICATION SITE AND LOCALITY

- 1.1. The application relates to an area of undeveloped land in a small grouping of bungalows located in Bullmarsh Close, which is situated at the western edge of Middleton Stoney. The site is relatively flat and is currently laid to grass with some young trees situated on it. It is accessed from a private road from Heyford Road to the north of the site.

2. CONSTRAINTS

- 2.1. The application site is located adjacent to Middleton Park, which is a Grade II listed Registered Park and Garden. The site is also located in the Mid-Cherwell Neighbourhood Plan Area and within an archaeological notification area.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. Planning permission for 3 bungalows and associated parking at the site was granted by Planning Committee in 2019 (19/01709/CDC refers).
- 3.2. The current application seeks to make minor changes to the design of the buildings. The main changes are:
- The finished floor level (and consequently ridge and eaves level) of the plot in the south-west corner is no longer set at a lower level from the other two approved dwellings and now has a continuation of the same ridge and eaves height.
 - The windows arrangement of the windows/doors on the rear elevation has been changed from a single door and casement window to a set of patio doors with an adjoining full height glazed window.
 - The ridge height of the rear projecting gable element has been raised slightly although it remains subservient to the main ridgeline

- The eaves have been amended with the introduction of a small fascia board. This would be grey to match the rain water goods and the proposed windows.

4. RELEVANT PLANNING HISTORY

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

19/01709/CDC – Erection of 3no wheelchair adaptable bungalows for affordable housing - Permitted

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

- 6.1. This application has not been publicised as the Regulations do not require such publicity or consultation

7. RESPONSE TO CONSULTATION

- 7.1. The Planning Practice Guidance makes the following comments with regard to consultation in relation to NMAs:

As an application to make a non-material amendment is not an application for planning permission, the existing Town and Country Planning (Development Management Procedure) (England) Order 2015 provisions relating to statutory consultation and publicity do not apply. Therefore local planning authorities have discretion in whether and how they choose to inform other interested parties or seek their views. As by definition the changes sought will be non-material, consultation or publicity is unlikely to be necessary, and there are unlikely to be effects which would need to be addressed under the Environmental Impact Assessment Regulations 2017.

8. APPRAISAL

- 8.1. The key issue for consideration in this case is whether the changes are non-material.

- 8.2. In relation to what constitutes a non-material amendment the Planning Practice Guidance states: *There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application* (para 002 Ref ID: 17a-002-20140306).

- 8.3. In this case the changes proposed through this application are minor and would not change the appearance of the building in any significant way, or raise any new issues requiring further assessment or re-consultation. The layout of the site would remain unchanged as would the siting of the dwellings and the overall height of the development. The changes are therefore considered to be non-material in nature.

- 8.4. It is therefore recommended that this application be granted.

9. RECOMMENDATION

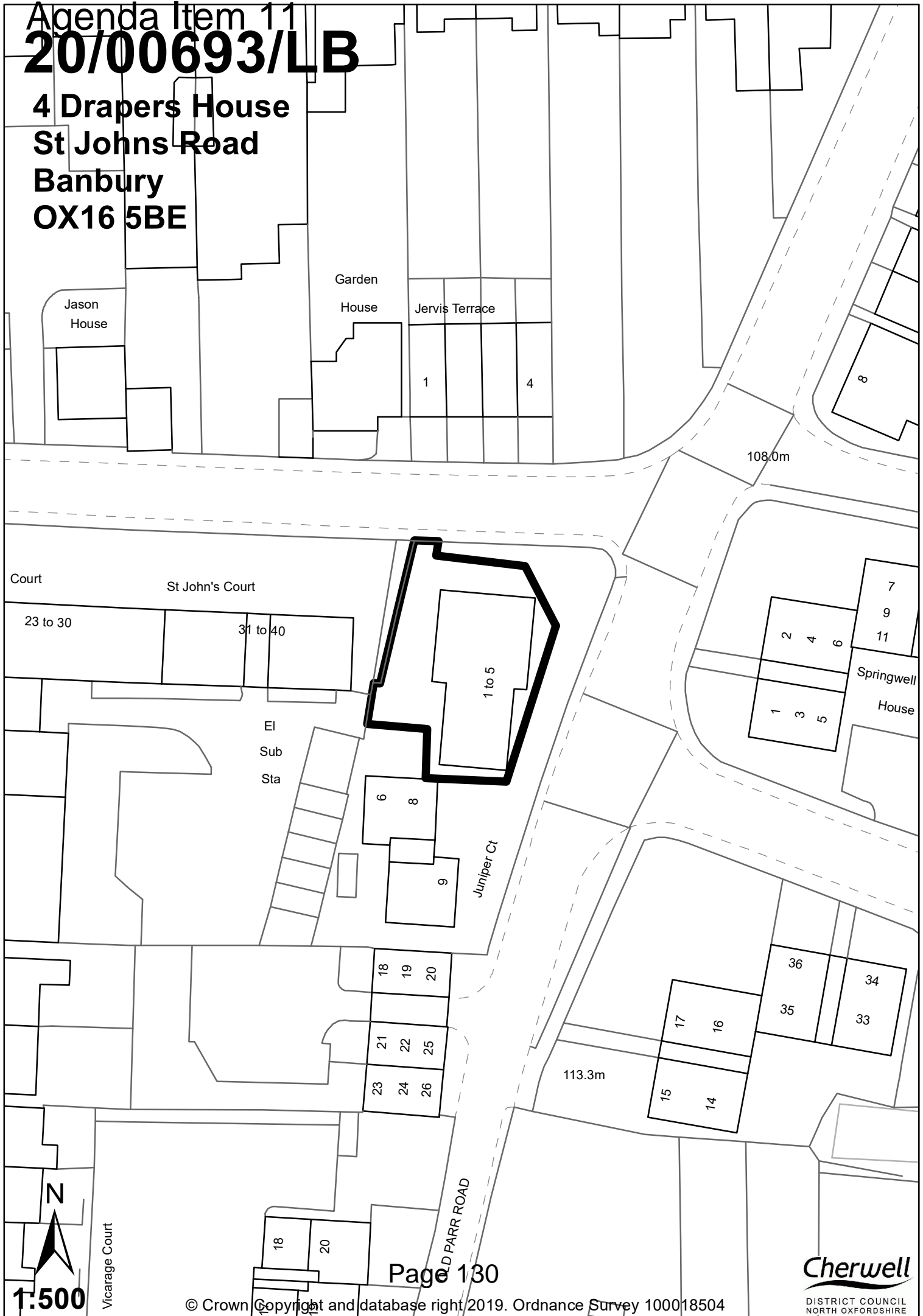
DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY
TO GRANT PERMISSION FOR THE PROPOSED CHANGE AS A NON-MATERIAL
AMENDMENT IN ACCORDANCE WITH DRAWING NUMBERS

CASE OFFICER: James Kirkham

TEL: 01295 221896

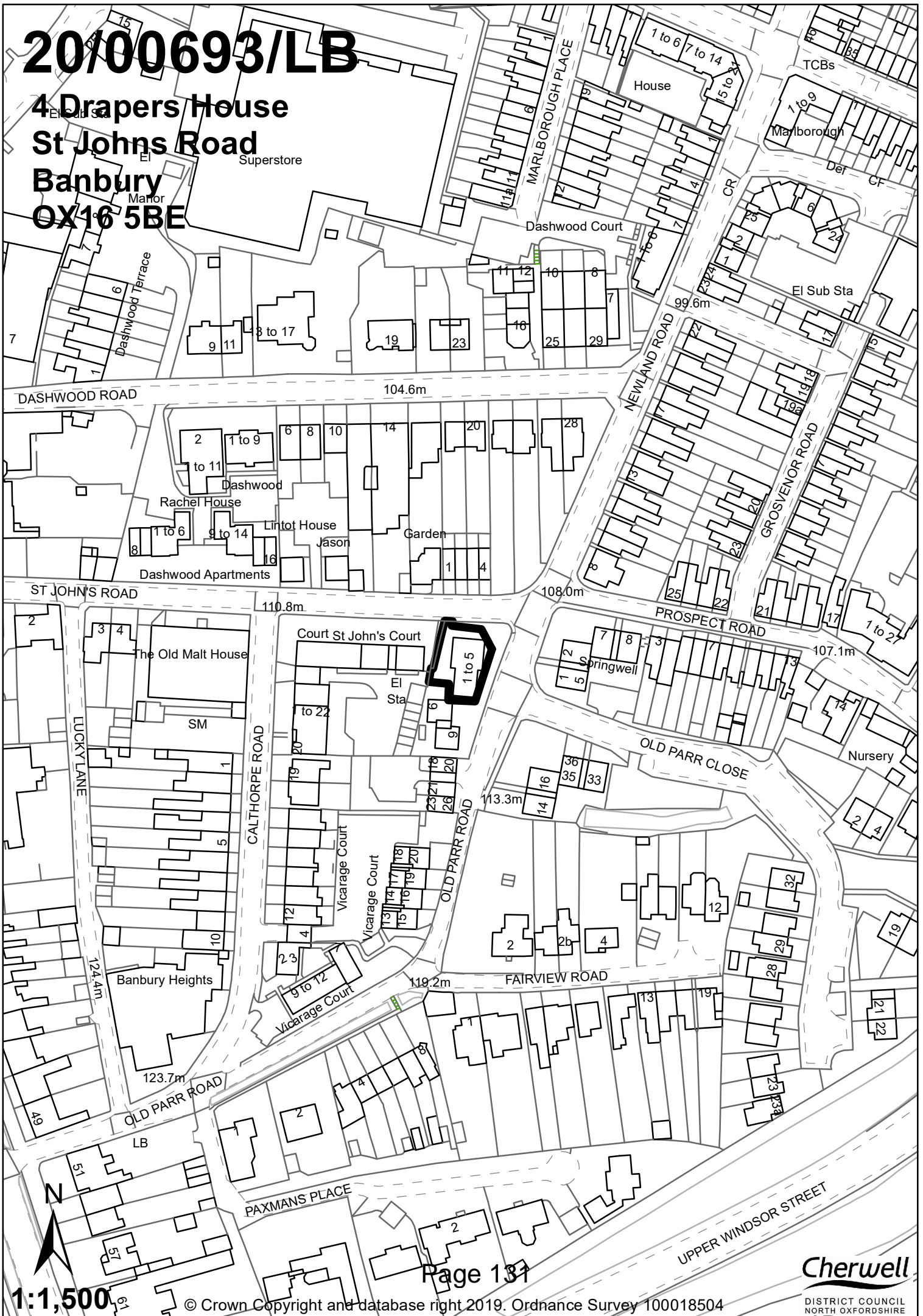
Agenda Item 11 20/00693/LB

**4 Drapers House
St Johns Road
Banbury
OX16 5BE**



20/00693/LB

4 Drapers House
St Johns Road
Banbury
OX16 5BE



Case Officer: Lewis Knox

Applicant: Mr Stephen Reynolds

Proposal: To replace 2 No. timber windows.

Ward: Banbury Cross and Neithrop

Councillors: Cllr Hannah Banfield, Cllr Surinder Dhesi, Cllr Cassi Perry

Reason for Referral: Application submitted by a member of staff of CDC acting as agent

Expiry Date: 30 April 2020

Committee Date: 18 June 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

The proposal is for the replacement of two timber windows on a Grade II Listed building. The first window is a traditional boxed sash window, and window 2 in on the south facing elevation and is a modern fixed light casement window.

Consultations

No consultees have raised **objections** to the application:

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

- Banbury Town Council, CDC Building Control, CDC Conservation

No letters of objection have been received and no letters of support have been received.

Planning Policy and Constraints

The application building is Grade II Listed
The site is located within the Banbury Conservation Area

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

Conclusion

The key issues arising from the application details are:

- Impact on the heritage asset

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 property is a large two storey brick building, the majority of which dates back to around 1840. The building has entrances on both the east and west side elevations and large traditional timber sash windows on all elevations. The rear section of the building is a later addition in matching brick with smaller timber sash windows.

2. CONSTRAINTS

2.1. The application property is a Grade II Listed building and is located within the Banbury Conservation Area.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. The proposal is for the replacement of 2 No. timber windows. The first window (Window A) is a traditional boxed sash window located on the eastern elevation and would be replaced like for like. The applicant is seeking to replace the second window (Window B), on the south facing elevation, a modern fixed light casement window with a more traditional single glazed alternative.

4. RELEVANT PLANNING HISTORY

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

- | | | |
|---|-----------------------|------------------|
| Application: 13/00358/LB | Application Permitted | 19 June 2013 |
| Proposed conversion and alterations to existing Grade II listed building to provide 4 x 2 bed dwellings together with alterations to elevations including insertion of two windows to west elevation, provision of bin store, new pedestrian footpath to 6-9 Juniper Court and external landscaping | | |
| Application: 13/00355/CDC | Application Permitted | 30 May 2013 |
| Proposed conversion and alterations to existing Grade II listed building to provide 4 x 2 bed dwellings together with alterations to elevations including insertion of two windows to west elevation, provision of bin store, new pedestrian footpath to 6-9 Juniper Court and external landscaping | | |
| Application: 13/00092/NMA | Application Permitted | 23 December 2013 |
| Non-Material Amendment to 13/00355/CDC - Amend material finish of external footpaths and paving from block paviours to resin bound gravel (permeable) | | |
| Application: 14/00034/LB | Application Permitted | 20 March 2014 |
| Proposed conversion and alterations to existing grade II listed building to provide 4 x 2 bed dwellings, replacement roof to south end of building together with alterations to elevations including insertion of two windows to West elevation, provision of bin store, new pedestrian footpath to 6-9 Juniper | | |

Court and external landscaping.

5. PRE-APPLICATION DISCUSSIONS

- 5.1. The following informal pre-application discussions have taken place with regard to this proposal:
- 5.2. Window A - The traditional box sash window would need to be replaced with an exact like for like replacement with single glazing and all component sections and ironmongery to match existing.
- 5.3. Window B - The replacement direct glazed casement window (1960's-70's) should be replaced with a traditional style casement window in keeping with the period of the property.

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 **3 April 2020**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. No comments have been raised by third parties.

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. BANBURY TOWN COUNCIL: **Raised no objections**

CONSULTEES

- 7.3. Banbury Civic Society – **No comments received at time of writing the report**
- 7.4. Banbury Historical Association – **No comments received at time of writing the report**
- 7.5. CDC CONSERVATION – **Raised no objections subject to condition**
- 7.6. CDC BUILDING CONTROL – **Raised no objection**

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a

number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

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

- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C18 – Development proposals affecting a listed building

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Managing Significance in Decision-Taking in the Historic Environment: Historic England Good Practice (2015)
- The Setting of Heritage Assets: Historic England Good Practice (2015)
- Banbury Conservation Area Appraisal (Sept 2018)

9. APPRAISAL

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

- Heritage impact

Heritage Impact

Legislative and policy context

- 9.2. The site is within Banbury Conservation Area and is a Grade II listed building.
- 9.3. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.4. 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.
- 9.5. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.

Assessment

- 9.6. Window A in the east facing elevation is a historic window which has had replacement glass in the past. It is accepted that this window is now in a very poor condition and is beyond practical repair. The proposed like for like replacement is therefore considered acceptable.
- 9.7. Window B, in the south facing elevation, is a poor quality modern window and therefore its removal would not result in the loss of any historic fabric. The proposed replacement, a more traditional single pane window, would be an obvious improvement to the character and appearance of the building.
- 9.8. The replacement windows would not cause any harm when assessed against paragraph 190 of the NPPF as they would not have any adverse impact on the identified significance of the building. With the imposition of a condition, they would also adhere to paragraph 193 of the NPPF whereby the character of the listed building would be preserved. The proposed development would also accord with Policy ESD15 of the CLP 2031 Part 1 and saved Policy C18 of the CLP 1996.

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 appropriate 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: Indicative Existing Window Refurbishment, Elevation Drawings, Block Plan, Site Location Plan and Application Form

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.

Window Details

- 3. Prior to the commencement of the development, full details of the windows hereby approved, at a scale of 1:20 including a cross section, cill, lintel and

recess detail and colour/finish, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the windows shall be installed within the building in accordance with the approved details.

Reason - To ensure that the completed development is in keeping with and conserves the special character of the existing historic building and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Lewis Knox

TEL: 01295 221858

Agenda Item 12

Cherwell District Council

Planning Committee

18 June 2020

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

None

2.2 New Enforcement Appeals

None

2.3 Appeals in progress

19/00831/OUT - Land South Of Home Farm House, Clifton Road, Deddington, OX15 0TP - OUTLINE - Residential development of up to 15 dwellings

Officer recommendation – Refusal (Committee)

Method of determination: Written Representations

Key Dates:

Start Date: 03.03.2020 **Statement Due:** 09.04.2020 **Decision:** Awaited

Appeal reference – 20/00010/REF

19/02444/OUT - Land South Of Home Farm House, Clifton Road, Deddington, OX15 0TP - Outline planning permission for the residential

development of up to 14 dwellings - all matters save for the means of access are reserved for subsequent approval - revised scheme of 19/00831/OUT
Officer recommendation – Refusal (Committee)

Method of determination: Written Representations

Key Dates:

Start Date: 03.03.2020 **Statement Due:** 09.04.2020 **Decision:** Awaited

Appeal reference – 20/00007/REF

19/00969/F - Bowler House, New Street, Deddington, OX15 0SS – Single storey rear extension forming new Sun Room

Officer recommendation – Refusal (Delegated)

Method of determination: Written Reps.

Key Dates:

Start Date: 27.01.2020 **Statement Due:** 02.03.2020 **Decision:** Awaited

Officer recommendation – Refusal (Delegated)

Appeal reference – 20/00009/REF

19/00970/LB – Bowler House, New Street, Deddington, OX15 0SS - Single storey rear extension forming new Sun Room

Method of determination: Written Reps.

Key Dates:

Start Date: 20.02.2020 **Statement Due:** 26.03.2020 **Decision:** Awaited

Appeal reference – 20/00008/REF

19/01685/F – 21 Coppice Close, Banbury, OX16 9SW - Removal of dead/dying leylandii hedge approximately 20 metres. To be replaced with pressure treated close board fencing 1.8m high.

Method of determination: Householder (Fast Track)

Key Dates:

Start Date: 01.04.2020 **Statement Due:** N/A **Decision:** Awaited

Appeal reference – 20/00015/REF

19/02075/F – The Old Vicarage, Fringford Road, Caversfield, OX27 8TH - Erection of 4no dwelling houses with associated garages, access and landscaping

Officer recommendation – Refusal (Delegated)

Method of determination: Written Reps.

Key Dates:

Start Date: 04.03.2020 **Statement Due:** 08.04.2020 **Decision:** Awaited

Appeal reference – 20/00011/REF

19/02194/F – Swallows Barn, Manor Farm Lane, Balscote, OX15 6JJ - Construction of new greenhouse (retrospective)

Officer recommendation – Refusal (Delegated)

Method of determination: Householder (Fast Track)

Key Dates:

Start Date: 17.04.2020 **Statement Due:** N/A **Decision:** Awaited

Appeal reference – 20/00013/REF

19/02381/ADV - 10 Banbury Cross Retail Park, Lockheed Close, Banbury, OX16 1LX - Scanlite Digital Electronic LED Full Colour Ticker Display

Officer recommendation – Non-determination within prescribed period

Method of determination: Written Reps.

Key Dates:

Start Date: 27.04.2020 **Statement Due:** 08.06.2020 **Decision:** Awaited

Appeal reference – 20/00016/NON

19/02501/F – Land to the Rear of Otmoor Lodge, Horton Cum Studley -
Erection of a detached dwelling with parking, access, landscaping and associated works

Officer recommendation – Refusal (Delegated) – A decision was not issued within the prescribed time so an appeal against non-determination was submitted

Method of determination: Written Reps.

Key Dates:

Start Date: 24.04.2020 **Statement Due:** 29.05.2020 **Decision:** Awaited

Appeal reference – 20/00014/NON

19/02861/F – 2 Hudson Street, Bicester, OX26 2EP - Erection of 2no one bedroom dwellings - revised scheme of 18/02046/F

Officer recommendation – Refusal (Delegated)

Method of determination: Written Reps.

Key Dates:

Start Date: 13.03.2020 **Statement Due:** 17.04.2020 **Decision:** Awaited

Appeal reference – 20/00012/REF

Enforcement appeals

None

2.4 Forthcoming Public Inquires and Hearings between 19 June 2020 and 16 July 2020

None

2.5 **Results**

Inspectors appointed by the Secretary of State have:

1. **Dismissed the appeal by Mr Barnaby Hewitt for New dwelling. Plot of Land South of 1 Greystones Court, Kidlington**
Officer recommendation – Refusal (Delegated) 19/00634/F

The Inspector considered the main issue to be the proposal's effect on highway and pedestrian safety.

The Inspector noted that Greystones Court is a private road serving seven dwellings and accessed from Lyne Road, close to the traffic light controlled junction between Lyne Road and Banbury Road. The Inspector also noted that there are double yellow lines along the within the vicinity of the Greystones Court junction.

The Appellant had agreed with the Council that the required visibility splay at the junction of Greystones Court with Lyne Road should be 43 metres in each direction. The Inspector found that this could be achieved in a westerly direction, noted that part of that sight line appeared to be across private land, but was satisfied that the open nature of the verge would not change in the future and that road users travelling towards Banbury Road would be able to see a vehicle existing the access of Greystones Court.

However, the inspector agreed with the Council that, as a result of a brick wall pier and the vegetation behind on the eastern corner of the access to Greystones Court, the required visibility splay in the other direction could not be achieved, and held that,

“there is high probability that users of Lyne Road travelling west, including pedestrians, cyclists and vehicles have little advance warning of vehicles existing Greystones Court. Drivers of vehicles using the access from Greystones Court also do not have a clear view of activity on the pavement within the vicinity of the access or within the carriageway in an easterly direction, until their vehicle is within the highway. This situation and the increased use of the access as a result of the proposal is likely to result in conflict with users of the access and Lyne Road, including children and those with disabilities, and those vehicles which are likely to be travelling at speed as they pull away from the Banbury Road/Lyne Road junction, which may have to brake suddenly if a vehicle exiting Greystones Court was turning right into Lyne Road.”

The Inspector agreed with the Council that it was not appropriate for the visibility splay to measured to the centre line of the road, because there was nothing to stop vehicles crossing the centre line and in fact they did so at regular intervals to pass parked cars or vehicles exiting laybys. The Inspector also noted that a 2m x 2m pedestrian visibility splay could not be achieved.

The Inspector found that the increased use of Greystones Court and Lyne Road junction “would exacerbate an already unsatisfactory situation and would cause harm to pedestrian and highway safety in Lyne Road”. The Inspector disagreed with the Appellant that motorists in the vicinity would drive more slowly, and the Inspector made particular note that a number of Inspectors applying varying standards of visibility had reached a similar conclusion on the effect of the increased use of Greystones Court on highway safety.

The Inspector concluded that the proposal would have an unacceptable impact on highway and pedestrian safety, found there were no other issues to outweigh the harm identified, and accordingly dismissed the appeal.

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

Legal Implications

- 5.2 There are no additional legal implications arising for the Council from accepting this recommendation as this is a monitoring report.

Comments checked by:

David Mytton, Solicitor, For and on behalf of Nick Graham, Director of Law and Governance and Monitoring Officer

David.Mytton@Oxfordshire.gov.uk

Risk Management

- 5.3 This is a monitoring report where no additional action is proposed. As such there are no risks arising from accepting the recommendation.

Comments checked by:

David Mytton, Solicitor, For and on behalf of Nick Graham, Director of Law and Governance and Monitoring Officer

David.Mytton@Oxfordshire.gov.uk

6.0 Decision Information

Wards Affected

All

Links to Corporate Plan and Policy Framework

A district of opportunity

Lead Councillor

Councillor Colin Clarke

Document Information

Appendix No	Title
None	
Background Papers	
None	
Report Author	Sarah Stevens, Interim Senior Manager, Development Management
Contact Information	sarah.stevens@cherwell-dc.gov.uk