

# Public Document Pack



**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Committee:** Planning Committee

**Date:** Thursday 13 April 2023

**Time:** 4.00 pm

**Venue** Bodicote House, Bodicote, Banbury, Oxon OX15 4AA

## Membership

### **Councillor George Reynolds (Chairman)**

Councillor Andrew Beere  
Councillor John Broad  
Councillor Colin Clarke  
Councillor Ian Corkin  
Councillor Ian Harwood  
Councillor Simon Holland  
Councillor Richard Mould  
Councillor Les Sibley

### **Councillor Maurice Billington (Vice- Chairman)**

Councillor Rebecca Biegel  
Councillor Hugo Brown  
Councillor Jean Conway  
Councillor Sandy Dallimore  
Councillor David Hingley  
Councillor Fiona Mawson  
Councillor Lynn Pratt  
Councillor Dorothy Walker

## Substitutes

Councillor Mike Bishop  
Councillor Gemma Coton  
Councillor Matt Hodgson  
Councillor Adam Nell  
Councillor Douglas Webb  
Councillor Bryn Williams

Councillor Phil Chapman  
Councillor Nick Cotter  
Councillor Ian Middleton  
Councillor Angus Patrick  
Councillor Fraser Webster  
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.

Please note that the deadline for requests to address the meeting is noon on the working day before the meeting. Addresses can be made virtually or in person.

4. **Minutes** (Pages 5 - 22)

To confirm as a correct record the Minutes of the meeting of the Committee held on 9 March 2023.

5. **Chairman's Announcements**

To receive communications from the Chairman.

6. **Urgent Business**

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

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

The Committee to consider requests for and proposed pre-committee site visits.

Any requests or recommendations for site visits will be published with the written update.

## **Planning Applications**

8. **Land North And South Of Pingle Drive, Bicester** (Pages 25 - 65) **22/03513/F**

9. **OS Parcel 6920 East Of Oxford Road and Adjoining and South of Canal Lane, Bodicote** (Pages 66 - 83) **22/03452/F**

10. **OS Parcel 4525 South of Council Depot Adjacent and West of Banbury Road, Deddington** (Pages 84 - 117) **22/02992/OUT**

11. **Laurels Farm, Dark Lane, Wroxton, OX15 6QQ** (Pages 118 - 139) **23/00130/F**

12. **Oathill Farm, Claydon Road, Cropredy, OX17 1QA** (Pages 140 - 176) **22/03829/F**

13. **Land Adjacent To The Oxford Canal, Spiceball Park Road, Banbury** (Pages 177 - 183) **22/03035/DISC**

## **Review and Monitoring Reports**

14. **Appeals Progress Report** (Pages 184 - 191)

Report of Assistant Director Planning and Development

**Purpose of report**

To keep Members informed about planning appeal progress including decisions received and the scheduling of public inquiries and hearings for new and current appeals.

## **Recommendations**

The meeting is recommended:

- 1.1 To note the position on planning appeals contained within the report.

**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@cherwell-dc.gov.uk](mailto:democracy@cherwell-dc.gov.uk) or 01295 221534 prior to the start of the meeting.

### **Declarations of Interest**

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

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

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

### **Evacuation Procedure**

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

### **Access to Meetings**

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

### **Mobile Phones**

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

### **Queries Regarding this Agenda**

Please contact Aaron Hetherington / Matt Swinford, Democratic and Elections  
[democracy@cherwell-dc.gov.uk](mailto:democracy@cherwell-dc.gov.uk), 01295 221534

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

Published on Monday 3 April 2023

# Agenda Item 4

## **Cherwell District Council**

### **Planning Committee**

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, Oxon OX15 4AA, on 9 March 2023 at 4.00 pm

#### Present:

Councillor George Reynolds (Chairman)  
Councillor Andrew Beere  
Councillor John Broad  
Councillor Hugo Brown  
Councillor Colin Clarke  
Councillor Ian Corkin  
Councillor Ian Harwood  
Councillor Fiona Mawson  
Councillor Lynn Pratt  
Councillor Les Sibley  
Councillor Dorothy Walker

#### Substitute Members:

Councillor Matt Hodgson (In place of Councillor Rebecca Biegel)  
Councillor Ian Middleton (In place of Councillor David Hingley)  
Councillor Adam Nell (In place of Councillor Simon Holland)  
Councillor Barry Wood (In place of Councillor Maurice Billington)

#### Apologies for absence:

Councillor Maurice Billington  
Councillor Rebecca Biegel  
Councillor Jean Conway  
Councillor Sandy Dallimore  
Councillor David Hingley  
Councillor Simon Holland  
Councillor Richard Mould

#### Officers:

David Peckford, Assistant Director Planning & Development  
Alex Chrusciak, Planning Improvement Consultant  
Karen Jordan, Deputy Principal Solicitor  
Caroline Ford, Development Manager Team Leader - South Area  
Nat Stock, Development Management Team Leader - North Area  
Katherine Daniels, Principal Planning Officer  
Michael Sackey, Planning Officer  
Natasha Clark, Governance and Elections Manager  
Aaron Hetherington, Democratic and Elections Team Leader



Officers Attending Virtually:

Thomas Webster, Principal Planning Officer

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### **Declarations of Interest**

#### **8. Land North West Bicester Home Farm, Lower Farm and SRG2 Caversfield.**

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

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

#### **13. Windrush Surgery, 5A Bradley Arcade, Bretch Hill, Banbury, OX16 0LS.**

Councillor Adam Nell, Other Registerable Interest, as a member of the Executive and would leave the meeting for the duration of the item.

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

Councillor Barry Wood, Other Registerable Interest, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor Colin Clarke, Other Registerable Interest, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor Ian Corkin, Other Registerable Interest, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor Lynn Pratt, Other Registerable Interest, as a member of the Executive and would leave the meeting for the duration of the item.

Councillor Matt Hodgson, Other Registerable Interest, as a member of Banbury Town Council which had been consulted on the application.

#### **14. 4 Grimsbury Square, Banbury, OX16 3HX.**

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

Councillor Matt Hodgson, Other Registerable Interest, as a member of Banbury Town Council which had been consulted on the application.

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### **Requests to Address the Meeting**

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

134 **Minutes**

The Minutes of the meeting held on 9 February 2023 were agreed as a correct record and signed by the Chairman.

135 **Chairman's Announcements**

The Chairman advised the Committee that there were two agenda items which were not planning applications for Committee determination and officer's would advise accordingly when presenting the items.

136 **Urgent Business**

There were no items of urgent business.

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

There we no proposed Pre-Committee site visits.

138 **Land North West Bicester Home Farm, Lower Farm and SRG2 Caversfield**

The Committee considered application 21/01630/OUT, an outline planning application for up to 530 residential dwellings (within Use Class C3), open space provision, access, drainage and all associated works and operations including but not limited to demolition, earthworks, and engineering operations, with the details of appearance, landscaping, layout, and scale reserved for later determination, at land at North West Bicester Home Farm, Lower Farm and SGR2 Caversfield for Firethorn Developments Ltd.

Rob Fellows, local resident and on behalf of on behalf of Elmsbrook Residents, Gagle Brook Primary School, the Perch Eco Business Centre, Bucknell Residents and Elmsbrook Traffic & Parking Group and Peter Turner, on behalf of Bicester Bike Users' Group addressed the Committee in objection to the application.

Rob Bolton, on behalf of the applicant, Firethorn Trust, Mark Kirby, highways consultant for the applicant and Hannah Leary, agent for the applicant, addressed the Committee in support of the application.

Members were asked for their observations regarding what their determination would have been, had an appeal against the non-determination of the application not been lodged.

It was proposed by Councillor Pratt and seconded by Councillor Sibley that the

application would have been refused the applications for the following reasons, which on being put to the vote, was agreed by the Committee:

- The proposal would not achieve true zero carbon development taking into account the Council's Climate Emergency declaration and the Policy requirements for NW Bicester in seeking to achieve Eco Town Development.
- The proposed changes to Charlotte Avenue would negatively impact the integrity of the area, would be dangerous for the users of the highway and footways particularly close to Gaggle Brook School, have not been proven to be feasible and would result in the loss of trees. It would contravene OCC, CDC and National Planning Policies.
- The proposal fails to show that the impact upon the highway at the junction of the B4100 and Charlotte Avenue would not be severe with congestion predicted within the peak hour.
- There are errors with the applicant's financial viability appraisal and this results in the development not being able to achieve the True Zero Carbon requirements and deliver a minimum 10% affordable housing against the required Local Plan level of 30%.
- The lack of an agreed S106 or other legal obligation to secure required infrastructure to mitigate its impacts.

In reaching its decision the Committee considered the officers' report, presentation, the written update, and addresses from the public speakers.

### **Resolved**

- (1) That against officer recommendation, had the power to determine application 21/01630/OUT continued to rest with the committee, the committee would have refused application 21/01630/OUT for the following reasons.
  1. The development, when set against the viability of the scheme, would not go far enough in trying to achieve the True Zero Carbon requirements for NW Bicester, as set out by Policy Bicester 1 of the Cherwell Local Plan Part 1 2011-2031. This would undermine the Council's strategy for achieving an Exemplary Eco Town development at NW Bicester which sets this site apart from others and where the Council has declared a Climate Emergency. The development would therefore conflict with Policy Bicester 1 and Policies ESD1-5 of the Cherwell Local Plan Part 1 2011-2031 and the North West Bicester SPD 2016.

Note to Appellant: This reason for refusal is capable of being addressed

2. The access arrangements to the site would be unsatisfactory as there would be an inability to provide for suitable pedestrian and cycle facilities along Charlotte Avenue. Any localised proposals to the road have not been proven to be possible, and are likely to

raise safety concerns relating to users of the highway within proximity to Gagle Brook School, and would result in the loss of street trees and would impact on the character of the existing Eco Town. The proposal would not meet the requirements of LTN1/20 and would conflict with Oxfordshire County Council's 'Local Transport and Connectivity Plan' Policies 1, 2b, 8, 9, 11, 35, 45 and 46b, Oxfordshire County Council's 'Tree Policy for Oxfordshire' Policies 11, 18, 19 and 20, Policies SLE4 and Bicester 1 of the Cherwell Local Plan Part 1 2011-2031 and the North West Bicester SPD 2016.

3. The proposed development would result in congestion at the junction of Charlotte Avenue with the B4100, particularly during the peak period. This would result in a severe transport impact and the development would therefore conflict with Government guidance contained within the National Planning Policy Framework and Policies SLE4 and Bicester 1 of the Cherwell Local Plan Part 1 2011-2031.
4. The proposed development, when set against the financial viability of the scheme, would fail to provide an adequate level of affordable housing provision. The proposal is therefore contrary to Policy BSC3 and Policy Bicester 1 of the Cherwell Local Plan Part 1 2011-2031, the North West Bicester SPD 2016, CDC's Developer Contributions SPD 2018 and Government guidance contained within the National Planning Policy Framework.

Note to Appellant: This reason for refusal is capable of being addressed.

5. In the absence of a satisfactory unilateral undertaking or other form of S106 legal agreement, the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions required as a result of the development and necessary to make the impacts of the development acceptable in planning terms. This would be to the detriment of both existing and proposed residents and would be contrary to Policies INF1, BSC3, BSC7, BSC8, BSC10, BSC11, BSC12 and Policy Bicester 1 of the Cherwell Local Plan Part 1 2011-2031, the North West Bicester SPD 2016, CDC's Developer Contributions SPD 2018 and Government guidance contained within the National Planning Policy Framework.

Note to Appellant: This reason for refusal is capable of being addressed.

process that public speaking rights would be allowed. The application would be submitted to a future Planning Committee meeting.

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**OS Parcel 1570 Adjoining And West Of Chilgrove Drive And Adjoining And North Of Camp Road, Heyford Park**

The Committee considered application 21/04289/OUT, an outline planning application for the erection of up to 230 dwellings, creation of new vehicular access from Camp Road and all associated works with all matters reserved apart from access at OS Parcel 1570 adjoining and west of Chilgrove Drive and adjoining and north of Camp Road, Heyford Park for K & S Holford, A & S Dean, N Giles & A Broadberry.

Karen Mutton from Eversheds Solicitors on behalf of Dorchester Living, Gavin Angell from Dorchester Living and Martin Lipson on behalf of Mid-Cherwell Neighbourhood Plan (MCNP) Forum addressed the Committee in objection to the application.

Alan Divall, agent for the application addressed the Committee in support of the application.

In reaching its decision the Committee considered the officers' report, presentation, the written update, and addresses from the public speakers.

**Resolved**

- (1) That application 21/04289/OUT be refused, contrary to the officer's recommendation, due to land being on greenbelt land and that the land is not allocated land for development with the Local Plan and lack of agreed section 106 with the exact wording of the reason for refusal delegated to the Assistant Director for Planning and Development.
  1. The site is located on greenfield land outside the Policy Village 5 allocation, therefore within an area of open countryside separate from the built-up area of Heyford Park. As a result, the development would have a poor and incongruous relationship with the form and character of Heyford Park, by reason of the site's general openness. The site's relationship to the RAF Upper Heyford Conservation Area and the views into and out of the Conservation Area would cause harm to the setting of designated heritage assets. Such environmental harm is considered to be less than substantial, but the harm caused is not outweighed by the public social and economic benefits. In addition, the Council is able to demonstrate a 5.4-year housing land supply, and therefore the housing strategies in the Local Plan are up to date. It is considered that the development of this site would conflict with the adopted policies in the Local Plan to which substantial weight should be attached. The principle of this development is therefore unacceptable, as contrary to Policies PSD1, ESD1, ESD13, ESD15, and Policy Villages 5 of the Cherwell Local Plan 2011-

2031, Policy PD4 of the Mid Cherwell Neighbourhood Plan, Saved Policies C8, C30, C33 and H18 of the Cherwell Local Plan 1996 and Government Guidance in the National Planning Policy Framework.

2. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions or transport mitigation required as a result of the development and necessary to ensure modal shift to sustainable transport modes and make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and workers and contrary to policy INF 1 of the Cherwell Local Plan 2015, CDC's Planning Obligations SPD 2018 and Government guidance within the National Planning Policy Framework.

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### **Os Parcel 0006 Adjoining North Side Of Ells Lane, Bloxham**

The Committee considered application 23/00065/OUT, an outline application for up to 30 dwellings including access off Ells Lane and the demolition of the existing stabling on site with all matters reserved except for access at Os Parcel 0006 adjoining the north side of Ells Lane, Bloxham for Deeley Homes.

David Bunn, Chairman of Bloxham Parish Council, addressed the Committee in objection to the application.

Dean Waldon, on behalf of the applicant and Angela Brooks, agent to the applicant addressed the Committee in support of the application.

In reaching its decision the Committee considered the officers' report, presentation, the written update and addresses of the public speakers.

### **Resolved**

That the authority be delegated to the Assistant Director for Planning and Development to refuse permission for application 23/00065/OUT subject to:

- i) No further objections from the Council's Environmental Protection team raised by the expiry of the consultation period.
  - ii) The reasons for refusal set out below (and any amendments to those reasons for refusal as deemed necessary)
  - iii) That authority be delegated to officers to add or remove refusal reasons, in the event of an appeal being lodged against the refusal, in light of new evidence becoming available.
1. By reason of its location, the proposal would have a poor and incongruous relationship with the form, character and pattern of the

existing settlement. Its development would therefore have an adverse effect on the character and appearance of the countryside. This harm would be emphasised by the proposed improvement works to Ells Lane - required to make the highway safe for additional residential development – which would in themselves have a detrimental impact on the character and appearance of the area. Therefore, the proposal conflicts with Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan 2011-2031, saved Policy C33 of the Cherwell Local Plan 1996 and Government guidance in the National Planning Policy Framework.

2. By reason of its location more than 800m walking distance from the village centre and any key amenities in the village (e.g. food shop, post office, primary school, GP surgery, public house), the proposal would be poorly connected to existing development, such that future occupiers would not have a realistic choice of means of travel, and would not be sustainable development. Therefore, the proposal conflicts with Policies ESD1, ESD15 and Villages 2 of the Cherwell Local Plan 2011-2031 and Government guidance in the National Planning Policy Framework.
3. By reason of the siting and size of the development and the resulting loss of grade 1 agricultural land, and taking into account the Council's ability to demonstrate an up-to-date 5.4 year housing land supply across the District and having delivered in excess of 750 dwellings at Category A villages under Policy Villages 2, and the lack of evidence to demonstrate that there are no other sites in Category A villages in the District which would be preferable in terms of using areas of poorer quality agricultural land to meet the District's housing needs, the proposal is considered to result in the unnecessary and unjustified loss of best and most versatile agricultural land. Therefore, the proposal conflicts with Policies BSC2 and Villages 2 of the Cherwell Local Plan 2011-2031 and Government guidance in the National Planning Policy Framework.
4. By reason of the site's location in an area of known archaeological interest with high potential for significant archaeological deposits to survive on site, in the absence of a detailed and adequate archaeological field evaluation the Local Planning Authority cannot be satisfied that the proposal would not result in unacceptable and unavoidable harm to archaeological assets. Therefore the proposal conflicts with Policies ESD15 and Villages 2 of the Cherwell Local Plan 2011-2031 and Government guidance in the National Planning Policy Framework.
5. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed

residents and workers and contrary to policy INF 1 of the Cherwell Local Plan 2015, CDC's Planning Obligations SPD 2018 and Government guidance within the National Planning Policy Framework.

6. The applicant has failed to demonstrate that an appropriate surface water drainage strategy for the site utilising sustainable drainage systems (SUDS) can be delivered nor that the proposed development would increase the risk of flooding. A such the proposal is contrary to policies ESD6 and ESD7 of the Cherwell Local Plan 2011 – Part 1 and Government guidance contained within the National Planning Policy Framework

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### **Kidlington Garage, 1 Bicester Road, Kidlington, OX5 2LA**

The Committee considered application 22/00017/F for the demolition of an existing vehicle showroom and associated garages and the erection of 2 new housing blocks containing a total of 15 flats including car parking and ancillary supporting uses with landscaping at Kidlington Garage, 1 Bicester Road, Kidlington, OX5 2LA for Sweetcroft Homes.

In reaching its decision, the Committee considered the officers' report, presentation and written update.

It was proposed by Councillor Middleton and seconded by Councillor Mawson that application 22/00017/F be refused, contrary to the officer recommendation, due to the lack of affordable housing provision.

On being put to the vote, the proposal was lost and the motion subsequently fell.

It was proposed by Councillor Corkin and seconded by Councillor Wood that application 22/00017/F be approved, in line with the officer recommendation, including the viability review mechanism after the implementation of the scheme.

In reaching its decision the Committee considered the officers report, presentation and written update.

### **Resolved**

- (1) That authority be delegated to the Assistant Director for Planning and Development, or an officer nominated by them, to grant permission, for application 22/00017/F, subject to:
  - i) The conditions set out below (and any amendments to those conditions as deemed necessary) and
  - ii) 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 heads of



terms set out in the annex of the Minutes as set out in the Minute Book (except for affordable housing contribution) and including viability review mechanism.

## 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:

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.

### Landscaping

3. 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.

(d) Full details of all means of enclosures

Such details shall be provided prior to the development progressing above slab level or such alternative time frame as agreed in writing by the developer and the Local Planning Authority. The development shall be carried out in accordance with the approved details and the hard landscape elements shall be carried out prior to the first occupation of the development and shall be retained as such thereafter.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in 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 that any trees 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 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 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.

#### **Materials Details**

4. No development shall commence above slab level unless and until full details of the materials to be used in the construction of the external walls and roof of the building (including samples) as well as how these materials are to be applied on building have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved details and shall be retained as such thereafter.

Reason: In the interests of the visual amenities of the area, to ensure and retain 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.

#### **Door and Window Details**

5. No development shall commence above slab level except for demolition unless and until full details of the doors and windows hereby approved, at a scale of 1:20 including a cross section, cill, lintel and recess detail and colour/finish, have been submitted to and approved in writing by the Local Planning Authority. Thereafter the doors and windows shall be installed within the building in accordance with the approved details and shall be retained as such thereafter.

Reason: In the interests of the visual amenities of the area, to ensure and retain 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.

#### **Vehicular Access Details**

6. No development shall commence except for demolition unless and until full specification details of the vehicular accesses, driveways and turning areas to serve the dwellings, which shall include construction, layout, surfacing, lighting and drainage, have been submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of any of the dwellings, the access, driveways and turning areas shall be constructed in accordance with the approved details.

Reason: In the interests of highway safety and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

#### **Parking Space Provision**

7. No dwelling shall be occupied until car parking space to serve that dwelling has been provided according to details that have been submitted to and agreed in writing by the Local Planning Authority. All car parking shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter, unless otherwise agreed in writing beforehand by the local planning authority.

Reason: To ensure appropriate levels of car parking are available at all times to serve the development, and to comply with Government guidance contained within the National Planning Policy Framework.

#### **Surface Water Drainage Details**

8. No development shall commence except for demolition unless and until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:
  - Discharge Rates
  - Discharge Volumes
  - Maintenance and management of SUDS features
  - Sizing of features - attenuation volume
  - Infiltration in accordance with BRE365
  - Detailed drainage layout with pipe numbers
  - SUDS - (in a treatment train approach to improve water quality)
  - Network drainage calculations
  - Phasing
  - Flood routes in exceedance

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 Policies ESD6 and ESD7 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

#### **Site Contamination**

9. Further contamination risk assessment is required in accordance with paragraph 10.3.2 of the submitted Geo-Environmental Site Investigation, BRD3473-OR2-A report. Prior to the commencement of the development hereby permitted, the further assessment recommended at paragraph 10.3.2 shall be undertaken to inform the remediation strategy proposals. This shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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

10. If contamination is found by undertaking the work carried out under condition 9, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

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

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that

the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

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

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

#### **Cycle Storage**

13. Prior to the first occupation of the dwellings hereby approved, full design details of the cycle storage area, including elevations and materials, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved cycle storage area shall be erected in accordance with the approved details, prior to the first occupation of those dwellings.

Reason: To encourage sustainable modes of transport, to ensure the satisfactory appearance of the completed development and to comply with Policies ESD1 and ESD 15 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.

#### **Waste Management**

14. Prior to the occupation of the development hereby approved, a waste management strategy including details of how waste would be collected from the site, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out and maintained in accordance with the approved details.

Reason: In order that proper arrangements are made for the disposal of waste, in the interests of highway safety and in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Biodiversity Enhancement**

15. No development shall commence, including any demolition, and any works of site clearance, unless and until a method statement for

enhancing the biodiversity on the site has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

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.

#### **Boundary Treatments**

16. No development shall commence above slab level except for demolition unless until details of the boundary treatments have been submitted to and approved in writing by the Local Planning Authority. Thereafter, boundary treatments shall be implemented prior to the occupation of any unit on the site and retained in accordance with the approved details.

Reason: In order that proper arrangements are made for the disposal of waste, in the interests of highway safety and in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Site Clearance outside of Nesting Season**

17. 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 July 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.

#### **Noise Levels to Habitable Rooms**

18. Prior to the development commencing, except for demolition, a report should be provided and approved in writing by the local planning authority that shows that all habitable rooms within the dwelling will achieve the noise levels specified in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings) for indoor and external noise levels (if required then the methods for rating the noise in BS4142:2014 should be used, such as for noise from industrial sources). Thereafter, and prior to the first occupation of the dwellings affected by this condition, the dwellings shall be insulated and maintained in accordance with the approved details.

Reason: In the interests of the residential amenities of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1

and Government guidance contained within the National Planning Policy Framework.

**Construction Environment Management Plan**

19. No development shall commence unless and until 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 has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with approved CEMP.

Reason: In the interests of the residential amenities of the area, to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework

**External Lighting**

20. Prior to the first use of the development hereby approved details of the external lighting and 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 the first use of the development hereby approved the lighting shall be installed and operated in accordance with the approved scheme at all times thereafter.

Reason: In the interests of the residential amenities of the area, to ensure and retain the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

**Obscure Glazing to Eastern Windows of Block A**

21. The windows at ground floor, first floor and second floor level in the eastern side elevation that serve the habitable living areas of flats 1, 5 and 9 as shown on the Sketch Units – Block A Plans 18112-PP-002-A shall be permanently retained with purpose made obscure glazing and shall be top opening only at 1.7m above the floor level of the room in which the window is installed.

Reason: To safeguard the amenity of the occupiers at Mulberry Court, former 3 Bicester Road, to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

143

**Windrush Surgery, 5A Bradley Arcade, Bretch Hill, Banbury, OX16 0LS**

The Committee considered application 22/03821/F for the change of use of a former doctors surgery to Class E to facilitate the expansion of the Londis

shop and for minor internal alterations at Windrush Surgery, 5A Bradley Arcade, Bretch Hill, Banbury, OX16 0LS for Mr F Sharma.

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

**Resolved**

- (1) That permission be granted for application 22/03821/F subject to the following conditions.

**Conditions**

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

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

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out in accordance with the following plans and documents: Site location plan 1:1250, Elevations/Proposed, Ground floor/Proposed and car park plan.

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

144

**4 Grimsbury Square, Banbury, OX16 3HX**

The Committee considered application 22/03180/F for a single storey rear extension at 4 Grimsbury Square, Banbury, OX16 3HX for Ms Fazal Bibi.

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

**Resolved**

- (1) That permission be granted for application 22/02491/CDC subject to the following conditions (and any amendments to those conditions as deemed necessary).

**Conditions**

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



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

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out in accordance with the information contained within the application form and drawings numbered P.01 and P.02

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.

145 **Appeals Progress Report**

The Assistant Director Planning and Development submitted a report which informed Members about planning appeal progress including decisions received and the scheduling of public inquiries and hearings for new and current appeals.

**Resolved**

- (1) That the position statement be accepted.

The meeting ended at 7.20 pm

Chairman:

Date:

# Agenda Annex

## CHERWELL DISTRICT COUNCIL

Planning Committee – 13 April 2023

### PLANNING APPLICATIONS INDEX

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

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

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

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

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

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

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

#### **Human Rights Implications**

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

#### **Background Papers**

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

<b>Item No.</b>	<b>Site</b>	<b>Application Number</b>	<b>Ward</b>	<b>Recommendation</b>	<b>Contact Officer</b>
<b>8</b>	Land North And South Of Pingle Drive Bicester	22/03513/F	Bicester South and Ambrosden	Approval	Katherine Daniels
<b>9</b>	OS Parcel 6920 East Of Oxford Road And Adjoining And South Of Canal Lane, Bodicote	22/03452/F	Banbury Calthorpe and Easington	Approval	Andy Bateson
<b>10</b>	OS Parcel 4525 South of Council Depot Adjacent And West Of Banbury Road Deddington	22/02992/OUT	Deddington	Refusal	Wayne Campbell
<b>11</b>	Laurels Farm Dark Lane Wroxton OX15 6QQ	23/00130/F	Cropredy, Sibfords and Wroxton	Refusal	Imogen Hopkin
<b>12</b>	Oathill Farm Claydon Road Cropredy OX17 1QA	22/03829/F	Cropredy, Sibfords and Wroxton	Refusal	William Anstey
<b>13</b>	Land Adjacent To The Oxford Canal, Spiceball Park Road, Banbury	22/03035/DISC	Banbury Cross and Neithrop	Approval	Andy Bateson

\*Subject to conditions



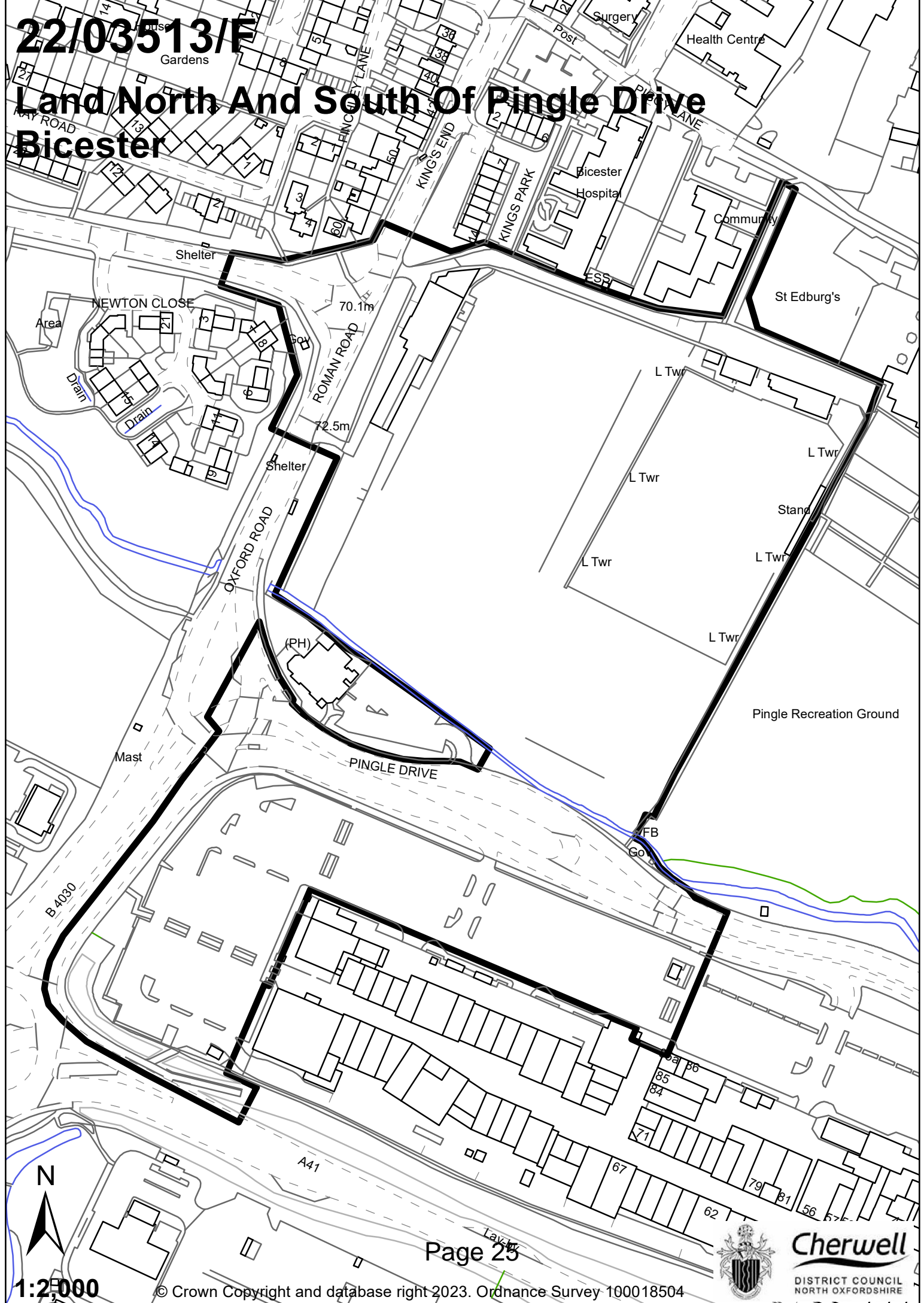
# Land North And South Of Pingle Drive Bicester





22/03513/E

# Land North And South Of Pingle Drive Bicester

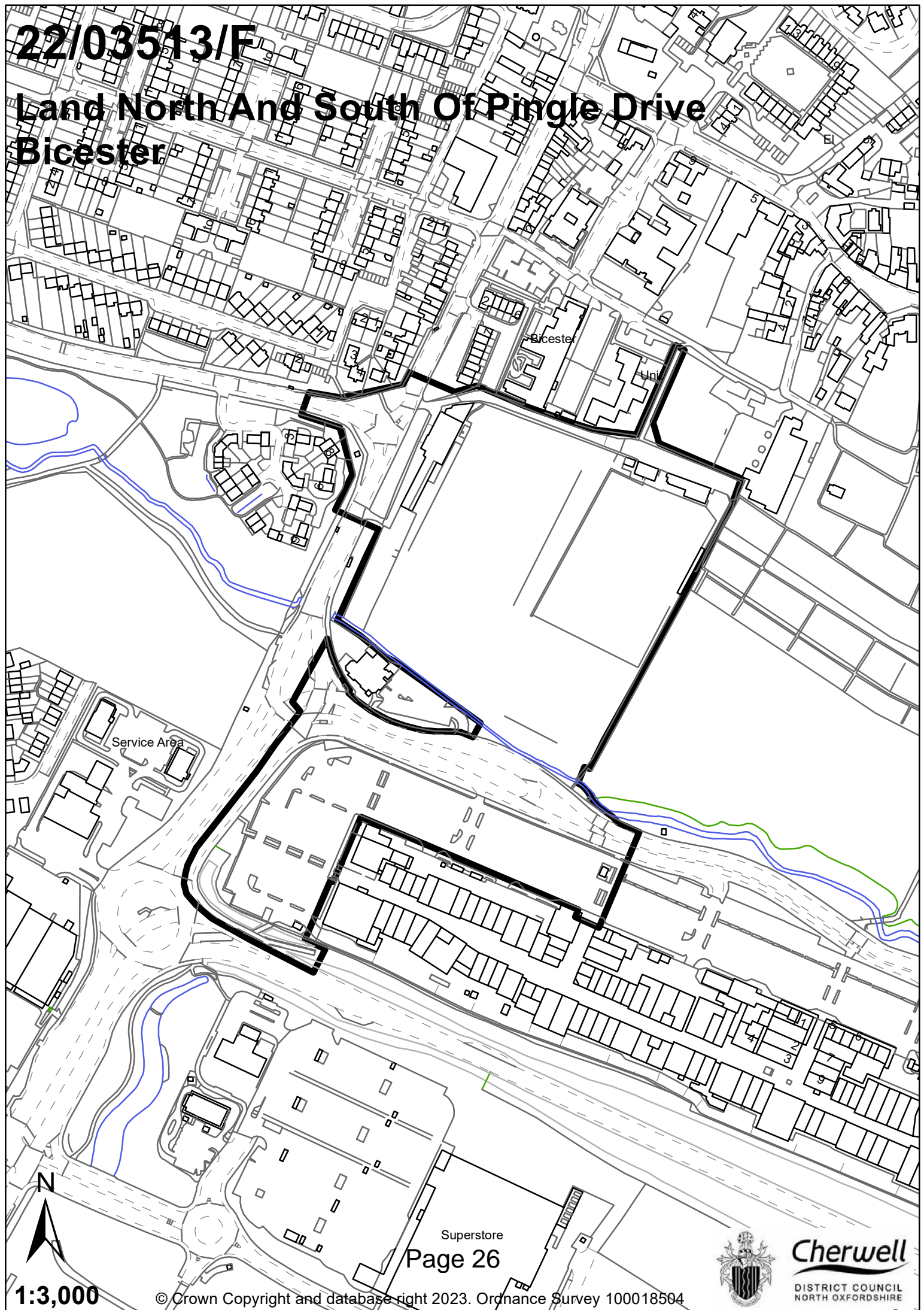


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22/03513/F

Land North And South Of Pingle Drive  
Bicester



Service Area

Bicester

Superstore  
Page 26



1:3,000

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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Case Officer:** Katherine Daniels

**Applicant:** Value Retail Management (Bicester Village) Limited

**Proposal:** Redevelopment of site to provide a new public park, a car and cycle hub with electric vehicle charging and additional guest services, retail and food and beverage floorspace with associated access, parking, drainage and landscaping.

**Ward:** Bicester South And Ambrosden

**Councillors:** Councillors Cotter, Pruden, Sames

**Reason for Referral:** Major development

**Expiry Date:** 30 April 2023

**Committee Date:** 13 April 2023

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**RECOMMENDATION: GRANT PERMISSION SUBJECT TO THE REMOVAL OF THE ENVIRONMENT AGENCY OBJECTION, CONDITIONS AND SUBJECT TO A S106 LEGAL AGREEMENT**

**MAIN REPORT**

**1. APPLICATION SITE AND LOCALITY**

1.1. There are two distinct elements to the application site. Land to the South of Pingle Drive and land to the North of Pingle Drive.

Land to the South of Pingle Drive

1.2. This part of the application site forms part of Bicester Village, which is a designer shopping outlet. The overall design of the development is in a New England style. Parking for Bicester Village is located to the north and east of the main buildings. The entrance is off the Oxford Road, onto Pingle Drive. The A41 is located to the west. There is mature vegetation between the A41 and the outlet shopping centre.

Land to the North of Pingle Drive

1.3. This part of the application site forms part of the former Bicester Sports Association (BSA) sports facilities. BSA sold the land to Value Retail in 2021. The site is currently closed off, but its permitted use is for sports facilities. It has 2 Rugby pitches and 1 football pitch. There are a number of buildings on site, associated with the sports provision, including a rifle range. A public footpath is located along the south-eastern boundary as well as the north-eastern boundary. The Acorn Public house is located on the south-western boundary of the site. Pingle Brook runs within the site east to west. Pingle Field football complex and recreation land is located to the south-east of the application site. St Edburgs Church, is a Grade I Listed building and is located to the northeast of the application site. Bicester Community Hospital is located to the north, and there are residential properties to the north (Kings Park).

## **2. CONSTRAINTS**

- 2.1. Part of the application site is located within Flood zone 2 and 3. The Environment Agency advise that controlled waters are particularly sensitive in this location because the proposed development site is located upon a secondary aquifer A. There is some risk of contamination and there are ecological records within the vicinity.

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

- 3.1. The proposal has two elements, land to the south and land to the north of Pingle Drive. These are described separately below.

### **3.2. Land to the South of Pingle Drive**

- 3.3. The proposal seeks to create a new western terrace for Bicester Village. The proposal will be three storeys in height with guest services, retail, and food/beverage building. The proposal will result in the loss of 84 car parking spaces. The proposal seeks to create a full-stop at the end of the avenue. The overall width is 33m with an overall length of 50m. The overall height of the Western Terrace is 15m. The ground floor proposes to include two retail/food and beverage units, a kiosk and a guest services lobby. The ground floor area is 1152 sqm. The floor area of the retail units is 981 sqm. The first and second floors will be specifically for guest services, 1074 sqm on the first floor and 584 sqm on the second floor. The building will be constructed to BREEAM excellent standard.

### **3.4. Land to the North of Pingle Drive**

- 3.5. The proposal to the north includes a car and cycle hub, and a new publicly accessible park. Bicester Village has lost 1250 spaces at Graven Hill and G10 (Lower Arncott). Spaces at Blue Diamond and Bicester Motion are still currently available, but this is not indefinitely. The spaces provided at Bicester Motion and Blue Diamond equate to 950 spaces. There is a public park and ride off the A41, however, this is not exclusively for Bicester Village. The proposals on the land to the south of Pingle Drive result in the loss of 84 spaces.

- 3.6. The car and cycle hub is proposed to be in an oval shape multistorey building with 1246 spaces. There will be 1057 standard spaces, 126 EV charging points and 63 parent and child spaces. The spaces will be fitted to facilitate the future rollout of electric vehicle charging points. 56 cycle spaces, 3 e-bike charging points, 24-hour cycle repair stands, and a cycle space. The overall design of the proposed car park/cycle hub includes vertical cladding at the base and a simple palette of materials. Elevations will remain open, however, the edge of the structure will be softened by planting. The car and cycle hub is an oval shape and measures 172m by 83m, with a central void in the middle. The overall height of the building is 22m at its tallest. The car and cycle hub includes PV panels on the roof. Access is proposed to the car park from Pingle Drive and the exit from the car park is proposed onto the roundabout at the Oxford Road/ Middleton Stoney road roundabout.

- 3.7. To the north of the proposed car and cycle hub, there is a proposed open space, and improved connectivity to the town centre. The proposed park seeks to become a flexible space allowing for informal amenity and sports space. The applicants have advised that there are three pillars to the park area, connectivity, biodiversity and community.

## **4. RELEVANT PLANNING HISTORY**

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



**Application: 12/00233/F** Permitted 20 April 2012

Variation of Condition 10 of 05/02131/F to allow the Class A3 use of any approved building within Bicester Village to be increased from 2,500 sqm to 2,950 sqm

**Application: 16/00845/F** Permitted 29 July 2016

Variation of condition 2 of 15/00082/F - Changes to vehicular access into the existing / proposed car park and associated changes to the landscaping and car park areas

**Application: 16/01562/F** Permitted 30 November 2016

Variation of Condition 2 of planning permission 16/00845/F - Minor changes to approved scheme resulting in variations to elevations, changes to the alignment of the service yard wall, changes to the proposed toilet block, the provision of additional back of house storage space, a hospitality lounge and an increase in sales space in specific units

**Application: 15/00082/F** Permitted 11 March 2016

Demolition of existing Tesco food store, petrol, filling station and part of the existing Bicester Village retail outlet centre, to provide an extension to provide new A class floor space, car parking and associated landscaping and highway works.

**Application: 18/00510/F** Application  
Withdrawn 20 August 2018

Formation of new service access to Bicester village from the northbound carriageway of the A41 to the east of the A41/B4030 Junction

**Application: 17/00955/OUT** Permitted 18 October 2017

Variation of conditions 4 and 5 (to allow up to 3500sqm of Class A3 use and 1000sqm full price retail within Bicester Village) and 9 (unit size) of 98/01201/OUT

**Application: 18/01634/F** Permitted 29 March 2019

Variation of Conditions 19 (factory outlet centre + 3500sq m class A3) and 22 (restriction of retailers for particular goods) of 17/00958/F and addition of a condition to 17/00958/F

**Application: 18/01638/OUT** Permitted 21 December 2018

Variation of Conditions 2 (factory outlet centre + 3500sq m class A3) and 5 (restriction of retailers for particular goods) of 17/00955/OUT and addition of a condition to 17/00955/OUT

**Application: 19/02728/F** Permitted 10 February 2020

Extension to 'Management 3' First Floor Office

**Application: 21/00271/F** Permitted 19 May 2021

Variation of Condition 19 (development use) of 18/01634/F - Proposed condition wording: "The development hereby approved shall only be used for the purposes of providing a factory outlet shopping centre selling discounted high end designer goods, with ancillary office space for the management and operation of the centre, except to allow alternative uses subject to the following limits as apply to the whole of the Bicester Village Outlet Shopping Centre (as it exists at the date of this permission): 5,000 sqm floorspace (GIA) only for the display or retail sale of high end goods, other than hot food within Class E(a) use; for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises within Class E(b) use; for indoor sport, recreation or fitness (not involving motorised vehicles or firearms) within Class E(d) use; and for creche, day nursery or day centre (not including a residential use) within Class E(f) use ((as defined in the Schedule to the Town and Country Planning (Use Classes Order) 1987 [as amended])); 1,000 sqm floorspace (GIA) of high end, full price confectionary and convenience goods sales within Class E(a) use (as defined in the Schedule to the Town and Country Planning (Use Classes Order) 1987 [as amended])); 1,000 sqm floorspace (GIA) at ground floor level across up to five retail units (Class E(a)) for the sale of full price high end designer goods but with no more than 330 sqm of internal floorspace in any one retail unit being used for such purposes."

**Application: 21/00267/F** Permitted 19 April 2021

Variation of Condition 2 (development use) to 18/01638/OUT - Proposed condition wording: "The development hereby approved shall only be used for the purposes of providing a factory outlet shopping centre selling discounted high end designer goods, with ancillary office space for the management and

operation of the centre, except to allow alternative uses subject to the following limits as apply to the whole of the Bicester Village Outlet Shopping Centre (as it exists at the date of this permission): 5,000 sqm floorspace (GIA) only for the display or retail sale of high end goods, other than hot food within Class E(a) use; for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises within Class E(b) use; for indoor sport, recreation or fitness (not involving motorised vehicles or firearms) within Class E(d) use; and for creche, day nursery or day centre (not including a residential use) within Class E(f) use ((as defined in the Schedule to the Town and Country Planning (Use Classes Order) 1987 [as amended])); 1,000 sqm floorspace (GIA) of high end, full price confectionary and convenience goods sales within Class E(a) use (as defined in the Schedule to the Town and Country Planning (Use Classes Order) 1987 [as amended]); 1,000 sqm floorspace (GIA) at ground floor level across up to five retail units (Class E(a)) for the sale of full price high end designer goods but with no more than 330 sqm of internal floorspace in any one retail unit being used for such purposes

**Application: 21/00268/F**

Permitted

18 May 2021

Variation of Condition 3 (development use) of 19/00008/F - Proposed condition wording: "The development hereby approved shall only be used for the purposes of providing a factory outlet shopping centre selling discounted high end designer goods, with ancillary office space for the management and operation of the centre, except to allow alternative uses subject to the following limits as apply to the whole of the Bicester Village Outlet Shopping Centre (as it exists at the date of this permission): 5,000 sqm floorspace (GIA) only for the display or retail sale of high end goods, other than hot food within Class E(a) use; for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises within Class E(b) use; for indoor sport, recreation or fitness (not involving motorised vehicles or firearms) within Class E(d) use; and for creche, day nursery or day centre (not including a residential use) within Class E(f) use ((as defined in the Schedule to the Town and Country Planning (Use Classes Order) 1987 [as amended])); 1,000 sqm floorspace (GIA) of high end, full price confectionary and convenience goods sales within Class E(a) use (as defined in the Schedule to the Town and Country Planning (Use Classes Order) 1987 [as amended]); 1,000 sqm floorspace (GIA) at ground floor level across up to five retail units (Class E(a)) for the sale of full price high end designer goods but with no more than 330 sqm of internal floorspace in any one retail unit being used for such purposes

## 5. PRE-APPLICATION DISCUSSIONS

- 5.1. The following pre-application discussions have taken place with regard to this proposal:
- 5.2. The applicants had a number of pre-application meetings with Cherwell District Council regarding the proposals. These have included ecology, highways, environment health, recreation and leisure, landscape. The main concerns highlighted to the applicants were the impact of the loss of the sports field and the impact on highway safety. Designated Heritage impacts was also raised as a potential concern.

## 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, taking into account periods of re-consultation was **09 March 2023**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. 126 letters of objection, and 16 letters of support have been received. There is also a petition which has 3502 signatures objecting to the proposal – although it is understood the petition has been going on prior to the current application.
- 6.3. The letters of objection raise the following concerns:
  - Poor design, car park is too tall and bulky
  - The western terrace is a pastiche of dummy and false architectural features
  - Overdevelopment of the site
  - Will result in more traffic coming onto the site
    - Bicester is congested already
    - Entrance and exit should be within Bicester Village
  - Harm to the setting of the conservation area and St Edburgs Church
  - Loss of Sports field
  - Increase in pollution
    - Bicester is supposed to be a Garden Town
  - Not for local users
- 6.4. The Letters of support raise the following
  - Park will be an asset to the town
  - Important to the Local economy
  - Will bring jobs to Bicester

- Nice addition to the entryway to Bicester

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

## 7. RESPONSE TO CONSULTATION

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

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. BICESTER TOWN COUNCIL: There is no objection to the extension to the village itself, but they do **object** on the grounds of design, views of St Edburghs, Overdevelopment, Loss of playing pitches, Traffic, pollution relating to the proposals on land to the north of Pingle Drive.

### CONSULTEES

7.3. CDC ENVIRONMENTAL PROTECTION: Requests planning conditions to land contamination, lighting, demolition and construction, air quality, and noise and vibration.

7.4. CDC ARBORICULTURE: No comments received to date

7.5. CDC BUILDING CONTROL: Will require a Building Control application

7.6. CDC CONSERVATION: **Objects**. The proposal will lead to less than substantial harm to the setting of the Conservation Area and Listed Church. Have concerns regarding the overall design and appearance

7.7. CDC ECOLOGY: No comments received to date

7.8. CDC LANDSCAPE SERVICES: Have agreed the LVIA, and has the following comments, *'As the additional cross-section indicates the loss of existing and proposed trees I wish to confirm that I am concerned about the potential deficit of structural vegetation which if planted and retained will effectively screen the car park from the Oxford Road approach for the benefit of roadside receptors (vehicle and pedestrian). As a point in principle these trees should be planted/retained for this reason.*

7.9. *In addition the visual mitigation of the car park is paramount and therefore I do not think the exclusion of climbers and trailing plants from the façade of the car park due to impracticality is a valid argument. The developer should commit to the establishment of this planting by installing an effective irrigation system and appropriate compost and mulching in custom-made planting.'*

7.10. CDC LAND DRAINAGE: Have no comment need to consult LLFA

7.11. CDC RECREATION AND LEISURE: Have **no objections** subject to the entering into a S106 to mitigate against the loss of sports provision. (See Appendix 1)

7.12. CDC PLANNING POLICY: **No Objection** subject to the loss of the Oxford Road Sports Ground being mitigated to the satisfaction of Sports England and the Council's Wellbeing Team.

- 7.13. OCC LOCAL HIGHWAY AUTHORITY: **No Objection** subject to S106 contributions, obligation to enter into a S278 agreement and Planning conditions.
- 7.14. OCC LEAD LOCAL FLOOD AUTHORITY: **No Objection** subject to planning conditions.
- 7.15. OCC ARCHAEOLOGY: **No Objection**
- 7.16. NATIONAL HIGHWAYS: **No Objection**
- 7.17. NATURAL ENGLAND: No comments received to date
- 7.18. ENVIRONMENT AGENCY: **Object** to the proposal relating to Flood risk, Inadequate Flood Risk Assessment and insufficient ecological assessment and risk to nature conservation.
- 7.19. CRIME PREVENTION DESIGN ADVISOR: No comments received to date
- 7.20. SPORT ENGLAND: **Objection** to this application on the basis that it will result in the loss of playing fields, until a suitable Section 106 agreement, or other legal mechanism is delivered, or arrangements are confirmed on the replacement provision.
- 7.21. BICESTER BIKE USERS GROUP: No comments received to date
- 7.22. BBO WILDLIFE TRUST: No comments received to date
- 7.23. BICESTER HERITAGE: No comments received to date
- 7.24. BICESTER LOCAL HISTORY SOCIETY: No comments received to date
- 7.25. CHILTERN RAILWAYS: **Supports** the application

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

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

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

- Policy SLE 2: Securing Dynamic Town Centres
- Policy SLE 3: Supporting Tourism Growth
- Policy SLE 4: Improved Transport and Connections
- Policy BSC 10: Open Space, Outdoor sport and Recreation Provision
- Policy BSC 12: Indoor Sport, Recreation and Community Facilities
- Policies ESD 1 – 5: Mitigating and Adapting to Climate Change
- Policy ESD 15: The Character of the Built and Historic Environment
- Policy ESD 17: Green Infrastructure
- Policy Bicester 5: Strengthening Bicester Town Centre

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

- C23 – Retention of features, contributing to character and appearance of a conservation area
- C28 – Layout, design and external appearance of new development

### 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)

## **9. APPRAISAL**

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

- Environmental Statement
- Principle of development
- Heritage impact
- Design, and impact on the character of the area
- Highway Impact
- Drainage and Flood Risk
- Ecology impact
- Residential Amenity

### Environmental Statement

- 9.2. The aim of an Environmental Impact Assessment (EIA) is to protect the environment by ensuring that a Local Planning Authority (LPA) when deciding whether to grant planning permission for a project, which is likely to have significant effects on the environment, does so in the full knowledge of the likely significant effects, and takes this into account in the decision making process.
- 9.3. The application is accompanied by an Environmental Statement (ES) which is the written material submitted to the LPA in fulfilment of the EIA regulations. The ES covers landscape and visual impacts, demolition and construction, transport, air quality, noise and vibration. The ES identifies significant impacts of the development and mitigation to make the development acceptable.
- 9.4. The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 require that Local Authorities shall not grant planning permission or subsequent consent pursuant to an application to which these regulations apply unless they have first taken the environmental information into consideration, and they shall state in their decision that they have done so.
- 9.5. The PPG advises 'The Local Planning Authority should take into account the information in the Environmental Statement, the responses to consultation and any other relevant information when determining a planning application'. The information in the ES and the consultation responses received have been taken into account in considering this application and preparing this report.

- 9.6. The ES identifies mitigation and this, should the proposal be approved, would need to be secured through conditions and/or legal agreements. The remaining paragraphs in this Committee report assess the submitted planning documents and the contents of the Environmental Statement in order to reach a balanced and informed recommendation to Members.

### Principle of Development

#### *Policy Context*

- 9.7. Policy SLE 2 of the CLP 2011-2031 seeks to secure dynamic town centres. If the proposal was over the 1500sqm an impact assessment would be required to ensure the proposal does not have a significant impact upon Bicester and other town centres. All proposals should comply with SLE4 and ESD15. Bicester Village is identified as an Outlet Shopping Centre.
- 9.8. Policy SLE 3 of the CLP 2011-2031 seeks to support tourism growth, provided they accord with other policies in the plan.
- 9.9. Policy SLE4 of the CLP 2011-2031 seeks to improve transport and connections. Developments should facilitate the use of sustainable modes of transport.
- 9.10. Policy Bicester 5 of the CLP 2011-2031 seeks to strengthen Bicester Town Centre. Bicester village will have a role in the improvement of central Bicester (C.74).
- 9.11. Policy BSC10 of the CLP 2011-2031 seeks to protect existing sports and recreation sites.
- 9.12. NPPF Paragraph 87 states that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan.
- 9.13. NPPF paragraph 99 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.*

#### *Assessment*

### Land South of Pingle Drive

- 9.14. This element is for the extension of the existing Bicester Village, which is described as the western terrace. This has an element of Class E use (two retail units and a small kiosk), which comprises a floor area of 981 sqm GIA, and the provision of guest services which extends to 1 829 sqm GIA floorspace. This use is considered to be Sui Generis.
- 9.15. Bicester Village is recognised within the Local Plan 2011-2031 as providing a specialist role, which complements the Town Centre. Bicester village serves both a



national and international catchment, and it makes a significant contribution to the local economy. However, the growth of Bicester Village must be integrated into an improved town centre.

- 9.16. The proposal for the western terrace is for the provision of guest services for Bicester Village, and the retail element is not significant enough to warrant a retail impact assessment. The proposal is to complement what is on offer at the site, rather than expand the overall retail element. It is therefore unlikely the proposal for the western terrace will result in a harmful impact on Bicester Town Centre. Planning conditions are proposed to ensure the same conditions/allowances and restrictions as the existing retail floorspace within Bicester Village apply to this development. This will ensure that the development does not compete directly with Bicester or other town centres.

#### Land North of Pingle Drive

- 9.17. The current use of this aspect of the application site is for sports fields. Bicester Sports Association sold the land to Value Retail, and the site was no longer available in 2021, however, the use of the site remains as a sports field. Planning permission was granted at a site in Chesterton for sports facilities under permission 19/00934/F. Commencement of this development has not occurred to date; however, Bicester Sports Association has submitted applications to discharge conditions, and these are at an advanced stage. It is possible that this site could be developed, although no guarantee. This application was allowed at appeal. The planning inspector states that the site at Chesterton would provide *'significant enhancement of a sporting facility and pitch provision with modern, purpose built pitches and facilities'*. In addition the inspector acknowledged *'the proposal includes provision for those facilities previously located at Oxford Road'*
- 9.18. According to the Playing Pitch Strategy there is a need for sports provision within Bicester, therefore the site is not surplus to requirements. Therefore, as part of the consideration of this proposal, the Local Planning Authority has to be satisfied that there is an equivalent or better provision in terms of quantity and quality.
- 9.19. Sports England has objected to the proposal, subject to a suitable legal agreement to mitigate against the loss of the playing pitch. This seeks to ensure the proposal is sufficiently mitigated against its loss. Cherwell District Council's Recreation and Leisure have considered the proposal and have recommended the applicant contributes £1.1 million pounds to provide suitable mitigation elsewhere in Bicester for the provision of rugby and or football. Provided that this occurs, the Council's Recreation and Leisure Team advise that the loss of the current site would be acceptable in this particular case.
- 9.20. Further consideration has to be had that the site is not currently in use, and is not within the ownership of a sports, parish or local authority. As such there is a strong potential that the owners could not re-open the site. In addition, the existing buildings would require some attention to make them fit for purpose. This is not the overall determining factor; however, it is a material consideration of the application and should be given some weight in the overall balance of the scheme.
- 9.21. The proposal also includes the provision of a public open space that can be used for the purposes of informal play. In addition, the proposal seeks to create enhanced cycle and footpath linkages to Bicester Town Centre from Bicester Village. The proposal also seeks to open the site up with the recreation ground (Pingle Fields) to the east of the site.

#### *Conclusion*

### Land South of Pingle Drive

- 9.22. The principle of the extension of Bicester Village is recommended to be supported, provided conditions are imposed to ensure the development is consistent with the existing floorspace at Bicester Village. It is considered that the proposal for the western terrace could be acceptable in principle subject to a consideration of all other matters.

### Land North of Pingle Drive

- 9.23. The proposal seeks to develop on land which is currently used for the purposes of playing pitches, therefore provided appropriate mitigation is sought to ensure the development is in accordance with Policy BSC10 of the CLP 2011-2031 and the NPPF paragraph 99, then this is something which could be concluded to be acceptable in principle. CDC's Recreation and Leisure Officer is satisfied that provided mitigation measures are in place, the proposal will accord with these policies. The mitigation will be through the requirement of a S106 obligation to pay a financial contribution. Sport England's objection to the scheme relates to the fact there are no mitigation measures in place at the current time. However, Sport England is satisfied that providing a S106 is entered into and sealed, then the objection will be removed. Until the S106 is in place, Sport England will not remove its objection.
- 9.24. There will also be benefits of the proposal, by opening the site up and improving sustainable connections to the Town Centre, as well as providing an informal play area and links to the existing recreation ground.
- 9.25. Overall, provided a S106 is entered into, the loss of the playing pitches could be acceptable in principle subject to the consideration of all other matters.

### Heritage Impact

#### *Legislative and policy context*

- 9.26. The site affects the setting of a Conservation Area and a Grade I listed building.
- 9.27. 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.*
- 9.28. 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.
- 9.29. 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*

### Land South of Pingle Drive

9.30. This element does not result in harm to the designated heritage assets, as the development is seen as part of the existing development at Bicester Village.

### Land North of Pingle Drive

9.31. The Conservation Officer has raised objections to the proposal, as the multistorey car park will result in harm to the setting of the designated heritage asset (the conservation area). They consider the harm is less than substantial. It is considered the harm cannot result in substantial harm as it will not take away from the core interest of the conservation area and the wider setting of St Edburg's Church. There will be a loss of the existing open space which provides breathing space to the conservation area and the Church. The Conservation Officer has suggested that the scheme could be reduced in overall scale.

9.32. The applicants have sought to address the comments made by the Conservation Officer and have highlighted the scheme as a whole and how it has been developed. The applicants acknowledge that there will be some loss of viewpoints, however, some of these viewpoints will be opened as a result of the car park being accessible by all. The applicants consider there will be an enhancement to the vistas as a result of the proposed development.

9.33. The comments from the applicants and the conservation officer are taken into account, and whereas there may be some disagreement, the overall harm to the designated heritage assets is considered to be less than substantial. It is acknowledged that views will be lost as a result towards the Conservation Area and St Edburgs Church from the Oxford Road.

9.34. Therefore, as a result of the less than substantial harm, in accordance with Paragraph 202 of the NPPF, the harm has to be weighed against the public benefit of the scheme. The public benefits of the scheme include;

- Jobs during construction
- Supporting the growth of an existing business within the District
- Biodiversity Net Gain of 25%
- Provide significant cycle parking, and improved links to the Town Centre
- New public space
- Reduce congestion caused by the locations of different parking facilities.

9.35. These public benefits are significant.

### *Conclusion*

9.36. It is acknowledged that there is no harm to the designated heritage asset as a result of the proposed Western Terrace. However, there is considered to be less than substantial harm due to the impact of the proposed multi-storey car park.

9.37. It is acknowledged that there will be some loss of views across the site as a result of the construction of the car and cycle hub, and these will be irreversible. The site is located within an urban area that has been altered over the years. It is considered the

public benefits of the scheme outweighs the less than substantial harm in this particular case.

### Impact on the Character and Appearance of the Locality

#### *Policy Context*

- 9.38. 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.
- 9.39. Policy ESD13 of the CLP 2015 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. It goes on to state that 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, be inconsistent with local character, or harm the setting of settlements or buildings.
- 9.40. Policy ESD15 of the CLP 2015 highlights the importance of the character of the built and historic environment. This Policy states, amongst other things, that successful design is founded upon an understanding and respect for an area's unique built, natural and cultural context. New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. The Policy continues by stating that new development proposals should, amongst other things, contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views. Development should also respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale, and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages.
- 9.41. 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. It goes onto note that planning decisions should contribute to and enhance the local environment by recognising the intrinsic character and beauty of the countryside. It also states that development should function well and add to the overall quality of the area and be sympathetic to local character and history, including the surrounding built environment and landscape setting.

#### *Assessment*

- 9.42. During the pre-application stage the applicants sought advice from a Design Review Panel over the design of the proposal. The design review summarised the following points on design:
- The Panel supports the aspirations of the project, which could represent an asset for the local community
  - The proposed architecture is considered to be of a high standard
  - Although suggests why other measures are not explored, such as decking the existing car park.

### Land South of Pingle Drive

- 9.43. With regard to the proposal for the construction of the western terrace, the Design Review Panel, agreed that this would provide a 'full stop' to the end of the shopping street. The overall design of the western terrace is in a New England style, akin to the existing Bicester Village and its height is comparable to height already in place at Bicester Village. Any different style of development in this location would look out of place with the immediate surroundings.
- 9.44. It is considered that development of the western terrace will create a sense of place within Bicester Village, and create a strong vista along the shopping street.
- 9.45. The western terrace will be visible from the main road, as this development will extend closer to the Oxford Road. There is a different style of development in the immediate area. Tesco and McDonalds which are modern buildings are located to the south on the corner of Oxford Road and the A41. The Esso and Starbucks are located to the west of the site. These combine modern buildings with a petrol filling station. There is not a single building style within the locality.

#### Land North of Pingle Drive

- 9.46. The applicants have provided a Landscape and Visual Impact Assessment (LVIA) as part of the application submission. This highlights there will be a minor-moderate adverse impact upon the locality during the construction phase. This is not dissimilar to other similar cases. The impact overall reduces as the proposed mitigation establishes itself.
- 9.47. The car and cycle hub element will still be seen, within the wider viewpoints given its overall size and height. There will be mitigation for the proposed development, however, there is considered there will be some harm to the character and appearance of the locality, given its relationship with Oxford Road.
- 9.48. A car and cycle hub can look imposing, given its overall use and nature. The Design Review Panel was supportive of the overall design, which is considered of a high standard. The proposal includes the planting between the decks to reduce the overall dominance in the street scene, this is supported. The proposed planting between the car park floors is similar to the existing decked car parks along Pingle Drive, and used elsewhere in the district, such as at The Light development in Banbury. This has to be carefully managed, to ensure its longevity. This element goes some way to reduce the dominance of the building within the street scene.
- 9.49. In addition to the green elements of the proposed car and cycle hub, the proposal seeks to use a variety of different materials, such as metal fins, and external cladding. The material choices will be key for the building's integration within the street scene and its surroundings. These materials will have to be high quality to blend within the locality further. A condition can be imposed to ensure the materials are appropriate to the site and its surroundings. It is acknowledged that these will be a simple palette.
- 9.50. The proposal for the public space will open up public views between Oxford Road and the Conservation Area, by removing the existing buildings on site. Although adjacent to the car park, the green space will be accessible for all, creating a flexible space for local residents and visitors to Bicester. The overall design of the park area seeks to create a transition to the Pingle Recreation Field to the east. The overall design of this area is considered to be acceptable and is proposed to be of a high standard scheme notwithstanding its significant height.

#### *Conclusion*

#### Land South of Pingle Drive

9.51. The overall character of Bicester Village and its immediate context will not be harmed as a result of the proposed development. The proposal will create a natural stop to the existing Bicester Village and will create an improved streetscape from within the site. Overall, it is considered that this element would not result in a detrimental impact on the character and appearance of the locality.

#### Land North of Pingle Drive

9.52. It is noted that the car and cycle hub will result in a changed landscape entering Bicester along Oxford Road given the overall size and scale of the proposed development. It is clear from the visuals, this will be somewhat taller than the existing Acorn Pub which is located adjacent to the site.

9.53. The overall design of the car and cycle hub is considered to be of a high standard and not of a typical building of that nature. The impact of the proposal will be softened by appropriate landscaping on the building itself and within the proposed park area.

9.54. There will be some harmful impacts of the building in the locality due to its overall scale, however, the overall design is an exemplar building. Given the exemplar nature of the development, it is considered the design is appropriate and the impact on the character and appearance of the locality is considered to be acceptable.

9.55. The creation of a park, has appropriate landscaping to create an active space. Improving the overall linkages between different spaces within the locality is considered to be acceptable, and would lead to a benefit to the character and appearance of the locality.

9.56. Overall it is considered that the impact on the character and appearance of the locality is considered to be acceptable. The proposal complies with the above mentioned policies.

#### Transport Impact

##### *Policy Context*

9.57. The NPPF confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. Development proposals should promote sustainable transport, ensure safe and suitable access can be achieved and mitigate any significant impacts to an acceptable degree.

9.58. Policy SLE4 of the Cherwell Local Plan Part 1 2011-2031 also requires development to facilitate the use of sustainable transport and confirms that new development must mitigate offsite transport impacts.

##### *Assessment*

#### Land South of Pingle Drive

9.59. This part of the proposal would lead to the loss of 84 car parking spaces used for Bicester Village, however the access to the site would be off Pingle Drive. The Local Highway Authority (LHA) considers the overall nature of the site will not change as a result of the new guest services and food and beverage facilities.

9.60. Therefore, it is unlikely that this element would result in a detrimental impact on the highway network.

#### Land North of Pingle Drive

- 9.61. The proposal for the new open space (St Edburg's Park) will create improved connectivity across the site and enhance the existing public rights of way that connect the site with the wider locality. There is no objection to this aspect on highway grounds.
- 9.62. The car and cycle hub, which proposes 1,246 spaces is as a result of Bicester Village losing 2,200 spaces around Bicester. The principle of this approach (i.e. considering the loss of spaces elsewhere to justify additional parking) is reasonable, however the LHA raised concerns about the impact on an already congested network. Concerns have also been raised by local residents on the impact of the proposed development on the highway network.
- 9.63. The LHA originally raised concerns on the following elements:
- Traffic forecasting and junction capacity appraisal
  - Correct policies within the Local Transport and Connectivity Plan need to be used
  - Accident data
- 9.64. National Highways requested further information/clarification on the impact the proposal will have on the Strategic Road Network (SRN). Clarification was sort on the following elements:
- Traffic Flow forecast of A41 around junction 9
  - Expected impact on trip generation arising from the additional guest services
  - Assessment of the potential for suppressed travel demand being released as a consequence of current pressures on available parking.
- 9.65. The applicants sought to address the comments of both the LHA and National Highways. The applicants provided a Transport Assessment Addendum in response to the LHA comment, and a Technical Note in response to National Highways. These have provided further information and mitigation measures to address any adverse impacts on the highway network.
- 9.66. In order to address the impact on the highway network, the applicants have suggested that the future-proofed option is considered. This includes a future-proofed roundabout at Middleton Stoney Road and Queens Avenue/Kings End. This will include a parallel crossing/zebra crossing on the Kings End approach and include a parallel/zebra crossing on the Middleton Stoney Road approach. This has been refined from the original submission to cater for active modes of transport on all approaches.
- 9.67. The applicants have reiterated that they will still have an overall reduction of 954 car parking spaces due to the loss of parking elsewhere around Bicester. In addition, by having the parking available on land within the ownership of Bicester Village, it is easier to manage guest arrivals and departures more efficiently.
- 9.68. As a result of the further clarification and work undertaken by the applicants to demonstrate the future proofed roundabout is the only option not to create an adverse impact on the road network, both National Highways and the LHA do not object to the proposal.

- 9.69. The applicants have prepared a Draft Travel Plan, which sets out the long-term management strategy to manage the trips generated to the site, both by guests and staff. This includes increasing awareness for staff and visitors about the advantages and potential for travel by more environmentally friendly modes of transport.
- 9.70. The proposal includes the provision of 126 electric charging spaces on the first use, with further infrastructure in place for the remainder of the spaces to be electric charging points in the future, and as and when demand requires. The proposal also seeks to provide 107 cycle spaces, of which 3 will have electric charging points.
- 9.71. S106 obligations are requested for various mitigation measures, and these are detailed and explained further in Appendix 1 of this report.

#### *Conclusion*

- 9.72. National Highways following clarification from the applicants do not object to the proposal, as it is unlikely to have an adverse impact upon the SRN. They have not requested any conditions to be imposed or any contributions.
- 9.73. The LHA have recommended a condition relating to the submission of a construction management plan, as well as obligations to mitigate against the impact of the development. Officers consider the scheme complies with the above-mentioned policies.

#### Drainage and Flood Risk

##### *Policy Context*

- 9.74. The NPPF states at paragraph 167 that *when determining applications, Local Planning Authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood risk assessment.* Paragraph 169 also requires that *major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.*
- 9.75. Policy Bicester 1 of the CLP 2011-2031 Part 1 requires that proposals should include a flood risk assessment, that development should not be provided in areas of flood risk and sustainable urban drainage should be provided in accordance with ESD7 (the policy acknowledges that SUDs would be part of the Green Infrastructure).
- 9.76. Policy ESD6 refers to Sustainable Flood Risk Management and sets out that flood risk will be managed and reduced with vulnerable development to be located in areas with lower risk of flooding. Policy ESD7 sets out that all development will be required to use sustainable drainage systems for the management of surface water flooding.

##### *Assessment*

- 9.77. The applicants have submitted a Flood Risk Assessment (FRA) to accompany the application. This finds the site partially within Flood Zones 2 and 3, which means part of the site is at risk of flooding. The areas which are within Flood Zones 2 and 3 are along the edge of the Pingle Stream.
- 9.78. The proposed flood risk mitigation strategy comes in two parts, one for land north of Pingle Drive and one to the south of Pingle Drive. The measures for the proposed development to the north of Pingle Drive consists of swales, filter drains, permeable pavements, detention basins and sub-surface storage.



- 9.79. The mitigation measures to the south of Pingle Drive includes rainwater harvesting, permeable pavements, and sub-surface storage. The finished floor levels will be set above expected flooding levels.
- 9.80. Following the submission of further information, the Lead Local Flood Authority (LLFA) has no objection to the proposed development, provided that a surface water drainage scheme is submitted to and approved in writing by the Local Planning Authority to be sought via planning condition. This is also required to be submitted prior to the commencement of the development. Also prior to the first occupation details of the construction of the SuDs and maintenance details shall be submitted to the LPA.
- 9.81. The Cherwell District Council Land Drainage Engineer has commented on the application. They are generally satisfied with the proposed development. Although as Pingle Stream is a main river, the partial culverting, and modifications to its course will require consents of the Environment Agency. These are in addition to any planning consents that may be granted.
- 9.82. The Environment Agency (EA) has objected to the scheme on three grounds. Two grounds relate to flooding and drainage issues. The EA objection 1, raises concerns over the proposed bridge culvert, which would obstruct flood flows, therefore increasing the flooding to nearby land. The culvert is not sized to accommodate the 1% annual exceedance probability. There are concerns that the proposed culvert is 28m in length, which is excessive. The EA considers the above objection could be overcome, but these points will have to be addressed and the scheme may require amendment.
- 9.83. The second objection from the EA is that the FRA submitted with the application is not acceptable. The applicants need to address the following points to overcome the second objection:
- Demonstrate this development does not impact flood storage capacity
  - Assess the impact of climate change allowances
  - Confirm all finished floor levels will be set above the 1% AEP plus appropriate climate change allowance flood level
  - Provide details of the proposed additional pedestrian/cycle bridge including its dimensions and the detailed assessment of its impact on flood risk.
- 9.84. As the site is located within Flood Zones 2 and 3, a sequential test is required. Therefore the Council needs to be satisfied that the proposed development would be safe throughout its lifetime and not lead to increased flood risk elsewhere. Although, this is not possible at this stage, given the objections from the EA. The EA's objection is considered to be possible of resolution, so the flood risk matter would, in all likelihood, be addressed. It is clear through the applicants submission that there is not another available site to develop the new car and cycle hub. Therefore, providing the applicants address the objections from the EA, the sequential test could be met.

#### *Conclusion*

- 9.85. Given the comments from the LLFA and the Council's Land Drainage Engineer, it is anticipated that a surface water drainage scheme will be achievable. It is noted that the EA has objected to the proposal, however the EA has suggested that these are resolvable concerns. The applicants are in active discussions with the EA to address

their concerns. Therefore, subject to the applicants addressing the objections from the EA, it is considered that the above-mentioned Policies would be complied with.

### Ecology Impact

#### *Policy Context*

- 9.86. 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.
- 9.87. 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.
- 9.88. 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.
- 9.89. 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.
- 9.90. 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.

#### *Assessment*

- 9.91. The applicants submitted Biodiversity and Ecological Assessment, Ecological Impact Assessment, Bat survey and a Bio-diversity Net Gain document. The Biodiversity Net Gain is 25.02%. This includes a positive hedgerow unity change of 105.99% and 28.48% for river units.
- 9.92. At the time of writing the report the Council's Ecological Officer has not commented on the proposals. The ecological assessment and the Bat Survey has recommended a number of mitigation measures, such as the erection of bat boxes, and inspections prior to demolition. These can be controlled by way of a planning condition. It is recommended that a CEMP condition is imposed.
- 9.93. It is noted that the EA have objected to the proposal as the proposal seeks the re-profiling of the bank of Pingle Stream, and an inadequate ecological assessment has

been submitted of the main river and its corridor to assess the impacts of the development on the watercourse and its associated habitats. The EA considers that it is possible to overcome their concern, provided they provide a full river corridor survey. In addition the EA can not be sure that there will be a BNG in river units.

- 9.94. In regard to the BNG, although this could be achieved, it would also need to be subject to management, use and created habitats. A full LEMP with a management and monitoring scheme should be conditioned to ensure these targets are met. The LEMP should also include biodiversity enhancements including bat boxes etc.
- 9.95. Lighting also has the potential to result in a negative impact on protected species, and it is recommended that a condition is imposed to ensure the proposed development does not have a negative impact. This would also be important from a visual amenity perspective too.

#### *Conclusion*

- 9.96. It is considered that the development could be acceptable in respect to the impact upon any habitats or protected species and that they would be safeguarded; this is provided the applicants are able to overcome the concerns of the EA. Provided the applicants are able to overcome the EAs objection (and any comments from the Council's Ecologist should any comments be received), the Council's duty under the Conservation of Habitats and Species Regulations 2017 would therefore be met and could then be demonstrated as having been discharged.
- 9.97. A net biodiversity gain has been demonstrated as being achievable, although Officers do consider that how this is achieved must be considered via the Landscape Ecology Management Plan to ensure that a net gain can be achieved.
- 9.98. On this basis, provided the applicants overcome the objection by the EA, the proposal could be considered to be acceptable in ecological terms and compliance would be possible with the above planning policies.

#### Residential Amenity

##### *Policy Context*

- 9.99. Policy ESD 15 of the Cherwell Local Plan Part 1 (2011-2031) sets out the criteria for development to consider the amenity of both existing and future development. This includes privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. It also seeks to limit the impact of light pollution from artificial light on local amenities. The NPPF also requires that planning policies and decisions should ensure development creates places that are safe, inclusive, and accessible and which promote health and wellbeing, with a high standard of amenity for existing and future users.

##### *Assessment*

#### Land South of Pingle Drive

- 9.100. The proposed extension to the existing village is away from existing residential properties. The proposed development will be a sufficient distance from the nearest neighbour to not cause a detrimental impact through noise and disturbance and being overbearing.

#### Land North of Pingle Drive

- 9.101. The Car and Cycle Hub, which is located off the Oxford Road has the potential to result in an overbearing impact to the nearby residential properties. The nearest residential properties are located to the west (Newton Close). These are two storey properties, which front Oxford Road. Although there is a mature tree line which separates these properties from Oxford Road.
- 9.102. The residential properties to the north are also two storey properties and their orientation is towards Oxford Road. The parking spaces for these properties are to the rear. The new car and cycle hub is proposed to be 22 m in height. This is a considerable height difference between the car and cycle hub and the residential properties. If the proposed development was closer, this could have a significant impact on residential amenity. However, the proposed building is sited 50m away from the nearest residential property.
- 9.103. Given the overall design of the proposed structure, proposed landscaping and existing landscaping, the structure will not result in a detrimental impact on the nearby residential properties through being overbearing.
- 9.104. The proposal for the park area, could have the potential to result in additional noise and disturbance to the residents. However, the Environmental Health Officer has no objections to the proposed development provided appropriate conditions are imposed.
- 9.105. The car parking area is unlikely to result in any overlooking to the nearby residential properties. The nature of a car parking area is to park the cars and then to move onto the next destination. Users do not tend to stay for long periods of time.

#### *Conclusion*

- 9.106. Overall, having consideration for both parts of the scheme, it is considered that there are sufficient distances between the proposed built form and the nearest residential properties not to result in a detrimental impact on residential amenity through overbearing. In addition, given the nature of the proposal, it is unlikely to result in a detrimental impact on these properties through overlooking. The proposal is therefore considered to be in accordance with Policy ESD15.

#### Other Matters

##### *Environmental Considerations*

- 9.107. With respect to environmental considerations, Policy ENV1 of the Cherwell Local Plan 1996 states that development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke, fumes or other types of environmental pollution will not normally be permitted. The policy states that the Council will seek to ensure that the amenities of the environment and in particular the amenities of residential properties are not unduly affected by development proposals that may cause environmental pollution including that caused by traffic generation. Policy ENV12 of the Cherwell Local Plan 1996 relates to contaminated land and states that development on land which is known or suspected to be contaminated will only be permitted if adequate measures can be taken to remove any threat of contamination to future occupiers of the site.
- 9.108. The NPPF includes requirements around conserving and enhancing the Natural Environment. Paragraph 174 identifies that decisions should prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability. Paragraph 183 relates to ground conditions. Decisions should

ensure a site is suitable for its proposed use, taking into account existing ground conditions. Paragraph 185 relates to the impact of developments on noise. Developments should mitigate and reduce to a minimum potential adverse impact.

- 9.109. The Environmental Health Officer has considered the application and its accompanying supporting documents. The Environmental Health Officer has recommended conditions are imposed relating to land contamination and any remediation scheme.
- 9.110. In regard to lighting, the officer is content with the information submitted within the Lighting Design Strategy. However, further information is required on the detailed specification and lux contours. This is required to ensure the proposed development does not result in obtrusive light. A condition is therefore recommended.
- 9.111. The Environmental Health Officer has considered the DRAFT Construction Method Statement and the Demolition and Construction ES Vol 1 Chapter 5 document. A planning condition is recommended for a detailed Construction and Environmental Management Plan to be submitted to and approved in writing by the Local Planning Authority prior to commencement.
- 9.112. The site is in close proximity to an Air Quality Management Area (AQMA) therefore there has to be a consideration to the impact of the proposed development on air quality. The Environmental Health Officer has reviewed the documents and is satisfied that an assessment is not required, however as the site is located on the edge of the AQMA requirements to ensure construction vehicles do not travel to the site between Pingle Drive and A4095 to the north. It is therefore recommended that this needs to be written within a CEMP and a Construction Management Plan. During the operation stage, provided OCC Highways are happy with the traffic flows, there are no comments with regard to air quality for the operational phase.
- 9.113. In relation to noise and vibration, during the construction phase the Environmental Health Officer is satisfied this can be controlled by way of the CEMP. For the operational phase, noise from the use of the car and cycle hub and external building services plant has been predicted as negligible at noise sensitive receptors. However, to ensure this is the case, the Environmental Health Officer has recommended a condition to be imposed.
- 9.114. Overall provided suitably worded conditions are imposed to securing noise levels and a construction management plan, the proposed development is unlikely to result in undue harm to the environment.
- 9.115. *Sustainability*
- 9.116. Policy ESD1 of the CLP 2011 – 2031 seeks to reduce the effects of development on the micro-climate, demonstration of the design approaches that are resilient to climate change. Policy ESD2 of the CLP 2011-2031 seeks to achieve carbon emissions reductions, and promotes an energy hierarchy. Policy ESD3 of the CLP 2011-2031 seeks to ensure non-residential development to meet at least BREEAM 'Very Good'.
- 9.117. The proposed development to the South of Pingle Drive, known as the Western Terrace seeks to achieve a BREEAM rating of Excellent with aspirational targets of Outstanding. The Western Terrace will have PV panels across the roof, and will have air source heat pumps, and high-performance building fabric with efficient systems. This allows for a 71% reduction in CO2 emissions.

- 9.118. The Energy and Sustainable report confirms that the car and cycle hub will be developed to CEEQUAL Excellent rating. CEEQUAL is now known as BREEAM Infrastructure, therefore it is anticipated the proposed car and cycle hub will be constructed to that standard. The car and cycle hub will feature an extensive area of rooftop PV panels. This will serve the electric charging within the hub, and potentially Bicester Village as appropriate.
- 9.119. Overall, the proposal goes beyond the requirement of Policy ESD3, in that the proposed developments on site would be above the requirement of BREEAM very good. It is anticipated that the scheme will deliver Excellent. Overall the proposal accords with Policies ESD1, ESD2 and ESD3 of the CLP 2011-2031.

#### *Conditions and S106*

- 9.120. A S106 Legal agreement will be required to be entered into to secure mitigation resulting from the impact of the development both on and off site. This would ensure that the requirements of Policy INF1 of the CLP 2031 Part 1 can be met, which seeks to ensure that the impacts of development upon infrastructure including transport, education, health, social and community facilities (as relevant) can be mitigated. The Authority is also required to ensure that any contributions sought meet the following legislative tests, set out at Regulation 122 of the Community Infrastructure Regulations 2011 (as amended):
- Necessary to make the development acceptable in planning terms;
  - Directly relate to the development; and
  - Fairly and reasonable related in scale and kind to the development
- 9.121. The table at Appendix 1 sets out the required Heads of Terms and the justification for those requests.
- 9.122. Planning Conditions should only be imposed where they are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects (para 56). Tweaks/ addition of conditions may be required to the conditions to reflect queries that have been raised, or as recommended by Consultees including the Environment Agency (where there objections are still to be resolved) and following further comments/amendments during the S106 negotiation stage.

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

- 10.1. 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 comprises a number of relevant Policies and they are considered up to date for the purpose of considering this proposal.
- 10.2. The NPPF is a material consideration. This confirms that there is a presumption in favour of sustainable development and that economic, social, and environmental objectives should be sought mutually. The presumption in favour of sustainable development is set out at paragraph 11, which confirms that for decision taking, development proposals that accord with an up-to-date development plan should be approved without delay.
- 10.3. The 'Principle' section of this report states that the proposal creates some conflict with Policy as it will result in the loss of sports provision. Sport England currently

have an objection, but this will be removed following the completion of an appropriate S106 to mitigate against the loss of a sports field. Therefore, until this is done, there is currently an objection from Sport England. The extension to the Western Terrace is considered to be acceptable in principle as it is complementary to the existing Bicester Village.

- 10.4. The proposed development will provide the provision of additional job opportunities for Bicester. The scheme also seeks to be constructed to BREEAM 'Excellent' standard. The NPPF also supports economic development to enable businesses to invest, expand and adapt to respond to changes in circumstances.
- 10.5. The report states that there will be some changes to the landscape as a result of the inclusion of the car and cycle hub. The construction of a 22m tall building will have some impact to designated heritage assets. The impact upon the designated heritage assets is considered to be less than substantial, therefore the public benefits of the scheme have to be weighed against the harm caused. As highlighted in the report above, it has concluded the benefits of the scheme do outweigh the harm.
- 10.6. The construction of the new car and cycle hub is to mitigate against the loss of existing parking spaces elsewhere within Bicester or its vicinity. It is understood that the off-site parking spaces amounted to 2,200 spaces. The provision of 1,246 spaces within the car and cycle space will be 954 spaces less than Bicester Village was able to use elsewhere. In addition, by having car parking at the same site, it will result in less traffic going to Bicester Village and then finding alternative parking elsewhere.
- 10.7. The proposal provides appropriately for sustainable transport modes by providing improved walking and cycling infrastructure. OCC Highways have also confirmed that the proposed development would not result in a severe impact on the road network as a result of the proposed development.
- 10.8. There remains an outstanding objection from the Environment Agency, on the basis of the flood risk to the site, needing to amend the FRA, as well as provide additional information on ecology of the watercourse corridor. The EA, has confirmed that they consider these elements could be overcome. The applicants are currently liaising with the EA. It is therefore anticipated that these concerns can be overcome.
- 10.9. On balance, Officers consider that the limited harm from the proposed development, and the ability of the scheme to meet most of the required standards on site, and the justification provided to support the applicants case for a new car and cycle hub, means that the principle of development is acceptable in this case. The proposal is considered to accord with most of the above-mentioned policies except where specified or where matters are still to be resolved. The weight to be given to any conflict with Policy, alongside other material considerations is also set out. The application therefore is recommended for approval.
- 10.10. Officers are satisfied, subject to the imposition of conditions, that the development, as supported by its accompanying documents would not cause serious harm to the environment, and any environmental impacts from the proposed development can appropriately mitigated for.
- 10.11. Regard has been paid to the submitted EIA information pursuant to this development and it is considered to be sufficient for the purpose of considering this application.

## 11. RECOMMENDATION

DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT, OR AN OFFICER NOMINATED BY THEM, TO GRANT PERMISSION, SUBJECT TO

- THE REMOVAL OF THE ENVIRONMENT AGENCY OBJECTION
- THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS/ ADDITIONS 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 CONTRIBUTIONS AND INFRASTRUCTURE SET OUT IN APPENDIX 1 (AND ANY AMENDMENTS AS DEEMED NECESSARY).

FURTHER RECOMMENDATION: IF THE SECTION 106 AGREEMENT/ UNDERTAKING IS NOT AGREED/COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:

1. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and workers and contrary to policy INF 1 of the Cherwell Local Plan 2015, CDC's Planning Obligations SPD 2018 and Government guidance within the National Planning Policy Framework.

### 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: [TO BE ADDED]

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

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

4. All plant, machinery and equipment to be used by reason of the granting of this permission shall be so installed, maintained and operated so as to ensure that the rating noise level from the equipment shall be at least 10 dBA below the pre-existing background noise level (LA90) when measured at any noise sensitive premise. Measurements and rating of noise for the purpose of this condition shall be in accordance with BS4142:2014 + A1:2019 -"Methods for rating and assessing industrial and commercial sound.

Reason - To ensure the creation of a satisfactory environment free from intrusive levels of noise in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996

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

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

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

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

7. The retail floorspace within the Western Terrace, as shown on drawing [TO BE ADDED] shall not be used for the sale of high end, full price goods or high end, full price confectionary/convenience goods unless and until a scheme/s has been submitted to and approved in writing by the local planning authority identifying the units (and/or parts of units) selling such goods. Thereafter the sale of such goods shall only occur within the units (and/or parts of units) identified for such purposes within the approved scheme.

Reason – To ensure that the limits on full price comparison and convenience goods sales are able to be monitored and enforced as necessary in the interests of preserving the vitality and viability of nearby town centres in accordance with the requirements of Policy SLE2 of the Cherwell Local Plan 2011-2031 Part 1.

8. The guest services within the Western Terrace, as shown on drawing [TO BE ADDED] shall be used for guest services only and for no other purposes.

Reason – In the interests of preserving the vitality and viability of nearby Town centres in accordance with the requirements of Policy SLE2 of the Cherwell Local Plan 2011-2031 Part 1.

9. The development hereby approved shall only be used for the purposes of providing a factory outlet shopping centre selling discounted high end designer goods, with ancillary office space for the management and operation of the centre, except to allow alternative uses subject to the following limits as apply to the whole of the Bicester Village Outlet Shopping Centre (as it exists at the date of this permission):

5,000sqm floorspace (GIA) only for the display or retail sale of high end goods, other than hot food within Class E(a) use; for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises within Class E(b) use; for indoor sport, recreation or fitness (not involving motorised vehicles or firearms) within Class E(d) use; and for creche, day nursery or day centre (not including a residential use) within Class E(f) use ((as defined in the Schedule to the Town and Country Planning (Use Classes Order) 1987 [as amended]));

1,000sqm floorspace (GIA) of high end, full price confectionary and convenience goods sales within Class E(a) use (as defined in the Schedule to the Town and Country Planning (Use Classes Order) 1987 [as amended]);

1,000sqm floorspace (GIA) at ground floor level across up to five retail units (Class E(a)) for the sale of full price high end designer goods but with no more than 330sqm of internal floorspace.

Reason – In the interests of clarity and in accordance with Government guidance set out in the National Planning Policy Framework.

10. Except where otherwise shown in the plans, no retail unit shall be formed or created including through subsequent amalgamation where that unit would exceed 450sqm floor space (gross internal area) without the prior written agreement of the Local Planning Authority.

Reason - In the interests of creating a development of bespoke smaller high end fashion retail units that do not risk competition with nearby town centres in accordance with the requirements of Policy SLE2 of the Cherwell Local Plan 2011-2031 Part1 as well as Government guidance set out in the National Planning Policy Framework.

11. Except where otherwise allowed through other conditions attached to this planning permission, none of the units within this development shall be used for

the sale of the following category of goods (full price or otherwise): food, confectionary, convenience goods, pharmaceuticals and health produces, garden produce, dispense optical goods, books, newspapers and magazines, CDs/DVDs and other similar types of media, computers and software, mobile phones, toys, pets and pet accessories, arts and craft products.

Reason – In the interests of minimising harm to the vitality and viability of nearby town centres in accordance with the requirements of Policy SLE2 of the Cherwell Local Plan 2011 – 2031 Part 1.

#### **Pre-commencement Conditions**

12. Prior to the commencement of development, a phasing plan covering the entire application site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved phasing plan.

Reason: To ensure the proper phased implementation of the development and associated infrastructure in accordance with Government guidance contained within the National Planning Policy Framework.

13. Where the submitted Ecological Assessment Report is more than two years old at the date of the commencement of the development, no development shall commence, until an updated Ecological Assessment Report has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason - In the interests of biodiversity and to comply with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme

14. No development shall commence until a Construction Method Statement, incorporating a construction traffic management plan has been submitted to and approved in writing by the Local Planning Authority. The CTMP will need to incorporate the following in detail and throughout development the approved plan must be adhered to:

- a) The CTMP must be appropriately titled, include the site and planning permission number.
- b) Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
- c) Details of and approval of any road closures needed during construction.
- d) Details of and approval of any traffic management needed during construction.
- e) Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
- f) Measures to control the emission of dust and dirt during construction as detailed in paragraph 6.1.2 of the Air Quality Management Plan;
- g) Details of appropriate signing to accord with standards/requirements, for pedestrians during construction works, including any footpath diversions.
- h) The erection and maintenance of security hoarding / scaffolding if required.

- i) A regime to inspect and maintain all signing, barriers etc.
- j) Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.
- k) The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.
- l) No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will park, and occupiers transported to/from site to be submitted for consideration and approval. Areas to be shown on a plan not less than 1:500.
- m) Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.
- n) Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution.
- o) Any temporary access arrangements to be agreed with and approved by Highways Depot.
- p) Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.
- q) Delivery, demolition and construction working hours;

Reason: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and local residents, particularly at morning and afternoon peak traffic times. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

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

- a) Arrangements for a site walkover survey undertaken by a suitably qualified Ecologist to ensure that no protected species, which could be harmed by the development have moved onto the site since the previous surveys were carried out. If any protected species are found, details of mitigation measures to prevent their harm shall be required to be submitted;
- b) Risk assessment of potentially damaging construction activities;
- c) Identification of 'Biodiversity Protection Zones';
- d) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- e) The location and timing of sensitive works to avoid harm to biodiversity features;
- f) The times during construction when specialist ecologists need to be present on site to oversee works;
- g) Responsible persons and lines of communication;
- h) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- i) Best practice with regard to wildlife including use of protective fences, exclusion barriers and warning signs

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

Reason: To protect habitats of importance to biodiversity conservation from any

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

16. No development shall take place until a Sustainable Waste and Resources Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason – To support the creation of a low carbon community to achieve the requirements of Policy ESD1 of the CLP 2011-2031. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

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

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

18. No development shall commence until a scheme to demonstrate that the development will achieve BREEAM 'Excellent' shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall set out a timescale for the provision of evidence, including certificates at design stage and post construction stages. Evidence of the achievement of BREEAM Excellent shall be provided in accordance with the approved scheme.

Reason: To support the creation of a low carbon development to achieve the requirements of Policies ESD1 of the Cherwell Local Plan Part 1 2011-2031.

19. 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, Land contamination risk management (LCRM) 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.

20. If contamination is found by undertaking the work carried out under condition [18], 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.

21. If remedial works have been identified in condition [19], the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition [19]. 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. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

22. No development shall take place until a detailed surface water drainage scheme for the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall include:

- A compliance report to demonstrate how the scheme complies with the "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire";
- Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
- A Flood Exceedance Conveyance Plan;
- Comprehensive infiltration testing across the site to BRE DG 365 (if applicable)
- Detailed design drainage layout drawings of the SuDS proposals including cross-section details;
- Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element, and;
- Details of how water quality will be managed during construction and post development in perpetuity;
- Confirmation of any outfall details.
- Consent for any connections into third party drainage systems

Reason - To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community in accordance with Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme

**CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE SPECIFIC CONSTRUCTION WORK TAKES PLACE**

23. Prior to their installation on any building, full details of the solar PV shall be submitted to and approved in writing by the Local Planning Authority. The solar PV shall be installed prior to the first occupation and retained and maintained in working order thereafter.

Reason: To support the delivery of renewable and low carbon energy in accordance with Policy Bicester 1 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework

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

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

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

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

26. Prior to the erection, installation, fixing, placement and/or operation of any external lighting on the site (including on the building itself), details of such external lighting shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include the equipment and supporting structures, positions, sizes, heights, type, luminance/light intensity, direction and cowl of all external lights to the structure(s) and other parts of the application site and the hours at which such lighting is to be operated. This scheme shall ensure that light trespass at any light sensitive premises shall not exceed the requirements in the Institution of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Light GN01/20).

Reason: To protect the amenities of nearby residents and in the interest of biodiversity and to comply with Policies ESD10 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996

## **PRIOR TO OCCUPATION**

27. 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 unit 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

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

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

29. Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:
- (a) As built plans in both .pdf and .shp file format;
  - (b) Photographs to document each key stage of the drainage system when installed onsite;
  - (c) Photographs to document the completed installation of the drainage structures on site;
  - (d) The name and contact details of any appointed management company information.

Reason - To ensure that the development/site is served by sustainable arrangements for the disposal of surface water, 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 advice in the National Planning Policy Framework.

30. No employment building shall be occupied until it has been provided with service connections capable of supporting the provision of high-speed broadband from the building to the nearest broadband service connection outside The Site

Reason: To facilitate information delivery in accordance with Government guidance contained within the National Planning Policy Framework.

31. A schedule of landscape maintenance for a minimum period of 15 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.

**APPENDIX 1- Heads of Terms for Section 106 Agreement/undertaking**

Planning obligation			Regulation 122 Assessment
Detail	Amounts (all to be Index linked)	Trigger points	
Outdoor Sports (contribution to a new 3G Astro pitch)	£1.1 Million	Prior to construction of Land North of Pingle Fields.	<p><b>Necessary</b> – Policy BSC10 of the Cherwell Local Plan Part 1 2011-2031 requires that development which would result in the loss of sites will be assessed in accordance with the guidance in the NPPF and NPPG. BSC 11 of the Cherwell Local Plan Part 1 2011-2031 requires the standards of outdoor recreation. There is currently a shortfall in playing pitch, a 3G pitch is required in conjunction with improvements also taking place.</p> <p><b>Directly related</b> – the proposed development would result in the loss of an existing sports field, in which there is a requirement to mitigate against the loss of such a sports provision.</p> <p><b>Fairly and reasonably related in scale and kind</b> – The level to be secured would therefore be fairly and reasonably related in scale and kind to the development and would mitigate against the loss of the sports provision at Oxford Road</p>
Training and Employment Plan to secure 9 apprenticeship starts	NIL	TEP to be submitted for approval prior to the implementation of the development. Arrangements to reflect those within the previous S106 for the site	<p><b>Necessary</b> – The CDC Developer Contributions SPD sets out the type of development and the thresholds on development that will trigger the requirement for the provision of a stated number of apprenticeships as part of an Employment and Skills Training Plan. In order for the development to contribute to this, it is necessary for a Training and Employment Plan to be submitted to secure apprenticeship starts.</p> <p><b>Directly related</b> – The request is directly related to the development as the development itself is a vehicle to support an on-going programme of skills, training and apprenticeships. The apprenticeship starts would be directly related to the construction of the development itself.</p> <p><b>Fairly and reasonably related in scale and kind</b> –The number is considered proportionate and therefore fairly and reasonably related in scale and kind to the development. The requirement for a TEP would also increase the skills opportunities on site in accordance with the Developer contributions SPD.</p>

Landscape and Play Area Provision	TBC	TBC	<p><b>Necessary</b> – to meet the needs generated from the proposal and to ensure long term maintenance in accordance with Policy BSC10 and BSC11 of the Cherwell Local Plan Part 1 2011-2031 and advice in the Developer contributions SPD.</p> <p><b>Directly related</b> – the development generates a need for open space and play provision and in turn this requires ongoing management and maintenance. As such, this requirement is directly related to the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> – The level of provision would be based upon the policy and guidance provisions adopted by the Council. On this basis, the requirement is fairly and reasonably related in scale and kind to the development.</p>
S278 Highway works to secure: Middleton Stoney Roundabout improvement.	TBC	TBC	<p><b>Necessary</b> – The contribution is necessary to provide sustainable transport options and to mitigate the impact of the development on the highway network.</p> <p><b>Directly related</b> – The proposal provides a new car and cycle hub, which exits onto the Middleton/Oxford Road roundabout therefore creating additional demand on the highway network at this location.</p> <p><b>Fairly and reasonably related in scale and kind</b> – This is required in order to mitigate against the impact of the proposed development. The applicant is required to enter into the S278 agreement for the works to be carried out.</p>
Off-Site Active Travel Improvements – improvement of active travel mode connections with Bicester Village.	TBC		<p><b>Necessary</b> – The site will require a framework travel plan. The fee is required to cover OCCs costs of monitoring the travel plans over their life.</p> <p><b>Directly Related</b> - The proposal provides for commercial uses which should be reasonably accessible via public transport modes to ensure employees have options to use sustainable modes of transport. It is therefore directly related to the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> – The proposals would ensure a fair and reasonably related contribution in scale and kind is made towards the major infrastructure, also taking into account any infrastructure which is directly delivered.</p>
Improvements to existing footpath/cycle path to the	TBC	<b>TBC</b>	<p><b>Necessary</b> – The site will require a framework travel plan. The fee is required to cover OCCs costs of monitoring the travel plans over their life.</p> <p><b>Directly Related</b> - The proposal provides for commercial uses which should be reasonably accessible via public transport modes to ensure employees</p>

southeastern corner of the site			<p>have options to use sustainable modes of transport. It is therefore directly related to the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> – The proposals would ensure a fair and reasonably related contribution in scale and kind is made towards the major infrastructure, also taking into account any infrastructure which is directly delivered.</p>
Highway works towards the southeast peripheral road (western section) or a scheme of similar benefit	TBC	<b>TBC</b>	<p><b>Necessary</b> - To ensure the development does not result in a severe impact to the highway network.</p> <p><b>Directly related</b> - The future occupiers will put additional demand on the highway network.</p> <p><b>Fairly and reasonably related in scale and kind</b> - The cost will be worked out on the measure of proportionality, and therefore reasonably related in scale and kind.</p>
CDC and OCC Monitoring Fee	CDC: £5500 OCC: TBC		<p>The CDC charge is based upon its recently agreed Fees and Charges Schedule which sets out that for developments of between 100-250 floorspace that a bespoke charge will be based upon the number of obligations and triggers with a minimum charge of £5,000. A registration charge of £500 is also applicable. As the development has relatively few obligations and triggers for CDC, the minimum charge plus the registration charge is required. The need for a monitoring fee is to ensure that it can appropriately monitor that the development is complying with its S106 including the high standards sought at the site and taking into account the complex nature of the site.</p>



22/03452/F

OS Parcel 6920 East Of Oxford Road  
And Adjoining And South Of Canal Lane  
Bodicote

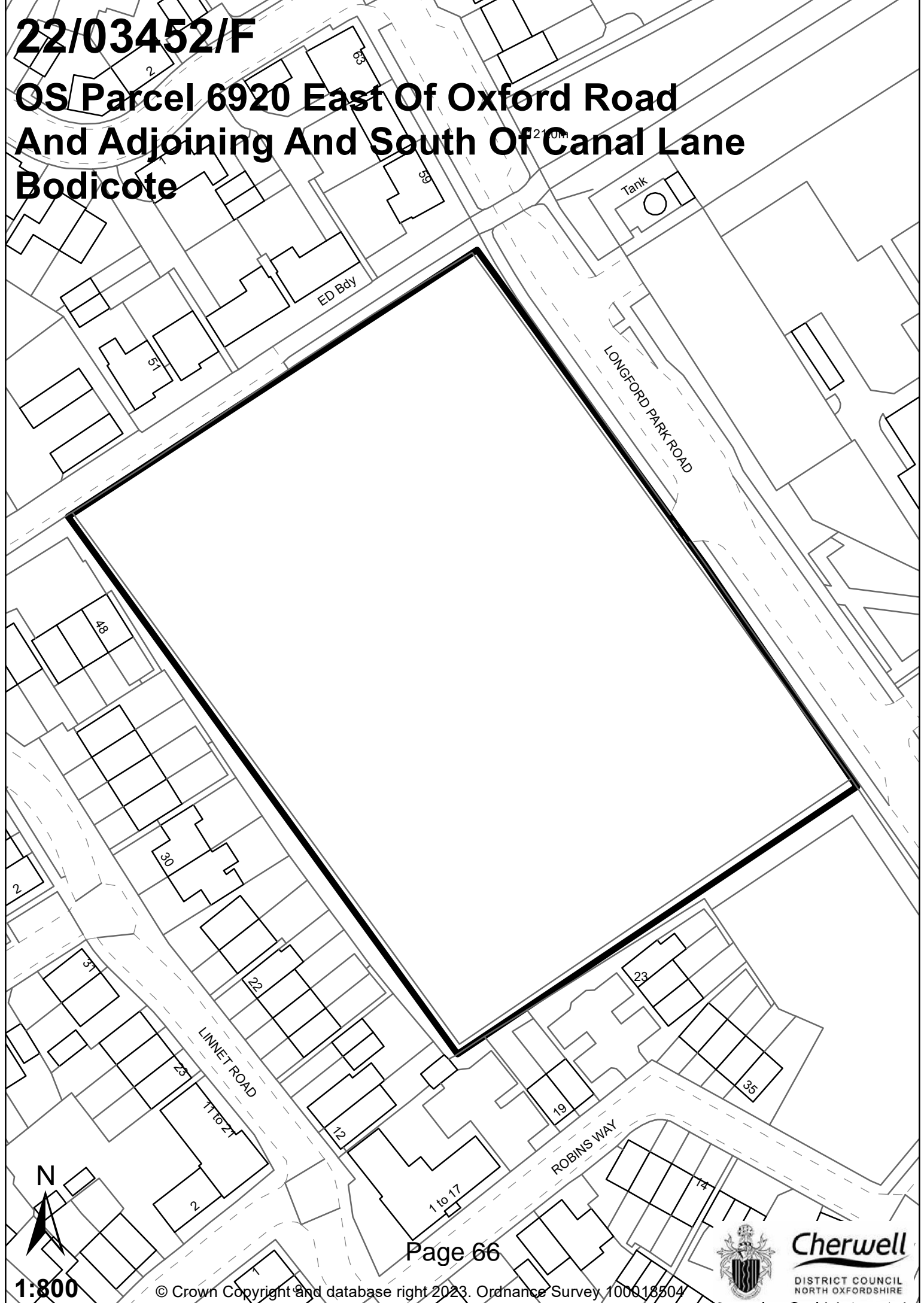


1:1,000



**22/03452/F**

**OS Parcel 6920 East Of Oxford Road  
And Adjoining And South Of Canal Lane  
Bodicote**

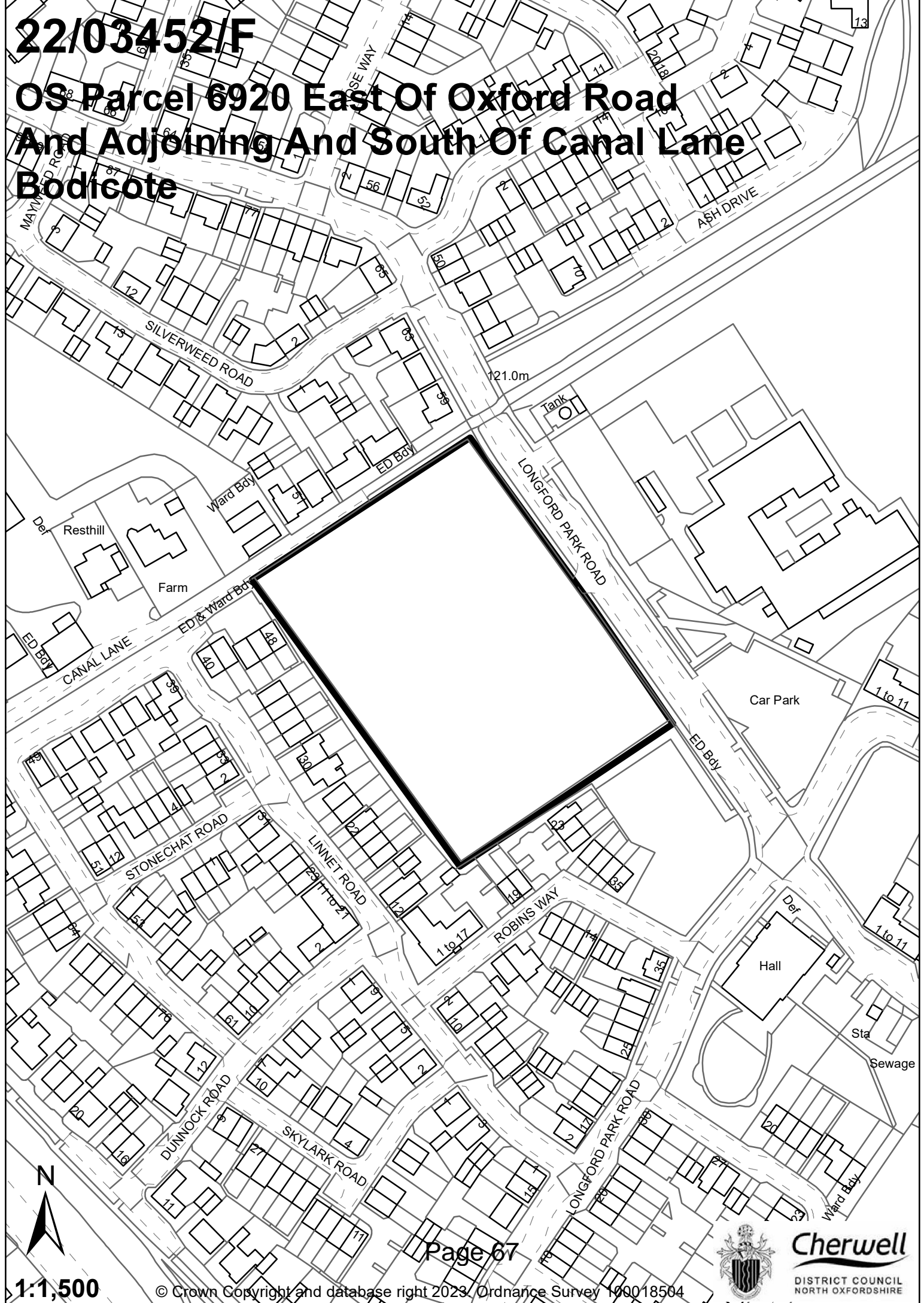


**1:800**



22/03452/F

OS Parcel 6920 East Of Oxford Road  
And Adjoining And South Of Canal Lane  
Bodicote



121.0m



1:1,500



**Case Officer:** Andy Bateson

**Applicant:** Barton Willmore now Stantec

**Proposal:** Erection of new 128-bed residential care home (Use Class C2) together with associated access, parking and landscaping

**Ward:** Banbury Calthorpe And Easington

**Councillors:** Cllr Colin Clarke, Cllr Harwood and Cllr Mallon

**Reason for Referral:** Major development

**Expiry Date:** 15 February 2023

**Committee Date:** 13 April 2023

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**RECOMMENDATION: DELEGATED AUTHORITY TO THE ASSISTANT DIRECTOR TO GRANT PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO THE PRIOR COMPLETION OF A SECTION 106 PLANNING OBLIGATION AGREEMENT**

**1. APPLICATION SITE AND DESCRIPTION OF APPROVED DEVELOPMENT**

- 1.1. The application site comprises a 0.97ha rectangular-shaped plot of vacant and flat development land (O.S.6920), which lies south of Canal Lane and west of Longford Park Road, in the heart of the approved Longford Park development, east of Bodicote.
- 1.2. It lies opposite (west) of the Primary School, with suburban residential estate development on the other three surrounding sides of Robins Way (south), Linnet Road (west) and Canal Road (north).
- 1.3. It formed parcel HA-F in the original outline consent for development and was initially envisaged to be developed to accommodate 58 dwellings (Class C3).

**2. CONSTRAINTS**

- 2.1. The application site lies centrally within the Bankside Phase 1 development area at Longford Park, with no particular defined constraint to development.

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The proposal is for the erection of a new 128-bed residential care home (Use Class C2) together with associated access, parking and landscaping. Vehicular and pedestrian access would be via the existing accessway onto Longford Park Road, on the east side of the site. From Longford Park Road, there is further connectivity with the bridleway of Canal Lane to the north.



- 3.2. Within the site and as requested by OCC Highways, there is pedestrian connectivity from the accessway around the site and through the car park, including a new footway running around the south side of the proposed Care Home building. The existing hedgerow boundaries will be supplemented with native feature trees to soften the appearance of development and enhance screening with neighbours and site security.
- 3.3. Development would be arranged in an 'H-plan' layout and be mostly 2-storey high but with a central portion at 3-storey. The northern and southern 2-storey wings and the central 3-storey section are proposed to be constructed primarily in red brick with grey concrete roof tiles and the north-south cross axis would be constructed in red brick at ground floor and cream render at first floor, again with grey roof slates. Hipped gables would be incorporated centrally within each building block section with modern, white, large pane double-glazed windows and doors. Feature floor to eaves glazing, with dormer windows above would be incorporated at the transitions between the 2 and 3-storey blocks.

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

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

05/01337/OUT – Outline consent granted subject to S106 in September 2009 for a residential led development of 1,070 dwellings at Bankside (now known as Longford Park) with associated facilities including primary school, playing fields, local shops and community facilities, plus 2,200sqm of employment provision.

13/00822/REM – Reserved matters consent granted September 2013 for an initial residential phase of 215 dwellings on land parcel A.

14/00702/REM – Reserved matters consent granted for further development on land parcels B & C.

14/01835/REM – Reserved matters consent granted September 2016 for the village square, with 44 public car parking spaces.

15/00344/REM – Reserved matters consent granted for a further phase of 108 (later 118 and a further 107) dwellings on land parcels D & E.

15/01168/REM – Reserved matters consent granted for a further phase of 214 dwellings on parcel F.

#### **5. RESPONSES TO PUBLICITY**

- 5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **27 February 2023**, although comments received after this date and before finalising this report have also been taken into account.

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

Cherwell Swifts Conservation **commented** that a minimum of 12 Swift nest bricks should be incorporated into the building design as there is a good colony of swifts in the Bodicote area, including in the vicinity of the application site and they are a Red-listed species of conservation concern. The incorporation of such features would enhance biodiversity, in accordance with policy. The Applicant has indicated that they would be agreeable to this suggestion and would be happy for this to be controlled by a condition of approval.

Two neighbouring residents to the north, in what is now known as Silverweed Road, off Longford Park Road **objected** to the proposed development on grounds that: a) they would be overlooked; b) it would reduce natural light significantly to their properties; c) would devalue their properties; d) would increase traffic congestion locally and represent a safety risk; e) would cause noise and dust disturbance during construction; f) the proposed brick type would not match with the surrounding properties; and g) harmful impact on local wildlife, particularly birds and foxes.

Another neighbouring resident in Ash Drive **commented** that the proposed development should not proceed until all estate road top-surfacing construction had been finalised, the country park has been completed and other promised community facilities had been put in place.

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

## 6. RESPONSE TO CONSULTATIONS

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

### PARISH/TOWN COUNCIL

- 6.2. Banbury Town Council **Support** the proposal.

### CONSULTEES

- 6.3. OCC Transport initially **objected** on grounds of a) insufficient EV charging infrastructure – requesting 25% active charging, i.e., 10 active charging bays rather than 4; b) lack of a pedestrian footway on the south side of the building within the development site; and c) insufficient cycle parking – requesting 64 spaces. They also requested S106 index linked contributions in respect to Public Transport - £29,458; a Traffic Regulation Order - £3,320; and Travel Plan Monitoring fee - £2,563. The Applicant revised the proposals in respect to all these objections and increased EV charging points – to 12.5%, i.e., 5 charging bays; the number of cycle parking bays – increased to 10; and a new southern footway added. The Applicant also agreed to pay all three of the requested S106 contributions. In so doing, most of the OCC reasons for initially objecting have been overcome. Bearing in mind the nature of the Care Home use, with relatively little anticipated car or cycle activity generated off site from this use, the level of enhanced EV charging and cycle parking is considered reasonable and proportionate. Conditions of approval in respect to a Construction Traffic Management Plan (CTMP) and Travel Plan were also suggested by OCC and agreed by the Applicant.

- 6.4. OCC as LLFA **objected** not to the principle of the proposals but on grounds that more detailed drainage drawings, including SuDS drawings and detailed drainage calculations were required. Such matters could be controlled through the discharge of appropriate conditions.
- 6.5. Thames Water initially objected to the proposals on grounds of insufficient water supply available to the proposals. However, TW confirmed on 29 March 203 that it was now satisfied that water supply capacity was available, hence **no objection**.
- 6.6. OCC Archaeology had **no objection** to the proposals.
- 6.7. CDC Arboriculture **commented** that there were anomalies between submitted the Arboriculture report and the accompanying drawings, which needed to be corrected. In response to that criticism, a revised Rev C report was submitted by the Applicant which corrected the original anomalies and provided supplemental information.
- 6.8. CDC Ecology **commented** that the submitted Ecological Appraisal was satisfactory and ecological mitigation and enhancement could be conditioned for discharge prior to commencement, including bat boxes, swift bricks, invertebrate log piles, hedgehog highways, a Construction Environmental Management Plan (CEMP) for biodiversity and a lighting strategy.
- 6.9. CDC Leisure **commented** that S106 contributions should be sought in respect to community hall facility enhancement and public art. Contributions of £75,229 and £28,672 were initially sought, subsequently reduced to £58,774 and £28,672 respectively. The Applicant's response to what was a late request was that original community hall and public art contributions were previously assessed, agreed and paid in respect to what was originally envisaged on this part of Longford Park as a 58-dwelling development of the site, so it would be unreasonable for a second payment now to be sought from this alternative use development. In addition, the previously agreed public art features will be in the recently opened country park that is highly accessible from the site and the new Community Hall has recently been completed and is sited just 150m south of the site. The Applicant suggests that as the Community Hall is not yet operating at capacity, it would be unreasonable to request additional payment for enhancement, as there is no need evidence to substantiate that such further improvement was necessary.
- 6.10. ICB health commissioners **commented** that a S106 contribution should be sought in respect to enhanced health facilities locally, as GP facilities in Banbury were already under pressure. A sum of £110,592 was requested, based on an assumed calculation that each of the 128 bedrooms in the proposed Care Home would be occupied by an average of 2.4 persons, i.e., a total of 307 persons and a contribution of £360.23/person. However, it is intended that each of the Care Home bedrooms would only be occupied individually, i.e., just 128 persons x £360.23 = £46,110. The Applicant has suggested that as 98 of the bed spaces would be occupied by people transferring from other facilities in the town then it would only be reasonable to pay a contribution equivalent to the uplift in numbers of 30, i.e., a reduced sum of just £10,806.90. The ICB acknowledge that their initial calculation was wrong but insist of payment of the £46,110 because the Care Home spaces temporarily vacated by residents in other Banbury Homes transferring to Longford Park would soon be replaced and the proposed new facility should pay fully for the additional demands generated.
- 6.11. The Applicant has responded to the effect that they would reluctantly agree to pay the requested £46,110 health contribution but would not agree to pay any of the

requested additional leisure contribution, as that would not be justified nor CIL Reg.122 compliant.

## **7. RELEVANT PLANNING POLICY & GUIDANCE**

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

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

- SLE4 - Improved Transport and Connections
- ESD7 - Sustainable Drainage Systems (SuDS)
- ESD6 - Sustainable Flood Risk Management
- BSC3 - Affordable Housing
- BSC4 - Housing Mix
- ESD15 - The Character of the Built Environment

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

- C28 - Layout, design and external appearance of new development
- C29 - Appearance of development adjacent to the Oxford Canal
- C30 - Design of new residential development

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

## **8. APPRAISAL**

- 8.1. The key issues for consideration in this case are:
- Principle of Development
  - Design, and impact on the Character of the Area
  - Residential Amenities
  - Impact on Highway Safety
  - Mitigating S106 contributions

### **Principle of Development**

- 8.2. The earlier grants of Outline Planning Permission and Reserved Matters Approvals established the principle of residential development on the site and its surroundings together with accompanying community use facilities such as the school, shops, community facilities, park and play areas and the acceptability of other technical matters such as drainage, impact on protected species and means of access. Developing a 128-bed Care Home on the site rather than 58 dwellings would not therefore be objectionable in principle provided it mitigates / compensates any increased impact(s).

- 8.3. The notional loss of 58 dwellings would impact slightly (0.07-years) but not significantly on the District's 5-year housing land supply (which currently stands at 5.4-years and represents a 348-dwelling surplus on the 5-year requirement). That slight loss in housing land supply would be offset by the provision of Care Home bedspaces, which are also in considerable need across the District and beyond.
- 8.4. Banbury is the most sustainable settlement location in Cherwell District and the Bankside/Longford Park site in which the application site is located is one of the major Development Plan allocations.
- 8.5. As such, the principle of development upon this site is accepted. Also, the social need for housing generally at Banbury and for Care Home facilities in particular for what is an acknowledged aging population is widely recognised.
- 8.6. Consequently, the consideration of this application focuses on the proposed layout, form and design of the proposed Care Home instead of the originally envisaged standard housing development and the mitigation of any increased impacts.

### **Design and Impact on the Character of the Area**

- 8.7. The surrounding houses to the north, west and south are predominantly 2-storey semi-detached and terraced houses, with some detached houses to the north and some 3-storey apartment blocks to the south. These dwellings feature a broad materials palette of red, tan, mixed-multi stock bricks and some ironstone, with grey concrete or artificial slates or red clay roof tiles and with white UPV double-glazed windows and doors. The Primary School opposite features 1 and 2-storey flat roofed structures in red brick and white cladding, with large areas of aluminium-framed fenestration.
- 8.8. Whilst the materials proposed in the Care Home would be different in part from those used in the surrounding houses, there is no essential need for a matching materials palette, particularly given the design precedent set by the school and the predominance of red brick in many of the surrounding houses and on parts of the school. Importantly, the materials proposed would accord entirely with the materials specified as suitable in the approved Design Code for Longford Park.
- 8.9. The large 'H-block' form would be predominantly 2-storey and therefore largely consistent in height, if not form, with the neighbouring dwellings, although at a slightly taller height (+2m) given the broader span widths necessary in this style of care home with central service corridors. The taller 3-storey block would be centrally located within the plot and therefore distant from its lower developed surroundings.

### **Residential Amenity**

- 8.10. The homes immediately to the north are 2-storey properties constructed in ironstone, which have 9m deep rear gardens (only 4.5-5m usable) and their first-floor bedroom windows face across the proposed development site, over a 4m-wide broad mature hedgerow that fills the backs of their gardens. The outward facing elevations of the Care Home would be set back between 13-14m from the boundary edge of the application site and some 15m from the back of the hedgerow, giving a total separation distance between elevations of between 22-24m, which accords with SPD guidance.
- 8.11. The proposed Care Home would be 6m high to eaves in the 2-storey elements and about 10-11m high to ridge, which would be approximately 2-2.9m taller than the facing neighbours. The taller 3-storey elements behind would have eaves height of

8.5m and would project a maximum of a further 2.5m above the 2-storey elements in the foreground.

- 8.12. Whilst there are numerous ground and first-floor bedroom windows and communal dining room windows facing out towards the neighbouring properties, given the 22-24m back-to-back separation distances involved, the proposal is not considered to cause detriment by way of overlooking or loss of light to the neighbouring properties.
- 8.13. Loss of a view across an area that was always zoned and permitted for development is not a material planning consideration, nor is any potential impact that development may have on property values a material planning consideration.

#### **Impact on Highway Safety**

- 8.14. The proposed development does not result in amendments to the approved access arrangements to the plot and the County Highway Authority are satisfied with the proposals, as subsequently amended to provide supplemental EV charging points, cycle parking and additional footway and with payment of the requisite S106 transport contributions. As such the proposals are considered sustainable and not to result in any harm to highway safety.

#### **Impact on Ecology**

- 8.15. The application was accompanied by a Preliminary Ecological Appraisal and a Biodiversity Net Gain Plan. The Ecological Appraisal noted the trees and hedgerows that surround the site and the former agricultural pasture grassland that makes up the bulk of the application site. The grassland was assessed as of poor ecological value and biodiversity potential but the trees and hedgerows, which are largely to be retained except for new access points, were recognised for their potential to support bats and a variety of bird species.

#### *Assessment*

- 8.16. The features of highest value for bats and birds, the boundary vegetation will almost entirely be retained and supplemented. Sensitive night-lighting would be implemented on site and enhancements such as bat roosting and bird nesting boxes would be erected in the trees, swift nesting bricks would be incorporated into the building design and night-scented flowers are to be planted to encourage invertebrate prey. The application proposes that a 13.91% BNG habitat enhancement/creation would be achieved and that a 20.23% enhancement in hedgerows would be achieved.
- 8.17. The CDC Ecologist and Arborist are supportive of the proposed measures, which protect most existing features and exceed national the Council's own 10% BNG requirements. The local Swift protection group requested that swift nesting bricks be incorporated into the building design, given the numbers of swifts that are known to frequent the area and site, so are supportive of the applicant's proposals in this respect.
- 8.18. Overall, the applicant's proposals are considered sustainable and would deliver BNG above that normally required. As such the proposals are considered acceptable in this respect.

#### **Impact on Technical Matters – Drainage, Geology & Sustainable Construction**

8.19. The application was accompanied by a Drainage Strategy report, details of Infiltration Testing results, Geotechnical report and Sustainability and Energy Statement report. Surface water is to be dealt with by a piped with attenuation provided in buried geocellular storage, with an outfall to the adjacent sewer network, restricted to a discharge rate of 2.5l/sec. Tanked permeable paving will be provided for the car parks and two swales are to be provided for conveyance of surface water. A total of 400m<sup>3</sup> of attenuation is to be provided on site sufficient to accommodate storm events equivalent to 1-in-100-years plus 40% climate change. Foul water would outfall to the adjacent foul sewer, with connection made off Longford Park Road.

#### *Assessment*

8.20. Thames Water have raised no objection to the proposals, but the LLFA objected, not on grounds of principle but on the basis that they would like to see/approve more detailed drainage drawings, including SuDS drawings and detailed drainage calculations. Such matters could be adequately controlled through the discharge of appropriate conditions.

8.21. The application DAS indicates that the proposed design would follow sustainable construction methodologies and exceed latest Building Regs standards by improving thermal efficiency and utilising low-carbon technologies as part of heating and hot water provision. It will also meet 'Secured by Design' criteria.

8.22. Overall, the applicant's proposals are considered sustainable and acceptable in respect to all technical matters. Here necessary, appropriate conditions can be attached to any planning permission.

#### **Mitigating S106 Contributions**

8.23. In order to satisfactorily accommodate the increased impacts of development, a number of statutory consultees have requested s106 contributions to mitigate the impact of accommodating the proposed Care Home rather than the previously envisaged 58 dwellings. The Applicant has accepted the suggested requirement for S106 index linked contributions in respect to Public Transport - £29,458; a Traffic Regulation Order - £3,320; a Travel Plan Monitoring fee - £2,563; and local Health facility enhancements - £46,110. The Applicant has not agreed to the CDC Leisure request for further Community Hall and Public Art enhancements - £58,774 and £28,672 respectively, suggesting that contributions have previously been assessed and paid in respect to an alternative 58-dwelling residential development of the land and all the leisure facilities associated, including the Community Hall and public art features have subsequently been provided in locations that are highly accessible to the application site.

### **9. PLANNING BALANCE AND CONCLUSION**

9.1. 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 comprises a number of relevant Policies and they are considered up to date for the purpose of considering this proposal.

9.2. The NPPF is a material consideration. This confirms that there is a presumption in favour of sustainable development and that economic, social, and environmental objectives should be sought mutually. The presumption in favour of sustainable development is set out at paragraph 11, which confirms that for decision taking,

development proposals that accord with an up-to-date development plan should be approved without delay.

- 9.3. The “Principle” section of this report (paras.8.2-8.6) states that the proposal creates no conflict with the approved development plan and planning permission remains extant for a residential development of the site. The need for such accommodation is well established across the District and at Banbury. This is a substantial material consideration in favour of development.
- 9.4. From a “design” perspective, the form of development proposed is a function of its use and communal nature and its layout is reflective in nature to that of the school, building opposite. The design is on a larger/grander scale than that of its residential neighbours but the use of red brick and cream on the walls, with grey roof tiles, white fenestration, 45° roof pitches and hipped gables will be reflective of many of the surrounding house designs. This is a material consideration carrying weight in favour of the development.
- 9.5. Given the hedgerow and tree boundary screening and the large separation distances that will exist between the proposed development and neighbouring residential properties in Linnet Road and Robins Way, it is considered unlikely that the residential amenities of occupants of properties in those locations would be materially impacted. The existing houses to the north, off Canal Lane/Longford Park Road in newly names Silverweed Road are the closest to the proposed development at around 22-24m at their closest points. Their front outlooks would be most affected by the development proposals, but the land was always planned to be developed and the separation distances proposed would accord with adopted SPD guidance.
- 9.6. Whilst the proposed Care Home would be taller than that of the neighbouring houses to the north, the height difference is not so great as to materially reduce natural daylight/sunlight, particularly over such separation distances. The windows in the closest elevations would be at broadly similar heights and the separation between them would be sufficient to preserve privacy and not cause overlooking. Conditions regarding soft landscaping could be used within the proposed development site to prevent direct overlooking. Accordingly, it is considered that there would be insufficient grounds to sustain a material objection in this respect.
- 9.7. Notwithstanding a couple of concerns raised in respect to highway matters, the County Highway Authority is satisfied with the proposals as amended in line with its recommendations, and subject to completion of S106 pre-occupation obligations for sustainable transport mode enhancements, there will be no material highway or transport objections to the proposals.
- 9.8. Insofar as s106 contributions are concerned, the Applicant has agreed to pay the requested transport and health facility enhancement contributions. The Applicant has not however, agreed to pay the requested sums for additional community hall and public art enhancements given: a) the site’s close relationship to the community hall and public art feature sites; b) the fact that contributions have previously been assessed and paid for an alternative 58-dwelling development of the site; and c) the request has not been accompanied by any CIL Reg.122 compliance statement and the Applicant maintains that no reasonable justification could be sustained to support such a request.
- 9.9. On balance, Officers consider that the substantial social and economic benefits associated with this proposed development, justify the proposals and the environmental impacts of development can be satisfactorily mitigated via condition discharge and adherence to S106 obligations. Accordingly, it is recommended that



conditional planning permission can be granted subject to the successful prior completion of a S106 agreement.

## 10. RECOMMENDATION

**DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION, SUBJECT TO:**

- 1. THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY); AND**
- 2. 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 INFRASTRUCTURE IDENTIFIED IN THE HEADS OF TERMS SET OUT BELOW (AND ANY AMENDMENTS TO THEM AS MAY BE DEEMED NECESSARY).**

### Conditions

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

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

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

5196 LP01 – Site Location Plan;  
5196 PL02 Rev B – Proposed Site Plan;  
5196 PL03 – Proposed Ground Floor Plan;  
5196 PL04 – Proposed First Floor Plan;  
5196 PL05 – Proposed Second Floor Plan;  
5196 PL06 – Proposed Roof Plan;  
5196 PL07 – Proposed Elevations (Sheet 1 of 2);  
5196 PL08 – Proposed Elevations (Sheet 2 of 2);  
5196 PL09 – Proposed Sectional Elevations;  
5196 PL10 – Proposed Refuse Store;  
5196 PL13 – Boundary Treatment Plan;  
ZTL 101 Rev B – Tree Constraints Plan;  
Design & Access Statement by KWL Architects Ltd, Ref: 5196 Rev A, dated 9 November 2022;  
Planning Statement by Barton Willmore, now Stantec, Ref: 33629 Rev 1, dated 14 November 2022;  
Transport Statement by Connect Consultants, dated November 2022, as updated and revised by Technical Note 1, dated 11 January 2023;  
Travel Plan by Connect Consultants, dated November 2022;  
Noise Assessment by Hepworth Acoustics, Ref: P22-218-RO1v1, dated November 2022;  
Air Quality Assessment by Syntegra Consulting Ref: 22-9316, dated 8 November 2022;  
Arboricultural Impact Assessment by Zebra Trees, Ref: ZTL\_130 V1 Rev C, dated 5 January 2023;  
Landscape Management Plan by Zebra Landscape Architects, Ref: ZLA\_1231 V1, dated 10 November 2022;  
Preliminary Ecological Appraisal by Zebra Ecology, Ref: ZEL\_175 V1, dated 1

September 2022;  
Biodiversity Net Gain Plan by Zebra Ecology, Ref: ZEL\_175 V2, dated 10 November 2022;  
Sustainability & Energy Statement, incorporating Commercial Waste Management Plan by Envision, Ref: ESL 22-0238 Rev V3, dated 10 November 2022;  
Drainage Strategy by JPP, Ref: R-FRA-24918-01-Rev A, dated November 2022;  
Infiltration Testing Results by JPP, Ref: 24934/MC/AP/L01, dated 31 August 2022;  
Phase 1 Contamination & Geotechnical Desk Study Report by JPP, Ref: R-DS-24934-01-00, dated August 2022;  
Neighbouring Daylight, Sunlight & Shadow Assessment by Behan, Ref: 20223749, dated 4 November 2022.

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

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

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

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

5. No development shall commence until a Construction Method Statement, incorporating a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The CTMP will need to incorporate the following in detail and throughout development the approved plan must be adhered to:
  - a. The CTMP must be appropriately titled, include the site and planning permission number;

- b. Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site;
- c. Details of and approval of any road closures needed during construction;
- d. Details of and approval of any traffic management needed during construction;
- e. Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway;
- f. Measures to control the emission of dust and dirt during construction;
- g. Details of appropriate signing to accord with standards/requirements, for pedestrians during construction works, including any footpath diversions;
- h. The erection and maintenance of security hoarding / scaffolding if required;
- i. A regime to inspect and maintain all signing, barriers etc;
- j. Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided;
- k. The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc;
- l. No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will park, and occupiers transported to/from site to be submitted for consideration and approval. Areas to be shown on a plan not less than 1:500;
- m. Layout plan of the site that shows structures, internal roads, site storage, compound, pedestrian routes etc;
- n. Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution;
- p. Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours; and
- q. Delivery, demolition and construction working hours.

Reason: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and local residents, particularly at morning and afternoon peak traffic times. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

6. Notwithstanding the submitted details, no development except site clearance and groundworks shall commence until a detailed surface water drainage scheme for the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is first occupied. In addition to the BRE DG 365 Infiltration Testing Results by JPP, Ref: 24934/MC/AP/L01 dated 31 August 2022, the scheme shall include:
  - A compliance report to demonstrate how the scheme complies with the “Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire”;
  - Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
  - A Flood Exceedance Conveyance Plan;
  - Detailed design drainage layout drawings of the SuDS proposals including cross-section details;
  - Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element, and;
  - Details of how water quality will be managed during construction and post development in perpetuity;

- Confirmation of any outfall details.
- Consent for any connections into third party drainage systems

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community in accordance with Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

7. 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) Arrangements for a site walkover survey undertaken by a suitably qualified Ecologist to ensure that no protected species, which could be harmed by the development have moved onto the site since the previous surveys were carried out. If any protected species are found, details of mitigation measures to prevent their harm shall be required to be submitted;
  - b) Risk assessment of potentially damaging construction activities;
  - c) Identification of 'Biodiversity Protection Zones';
  - d) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
  - e) The location and timing of sensitive works to avoid harm to biodiversity features;
  - f) The times during construction when specialist ecologists need to be present on site to oversee works;
  - g) Responsible persons and lines of communication;
  - h) The role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person;
  - i) Best practice with regard to wildlife including use of protective fences, exclusion barriers and warning signs.

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

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

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

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

9. Prior to their installation on any building hereby approved, full details of any mechanical ventilation or extraction equipment (if applicable and including any air source heat pumps and their associated condenser units) shall be submitted to and approved by the Local Planning Authority. Thereafter the mechanical ventilation shall be installed, brought into use, and retained in accordance with the approved details.

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

10. Prior to first occupation details of improvements to provide safe cycling and pedestrian access to the site from Longford Park Road, including, position, layout, construction and drainage have been submitted to and approved in writing by the Local Planning Authority. The improvements shall be constructed in strict accordance with the approved details prior to first occupation.

Reason: In the interests of highway safety and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

11. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities for the ten cycle spaces shown on drawing 5196 PL02 Rev B – Proposed Site Plan 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.

12. Prior to the first occupation of the development, a scheme for the provision of the five vehicular electric charging points to serve the development, as shown on drawing 5196 PL02 Rev B – Proposed Site Plan 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 unit 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.

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

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

14. Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:
- (a) As built plans in both .pdf and .shp file format;
  - (b) Photographs to document each key stage of the drainage system when installed on site;
  - (c) Photographs to document the completed installation of the drainage structures on site;
  - (d) The name and contact details of any appointed management company information.

Reason: To ensure that the development/site is served by sustainable arrangements for the disposal of surface water, 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 advice in the National Planning Policy Framework.

15. Details of the external lighting, and 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 the installation of any such lighting. 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 in the interest of biodiversity and to comply with Policies ESD10 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996.

### S106 Heads of Terms

Public Transport Service Contribution suggested by OCC Transport of £29,458 and agreed by Applicant, to be paid in full prior to first occupation;

Traffic Regulation Order suggested by OCC Transport of £3,320 and agreed by Applicant, to be paid in full prior to first occupation;

Travel Plan Monitoring Fee suggested by OCC Transport of £2,563 and agreed by Applicant, to be paid in full prior to first occupation; and

Primary Care Infrastructure Contribution suggested by the ICB Clinical Commissioning Board, initially of £110,592 but subsequently revised down to: 128 1-bed units x £360/person = £46,080, to be paid in full prior to occupation.



**22/02992/OUT**

Agenda Item 10

**OS Parcel 4525 South Of Council Depot  
Adjacent And West Of  
Banbury Road  
Deddington**

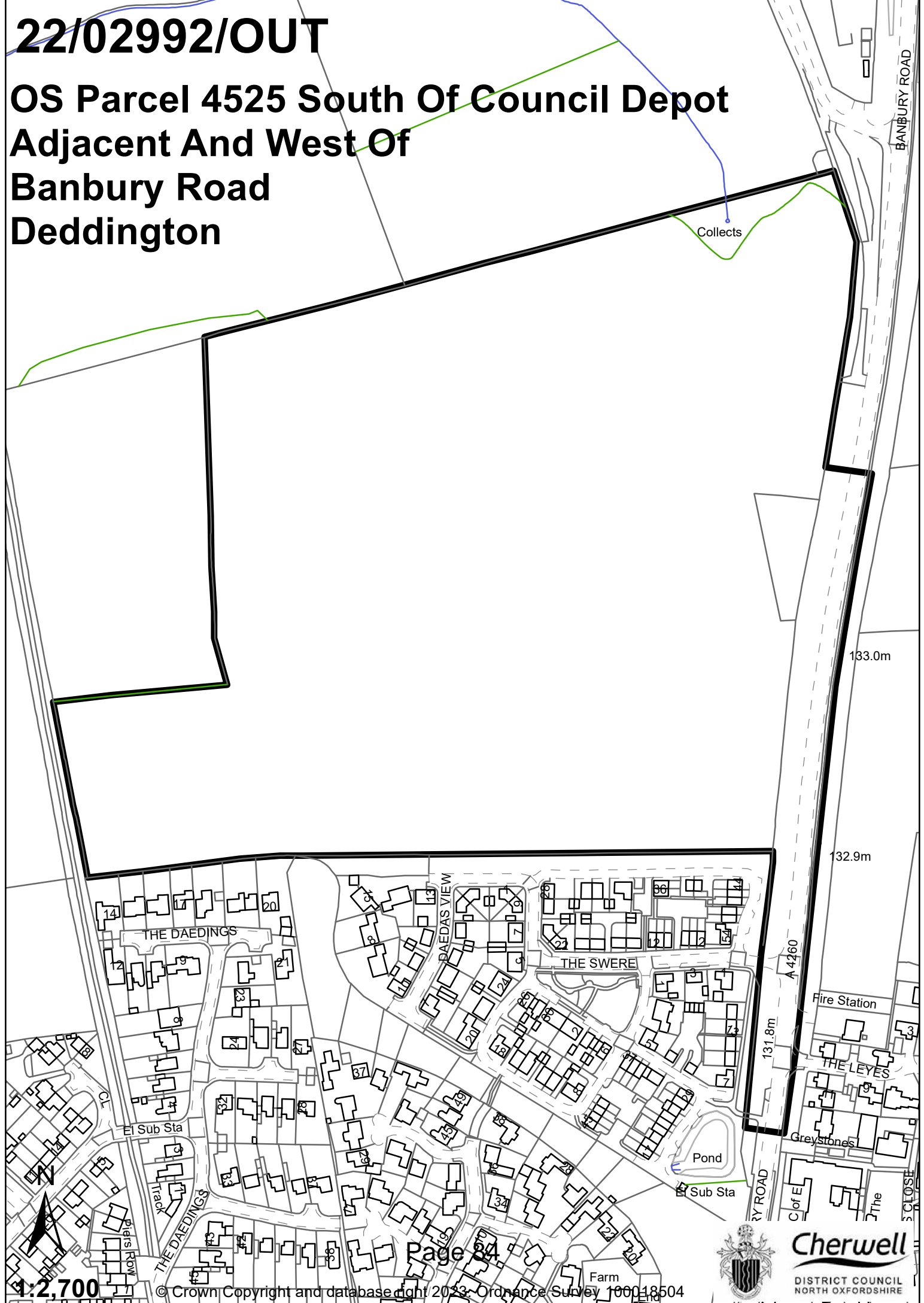


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# 22/02992/OUT

## OS Parcel 4525 South Of Council Depot Adjacent And West Of Banbury Road Deddington



Collects

133.0m

132.9m

131.8m

Fire Station

THE LEYES

Greystones

Pond

Sub Sta

THE DAEDINGS

BAEDAS VIEW

THE SWERE

El Sub Sta

THE DAEDINGS

Page 84

Farm

1:2,700

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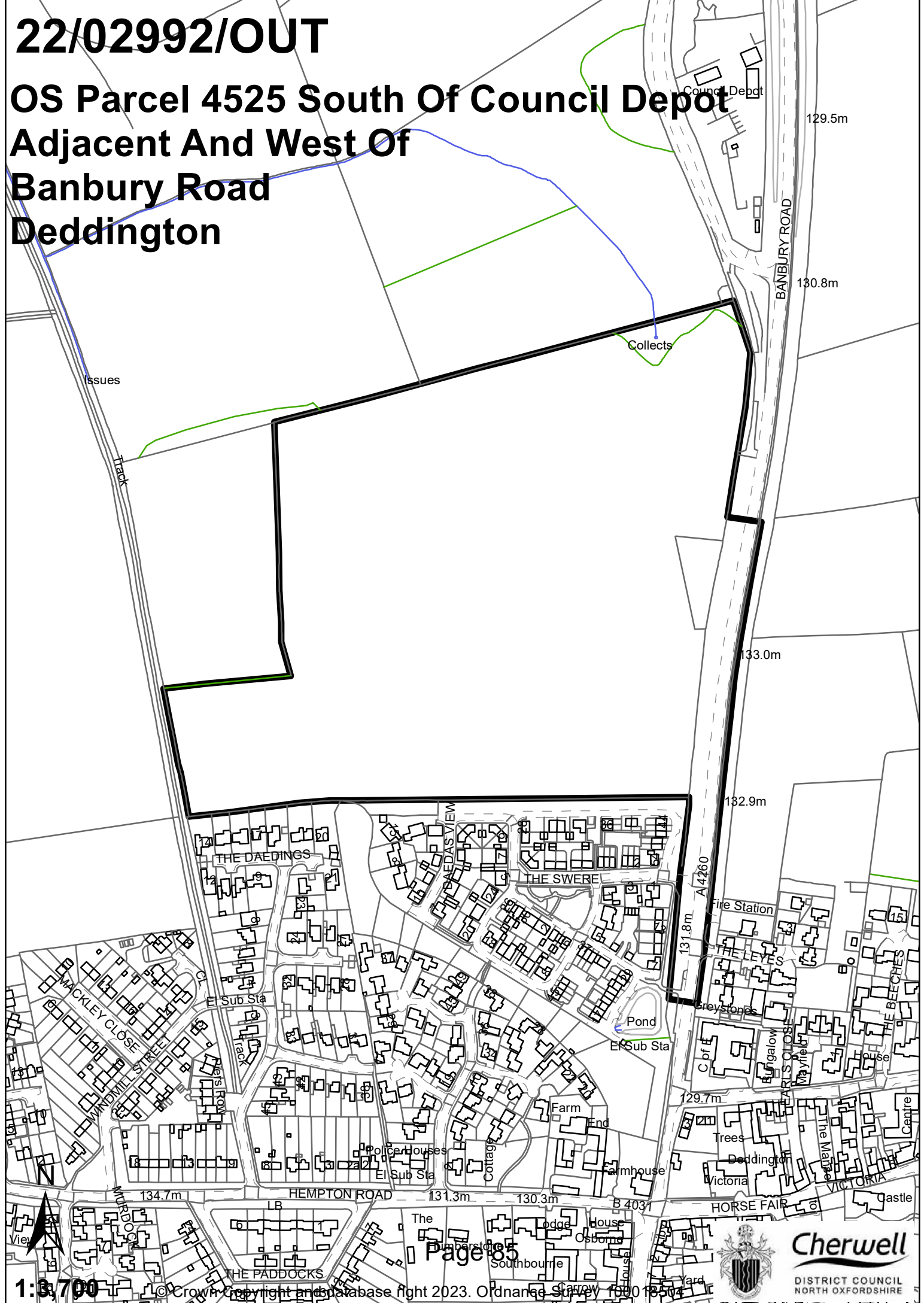


**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE



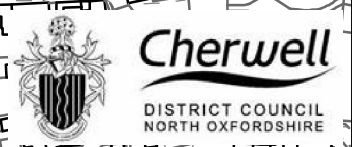
# 22/02992/OUT

## OS Parcel 4525 South Of Council Depot Adjacent And West Of Banbury Road Deddington



1:3,700

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- 3.1. This application seeks outline planning permission for the development of the site for up to 135 dwellings with access to the east onto the A4260 Banbury Road. The indicative masterplan submitted with the application shows the area of residential development located in the southern section of the site with the northern area of the site allocated as an area of country park / recreational use.
- 3.2. The Design and Access Statement advises that the residential element would cover an area of approximately 4.3 Ha with the community country park covering an area of around 8.98 Ha. With a further 0.15 Ha allocated for a new children's day nursery.
- 3.3. In terms of residential development, the applicant states that the development would include a range of dwelling types and sizes from 2-bed to 5-bed properties. Up to 35% of the dwellings would be allocated as affordable housing to secured by a S106 agreement. To reflect the character of the local area, the applicant states that most of the buildings would be 2-storey although some single storey bungalows included within the scheme, and some 2.5-storey buildings to add variety and character, as well as to help establish a sense of place within the scheme. The built form of the children's day nursery could be flexible with either one or two storeys subject to a future operators' requirements. Delivery of up to 135 homes on 4.34ha (the net residential area) equates to an overall density of 31 dwellings per hectare, which is considered appropriate having regard to recently constructed residential development in Deddington and settlement edge location.
- 3.4. *Timescales for Delivery*: The applicant/agent has not advised that in the event that planning permission is granted they anticipate development commencing by a particular date. However, this is an outline application and in the event that permission is granted no development would start until the approval of a reserved matters application(s).

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

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

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

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

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

- 6.1. This application has been publicised by way of a site notice displayed near the site, 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 **22 November 2022**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. A total of 259 letters of objection, 3 letters of support and 13 comments have been received. The comments raised by third parties are summarised as follows:

##### **OBJECTIONS:**

- Principle of development – This is grade 2 agricultural land, required to produce crops and food not houses. Deddington starting to feel more like a town than a village. No more building until developers have finished the current new estates. Understood there was a cap of 100 dwellings for future development. Would support a smaller development but not one of this scale that will increase the population by around 15 - 20%.

- Impact on landscape - Loss of green space, countryside area and loss of open countryside views and impact on Deddington circular walk along Cosy Lane to Daeda's wood. Development would result in light pollution and disrupt area of natural beauty. Landscape at the front of the village has already been dramatically altered development will remove the green belt / agricultural land between the new Deddington Grange development (2019) and the council depot, to give appearance of further extending village along the A4260
- Density - Over development with 12.5 houses per acre or 31 dwellings per hectare is an incredibly high density for such a small area development will appear out of scale for a small Cotswold village and ruins the aesthetic of the local surroundings
- Adverse impact on the historic character of Deddington village.
- Impact on infrastructure - Deddington Infrastructure cannot support this level of development. Impact on Deddington amenities, local doctors, schools, sewage all of which are under pressure.
- Impact on highway safety - Increase in traffic passing through village which already excessive will result in highway safety issue but current condition of roads in the village really poor in places. Already a parking issue outside local shops, this will make it worse. Access onto Banbury Road could raise the risk of unnecessary traffic accidents and therefore would traffic lights be required at the junction to Banbury Road?
- Impact on ecology in the area.
- Archaeology - Area of archaeological interest and an evaluation of this site should be carried out while development would impact near-by listed buildings
- Contrary to emerging Deddington Neighbourhood Plan, local housing needs for July 2021 indicates local need for 2022 – 2040 of 126 houses. It would make more sense to consider the democratic voting decision of the Parish.
- Contrary to Local Plan Policies BSC 2, ESD1, ESD13, EASD15, and Policy Villages 2 Cherwell Design Guide, HELA assessment.
- Prime Minister has stated that he *would use the change in planning laws ordering local authorities to automatically reject greenfield proposals and making it clear any inappropriate development should not be permitted particularly on the green belt under any circumstances*.
- Proposed Country Park would only benefit the new residents, Deddington does not need any further open spaces.
- Carbon footprint for development unsustainable and unacceptable, both in terms of carbon cost of building the development and vehicle traffic generated plus with very little employment in Deddington new residents will need to commute to of work increasing CO2 emissions and add to congestion.
- Proposed nursery would have no funding but current Deddington nursery struggling.

- Affordable housing level exceeds local demand. New houses are not affordable for most people. Affordable should not just mean council houses and shared ownership, there is a need for one and two bed properties for youngsters
- Noise and flood lighting from Council depot intrusive to residents on new development.
- New path would result in privacy and security issue to existing residents.

#### SUPPORT

- Local school is taking pupils from other villages therefore has capacity for the new residents of this proposal and will assist in keeping the local school.
- Support the application.
- Comment that would be helpful to all Deddington residents if Bloor Homes are required to extend the existing footpath on the west side of the A4260 to give safe pedestrian access to the bottle bank in the slip road for the Oxfordshire County Council Highways Department depot and a pedestrian access from this development through Deddington Grange to the footpath leading to Gaveston Gardens

6.3. DEDDINGTON HEALTH CENTRE: **Objection.** *Health Centre under increasing pressure to accommodate the increasing population requiring Primary Care Services. The building at more than capacity for several years and it is at such a point that we are unable to recruit additional healthcare professionals or supporting administrative staff due to the building constraints. We do not have enough of either operational staff space nor clinical rooms for providing healthcare. During recent years, Deddington Health Centre was the fastest growing Practice in Oxfordshire and we cannot accommodate any further growth without significant investment in premises.*

*Patient numbers almost doubling since it was built and has undergone several refurbishments to utilise every possible space, further space is now not available on the current footprint. We have had to close our patient list with NHS England permission for the last year due to staffing levels. Health Centre would not be able to accommodate any increases in patient population until further accommodation is provided along with parking to accommodate patients and staff in a safe way or if a new Practice were built within the area but this does not seem to be an option.*

*Ongoing struggle with parking which is exacerbated by the parents of the local primary school using the very small car park at dropping off and collecting times causing significant challenges for patients requiring parking, an increase in patients will only increase these challenges. Staff do not use the car park as it is kept for patients, parking in and around the Practice/village has to be found by staff each and every day. Parking by parents along the lane in addition to our car park causes significant risk to pedestrians and our patients.*

6.4. DEDDINGTON DEVELOPMENT WATCH: **Objection.** Development contrary to HELA assessment which considered site unsuitable for development as the site forms part of the landscape setting for the village. Proposal contrary to emerging Deddington Neighbourhood Plan. According to paragraph 5.159 of the Cherwell Annual Monitoring Report 2021: *Since 1 April 2014 a total of 1,062 dwellings have been identified for meeting the Policy Villages 2 requirement of 750 dwellings. In terms scale the permission for 135 dwellings would therefore result in the building of*

almost double the net housing requirement of the Parish for the next 18 years ('windfalls' excepted) at the outset of the neighbourhood plan period.

*The proposed housing density of 31 dwellings per hectare is very high for a development on the edge of a rural village adjacent to open countryside. CDC has previously indicated that lower densities are more appropriate for edge of settlement developments in Deddington.*

Many children of primary school age living on the new estate would need to travel to Adderbury rather than walk several hundred yards to the Deddington Primary School which is at capacity as required by the Governors. Although the proposal allocates a new nursery school, there is no certainty that this will be realised as no sources of funding for the new building are identified.

The Health Centre list is currently closed to newcomers in the villages surrounding Deddington, apart from Clifton and Duns Tew therefore question to what extent the practice could cope with an influx of (say) 325 new residents from the proposed new estate in a short period of time.

Proposal does not comply with Policy ESD13 in terms of impact on landscaping and will result in visual harm. No certainty that the new planting would effectively conceal views of the estate within 15 years as indicated by the Landscape and Visual Appraisal, especially if the planting includes deciduous trees. The Defra Magic website shows southern part of the application site, is classified as Grade 2 - very good quality agricultural land, while the northern part is classified as Grade 3 - good to moderate quality agricultural land.

From the higher ground on the northern side of the Swere valley, the upper half of the tower of the parish church of St Peter and St Paul, with its eye-catching pinnacles and gilded vanes, which is grade II\* listed, is clearly visible from the Deddington Circular Walk. A high-density housing development with rooflines up to 2½ storeys high in the foreground would ruin for ever this timeless view of the parish church.

The pre-submission Deddington Neighbourhood Plan, currently the subject of a Regulation 14 consultation, does not include the above site but does allocate a number of other sites around the village. Serious concerns in the community about the harm to local character and landscape a development on this scale and in this location would cause, and pre-empting the emerging Deddington Neighbourhood Plan, especially in the context of the proposed changes to the planning regime under the Levelling-up and Regeneration Bill.

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. DEDDINGTON PARISH COUNCIL: **Objects** on the following grounds:

*Biggest post-war development in Deddington. A Housing Needs Survey carried out by the independent consultants AECOM estimated the housing need in Deddington*

*to 2040 to be 126 homes. From this number can be deducted 56 homes which have been approved since 2019, many of which are currently under construction. The development would alone increase the population of Deddington by more than 15%.*

CDC Local Plan requires global figure of 750 new homes in the 26 most sustainable villages and has already been exceeded including a large contribution of new development in Deddington. Emerging Local Plan, likely target figure for larger villages will be an average of 50 homes and even if Deddington ranks at the higher end of the larger villages, the target figure less than half the number proposed in this scheme.

Deddington Health Centre has closed its books to new patients and has four-week waiting time for appointments, unlikely to be able to cope with an influx of 135 new households within the timeframe of such a development. Concern that the primary school and the Warriner secondary school may not be able to accommodate so many additional pupils.

Development extends the village boundary unacceptably to the north, creating a ribbon formation. *Density of the scheme is too high for Deddington area.* Proposal would have an adverse impact upon landscape of the area contrary to CDC Policy ESD13 and impede views across the Swere valley and from Coombe Hill to the Deddington church. Site was not considered acceptable in the 2018 HELA report. Strategic Environmental Assessment (SEA) of all available sites carried out by AECOM for the Deddington Neighbourhood Plan last year, this site given two red flags meaning it is likely to have adverse effect (without mitigation measures) with one red flag for impact on landscape. Second red flag was development likely to lead to loss of productive agricultural land.

*Survey conducted by the DNP steering group, under the aegis of Deddington Parish Council, indicated that this site north of Deddington Grange was sixth in order of preference of the residents of Deddington village – lower than sixth if sites in the adjoining hamlets of Clifton and Hempton are taken into account. Other potential development sites in Deddington village - preferred for planning reasons and because of their selection as favoured sites by parishioners, some of which are to be included for allocation in the draft DNP – would provide at least as many homes as this one site if numbers of this order were required in the future.*

Up to 8.98 hectares provided as a natural play area and a SUDS attenuation with remaining land proposed as village parkland. *This land to the north of the site slopes fairly steeply downhill and would be planted with trees. Maintenance of what would amount to perhaps 8 hectares would fall on the district council or Deddington Parish Council. Since Deddington parish is already provided with extensive parkland, woods and open space – the Castle Grounds, Daeda's Wood, the Windmill sports pitches, copse and woodland trail, as well as Welford's Piece in Clifton – the parish council is likely to be reluctant to take on the expense of maintaining extensive parkland at the northern extremity of the parish. The council asked Bloor, whether there would be a commuted sum to cover future maintenance of the entirety of the parkland. The answer was not wholly reassuring, offering a "stewardship scheme alongside the existing farming operations".*

Concern over impact on traffic with congestion already a problem in the village, particularly at peak times.

In the event that permission is granted the Parish Council would request that the permission is subject to a S106 agreement to cover improved infrastructure across and in Deddington village.

## OTHER CONSULTEES

- 7.3. CDC LANDSCAPE: **Objection** - site was considered unsuitable for development in Cherwell's HELAA report 2018. Application site forms the landscape setting for the village while adjacent DWH site is screened by existing broad belt of trees, and this forms the natural periphery to the village being located at the edge of the plateau and results in a strong clear boundary between the village and countryside where existing development being barely visible in the wider landscape. Considerable screening is proposed for this development, and this suggests that if this is necessary then the development will not fit easily into the landscape. Developing this site pushes development further out into open countryside.

Development would be detached from the village with another access point off Oxford Road which will cut a gap into the boundary hedgerow and therefore the site screen. The LVIA states that the site slopes to the north from 154m to 133m which is not an insignificant elevation difference. The DWH development lies on the top of the plateau and visually demarcates the village from open countryside which is an existing natural edge and should be maintained for visual reasons, the proposed development is outside this and represents more encroachment into open countryside.

Proposed layout is very poor, doesn't reflect the landscape character of copse and hedgerows consisting of regimented rows of boxes with no integral open space. The play area should not be detached from a housing development but within it to promote overlooking and passive surveillance. Although the site will have minimal visibility in the wider landscape it is yet another tacked-on proposal with little connection to the existing village. The site is sensitive in terms of its relationship with the wider countryside and its position at the entrance to the village. The main impact would be on the landscape to the north of the village and the appearance of the northern gateway to the village.

*Officer comment: The applicant responded to the above comments with a written statement advising where the applicant considered the impact of the development upon the landscape was acceptable and that the existing landscape was robust enough not to be impacted. In re-consulting with the CDC Landscape Officer, the response back was that the statement did not change the objection to the proposal in terms of landscape impact.*

- 7.4. CDC CONSERVATION: **no objection**, but essential that the scheme includes retention of the existing hedges, trees and woodland this will help the development to blend in with the surrounding countryside easier.
- 7.5. CDC ENVIRONMENTAL PROTECTION: **no objections** subject to conditions.
- 7.6. CDC RECREATION LEISURE COMMUNITY HALLS ART: **no objections** subject to S106 contributions towards, Community Hall facilities, Outdoor Sports Provision, Indoor Sports Provision, Community Development Worker, Community Development Fund and Public Realm / Public Art.
- 7.7. OCC HIGHWAYS: **no objections** subject to S106 contributions and conditions. S106 contributions to cover Public Transport provision, Travel Plan Monitoring and improvements to Public Rights of Way.
- 7.8. LLFA: **objection** for the following key issues: Potential SuDS not provided for detailed design. • Agreed point of surface water discharge to be provided. • Surface water catchment plan to be provided. • Discharge rates to be shown on the drainage strategy plan. • Phasing plan to be provided.



- 7.9. CDC LAND DRAINAGE: **no objections**. On the Surface Water Drainage, no comments in principle at the stage. The indicative Qbar rates should be verified as the detailed drainage design proceeds.
- 7.10. ENVIRONMENT AGENCY: **no comments** to make.
- 7.11. OCC EDUCATION: **no objections** subject to S106 contributions to cover Early Years, Primary Education, Specials Education provision.
- 7.12. OCC PROPERTY: **no objections** subject to S106 agreement to cover contribution towards library expansion and additional books.
- 7.13. OCC ARCHAEOLOGY: **comment** that prior to the determination of this application the applicant should therefore be responsible for the implementation of an archaeological field evaluation.
- 7.14. OCC WASTE MANAGEMENT: **no objection** subject to S106 agreement to cover contribution towards household waste / recycling centre.
- 7.15. OCC BUILDING CONTROL LIAISON & FIRE SAFETY INSPECTOR: **comment** taken that these works will be subject to a Building Regulations application and subsequent statutory consultation with the fire service, to ensure compliance with the functional requirements of The Building Regulations 2010.
- 7.16. BUCKS, OXON & BERKS WEST ICB: **comment** request S106 contributions. PCN area already under pressure from nearby planning applications, and this application directly impacts on the ability of the Deddington Health Centre practice in particular, to provide primary care services to the increasing population. Primary Care infrastructure funding is therefore requested to support local plans to surgery alterations or capital projects to support patient services.
- 7.17. THAMES VALLEY POLICE: **comment** appreciate this project is at an early stage, however somewhat disappointed to see that crime prevention and community safety is not a significant consideration at this point. Whilst do not object to this application, request an addendum to the Design & Access Statement (DAS) which comprehensively addresses the issue of safety and security across the site prior to outline permission being granted.

Given the scale and significance of the proposal Thames Valley Police consider it appropriate that the developer should contribute towards the provision of infrastructure to mitigate the impact of the development. Contribution sought towards equipping and training staff, towards Police vehicles, mobile IT, ANPR Cameras programme, improvements to Police accommodation Banbury / Bicester.

- 7.18. THAMES WATER: **comment** unable to determine the Foul water infrastructure needs of this application. Thames Water has contacted the developer in an attempt to obtain this information and agree a position for FOUL WATER drainage but have been unable to do so in the time available and as such, Thames Water request a condition be added to any planning permission.

The application indicates SURFACE WATER will NOT be discharged to the public network and as such Thames Water has no objection, however approval should be sought from the Lead Local Flood Authority. Should the applicant subsequently seek a connection to discharge surface water into the public network in the future then we would consider this to be a material change to the proposal, which would require an amendment to the application at which point we would need to review our position.

7.19. CDC ECOLOGY: no comments received.

7.20. BBO WILDLIFE TRUST: no comments received.

7.21. NATURAL ENGLAND: no comments received.

7.22. STRATEGIC HOUSING: no comments received.

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

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

8.2. The Cherwell Local Plan 2011-2031 - Part 1 (CLP 2015) was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The CLP 2015 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 2015)

- Policy PSD 1: Presumption in Favour of Sustainable Development
- Policy BSC 1: District Wide Housing Distribution
- Policy BSC2: The Effective and Efficient Use of Land – Brownfield land and Housing Density
- Policy BSC 3: Affordable Housing
- Policy BSC 4: Housing Mix
- Policy BSC 10: Open Space, Outdoor Sport and Recreation Provision
- Policy BSC 11: Local Standards of Provision – Outdoor Recreation
- Policy BSC 12: Indoor Sport, Recreation and Community Facilities
- Policy ESD 1: Mitigating and Adapting to Climate Change
- Policy ESD 2: Energy Hierarchy and Allowable Solutions
- Policy ESD 3: Sustainable Construction
- Policy ESD 4: Decentralised Energy Systems
- Policy ESD 5: Renewable Energy
- Policy ESD 6: Sustainable Flood Risk Management
- Policy ESD 7: Sustainable Drainage Systems
- Policy ESD 10: Protection and Enhancement of Biodiversity and the Natural Environment
- Policy ESD 13: Local Landscape Protection and Enhancement
- Policy ESD 15: The Character of the Built and Historic Environment
- Policy ESD 17: Green Infrastructure
- Policy Villages 1: Village Categorisation
- Policy Villages 2: Distributing Growth Across the Rural Areas
- Policy Villages 4: Meeting the Need for Open Space, Sport and Recreation
- INF1: Infrastructure

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

- Policy H18: New Dwellings in the Countryside
- Policy C8: Sporadic Development in the Open Countryside
- Policy C28: Layout, Design and External Appearance of New Development
- Policy C30: Design Control

### 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)
- Deddington Neighbourhood Plan draft pre-submission plan (Regulation 14) was published for consultation by the Parish Council in November 2022
- Countryside Design Summary (1998)
- Cherwell Design Guide SPD (July 2018)
- Oxfordshire Wildlife & Landscape Study 2004
- Annual Monitoring Report (AMR) (December 2021)
- Annual Monitoring Report (2022 AMR) (February 2023)
- Oxfordshire County Council: Local Transport Plan 4 (2015-2031)
- Cherwell District Council Housing & Economic Land Availability Assessment (February 2018)

## 9. APPRAISAL

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

- Principle of development
- Landscape and impact on the character of the area
- Highway impact
- Residential amenity
- Drainage
- Heritage
- Ecology impact
- Sustainability
- S106

### Principle of Development

#### *Policy Context*

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

#### *Development Plan*

9.3. The Development Plan for this area comprises the adopted Cherwell Local Plan 2011-2031 Part 1 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996 (CLP 1996).

9.4. Policy PSD1 of the CLP 2015 embeds a proactive approach to considering development proposals to reflect the presumption in favour of sustainable development. It states, '*The Council will always work proactively with applicants to jointly find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area*'.

- 9.5. The CLP 2015 seeks to allocate sufficient land to meet district-wide housing needs. The Plan states, *'The most sustainable locations for growth in the District are considered to be Banbury, Bicester and the larger villages as identified in Policies Villages 1 and Villages 2 as these settlements have a range of services and facilities, reducing the need to travel by car'*.
- 9.6. Policy BSC1 states that Cherwell District will deliver a wide choice of high quality homes by providing for 22,840 additional dwellings between 1 April 2011 and 31 March 2031. 1,106 completions were recorded between 2011 and 2014 leaving 21,734 homes to be provided between 2014 and 2031.
- 9.7. Paragraph E.10 of the Plan states, *'Housing delivery will be monitored to ensure that the projected housing delivery is achieved. The District is required by the NPPF and the NPPG (to maintain a continuous five year supply of deliverable (available, suitable and achievable) sites as well as meeting its overall housing requirement'*.
- 9.8. Paragraph E.19 of the Local Plan states, *"If the supply of deliverable housing land drops to five years or below and where the Council is unable to rectify this within the next monitoring year there may be a need for the early release of sites identified within this strategy or the release of additional land. This will be informed by annual reviews of the Strategic Housing Land Availability"*.
- 9.9. The Council's latest assessment of housing land availability is its 'HELAA' published in 2018. This is a technical rather than a policy document but provides assessments of potentially deliverable or developable sites; principally to inform plan-making. The application site was reviewed in the HELAA as site reference HELAA120. The accompanying HELAA report confirmed that this site is located outside the built-up limits of Deddington and that Deddington is a Category A village. The HELAA report confirmed that *the site is considered unsuitable for development as the site forms part of the landscape setting for the village. The site comprises open land on part of a plateau that immediately falls away to the north. Development would be very prominent in long distance views from the north and be harmful to the approach to the village. There are likely to be significant potential landscape and visual impacts.*
- 9.10. Policy Villages 1 of the CLP 2015 provides a framework for housing development in the rural areas of the district and groups villages into three separate categories (A, B and C). The categorisation of villages was informed by a defined range of sustainability criteria (CLP 2015 para C.255). Deddington is a Category A village.
- 9.11. Policy Villages 2 of the CLP 2015 states, *'A total of 750 homes will be delivered at Category A villages. This will be in addition to the rural allowance for small site 'windfalls' and planning permissions for 10 or more dwellings as at 31 March 2014'*. This Policy notes, *'Sites will be identified through the preparation of the Local Plan Part 2, through the preparation of the Neighbourhood Plan where applicable, and through the determination of applications for planning permission'*.
- 9.12. Policy Villages 2 states that in identifying and considering sites, particular regard will be given to the following criteria:
- i. *'Whether the land has been previously developed land or is of less environmental value'*;

- ii. *'Whether significant adverse impact on heritage and wildlife assets could be avoided';*
- iii. *'Whether development would contribute in enhancing the built environment';*
- iv. *'Whether best and most versatile agricultural land could be avoided';*
- v. *'Whether significant adverse landscape and visual impacts could be avoided;*
- vi. *'Whether satisfactory vehicular and pedestrian access/egress could be provided';*
- vii. *'Whether the site is well located to services and facilities';*
- viii. *'Whether necessary infrastructure could be provided';*
- ix. *'Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period';*
- x. *'Whether land the subject of an application for planning permission could be delivered within the next five years';*
- xi. *'Whether development would have an adverse impact on flood risk'.*

9.13. Saved Policy H18 of the CLP 1996 states that *planning permission will only be granted for the construction of new dwellings beyond the built-up limits of settlements other than those identified under policy H1 when:*

- (i) *it is essential for agriculture or other existing undertakings, or*
- (ii) *the proposal meets the criteria set out in policy H6; and*
- (iii) *the proposal would not conflict with other policies in this plan.*

#### *National Planning Policy Framework*

9.14. A key material consideration is the National Planning Policy Framework (NPPF) which sets out the Government's planning policy for England. The NPPF is supported by Planning Practice Guidance (PPG).

9.15. The NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

9.16. So that sustainable development is pursued in a positive way, the NPPF includes a 'presumption in favour of sustainable development' (para. 10). Paragraph 11 states that *applying the presumption to decision-making means:*

- *approving development proposals that accord with an up-to-date development plan without delay; or*
- *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites), granting permission unless:*
  - i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;*

- ii. *or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*

9.17. The position in which the most important policies are considered to be out-of-date because of the absence of a five-year housing land supply is often referred to as the 'tilted balance'. The position on the Council's current housing land supply is provided in the paragraphs below.

9.18. Paragraph 12 advises, *'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'*

9.19. Section 5 of the NPPF covers the issue of delivering a sufficient supply of homes and states, *'To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay'*.

9.20. Paragraph 74 highlights the need for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old (unless these strategic policies have been reviewed and found not to require updating as in Cherwell's case). The supply of specific deliverable sites should, in addition, include a buffer - 5% in Cherwell's current circumstances (moved forward from later in the plan period).

#### *Housing Land Supply*

9.21. In February 2023 Cherwell District Council approved a review of their adopted planning policies carried out under regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012. This review concluded that, due to the publication of more recent evidence on Housing Needs to support the preparation of the Cherwell Local Plan Review 2040, policies including Policy BSC1 are "out of date". Paragraph 74 and footnote 39 of the NPPF requires that in such circumstances the 5 Year supply of land should be calculated using the government's standard methodology.

9.22. The use of the standard method has the effect of reducing the annualised requirement from 1,142 dpa to 742 dpa for the purposes of calculating the land supply and consequently Cherwell District Council is able to demonstrate a 5.4 year supply. However, whilst it is for the Local Plan Review to set the revised requirement, the delivery of homes across the district remains an important material consideration in the planning balance.

9.23. The Deddington Neighbourhood Plan is a material consideration although as a draft pre-submission plan (Regulation 14) was published for consultation by the Parish Council in November 2022 the document is of limited weight, given its early stage in the plan making process. Notwithstanding this the neighbourhood plan was supported by an interim SEA of the potential residential site allocations. The site the subject of this application was assessed as part of this process as Site DNP 10. The report concluded that an *allocation at this location would result in the loss of greenfield land. The land adjoins the existing settlement boundary and has a sloped topography, sloping to the north (Swere Valley). Given the topography and open nature of the landscape, the site provides sweeping views towards the north. The existing townscape bordering the south of the site offers some enclosure within the landscape. However, this site is particularly large, and development of a large proportion of the site would be likely to have a significant impact on the built footprint of the DNP area and views from existing settlements.*

#### *Assessment*

9.24. The Council's housing supply position of 5.4 means that the relevant development plan policies are up to date and that development proposals must be assessed in accordance with the Development Plan. Whilst the NPPF states the requirement to have a 5 year supply is not a cap on development, the housing policies of the Development Plan are the starting point for decision taking and afforded full weight. However, the delivery of homes across the district remains an important material consideration in the planning balance.

9.25. This application seeks planning permission for the development of an agricultural field for a scheme of up to 135 dwellings. The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan. The site is an undeveloped green field site that, given its physical and visual relationship to the existing built form, is outside of the existing built form of Deddington village and therefore allocated as an area of open countryside. The proposal to build on greenfield land would have an urbanising impact, though that impact would be relatively localised. The site is bounded by existing residential properties to the south and landscaping of varying degrees to the north, west, east boundaries.

9.26. Deddington is identified in the Local Plan as a sustainable location for meeting defined housing requirements – one of 23 Category A villages intended to provide 750 homes from 2014 to 2031 (Policy Villages 2). The Local Plan reached that conclusion having undertaken a comparative assessment and categorisation of all the district's villages. For the period 2011 to 2022 there have been 131 recorded housing completions in Deddington and as of 1 April 2022 there were 48 dwellings with planning permission but not yet built. Although Deddington is one of the more sustainable category A Villages with a good range of services and facilities it also has to be acknowledged that the village has already seen a significant level of development over recent years.

9.27. The 2022 Annual Monitoring Report reports that 703 dwellings have now been completed at Category A villages, with a further 165 under construction (running total 868) and 48 likely to be built out i.e. sites where part of the development has been completed (running total 916). In addition, there are approvals for a further 314 not yet commenced (running total 1230).

- 9.28. It is understood that development should, as a result of meeting the target of 750 houses, be focussed in Banbury and Bicester and that there should be a presumption against development in/around Category A villages unless there are benefits to the scheme, beyond that which would normally result from a S106. However, in the context of Policy BSC1 and the need to meet the overall district requirements by 2031, regard is given to the planning Inspector's comments under appeal decision APP/C3105/W/19/3228169 on Land at Merton Road, Ambrosden, OX25 2NP in relation to spatial dimension.
- 9.29. The Inspector commented that Policy Villages 2 ("PV2") does not contain any temporal dimension (i.e. at what point in time in the plan period housing in the rural areas should be permitted) nor does it have a spatial dimension (i.e. it does not specify how much development should occur at each settlement). These matters are to be considered on their own merits having regard to any planning harm that arises. Related to the Ambrosden Inspector's comment on spatial dimension, given that appeals have been dismissed at some of the smaller Category A villages on the grounds of locational sustainability it falls that the larger Category A villages would be expected to accommodate a greater share of the 750 than if equalised out over all 23 Category A villages. This is support by Policies PSD1 CLP 2015
- 9.30. In addition, the Tappers Farm (Bodicote) 2019 appeal decision (which applied the same logic as the Launton appeal decision a year earlier) provides a useful steer as to how the decision taker should apply PV2. At the time of the Tappers Farm decision, 271 dwellings had been delivered at Category A villages under PV2, with a further 425 under construction, and an annual delivery rate of 54 dwellings per year from PV2, which would have resulted in the delivery of 750 homes by 2028. The Tappers Farm Inspector stated,

*There will undoubtedly be a point where there will be a situation that will result in the material increase over the 750 dwellings figure and at that time there will be some planning harm arising from the figure being exceeded, for example harm to the overall locational strategy of new housing in the district. There is no substantive evidence before me to demonstrate that this is the case in this appeal. Clearly, when considering any subsequent schemes however, this matter will need to be carefully scrutinised.*

#### *Policy Villages 2 Criteria*

- 9.31. The applicable criteria of Policy Villages 2 are provided at paragraph 9.12 above. It is clear from the site and supporting information provided in the application that the site has not previously been developed. The site is not within a designated landscape area; however, the position of the site alongside the main access road between Deddington and Banbury the site occupies a very prominent position in the landscape. As such the development of the site would have a significant impact upon the character / landscape and approach into Deddington.
- 9.32. The site is located outside the built area of the village and, as noted in the paragraphs above, allocated as an area of open countryside. As highlighted under the assessment for the HELA report, the site comprises *open land on part of a plateau that immediately falls away to the north. There is limited landscaping along the site and the development would be very prominent in long distance views from the north and be harmful to the approach to the village. There are likely to be significant potential landscape and visual impacts.* The impact of the development in terms of the landscape will be considered in a section later in this report. Although



no formal soil analysis of the site has been provided with the application, the Natural England maps appear to show that the site is made up of grade 3 agricultural land. As such parts of the site are allocated as good quality agricultural land although it is accepted that grade 3 can be subdivided and therefore it is not possible to fully assess if the site is best quality land which should be protected.

- 9.33. As the application site is located outside the village boundary Saved Policy H18 is a material consideration. Under this Policy planning permission will only be granted for new dwellings construction beyond the built-up limits of the settlement when the development is essential for agriculture or other existing undertakings, or where the development would not conflict with other saved policies in the Local Plan 1996. This proposal is for a development of up to 135 dwellings none of which would be for essential agricultural need or any identified existing undertaking. The development would be for a mix of open market housing as well as an element of affordable housing the development does not comply with Saved Policy H18.
- 9.34. Whilst it is accepted that there are clear benefits of the additional housing including the provision of affordable housing in the area, and the proposed infrastructure planned to support this development. It is nevertheless a prominent site clearly visible on the approach to Deddington.

#### *Conclusion*

- 9.35. It is clear that this proposal would assist in meeting overall PV2 housing requirements and would contribute to the provision of affordable housing. It is also noted that the merits of providing additional homes (including affordable homes) on this site would assist in delivering new homes and meeting overall Policy BSC 1 housing requirements to 2031.
- 9.36. The latest housing supply figure for the district is calculated at 5.4 years. Whilst the NPPF states the requirement to have a 5 year supply is not a cap on development, the housing policies of the Development Plan are the starting point for decision taking and afforded full weight. The principle of providing additional housing at Deddington to meet PV2 accords with the Development Plan. However, as outlined in the paragraphs above, Deddington has seen a significant level of development over recent years although this is not to suggest that no further development can be accommodated within Deddington. The draft Deddington Neighbourhood Plan allocates a number of potential development sites in and around the village this current application is not one of the suggested sites and would represent a development which would make the sites in the draft Neighbourhood Plan potentially redundant before the plan is adopted. This would not allow for a sustained growth of the village and would apply further pressure for additional unwarranted development in the village.
- 9.37. Whilst there are benefits of the additional housing including the provision of affordable housing in the area, the impact on the character and appearance of the countryside through the development of greenfield land is of a concern which needs to be weighed against the benefits of the proposal.
- 9.38. It is clear that the proposal is in line with a number of adopted Policies but also conflicts with others. The Council has a 5 year land supply and as outlined in the paragraphs above the starting point with any application is the Development Plan and Policies within. As with all applications for permission, the fact that the development conflicts with Policy is not in itself a reason to refuse an application. Before reaching a decision, the decision maker has to make a judgement on the development in terms of whether the benefits outweigh any harm the proposal may cause as a result of being contrary to any Policy. As such the acceptability of the

proposed development depends upon the matters covered by the remainder of this report.

### Landscape and impact on the character of the area

#### *Policy*

- 9.39. Policy ESD15 of the CLP 2015 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high-quality design meeting high design standards and complementing any nearby heritage assets.
- 9.40. BSC2 of the CLP 2015 states that new housing should be provided on net development areas at a density of at least 30 dwellings per hectare unless there are justifiable reasons to lower the density. The Council's Design Guide seeks to ensure that new development responds to the traditional settlement pattern and character of a village. This includes the use of continuous building forms along principal routes and the use of traditional building materials and detailing and form that respond to the local vernacular.
- 9.41. PV2 of the CLP 2015 states that in considering sites for residential development in Category A villages, particular regard will be given to *whether development would contribute in enhancing the built environment and whether significant adverse landscape and impacts could be avoided.*
- 9.42. Saved Policies C28 and C30 of the CLP 1996 exercise control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context. New housing development should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity. Saved Policy C33 of the Local Plan states that, *the Council will seek to retain any undeveloped gap of land which is important....in preserving a view or feature of recognised amenity or historical value.*
- 9.43. Section 12 of the NPPF is clear that good design is a fundamental to what the planning and development process should achieve. Paragraph 130 of the NPPF states that *planning decisions should ensure that developments:*
- *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
  - *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
  - *are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change*
- 9.44. The quantum of development proposed would give a density of c.31 dwellings per hectare which is within the requirements of Policy BSC2.

#### *Assessment*

- 9.45. The site is in open countryside and contributes to the rural character, quality and amenity of the area, in particular the setting and approach of Deddington village. Its open character and extensive views of the historic village and surrounding countryside also contributes to the amenity value and enjoyment of the public right

of way (187/16/20) that passes the western boundary of the Site, with the route connecting the centre of Deddington to Milton Gated Road, north of the Site.

- 9.46. The application is supported by a Landscape and Visual Assessment (LVA), which has considered the potential impacts on the landscape character and amenity of the site and surrounding area and concludes that the proposed development could be accommodated within the landscape with only localised effects upon landscape character and visual amenity.
- 9.47. In considering the details of the LVA the Council's landscape officer accepts that from certain distant viewpoints the development would have limited impact upon the landscape views. However, the landscape officer highlights that the site forms the landscape setting for the village and that the adjacent David Wilson Homes site of The Swere is screened by an existing broad belt of trees which forms the natural periphery to the village being located at the edge of the plateau. This screening results in the existing development being barely visible in the wider landscape, but the proposed development would be located to the front of this existing landscape boundary positioned in a prominent, open location and pushing development further out into open countryside.
- 9.48. It is noted that the LVA states that the site slopes to the north dropping from 154m to 133m which is not considered to be an insignificant elevation difference. The current tree belt to the north of The Swere forms a strong clear boundary between the village and countryside and lies on the top of the plateau and visually demarcates the village from open countryside. As highlighted by the landscape officer this is an existing natural edge and should be maintained for visual reasons. However, the proposed development lies outside this and would result in more encroachment into open countryside with an urbanisation of the area to the detriment of the approach into Deddington village.
- 9.49. Along with the proposals' impact on the wider landscape, it remains the case that the site lies outside the built-up limits of Deddington village. Criteria 'v' of PV2 highlights the need to assess *whether significant adverse landscape and visual impacts could be avoided*. In this particular case it is considered that, having regard to its location, residential development at this site would have a poor and incongruous relationship with the form, character and pattern of the existing settlement. The site is sensitive in terms of its relationship with the wider countryside and its position at the entrance to the village. The development would therefore have an adverse effect on the character and appearance of the countryside as well as the approach to and of the northern gateway to Deddington village. Due to the prominent position of the site and the limited landscaping protection along the eastern and partly northern boundary the development would represent significant and demonstrable harm which should be taken into account in the planning balance.
- 9.50. As this is an outline planning application all matters, other than access, are reserved and this includes layout and design of the estate. Notwithstanding this the application is supported by an indicative site layout plan to show how the site could be developed for 135 dwellings at a density of 31 dwellings per Ha. The development would appear as a significant projection to the north beyond the existing development of The Swere and with the access road serving the dwellings immediately along the northern part of The Swere the proposal would appear as a detached development. Whilst the indicative layout makes an efficient use of land in this respect, it would present a harsh, urban edge to the development which would not help it to integrate with its surroundings. This somewhat weighs against the proposals.

9.51. The development would not contribute to enhancing the built environment but would result in a significant and adverse impact on the local landscape. The proposal therefore conflicts with Policies ESD13, ESD15 and Villages 2 of the CLP 2015, saved Policy C33 of the CLP 1996 and Government guidance in the NPPF. This weighs significantly against the development.

*Quantum of Development / Play Space*

9.52. Due to the scale of the development the scheme would need to provide a play area in the form of a NEAP and LEAPs/LAPs as required under Policy BSC11 of the 2015 CLP. The indicative site layout shows the site is roughly divided into two parts, the southern section of around 4.35ha, for the residential development with the remaining northern section and part of the western area of around 9Ha allocated as an area of country park which includes an area of LEAP as well as a separate area allocated for a new children's day nursery. The applicant also highlights that new tree planting is proposed to the west of the site extending the existing woodland further south alongside the bridleway. To the east, new tree planting is also proposed along the Banbury Road to strengthen the existing hedge vegetation, which, together with scattered tree planting within the parkland, will enhance screening and soften the appearance of the development particularly from views from the north of the site and along Banbury Road on entering the village. The existing mature hedge between the site and the Deddington Grange development will screen the development from existing residents.

9.53. It is considered that the level of open space in the form of the country park / open space is in accordance with the adopted policy and it is accepted that the area of open space has the potential to be an attractive feature to the edge of the development. However, it is clear from the comments of the Parish Council that this parkland area is not a feature the Parish considers it could or would wish to adopt nor maintain, and it is considered by the Parish Council that the village already has a significant level of parkland and open space in the village. As such the use and benefit of this feature is reduced in terms of a benefit which goes above and beyond that required under the Policy.

9.54. With regards to the provisions of the play area under the Policy this size of development over 100 dwellings would require the provision of a NEAP rather than a LEAP. As such the development proposal would not comply with the Policy requirement. Notwithstanding this point it is highlighted by the Landscape Officer that the position of the play area is detached from the housing on the development and would not allow for overlooking or passive surveillance. Furthermore, it is not clear whether there would be any integrated open space within the built form of the site or if all the open space is to be contained within the parkland area to the north. Although the position of the play area is noted, and the concern raised about its position along with that of the incidental areas of open space, it must be remembered that this is an outline application, and that the site layout plan is illustrative. The final layout and position of the play area would form part of the reserved matters application(s) and therefore it is considered that the concerns raised are not reasons to refuse the application.

9.55. Turning to the provision of the children's day nursery, the illustrative site plan shows this feature to be located in the south-eastern corner of the site and would occupy an area of around 0.15Ha. The applicant has stated that the nursery would be for use by the existing residents as well as the new residents on the proposed development site. Initially the applicant had stated that only the area of the nursery would be provided although further discussions with the applicant would suggest that a building could be provided as part of the overall development rather than separate funding required by an operator. Deddington does have an existing

children's day nursery on the western side of the village, and it is understood that the building for this existing facility is in poor condition and in need of works. Although not formally confirmed it maybe that the existing day nursery could be the operator who would use the site of the new day nursery as part of this new development although this is not to be taken as guaranteed. Notwithstanding this it is considered that the provision of a children's day nursery would be seen as a benefit of the development and adds weight in favour of the proposal.

#### Highway impact

- 9.56. Concerns have been raised by the Parish Council and local residents with regard to the proposal's potential transport impacts, in particular the impact of additional traffic flows on the local road network.
- 9.57. The local highway authority (LHA) advises that, subject to conditions requiring access details, visibility splays, estate roads, drainage strategy and construction traffic management plan, and a Section 278 agreement to provide for various off site highway improvements (inc. Pedestrian refuge on the A4260 at a point outside the Deddington highways depot, Proposed vehicle access at the A4260 Banbury Road) involving Traffic Regulation Order), the proposal is acceptable in highway safety terms.
- 9.58. In considering the proposal although it is accepted that the level of development proposed would result in an increase in the level of vehicle movements to and from the site there is no reason or evidence to disagree with the conclusions and advice of OCC Highways. Therefore, the proposal is considered acceptable in transport terms subject to conditions and completion of a satisfactory Section 106 legal agreement, as recommended in OCC Highways' response.

#### Residential amenity

- 9.59. Saved 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 2015 which states that: new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.
- 9.60. The existing properties which would be most impacted upon by the proposed development would be the properties to the south in The Swere. The application is, however, in outline only and therefore all detailed proposals in the reserved matters applications would need to have due regard to requirements of Section 6 of the Residential Design Guide SPD with regard to appropriate standards of amenity for both existing and future residents. Appropriate positioning and scale of dwellings, boundary treatments and the nature of such treatments could be given due consideration at reserved matters stage.
- 9.61. Given the above, it is considered that the development could be made acceptable in residential amenity terms, both for existing residents neighbouring the site and future occupiers, with acceptable details to be secured at reserved matters stage.

#### Drainage

- 9.62. Section 14 of the NNPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 167 of which states that when determining any planning applications, local planning authorities should ensure that *flood risk is not increased elsewhere. Where appropriate, applications should be*

*supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*

*a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*

*b) the development is appropriately flood resistant and resilient;*

*c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*

*d) any residual risk can be safely managed; and*

*e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.*

9.63. Paragraph 169 of the NPPF continues by stating that *major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:*

*a) take account of advice from the lead local flood authority;*

*b) have appropriate proposed minimum operational standards;*

*c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*

*d) where possible, provide multifunctional benefits.*

9.64. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.

9.65. 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.

9.66. The current situation is that the site is located within a flood zone 1 which is land which has less than 1 in 1,000 annual probability of river flooding. The Environment Agency's risk of surface water flooding risk map indicates that the entire Site is at 'Very Low' risk of surface water flooding. The applicant has advised that the drainage strategy been prepared on the basis of attenuation only SuDS. The controlled drainage from the attenuation basins will be directed to the ordinary watercourses present at the northern site boundary. Furthermore, the drainage strategy submitted with the application states that it is proposed to provide the required attenuation storage with two SuDS attenuation basins located in the north of the Site. MicroDrainage calculations have been undertaken to inform this drainage strategy with the basins have been sized to attenuate runoff to the Qbar greenfield rate for the 1% AEP event plus 40% climate change.

9.67. In considering the drainage strategy members will note that although no objections are raised by the Council's land drainage section and no comments made by the Environment Agency, the Lead Local Flood Authority has raised an objection to the scheme. The objection relates to the fact that the drainage strategy fails to provide details of potential SUD's not being provided for detailed design. Also requested are

ownership details on the ditch to which the applicant seeks to drain surface water to and there is a request for the applicant to provide all the assumptions that have been considered as part of the surface water catchment plan details. In addition to this the LLFA request further information relating to discharge rates on the drainage strategy plan and the applicant is to provide a phasing plan in the event that the development is to consist of more than one phase.

- 9.68. To date the applicant has not responded to the LLFA's objection. Although this is an outline application with all matters other than access reserved, the issue of drainage is a material consideration particularly as the applicant seeks to use existing drainage ditches. As such, and unless the applicant provides additional information, the proposal is considered to conflict with policies ESD6 and ESD7 of the CLP 2015 as well as advice contained within section 14 of the NPPF.

#### Heritage

- 9.69. Section 66(1) of the Planning (Listed Building & Conservation Areas) Act 1990 states that in granting planning permission for development which affects a listed building or its setting, 'a Local Planning Authority must 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.

- 9.70. Paragraph 199 of the NPPF directs 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 2015 echoes this guidance.

- 9.71. Although the site is not located within a Conservation Area nor adjoining a listed building, concerns have been raised by members of the public that the development would impact upon the distant views of the grade II\* listed parish church of St Peter and St Paul. Notwithstanding this point the Councils Conservation Officer has confirmed no objection to the proposal but that it is essential that the scheme includes retention of the existing hedges, trees and woodland this will help the development to blend in with the surrounding countryside easier.

- 9.72. Members will note that the County Archaeologist has requested that, in accordance with the National Planning Policy Framework (NPPF 2021, paragraph 189), prior to the determination of any planning application for this site the applicant should be responsible for the implementation of an archaeological field evaluation. The reason for this is that the site lies in an area where little formal archaeological investigation has taken place, however a Medieval find is recorded within the site on the Portable Antiquities Scheme database. An archaeological evaluation should therefore, be carried out, informed by a geophysical survey as the first phase.

- 9.73. In response to this the applicant has submitted a Geophysical Survey Report of the site as requested. This report highlights that there is *little direct evidence for features of archaeological interest with the exception of possible pre-medieval landscape scale enclosure that maybe included livestock management and cultivation, but with no associated evidence for settlement or industrial activity. Medieval arable use of the land is evident with ridge and furrow cultivation throughout, but to what extent this persisted into the post-medieval period is uncertain, there being little association between the cultivation and later field boundaries. A palimpsest of possible small ditch fills in various places across the site hint at other enclosures, but the evidence for these is uncertain. The site of the King's Spring has been located but an*

*associated hollow that would once have provided context has been filled with imported materials. Another spring once existed nearby.*

9.74. The County Archaeologist has been re-consulted on the Geophysical Survey Report and comments are awaited. On the basis that the Archaeologist confirms that the survey report complies with the requirements to withdraw the objection it is considered that there is no heritage objection to this proposal.

#### Ecology impact

##### *Legislative context*

9.75. 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.

9.76. 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.

9.77. 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.

9.78. 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:

- 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?
- That there is no satisfactory alternative.
- 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

9.79. 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*

- 9.80. 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.
- 9.81. 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.
- 9.82. 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.
- 9.83. Policy ESD10 of the CLP 2015 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.
- 9.84. 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.
- 9.85. 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.
- 9.86. The Planning Practice Guidance dated 2014 postdates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities (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*

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

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

It also states that LPAs can also ask for:

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

9.88. This application is supported by an Ecological Appraisal of the site with a survey taking place in June 2021. The report highlights that the survey was based on standard extended Phase 1 methodology. In addition, a general appraisal of faunal species was undertaken to record the potential presence of any protected, rare or notable species, with specific surveys conducted in respect of bats and Badger. The report also highlighted that the site is not subject to any statutory or non-statutory ecological designations. The nearest statutory designation is Adderbury Lakes Local Nature Reserve (LNR) located approximately 3.1km to the north-east of the site. The nearest non-statutory designation is Deddington Mill Local Wildlife Site (LWS) located approximately 0.6km to the north-west of the site. Nearby non-statutory designations have the potential to be adversely affected by the proposals through increased recreational usage. Management and maintenance of these sites by local trusts, access restrictions and the inclusion of new areas of open space within the development all reduce the likelihood of these sites being adversely affected by the proposals.

9.89. In terms of the ecology character of the site it is noted by the applicant that the site comprises an agricultural field largely bound by hedgerows. Two off-site areas of woodland are present adjacent to the east and west boundaries of the site and an area of dense scrub is present at the north of the site. Discrete patches of tall ruderal and semi-improved grassland are present at the field boundaries. Features of ecological importance include hedgerows, trees and off-site woodland, which are of local to district level value. Trees and off-site woodland are to be retained under the proposals and would be protected during construction. Small sections of the hedgerow at the eastern boundary would be removed to facilitate access. This would be compensated by new, native species-rich hedgerow planting. The remaining habitats within the site are not considered to form important ecological features and their loss to the proposals is of negligible significance.

9.90. Turning to the issue of any protected species the ecological survey highlights that evidence of, and potential for, protected species was recorded during the specific faunal survey work conducted at the site. Several trees with bat roosting potential are present and evidence of badger was recorded during the survey. It is likely that birds nest within suitable habitat at the site and could therefore potentially be adversely affected by the proposals. Appropriate mitigation measures will therefore be implemented due to the potential for the proposals to impact on these protected species. Long-term opportunities for protected species will be maintained, if not enhanced, under the proposals through the provision of enhanced and sensitively managed retained habitat. In terms of enhancements the applicant considers that the proposals present the opportunity to secure a number of biodiversity net gains, including additional native tree planting, new roosting opportunities for bats, and more diverse nesting habitats for birds.

- 9.91. The application and ecological appraisal were subject to consultation with the Council's Ecology Officer, Natural England and the BBO Wildlife Trust none of whom made any comments on the application. It is considered that although no comments were received there is no evidence to suggest that the development would result in any adverse impact upon any protected species or ecological feature on the site to warrant a refusal.

#### Sustainable construction

- 9.92. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 150 states that new development should be planned for in ways that: *a) avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards.* Paragraph 151 continues by stating, amongst other things, that *in order to help increase the use and supply of renewable and low carbon energy and heat, plans should: c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.*

#### *Development Plan*

- 9.93. Policy ESD1 of the CLP 2015 covers the issue of Mitigating and Adapting to Climate Change and includes criteria under which application for new development will be considered. Included in the criteria is the requirement that development will incorporate suitable adaptation measures to ensure that development is more resilient to climate change impacts. These requirements will include the consideration of, *taking into account the known physical and environmental constraints when identifying locations for development. Demonstration of design approaches that are resilient to climate change impacts including the use of passive solar design for heating and cooling. Minimising the risk of flooding and making use of sustainable drainage methods and reducing the effects of development on the microclimate (through the provision of green infrastructure including open space and water, planting, and green roofs).*
- 9.94. With regards to Policy ESD 2, this covers the area of Energy Hierarchy and Allowable Solutions. This policy seeks to achieve carbon emissions reductions, where the Council will promote an 'energy hierarchy' as follows: *Reducing energy use, in particular by the use of sustainable design and construction measures. Supplying energy efficiently and giving priority to decentralised energy supply. Making use of renewable energy Making use of allowable solutions.* Any new development will be expected to take these points into account and address the energy needs of the development.
- 9.95. Policy ESD 3 covers the issue of Sustainable Construction and states amongst other things that *all new residential development will be expected to incorporate sustainable design and construction technology to achieve zero carbon development through a combination of fabric energy efficiency, carbon compliance and allowable solutions in line with Government policy. The Policy continues by stating that Cherwell District is in an area of water stress and as such the Council will seek a higher level of water efficiency than required in the Building Regulations, with developments achieving a limit of 110 litres/person/day. The Policy continues by stating that all development proposals will be encouraged to reflect high quality*

*design and high environmental standards, demonstrating sustainable construction methods including but not limited to: Minimising both energy demands and energy loss. Maximising passive solar lighting and natural ventilation. Maximising resource efficiency Incorporating the use of recycled and energy efficient materials. Incorporating the use of locally sourced building materials. Reducing waste and pollution and making adequate provision for the recycling of waste. Making use of sustainable drainage methods. Reducing the impact on the external environment and maximising opportunities for cooling and shading (by the provision of open space and water, planting, and green roofs, for example); and making use of the embodied energy within buildings wherever possible and re-using materials where proposals involve demolition or redevelopment.*

#### *Assessment*

- 9.96. This application seeks outline planning permission for up to 135 dwellings and as such the applicant is looking to establish the principle of a residential development on the site. The finer details in terms of layout, house design and appearance would be the subject of further reserved matters application(s). The applicant has confirmed that the building construction materials and energy efficient measures to be employed will be confirmed at the reserved matters stage but will meet requirements under the latest Building Regulations and seek to achieve higher standards where possible e.g. those relating to water efficiency.
- 9.97. It is considered that the full details of the sustainability measure to be incorporated into the design would be provided or agreed as part of the reserved matters details. However, in the event that permission was granted a condition would need to be attached which highlights the need to ensure that the final design of the building complies with Policy ESD3 as well as the requirements of Section 14 of the NPPF.

#### S106

- 9.98. Due to the level of development on the site the issue of S106 contributions along with an element of affordable housing should be taken into account. A number of contributions are sought by Cherwell District Council, via the adopted Developers Contributions Supplementary Planning Document February 2018, which follows the tests of the National Planning Policy Framework and is therefore relevant to this planning application.

#### *Policy Context*

- 9.99. Paragraph 54 of the NPPF states that *local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.* Paragraph 56 continues by stating that *planning obligations must only be sought where they meet all of the following tests:*
- a) necessary to make the development acceptable in planning terms;*
  - b) directly related to the development; and*
  - c) fairly and reasonably related in scale and kind to the development.*

#### *Development Plan*

- 9.100. Policy INF 1 of the CLP 2015 covers the issue of Infrastructure. This Policy states, amongst other things, that the *Council's approach to infrastructure planning in the*

*District will identify the infrastructure required to meet the District's growth, to support the strategic site allocations and to ensure delivery by:*

- *Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.*

9.101. Policy BSC 3 of the CLP 2015 states, amongst other things that *at Kidlington and elsewhere, all proposed developments that include 11 or more dwellings (gross), or which would be provided on sites suitable for 11 or more dwellings (gross), will be expected to provide at least 35% of new housing as affordable homes on site. The Policy continues by stating that, all qualifying developments will be expected to provide 70% of the affordable housing as affordable/social rented dwellings and 30% as other forms of intermediate affordable homes. Social rented housing will be particularly supported in the form of extra care or other supported housing. It is expected that these requirements will be met without the use of social housing grant or other grant.*

9.102. The Council also has an adopted Developer Contributions SPD in place which was adopted in February 2018. Under the SPD it is outlined that *although the scope for securing S106 planning obligations has been reduced since April 2015 due to the pooling restrictions, it is expected that planning obligations will still be sought for:*

- *Affordable housing; and*
- *Infrastructure which is required to mitigate the direct impact of a development.*

9.103. It should, however, be noted that this is a general guide and development proposals will continue to be assessed on a case-by-case basis with the individual circumstances of each site being taken into consideration when identifying infrastructure requirements.

#### *Assessment*

9.104. Due to the level of development on the site the issue of affordable housing should be taken into account. Paragraph 64 of the NPPF states that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. This application is for up to 135 dwellings on the site which would represent a major application in terms of definition. As such the application should provide an element of affordable housing as part of the proposal. In addition, this it is also considered that the development should contribute towards community hall facilities, Indoor and outdoor sports provision, towards Public Art, highway / public transport infrastructure improvements, education contributions, Health Care contributions towards the local health centre, Thames Valley Police contributions all necessary for the development.

9.105. In considering the issue of affordable housing the applicant has confirmed that the development would provide 35% total of affordable homes on the site of which the tenure mix would be 25% First Homes, 70% Social / Affordable Rented homes and 5% Intermediate Homes. In discussions with the Strategic Housing Officer, it is agreed that this level of affordable housing is in line with the Council's Policy and would be agreed as part of the S106 agreement.

- 9.106. Although the applicant has confirmed that they are willing to enter into a S106 agreement this application is not supported by any draft heads of terms. As part of the process of the application the applicant has confirmed that on granting outline planning permission work on the S106 will progress to an agreement which is policy compliant. As such it is considered that the development will comply with Policies BSC3 and INF1 of the CLP 2015 as well as guidance outlined in paragraph 54 of the NPPF.
- 9.107. As such it is considered that in the event that permission was to be approved for this development it would be the subject of an agreed S106 being in place. As such it is considered that the development will comply with Policies BSC3 and INF1 of the CLP 2015 as well as guidance outlined in paragraph 54 of the NPPF.
- 9.108. However, in the event of a refusal of planning permission, and in order to safeguard the Council's position and be able secure planning obligations should there be a resubmitted application or an appeal, an additional refusal reason relating to the lack of a completed legal agreement should be included.

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

- 10.1. In reaching an informed decision on planning applications there is a need for the Local Planning Authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF.
- 10.2. 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. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise. The NPPF supports this position and adds that proposals that accord with an up-to-date development plan should be approved and those which do not should normally be refused unless outweighed by other material considerations.

### *Positive benefits - Economic*

- 10.3. The proposals would provide a short-term benefit through creation of construction jobs and would also support facilities and employment in businesses, shops and services within the area. Given the scale of the development these should also be afforded limited positive weight.

### *Social*

- 10.4. The delivery of homes across the district is an important positive material consideration in the planning balance.
- 10.5. The proposals would provide affordable housing at a tenure providing housing for those in need and a significant social benefit. Significant weight is to be afforded to the social benefits of the proposed housing with very significant weight afforded to the benefits of affordable housing.
- 10.6. Through S106 contributions the proposals would result in support for a range of community-based infrastructure in the area to a level expected by policy on-site recreation and play facilities.

10.7. The applicant has committed to providing a new children's day nursery which would be a benefit to the existing residents in Deddington as well as the new residents on this development site.

*Environmental*

10.8. The proposals commit to provide mitigation measure to mitigate any loss of ecological feature on / near the site.

10.9. The illustrative layout plan shows that a large part of the development would be allocated as a parkland with recreation walks and additional tree and landscaping. This would have the added benefit of improving / enhancing the biodiversity on the site over that of the ploughed field.

10.10. The proposals commit to the provision of a sustainable construction methods, which should be given positive weight.

*Negative impacts.*

10.11. The site is located beyond the built-up area of Deddington and as such is located in an area of open countryside. The site is prominently located on a plateau and at the northern entrance to Deddington village. The development would appear as a detached estate projecting the built form further into the open countryside to the detriment of the rural character. This adverse visual impact weighs heavily against the proposal.

10.12. The site is not allocated in the Development Plan and for the reasons set out in this report the proposal would be contrary to the Council's housing strategy, as set out in Policies BSC1, Villages 1 and Villages 2 of the CLP 2015 and is not allocated in the draft submission Deddington Neighbouring Plan, on to which significant weight is also attached.

10.13. Overall, and in accordance with the NPPF, the adverse effects are considered to significantly and demonstrably outweigh the proposal's benefits and the proposed development is considered to represent unsustainable development and planning permission should therefore be refused, for the reasons given below.

**11. RECOMMENDATION**

**REFUSAL FOR THE REASONS SET OUT BELOW**

1. The site is located outside the built form of the village and within an area of open countryside. By reason of its location and proposed scale of development, the proposal would have a poor and incongruous relationship with the existing settlement appearing prominent in the open countryside. Its development would therefore have an adverse effect on the landscape of the approach to Deddington to the detriment of the character and appearance of the countryside. In addition, the Council is able to demonstrate a 5.4-year housing land supply, and therefore the housing strategies in the Local Plan are up to date. It is considered that the development of this site would conflict with the adopted policies in the Local Plan to which substantial weight should be attached. Furthermore, the proposal constitutes residential development in the open countryside, beyond the built-up limits of the settlement, for which it has not been demonstrated that there is an essential need. The proposed development is therefore contrary to Policies, ESD13, ESD15, PSD1 and Villages 2 of the Cherwell Local Plan 2011-2031, Saved Policy H18 of Cherwell Local Plan 1996 and Government guidance within the National Planning Policy

Framework.

2. Notwithstanding the details provided in the Flood Risk Assessment September 2022 by Wood Environment and Infrastructure Solutions UK Limited the analysis of the details has shown that the applicant has failed to demonstrate details of design of potential SuDS , has not provided the agreed the point of surface water discharge, the Surface water catchment plan has not been provided, the discharge rates are missing from the drainage strategy plan and no phasing plan has been provided across the site. In the absence of this information the applicant has failed to demonstrate that the proposal would not lead to increased flood risk or result in increased surface water run off or adversely affect ground water quality. The proposed development therefore conflicts with Policies ESD1, ESD6 and ESD7 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within paragraphs 159 – 165 and 167 of the National Planning Policy Framework.
3. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and workers and contrary to policy INF 1 of the Cherwell Local Plan 2015, CDC's Planning Obligations SPD 2018 and Government guidance within the National Planning Policy Framework.



**23/00130/F**

**Laurels Farm**

**Dark Lane**

**Wroxton**

**OX15 6QQ**



**1:2,000**





23/00130/F

Laurels Farm

Dark Lane

The Cottage

Wroxton

OX15 6QQ

Wroxton C of E Primary School

147.8m

Clear View

MAIN STREET

LAMPITTS GREEN

El Sub Sta

Pool Farm

Bank House

Thorpe House

Bank House Farm

Allotment Gardens

Westgate Cottage

WB

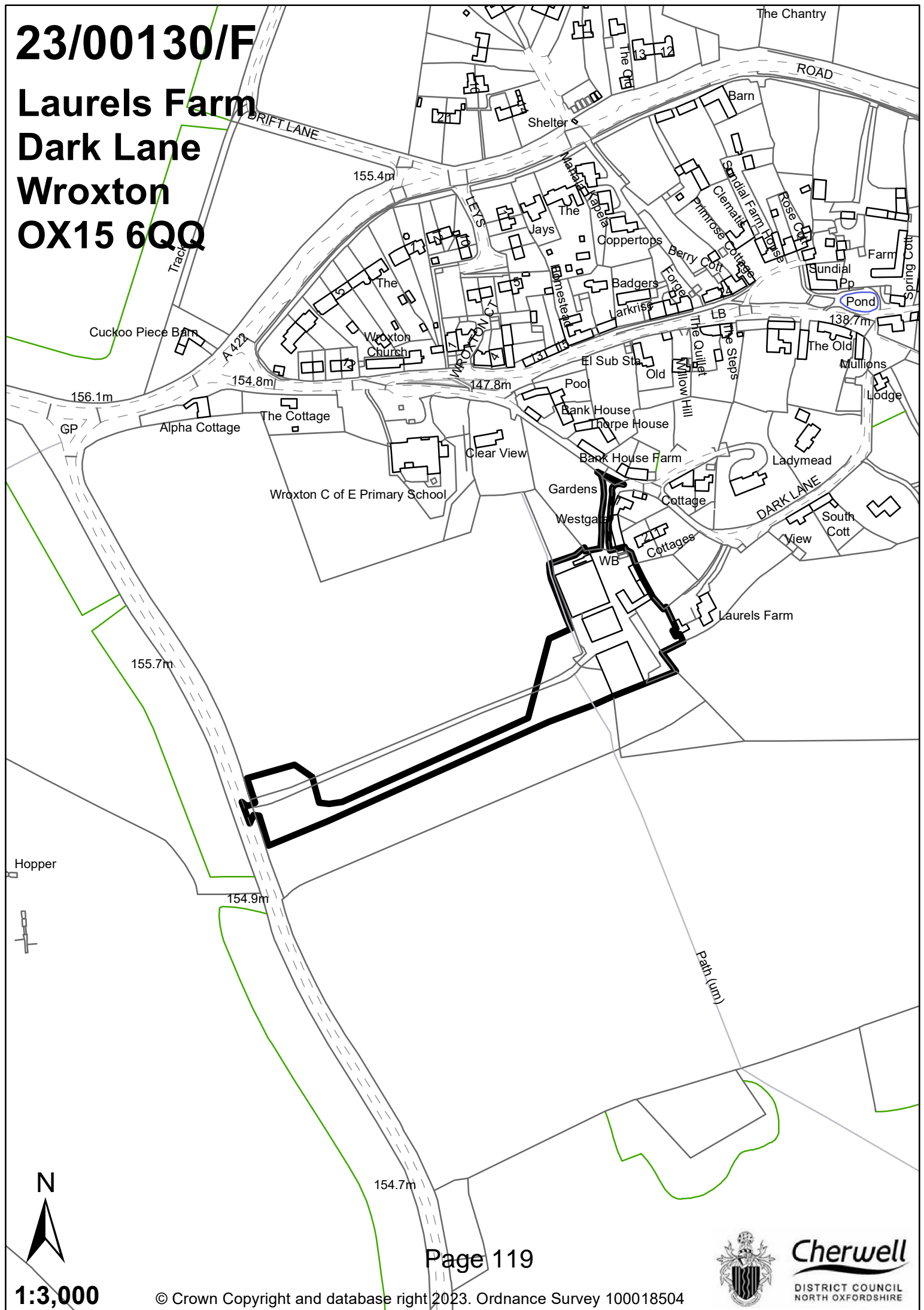
Cottages

154.9m

N



# 23/00130/F Laurels Farm Dark Lane Wroxton OX15 6QQ



**Case Officer:** Imogen Hopkin

**Applicant:** Trinity College

**Proposal:** Demolition of 3no existing barns followed by the erection of 9no new dwellings; conversion and alterations to existing barn to form 1no dwelling; formation of new primary access from Newington Road, parking, landscaping and other associated works

**Ward:** Cropredy, Sibfords And Wroxton

**Councillors:** Cllr P. Chapman, Cllr G. Reynolds and Cllr D. Webb

**Reason for Referral:** Development of 10+ dwellings

**Expiry Date:** 20 April 2023

**Committee Date:** 13 April 2023

**RECOMMENDATION: REFUSAL**

**1. APPLICATION SITE AND LOCALITY**

1.1. The application site is approximately 0.56 hectares, although comprises a larger agricultural site covering 485 hectares. The application site is currently occupied by a number of agricultural buildings in Dark Lane, Wroxton, including 3 modern agricultural buildings and an iron stone barn with a smaller stone built barn, sited around a concrete yard. The site is bound to the north by two pairs of semi-detached dwellings, along with the farmhouse associated with the site to the west. To the north-west of the site is Wroxton C of E Primary School and associated field. The south of the site is bound by Wroxton Abbey, a Grade II\* Listed Registered Park and Garden. There is an existing access track westwards from the site towards Newington Road, and the western side of Newington Road is bound by open agricultural fields.

**2. CONSTRAINTS**

2.1. The application site is within Wroxton Conservation Area, and the western boundary of the site is bound by a defined Public Right of Way. The Castle Bank Enclosure, a Scheduled Ancient Monument, is sited around 638m from the south-west of the site.

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

3.1. The application seeks approval for the demolition of the 3 modern agriculture units, followed by the erection of 9 dwellings, and the conversion of the existing barn to form 1 dwelling. The application seeks to form a new primary access from Newington Road, and includes details of parking and landscaping.

3.2. The proposal would include 6 detached dwellings (including the conversion) and 4 semi-detached dwellings. This proposes a density of approximately 17 dwellings per hectare. The mix of dwellings would be 4 x 2 bedrooms, 2 x 3 bedrooms, 2 x 4 bedrooms, 2 x 5 bedrooms. Each dwelling would have a private amenity space, predominantly to the rear, although plot 4 has a partial side garden and plot 1 has a front garden. Each property is proposed to have 2 parking spaces, and there are 4 visitor parking spaces shown in front of plots 6 and 7. The proposal includes a 1.2m

high post and rail fence from the access off Dark Lane to provide a pedestrian only access from Dark Lane. Access to the dwellings is through the formation of the new access from Newington Road.

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

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

- **Application: 19/01293/F** - The demolition of existing modern farm buildings, the erection of 9 new dwellings and the refurbishment and conversion of one traditional farm building to form 1 new dwelling together with construction of an improved access - APPLICATION WITHDRAWN - 26 September 2019
- **Application: 19/02546/F** - The demolition of existing modern farm buildings, the erection of 9 new dwellings and the refurbishment and conversion of one traditional farm building to form 1 new dwelling and the formation of a new access, hardstanding and associated works - APPLICATION WITHDRAWN - 4 February 2020

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

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

- **Application: 19/00059/PREAPP** - Demolition of existing modern farm buildings and the erection of 3 detached dwellings, 2 semi-detached dwellings, 3 terraced dwellings and the conversion of traditional farm building to form 1 dwelling - Detailed Pre-App response sent - 2 April 2019
- **Application: 21/01799/PREAPP** - (1) Laurels Farm - Demolition of the existing Dutch barn buildings on the site, the erection of 9 new dwellings and the conversion of an existing traditional stone building to a dwelling and (2) Land at Stratford Road - relocated farmyard - Response Sent 17 August 2021

5.2. The earlier pre-application enquiry, 19/00059/PREAPP, sought a view on 9 dwellings (including conversion) and the response was negative in principle, due to the siting outside of the built up limits of the village, with no essential need demonstrated.

5.3. The latter pre-application enquiry, 21/01799/PREAPP, sought a view on 10 dwellings (including conversion) and proposed a similar site plan as submitted under this application. A pragmatic approach was taken to the principle within this pre-application enquiry, although the author noted that evidence would be required to demonstrate the proposal complies with Policy Villages 2. Further, there was recommendations that the scheme should be reduced in size.

#### **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 **10 March 2023**, although comments received after this date and before finalising this report have also been taken into account.

6.2. 6 letters of objection were received from 5 properties. The comments raised by third parties are summarised as follows:

- Principle - This scale of development is unacceptable in principle. Not in accordance with Cherwell Local Plan 2011 – 2031 policies
- Visual impact - Volume and density is not proportionate to surrounding area. Detrimental impact to the views from the adjacent historic parkland. New road from Newington Road would exceed the existing built area of the village
- Access/highway safety - Concerns for width of Dark Lane and Lampitts Green during construction. Gate proposed may result in inappropriate parking in front of by residents of site. Risk of increased traffic and vehicle accidents. Potential access road to school proposed as part of the upgraded road to Newington Road not considered appropriate by residents
- Current use for the site is a working farm, so removing this would disregard the farm use which has been in place for centuries
- Barn conversion proposed could be acceptable with access from Lampitts Green
- The local community would suffer as a result of the development, due to traffic and the change of the character of the village
- Provision of refuse disposal would have a detrimental impact to the area

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

## 7. RESPONSE TO CONSULTATION

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

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. WROXTON AND BALSCOTE PARISH COUNCIL:

8/2/2023 – **No objection.**

16/2/2023 – **Concerns** raised and would like clarification on keyholders for the gate separating The Laurels from Dark Lane to ensure gate is not opened for anything other than emergency vehicles.

### OTHER CONSULTEES

7.3. OCC HIGHWAYS: **Objection** due to more details for the proposed refuse strategy and no cycle parking provided. If approved, standard conditions required with respect to access details, public right of way impact, cycle parking, construction traffic management plan, and a Section 278 agreement would be required.

7.4. OCC ARCHAEOLOGY: **No objections** as there are no archaeological constraints.

7.5. CDC BUILDING CONTROL: **Building Regulations approval will be required.**

- 7.6. CDC ENVIRONMENTAL PROTECTION: **No objections**, subject to standard conditions with respect to noise and contaminated land.
- 7.7. CDC CONSERVATION: **No objection to principle**, however, **objects** to the application as submitted, as the scheme should be reduced in number of dwellings. There would be a detrimental impact to the character of the area through the loss of the working farmyard. Current scheme appears like a “*suburban housing development*”.
- 7.8. CDC ECOLOGY: **No objection**, subject to conditions for a Construction Environmental Management Plan (CEMP), a Landscape Ecological Management Plan(LEMP), and provision of bird bricks.
- 7.9. CDC RECREATION AND LEISURE: **Contributions required** of community hall facilities £11,442.02, outdoor sports provision £20,170.03 and indoor sports provision £8,349.47.
- 7.10. CDC WASTE & RECYCLING: **Comments** outlining acceptable bin provision. Developments over 10 dwellings require a Section 106 Agreement.
- 7.11. OCC WASTE MANAGEMENT: **No objection** subject to a Section 106 contribution of £940 towards the expansion and efficiency of the Household Waste Recycling Centre.
- 7.12. THAMES WATER: **No comments** to make at this time.
- 7.13. LEAD LOCAL FLOOD AUTHORITY (LLFA): **Objection** as no details of Sustainable Urban Drainage Systems or drainage drawing provided.
- 7.14. CDC PLANNING POLICY: No comments received to date.
- 7.15. CDC LANDSCAPE SERVICES: No comments received to date.
- 7.16. CDC STRATEGIC HOUSING: No comments received to date.
- 7.17. CAMPAIGN TO PROTECT RURAL ENGLAND OXFORDSHIRE: No comments received to date.
- 7.18. THAMES VALLEY POLICE: No comments received to date.
- 7.19. CLINICAL COMMISSIONING GROUP: No comments received to date.

## **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 ('CLP 2015') was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The CLP 2015 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 2015)

- PDS1 – Presumption in Favour of Sustainable Development

- SLE4 – Improved Transport and Connections
- BSC1 – District Wide Housing Distribution
- BSC2 – The Effective and Efficient Use of Land
- BSC3 – Affordable Housing
- BSC4 – Housing Mix
- BSC9 – Securing Health and Wellbeing
- BSC10 – Open Space, Outdoor Sport and Recreation Provision
- BSC11 – Local Standards of Provision – Outdoor Recreation
- BSC12 – Indoor Sport, Recreation and Community Facilities
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD5 – Renewable Energy
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 – The Character of the Built and Historic Environment
- Villages 1 – Village Categorisation
- Villages 2 – Distributing Growth in the Rural Areas
- INF1 – Infrastructure

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

- H18 – New dwellings in the countryside
- C28 – Layout, design and external appearance of new development
- C30 – Design of new residential development
- ENV1 – Environmental pollution
- ENV12 – Potentially 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
- Cherwell Residential Design Guide SPD (July 2018)
- Cherwell Developer Contributions SPD (February 2018)
- Annual Monitoring Report 2022 (AMR) (February 2023)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Cherwell District Council Housing & Economic Land Availability Assessment (February 2018)

## 9. APPRAISAL

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

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



- Highway safety
- Ecological impact
- Drainage

## Principle of Development

### *Policy Context*

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

### *Development Plan*

- 9.3. The Development Plan for this area comprises the adopted Cherwell Local Plan 2011 – 2031 Part 1 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996.
- 9.4. Policy PSD1 of the CLP 2015 echoes the requirements of the NPPF relating to 'sustainable development'. It states: *'The Council will always work proactively with applicants to jointly find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area'*.
- 9.5. The CLP 2015 seeks to allocate sufficient land to meet District Wide Housing needs. The overall housing strategy is to focus strategic housing growth at the towns of Banbury and Bicester and a small number of strategic sites outside of these towns, whilst limiting growth in rural areas and directing it towards more sustainable villages, also aiming to strictly control development in the open countryside.
- 9.6. The Council's latest assessment of housing land availability is its Housing and Economic Land Available Assessment (HELAA) published in 2018. This is a technical rather than a policy document but provides assessments of potentially deliverable or developable sites; principally to inform plan-making. The application site was not reviewed in the HELAA.
- 9.7. Policy Villages 1 of the CLP 2015 provides a framework for housing growth in the rural areas of the district and groups villages into three separate categories (A, B and C). Wroxton is recognised as a Category A village.
- 9.8. Policy Villages 2 of the CLP 2015 states that: *"A total of 750 homes will be delivered at Category A villages. This will be in addition to the rural allowance for small site 'windfalls' and planning permissions for 10 or more dwellings as at 31 March 2014"*. This Policy notes that sites will be identified through the preparation of the Local Plan Part 2, through the preparation of the Neighbourhood Plan where applicable, and through the determination of applications for planning permission.
- 9.9. Policy Villages 2 continues by setting out that when identifying and considering sites, particular regard will be given to the following criteria:
- *Whether the land has been previously developed land, or is of less environmental value;*
  - *Whether significant adverse impact on heritage and wildlife assets could be avoided;*
  - *Whether development would contribute in enhancing the built environment;*
  - *Whether best and most versatile agricultural land could be avoided;*
  - *Whether significant adverse landscape impacts could be avoided;*
  - *Whether satisfactory vehicular and pedestrian access/egress could be provided;*

- *Whether the site is well located to services and facilities;*
- *Whether necessary infrastructure could be provided;*
- *Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period;*
- *Whether land the subject of an application for planning permission could be delivered within the next five years; and*
- *Whether development would have an adverse impact on flood risk.*

#### *National Planning Policy Framework (NPPF)*

- 9.10. The NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 9.11. Paragraph 10 of the NPPF states that *'so sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development'*. Paragraph 11 defines the presumption in favour of sustainable development as *'approving development proposals that accord with an up-to-date development plan without delay'*

#### *Housing Land Supply*

- 9.12. In February 2023 Cherwell District Council approved a review of their adopted planning policies carried out under regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012. This review concluded that, due to the publication of more recent evidence on Housing Needs to support the preparation of the Cherwell Local Plan Review 2040, policies including Policy BSC1 are "out of date". Paragraph 74 and footnote 39 of the NPPF requires that in such circumstances the 5 Year supply of land should be calculated using the government's standard methodology.
- 9.13. The use of the standard method has the effect of reducing the annualised requirement from 1,142 dpa to 742 dpa for the purposes of calculating the land supply and consequently Cherwell District Council is able to demonstrate a 5.4 year supply. However, whilst it is for the Local Plan Review to set the revised requirement, the delivery of homes across the district remains an important material consideration in the planning balance.

#### *Assessment*

- 9.14. Wroxton is identified in the Local Plan as one of 23 Category A villages intended to provide 750 homes from 2014 to 2013 (Policy Villages 2). Wroxton has a small number of services and facilities, with a primary school, a public house (currently closed), a hotel, a village hall and recreation facilities, and there are limited employment opportunities. Wroxton does benefit from bus links on the main road to Banbury and Stratford.
- 9.15. The 2022 Annual Monitoring Report reports that 703 dwellings have now been completed at Category A villages, with a further 165 under construction (running total 868) and 48 likely to be built out i.e. sites where part of the development has been completed (running total 916). In addition, there are approvals for a further 314 not yet commenced (running total 1230).
- 9.16. The Tappers Farm (Bodicote) 2019 appeal decision (which applied the same logic as the Launton appeal decision a year earlier) provides a useful steer as to how the decision taker should apply PV2. At the time of the Tappers Farm decision, 271

dwellings had been delivered at Category A villages under PV2, with a further 425 under construction, and an annual delivery rate of 54 dwellings per year from PV2, which would have resulted in the delivery of 750 homes by 2028. The Tappers Farm Inspector stated,

*“There will undoubtedly be a point where there will be a situation that will result in the material increase over the 750 dwellings figure and at that time there will be some planning harm arising from the figure being exceeded, for example harm to the overall locational strategy of new housing in the district. There is no substantive evidence before me to demonstrate that this is the case in this appeal. Clearly, when considering any subsequent schemes however, this matter will need to be carefully scrutinised.”*

- 9.17. As noted above, 703 dwellings have now been delivered at Category A villages under PV2 and a further 213 dwellings are under construction across 10 different sites. The delivery rate in 2021-2 was 184 dwellings, the average annual delivery rate having risen to 78 dwellings per year and 134 dwellings per year over the last 4 years. It is reasonable to expect all of these 213 dwellings to be delivered – there are none so far in the plan period at Category A villages that once commenced have not been completed – and therefore the total number of dwellings delivered under PV2 will exceed the total of 750 set out in the policy.
- 9.18. Applying the conclusions of the Launton and Tappers Farm inspectors, it is considered that that the point may soon be reached where planning harm could be caused to the overall locational strategy of new housing in the district through further permissions at unsustainable locations.
- 9.19. Due to the above housing figures, scrutiny is required to be given to new proposals to ensure no harm would be carried out to the Category A villages, as the housing target has been reached.

#### *Policy Villages 2 Criteria*

- 9.20. The applicable criteria of Policy Villages 2 are provided at paragraph 9.11 above. The land has been used for agricultural purposes as a farmyard, and is graded 5 for best and most versatile land.
- 9.21. The application site is situated outside of the built up limits of Wroxton, the Category A village. Wroxton has a limited level of service provision, meaning future occupiers would have to travel for most services. Future occupiers of the proposed dwellings would have to travel to other settlements to meet their day-to-day needs, and would be reliant on a private car to access most services.
- 9.22. It is noted that appeals have been dismissed in relation to sites at the smaller Category A villages: Weston on the Green (APP/C3105/W/16/3158925 and APP/C3105/W/19/3233293), Chesterton (APP/C3105/W/15/3130576), Finmere (APP/C3105/W/17/3169168) and Fringford (APP/C3105/W/18/3204920). In each of the aforesaid cases the Planning Inspectors gave significant weight to the sustainability of the settlement and the appropriateness of growth in these locations under Policy Villages 2 in coming to their decisions.

#### *Conclusion*

- 9.23. The provision of housing can represent a significant positive material consideration to weigh in the planning balance, however, this application proposes a modest 10 dwellings at Category A village with limited facilities, where the housing strategy in

the Cherwell Local Plan seeks to distribute new housing to the most sustainable locations. As such, compliance with other parts of Policy Villages 2 will be a key consideration of the assessment of this application, as discussed below.

### Design, and Impact on the Character of the Area

#### *Policy*

- 9.24. Policy ESD15 of the CLP 2015 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context, through sensitive siting, layout and ensuring a high-quality design.
- 9.25. Saved Policies C28 and C30 of the CLP 1996 exercises control over all new development to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context. New housing development should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 9.26. Government guidance contained within the NPPF requires good design, and states that *'good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'*. Further, permission should be refused for development of poor design that fails to take the opportunity to improve the character and quality of an area and the way it functions.
- 9.27. Cherwell's Residential Design Guide SPD (2018) provides a framework for applicants to inform the detailed design of their proposals. Chapters 5 – 7 of the document outlines how site analysis should inform the detailed design of streets, plots and buildings.
- 9.28. Chapter 6 of Cherwell's Residential Design Guide highlights the issue of over building and plot arrangements for new residential development. Under this section, *'to avoid the appearance of 'cramming', detached properties should only be sited on larger plots which have sufficient generosity to balance internal and external space requirements effectively and accommodate car parking without garages and driveways dominating the street frontage'*.

#### *Assessment*

- 9.29. The proposal seeks approval for 9 new build dwellings and 1 conversion of a barn, following the demolition of 3 modern barn buildings. The proposed site layout plan comprises the dwellings surrounding a proposed gravelled courtyard which would provide parking for the proposed dwellings. There are no details provided as to how the parking areas would be established on the courtyard. This design approach does not respect good urban design principles, as it provides a large expanse of hardstanding to the frontage, and does not provide an appropriate level of landscaping to soften the frontage of the proposed dwellings. Further, the positioning of the dwellings is cramped and this is exacerbated by the lack of landscaping, as it demonstrates an appropriate layout cannot be achieved without compromising good urban design. As such, the site layout is not reflective of the wider area of Wroxton, and does not achieve a high level of design through the lack of landscaping and overprovision of hardstanding.
- 9.30. The design of the proposed dwellings is convoluted. The windows do not line through horizontally or vertically. Plots 7 – 10 have a rear projecting catslide roof, which is not a characteristic form of design for the area. This element results in an alien feature which would appear incongruous within the visual amenity of the area, as the rear of

the properties are visible in the public realm. Plots 4 and 5 are 'L' shaped properties, that appear unduly bulky in relation to the wider area and the site. These properties incorporate large modern glazing, which is not characteristic within the site, nor the wider street scene.

- 9.31. The development on Lampitts Green and Dark Lane is generally linear and fronts the road, with the exception of Laurels Farm which is set back significantly from this character. The site is bound by agricultural fields to the south and west, and the site is agricultural in character. Due to the agricultural use and the position set significantly back from Lampitts Green and Dark Lane, and therefore the site is not considered to be within the built up limits of the village. The site appears to be within the countryside when viewed from Newington Road and Stratford Road.
- 9.32. Although there has not been a formal consultation response from Landscape colleagues, it is noted the site is highly visible in the public realm from the views from Newington Road and Stratford Road. The change from the agricultural buildings to dwellings would detrimentally impact the rural landscape and would appear as part of the village, therefore contributing to the fact the site is not positioned within the built up limits of the village. The change from agricultural to residential would appear incongruous within the rural landscape, and therefore should not be supported.
- 9.33. The proposed access road joining the application site to Newington Road would adversely affect the character and appearance of the area through an urbanising form of development and would both visually and physically detach the site from the village. There is a 1.2m high post and rail fence with pedestrian access separating the application site to Lampitts Green. This results in a physical barrier between the site and Wroxton, due to providing no vehicular access. Additionally, this supports that the position of the site outside the limits of the village, and further perpetuates that notion, due to the physical separation caused by the access road leading onto Newington Road.

### *Conclusion*

- 9.34. The application results in a poor form of urban design, owing to the cramped layout and excessive level of hardstanding. The proposed design of the dwellings are poor, as they result in contrived elevations that do not compliment or enhance the surrounding area. Due to the position outside of the built up limits of the village, it would have a detrimental impact on the landscape and visual amenity, as it would appear that the village is sprawling into the countryside. This effect is compounded by the proposed access from Newington Road, which would itself have a significant adverse effect on the character and appearance of the area. The separation of the site from Wroxton, due to the blocked vehicular access, results in a disconnection between the site and the village, which further alters the character of the village and wider landscape. Although it is noted design is a subjective judgement, it can be reasonably demonstrated that the site results in a poor design, which conflicts with Policy ESD15 of the CLP 2015, saved Policy C28 of the CLP 1996 and advice contained within the Cherwell Residential Design Guide, all of which is supported by the NPPF.

### Heritage Impact

#### *Legislative and policy context*

- 9.35. The site is within Wroxton Conservation Area and Laurels Farm Barns are identified as non-designated heritage assets within the Wroxton Conservation Area Character Appraisal. The site is in close proximity to Wroxton Abbey Registered Parkland.

- 9.36. 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.*
- 9.37. 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.
- 9.38. 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 2015 echoes this guidance.
- 9.39. The Conservation Officer does not raise concerns about the proposed use of residential development in this location, in principle. The Officer noted the number of units should be reduced to appear as an informal settlement, rather than a '*suburban housing development*'. The Officer noted the loss of the working farmyard would result in a detrimental impact to the character of the area, as the Wroxton Conservation Area Appraisal notes '*The village was traditionally focused around agriculture and the estate, today Laurels Farm on Lampitts Green is the only working farm that remains*'. It is noted there is an intention to relocate the farmyard, although it would be located further from Wroxton and has not received any approval from the Council.

#### Residential Amenity

- 9.40. Saved 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 2015 which states, amongst other things, '*new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.*'
- 9.41. The proposed dwellings are not sited in close proximity to neighbouring dwellings. Plot 2 has a rear wall to wall distance of 36.5m, which is in excess of the 22m required by the SPD. Plot 1 is sited in close proximity to the dwellings to the west, although it is noted this building is a conversion, and would be constrained by the existing building. There are not any amenity concerns with surrounding properties.
- 9.42. The proposed dwellings are cramped, and results in poor relationships between the dwellings. Plot 1 has first floor bedrooms served exclusively by rooflights. This would provide limited outlook, which is exacerbated by the proximity of the flank gable wall of Plot 2, which is approximately 12m away. Generally speaking, the separation distances within the development are compliant with the SPD.
- 9.43. Overall, while the residential amenity impacts highlights why the development is cramped and contrived, they do not in themselves result in a reason to refuse the application.

#### Highway Safety

## *Policy*

- 9.44. *Paragraph 110 of the NPPF states that in assessing specific applications for development, it should be ensured that:*
- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
  - b) safe and suitable access to the site can be achieved for all users; and*
  - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*
- 9.45. In addition, paragraph 111 highlights that *'development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'*
- 9.46. The local highway authority (LHA) has objected to the planning application, due to the insufficient information on the refuse strategy and cycle parking. The ifHighLHA notes that 9 wheelie bins being placed kerbside on a junction with sub-standard visibility is not considered safe and appropriate. In its current form, the position for the refuse collection is considered to result in a detrimental impact to highway safety, due to the visibility along Dark Lane. Further, no details of cycle parking have been provided. It is noted this element could be secured by condition, if the development were to be approved. Officers have also stated they would require further information about the proposed vehicle access from Newington Road, including dimensions, construction, lighting, traffic calming and drainage. This has not been provided, although could be secured by a condition if approved. Highways Officers do not object to the principle of the new access road.
- 9.47. Officers agree that the impact of the proposed bin collection is considered severe in the context of paragraph 111 of the NPPF. Further, there is insufficient information provided to propose appropriate cycle parking, although this could be conditioned.

## Ecology Impact

### *Legislative context*

- 9.48. 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.
- 9.49. 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.
- 9.50. 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.

9.51. 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.

9.52. 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*

9.53. 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.

9.54. 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.

9.55. 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.



- 9.56. Policy ESD10 of the CLP 2015 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.
- 9.57. 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.
- 9.58. 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.
- 9.59. 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*

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

It also states that LPAs can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
  - an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 9.61. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site contains three modern barn buildings, along with the traditional barn building.
- 9.62. The application is supported by a detailed protected species survey which concluded that there are no protected species or habitat issues on site which could not be dealt with through mitigation and reasonable avoidance measures. There was evidence of swallows nesting within buildings on the site and a mitigation scheme for swallows should be conditioned to ensure there is no loss of nesting opportunity for this species.
- 9.63. The Council's Ecologist has noted there has been no demonstration of a measurable net gain for biodiversity. The supporting information notes the need for the 10% biodiversity net gain, although has not provided a metric or assessment in this regard. A suggestion is that appropriate landscaping could be carried out within the site to achieve the net gain, due to the size of the site.

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

#### Drainage

9.65. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 163 of the NPPF states that *'when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
- b) the development is appropriately flood resistant and resilient;*
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
- d) any residual risk can be safely managed; and*
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.'*

9.66. Paragraph 165 of the NPPF continues by stating that *'major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.'*

9.67. Policy ESD6 of the CLP 2015 replicates national policy in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.

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

9.69. The application site is located within a very low risk area for flooding, with a chance of flooding of less than 0.1% each year.

9.70. OCC's Lead Local Flood Authority (LLFA) has reviewed the application, and objects due to the lack of SuDS information, along with no drainage or pipe details submitted with the scheme. As such, there is sufficient information to demonstrate that the scheme is compliant with the above policies.

#### S106

9.71. Paragraph 54 of the NPPF states that *'local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.'*

*Paragraph 56 continues by stating that planning obligations must only be sought where they meet all of the following tests:*

*a) necessary to make the development acceptable in planning terms;*

*b) directly related to the development; and*

*c) fairly and reasonably related in scale and kind to the development.*

9.72. Policy INF1 of the CLP 2015 covers the issue of Infrastructure. This Policy states, amongst other things, that the *Council's approach to infrastructure planning in the District will identify the infrastructure required to meet the District's growth, to support the strategic site allocations and to ensure delivery by:*

- *Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.*

9.73. Policy BSC 3 of the CLP 2015 states, amongst other things that at *Kidlington and elsewhere, all proposed developments that include 11 or more dwellings (gross), or which would be provided on sites suitable for 11 or more dwellings (gross), will be expected to provide at least 35% of new housing as affordable homes on site. The Policy continues by stating that, all qualifying developments will be expected to provide 70% of the affordable housing as affordable/social rented dwellings and 30% as other forms of intermediate affordable homes. Social rented housing will be particularly supported in the form of extra care or other supported housing. It is expected that these requirements will be met without the use of social housing grant or other grant.*

9.74. The Council also has a Developer Contributions SPD in place which was adopted in February 2018. It should, however, be noted that this is a general guide and development proposals will continue to be assessed on a case-by-case basis with the individual circumstances of each site being taken into consideration when identifying infrastructure requirements.

9.75. Due to the level of development on the site the issue of affordable housing should be taken into account. Paragraph 65 of the NPPF states that *where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.* This application is for 35 residential units on the site which would represent a major application in terms of definition. For this reason, the application should provide an element of affordable housing as part of the proposal.

9.76. The policy requirement is for 35% affordable housing as set out in Policy BSC3 in the CLP 2015, which would equate to 4 units. The tenure mix for affordable homes should be 25% First Homes, 70% social/affordable rent and 5% intermediate housing such as shared ownership. In addition, this it is also considered that the development should contribute towards community hall facilities, indoor and outdoor sports provision, towards Public Art, highway infrastructure improvements and health care contributions necessary for the development as outlined by the comments of the consultees.

9.77. The application is not supported by a draft heads of terms of the agreement, and are likely to include the following:

- Affordable housing – 35% provision
- Offsite sport (indoor (£8,349.47) and outdoor (£20,170.03)) and recreation contributions
- Community hall contributions (£11,442.02)
- Household waste recycling centre contribution (£940)

9.78. Should the application be approved in the future, a Section 106 agreement would be negotiated based on the above figures.

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

10.1. In reaching an informed decision on planning applications, there is a need for the local planning authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan, as well as those in the NPPF. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the development plan, unless material considerations indicate otherwise. The NPPF supports this position and adds that proposals that accord with an up-to-date development plan should be approved and those which do not should normally be refused, unless outweighed by other material considerations.

### *Positive benefits – Economic*

10.2. The proposal would contribute to the Council's housing supply due to the size and duration of the project. The proposals would create construction jobs and support facilities through developer contributions. Given the small nature of the proposal, this should be afforded limited positive weight.

### *Social*

10.3. Significant weight can be given to the provision of the proposed housing, but given the small scale nature of the proposal, this has limited weight.

### *Environmental*

10.4. The proposals may be able to commit to an appropriate level of biodiversity net gain, which would be secured by condition if approved.

### *Negative Impacts*

10.5. It is important to summarise the negative impacts in terms of the development and consider whether the positive benefits outweigh the negative impacts.

10.6. The application site is positioned beyond the existing built-up limits of the village, and is therefore considered an area of countryside. The proposals would adversely affect the character and appearance of the area, with this impact emphasised by the proposed access from Newington Road, which would itself adversely affect the character and appearance of the area.

### *Conclusion*

- 10.7. On the basis that the Council is able to demonstrate a five-year housing land supply, the housing policies of the Development Plan are the starting point for decision making and afforded full weight.
- 10.8. The site is unallocated in the adopted CLP 2015. The proposal seeks permission for 9 new dwellings and 1 barn conversion outside the built up limits of a Category A village. The proposal is unacceptable in principle, due to the housing land supply, and the application consists of a poor form and layout, inappropriately designed dwellings, highways concerns and insufficient information about Sustainable Urban Drainage Systems to ensure the application is compliant with policy. No Section 106 agreement has been entered, and therefore the application also fails on this basis. On this basis, the application constitutes unsustainable development, and the limited planning benefits of the proposal are significantly outweighed by the harm identified. As such, planning permission should be refused.

## **11. RECOMMENDATION**

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

#### **REASONS FOR REFUSAL**

1. The site is located outside the built form of the village and within an area of open countryside. The layout of the proposal results in a cramped and constrained overdevelopment of the site, which is exacerbated by a lack of appropriate front landscaping. The proposal fails to reflect or reinforce the existing pattern or form of development within the immediate area and the character of the village. By reason of its scale, siting, design and nature, the proposed development would adversely impact the character and appearance of the area, which is exacerbated by the separate access proposed to Newington Road, which would itself adversely affect the character and appearance of the area. In addition, the Council is able to demonstrate a 5.4-year housing land supply, and therefore the housing strategies in the Local Plan are up to date. It is considered that the development of this site would conflict with the adopted policies in the local plan, and would undermine the housing strategy in the Cherwell Local Plan, which seeks to distribute new housing to the most sustainable locations. Furthermore, the proposal constitutes residential development in the open countryside, beyond the built-up limits of the settlement, for which it has not been demonstrated that there is an essential need. The principle of this development is therefore unacceptable, as it is contrary to Policies PSD1, ESD1, ESD15, Villages 1 and Villages 2 of the Cherwell Local Plan 2011-2031, Saved Policy C28, C30 and H18 of the Cherwell Local Plan 1996, Cherwell Residential Design Guide 2018 and the guidance contained within the National Planning Policy Framework.
2. The detailed design of the dwellings is convoluted, as it includes poor fenestrations, lack of landscaping, and modern glazing, which is out of character with the wider area. The proposed dwellings would result in a contrived design, which would have a detrimental impact to Wroxton Conservation Area and the visual amenity of the area. The proposal is therefore contrary to Policy ESD15 of the CLP 2015 and saved Policy C28 of the CLP 1996 and Government guidance contained in the National Planning Policy Framework.
3. The currently proposed refuse collection position is not acceptable, as it would result in an obstruction to the junction, resulting in an insufficient level of visibility, that is not considered to be safe or appropriate. As such, the proposal results in a severe impact to highway and pedestrian safety, contrary to Policies SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government

guidance contained within the National Planning Policy Framework.

4. There is insufficient information provided to demonstrate the provision of Sustainable Urban Drainage Systems, and therefore fails to justify the environmental mitigation of the scheme to prove it is acceptable in relation to Policies ESD6 and ESD7 of the Cherwell Local Plan 2015, and the guidance contained within the National Planning Policy Framework.
5. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions required as a result of the development and necessary to make the impacts of the development acceptable in planning terms to the detriment of both existing and proposed residents and workers. This is contrary to INF1 of the Cherwell Local Plan 2011-2031, CDC's Developer Contributions SPD 2018 and guidance contained within the National Planning Policy Framework.



**22/03829/F**

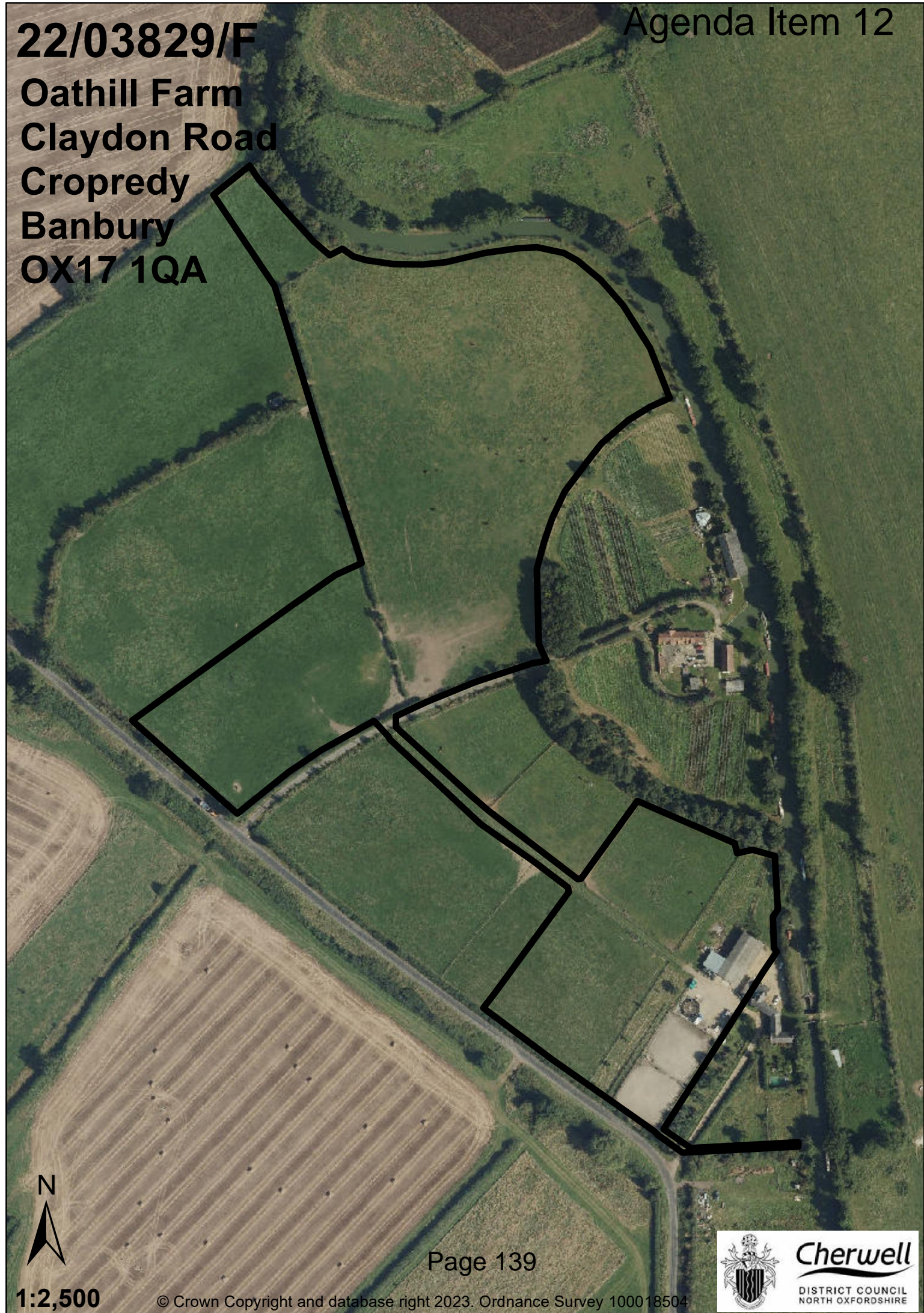
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**Claydon Road**

**Cropredy**

**Banbury**

**OX17 1QA**



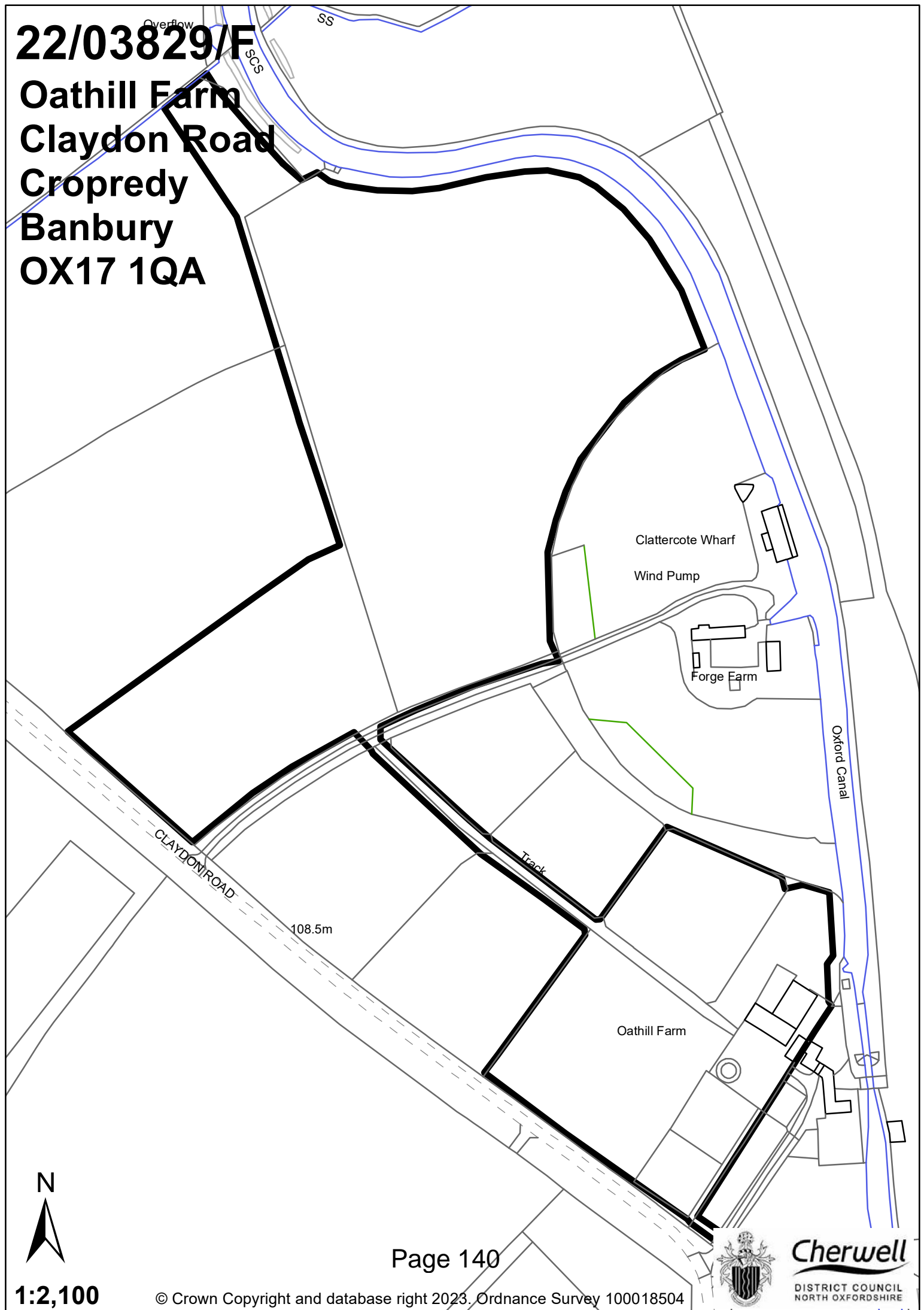
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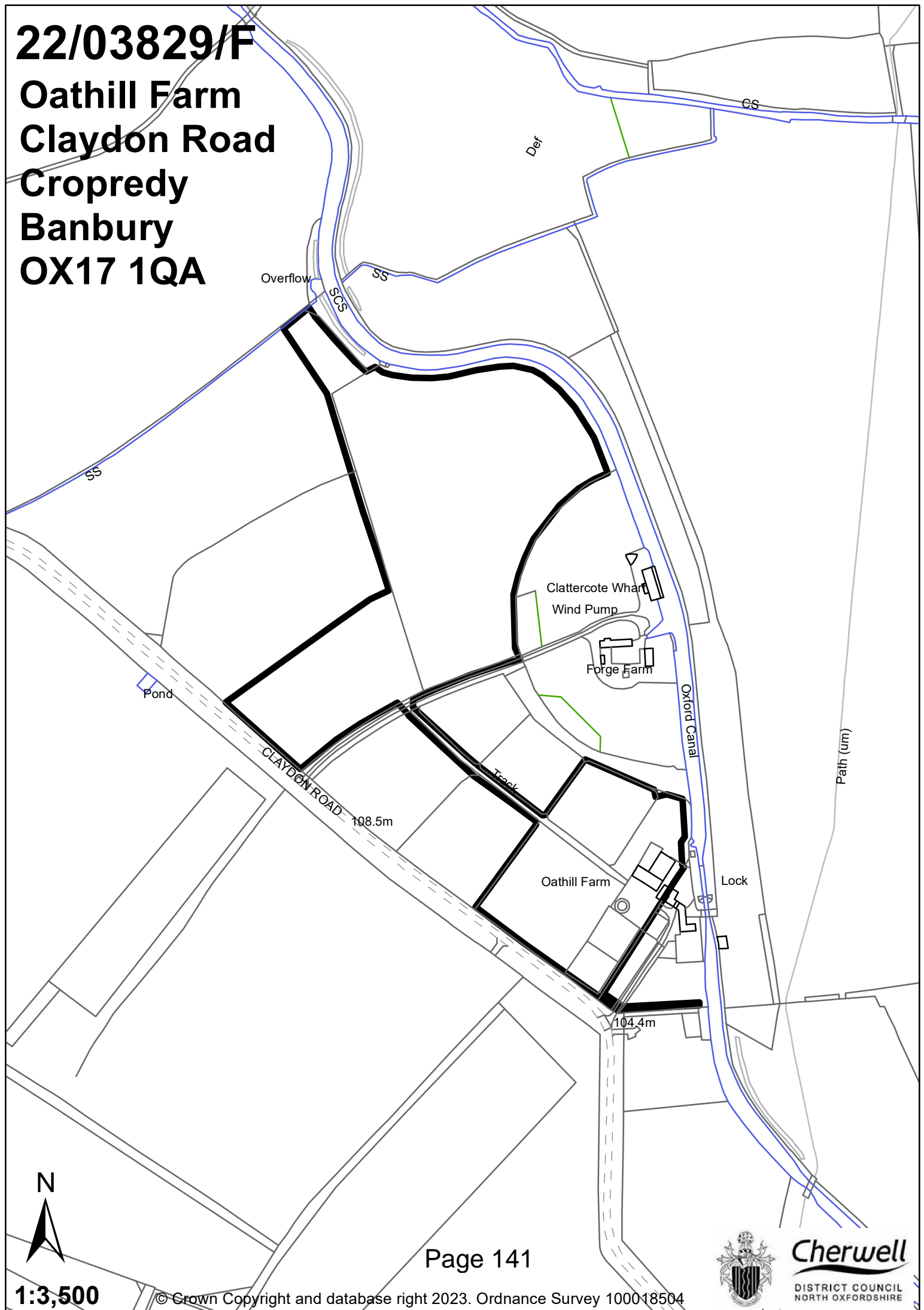
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Oathill Farm  
Claydon Road  
Cropredy  
Banbury  
OX17 1QA





**22/03829/F**  
**Oathill Farm**  
**Claydon Road**  
**Cropredy**  
**Banbury**  
**OX17 1QA**



**1:3,500**



**Case Officer:** Will Anstey

**Applicant:** Mr Jake Leslau

**Proposal:** Change of Use and conversion of existing equestrian barn into mixed use leisure/tourism (Use Class E((III)). Development of 8 overnight cabins (Use Class C3) alongside associated infrastructure including new vehicular access, reception building, car park and swimming pond

**Ward:** Cropredy, Sibfords And Wroxton

**Councillors:** Cllrs Chapman, Reynolds and Webb

**Reason for Referral:** 1,000 sq m or more of new floor space

**Expiry Date:** 22 March 2023

**Committee Date:** 13 April 2023

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## **SUMMARY OF RECOMMENDATION: REFUSAL**

### **1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site comprises parts of Oathill Farm, a small holding consisting of a farmhouse, adjoined cottage and modern agricultural barn set in approximately 41 acres of mostly pasture. The farm lies roughly equidistant between Cropredy to the south and Claydon to the north. The holding is enclosed by Claydon Road to the south-west with fields delineated by hedges to all other boundaries. The Oxford Canal bisects the holding running in a northerly direction from the southern end of the holding before meandering west and north-west.
- 1.2. The application site encompasses two parts of Oathill Farm. The first area to the south-east of the holding includes the modern agricultural barn, a tack room, two large manèges and two paddocks. The main part of the barn is finished in low level blockwork with Yorkshire boarding above and a corrugated fibre cement roof. The barn has been extended to the north-west with a corrugated metal clad mono pitch projection. To the south-west of the barn is an area of hardstanding providing parking and manoeuvring space with the two manèges beyond. Between the barn and farmhouse to the south-east is a small tack room building. The paddocks lie to the north-west of the barn and manèges. The land around the barn and manèges is reasonable level whilst the paddocks slope gently down towards the barn.
- 1.3. The second part of the application site lies to the north-west of the holding and includes two paddocks. The south-west paddock is the smaller and fronts onto Claydon Road to the south-west and an access track serving Forge Farm to the south-east. This paddock adjoins the north-east paddock which is substantially larger and is enclosed by the Forge Farm access track to the south-east, Forge Farm itself to the east and the Oxford Canal to the north-east and north. Further paddocks belonging to Oathill Farm lie to the west. The south-west paddock slopes gently towards Claydon Road whilst the north-east paddock slopes towards the canal. The two parts of the application site are connected by a track which is included in the application site boundary.

- 1.4. Sitting physically within Oathill Farm's holding and occupying a semi-circular parcel of land on the western bank of the Oxford Canal is Forge Farm, a separate small holding with a collection of buildings focused on the canal. Access to Forge Farm is via a track leading from Claydon Road, dividing the Oathill Farm holding. Forge Farm does not form part of the application site and is independently owned.

## **2. CONSTRAINTS**

- 2.1. The site lies outside the built limits of any settlement and is therefore in the open countryside.
- 2.2. The site lies adjacent to the Oxford Canal Conservation Area
- 2.3. Elkington Lock to the east of the site is a grade II listed structure
- 2.4. Field Bridge Number 148 to the south of the lock is a Grade II listed structure
- 2.5. Public Right of Way 179/13/10 runs along the Oxford Canal towpath
- 2.6. The site lies in a Class 5 Radon area – 10-30% of homes above the Action Level
- 2.7. The northern corner of the site lies within an area of minor groundwater vulnerability (aquifer).
- 2.8. Less than or equal to 20% likelihood of Best and Most Versatile agricultural land
- 2.9. The strip of woodland to the south of Forge Farm, to the north of the south eastern part of the site, is an NERC Act S41 Habitat
- 2.10. A pond on the south side of Claydon Road is recorded as a potential habitat for Great Crested Newts

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

- 3.1. The application proposals can be split into two parts. The first part entails conversion of the existing modern agricultural barn next to the farm house into an leisure/tourism space with associated ancillary structures, car parking, and a new access. The second part entails the construction of 8no. holiday cabins.
- 3.2. In respect of the change of use of the barn, there are no details in the planning statement to explain the proposed use however the Noise Assessment explains that the barn would be a flexible events space and the type of events that may be held are:
  - Full site hire for weddings, corporate events or private parties where the barn and the cabins are let as one. It is estimated there would be 15-30 such events a year.
  - Informal indoor/outdoor events which could include live music. This could include the barn and/or the surrounding fields. It is estimated there would be 15-30 such events a year.
- 3.3. Events may take place on weekends or during the week and the barn could accommodate a maximum of 150 people depending on the type of event. No hours of operation have been given. Appendix D of the Transport Statement explains that catering will be prepared off site by a catering company and finished on site for events.

- 3.4. The agent has subsequently advised the types of events expected to be held are weddings, birthdays, corporate events, artistic shows, private parties and wellness retreats. It is also noted the maximum capacity of the barn is 120 people and there are likely to be 15-20 full site hires a year (cabins and barn hired together).
- 3.5. Physical changes are proposed to the existing barn to facilitate the new use including the insertion of new doors and windows, construction of a new entrance lobby on the south-western elevation and creation of a covered courtyard in the north-west corner of the building. Internally the barn will be subdivided to provide a main hall, toilets, kitchen and storage. Externally the barn would be reclad in timber with a corrugated metal roof.
- 3.6. To the south-east of the barn the existing tack room will be converted into ancillary food preparation and storage space. To the south-west of the barn a new reception building is proposed. This is a single storey linear structure housing a reception, office, toilets, refuse and plant store, and includes a covered area with a fire pit to the north-west. Bike storage is provided within the southern corner of the building. The reception building is to be finished in low level blockwork with timber cladding above and a corrugated metal roof.
- 3.7. The barn and reception building are connected by a 2.25m high timber fence forming a courtyard between the two buildings. To the south-west of the reception building is a new car park with 41 spaces including 3 disabled bay, 4 bays with electric vehicle charging and 4 further bays with charging infrastructure. The car is to be finished in hoggin. A new access is proposed from Claydon Road to the west and second overflow car park is proposed to the north-west of the new access. This will be laid to grass with heavy duty mats laid during events.
- 3.8. The second part of the proposal consists of the construction of 8 holiday cabins approximately 200m north-west of the events barn. 6 of the cabins are arranged in semi-detached buildings with the remaining two in detached buildings. All of the cabins are single storey and are arranged in a U shape facing towards a gravel courtyard leading to a proposed swimming pond and adjacent drainage pond.
- 3.9. The cabins are proposed to be finished in vertical timber cladding with a corrugated metal roof. Each cabin will be self-contained with a bedroom, kitchen and bathroom. Appendix D to the Transport Statement notes that the cabins will be available to hire throughout the year except when the whole site (barn and cabins) is booked.
- 3.10. Access to the cabins is via an upgraded track laid in hoggin extending from the reception building in a north-west direction to the existing access track to Forge Farm. A new section of track is proposed on the opposite side of the Forge Farm access across the paddock adjoining the cabins before turning east into the paddock containing the cabins. A section of hedgerow measuring approximately 7.8m will be removed to facilitate the track.
- 3.11. No parking is proposed around the cabins. Visitors will park in the main car park and then be taken to the cabins. All traffic to the development will therefore use the new access from Claydon Road.
- 3.12. Surface water drainage around the events barn is proposed to be attenuated under the car park with run off directed towards a ditch in the south-eastern corner of the site, passing under the canal. Foul water is to be pumped uphill towards a package treatment plant to the west of the cabins which will also service the cabins. Discharge from this runs to a drainage field. Surface water from the cabins discharges via the second pond.

3.13. Extensive landscaping is proposed around the site including tree and scrub planting, new hedging, wildflower planting and a reed bed.

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

4.1. *Relating to house:*

- 06/01966/F - Change of use of residential annex to main house to commercial offices – **Permitted**
- 96/00410/F – Change of use from garage to farm shop selling animal feed, pet food and garden supplies - **Permitted**
- 95/00155/AGN – Barn extension (Retrospective) – **Permitted**

4.2. *Relating to barn:*

- 11/00046/F - Extension and alterations to barn and change to part equestrian and part agricultural use – **Permitted**

4.3. *Land to north east of barn:*

- 03/01431/AGN - Barn extension lean-to – **Prior Approval Not Required**

4.4. *Land to the south east of the barn:*

- 00/02053/AGN – Erect Field Shelter – **Prior Approval Not Required**

4.5. *Land to the south west of the barn:*

- 11/00047/F – Horse walker and manege - **Permitted**

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

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

5.2. *22/01432/PREAPP:* This pre-application enquiry covered conversion of the existing barn into an events space for weddings and other events, construction of a new single storey ancillary building and construction of 12no. holiday cabins.

5.3. In respect of the events barn, officers advised that this had the potential to bring economic and social benefits to the rural area but that its unsustainable location, absence of evidence of need for the facility and the potential impact of noise from the proposed use on the rural character of the area and the adjacent Oxford Canal Conservation Area weighed against the proposal. Having balanced these considerations, Officers were unable to offer support for the proposal.

5.4. With regard to the cabin accommodation, Officers acknowledged the economic benefits to the rural and visitor economies but as with the events barn noted that the site is located in an inherently unsustainable location and the arguments around the need for the facility had yet to be developed. Further, concern was raised regarding the impact of the scheme on the character of the countryside and the setting of the Oxford Canal. As such, Officers were also unable to offer support for this element of the scheme.

#### **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 **24 February 2023**, 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:

6.3. Objections 18:

- Impact on highways from increased traffic, noting the narrow lanes which serve the site and existing road users including walkers, bikes and tractors
- No public transport links to the site
- No footpath along Claydon Road and the towpath would be unsafe at night
- Noise nuisance from late night vehicle movements
- Light pollution
- Noise pollution including impact on animals
- Proposal could open the doors to other similar developments in the area
- Ecological impact
- Impact on canal and canal users
- No local benefits (including employment)
- Conflict between noise from events barn and proposed accommodation
- Impact on Oathill Farmhouse
- Conference traffic is more likely to occur at peak AM/PM periods
- Insufficient justification
- Lack of detail about proposed events
- Safety of swimming pond
- No helicopters should be allowed to land
- No fireworks should be allowed
- Oathill Farm does not have planning permission to operate as a livery yard - it was a private equestrian establishment
- Proposal would increase littering
- Flood risk from bypass at Elkington Lock
- Impact on electricity supply

- Too many of these venues in the countryside
- Landscape impact
- Unnecessary reduction in existing rural land use
- Traffic monitoring location

6.4. Comments 1:

- Impact of noise on local wildlife
- Impact of noise on residents in nearby villages
- Should be total ban on fireworks
- Signage should be added to remind drivers to respect the rural nature of the area
- Does not wish to see the countryside turned into a noisy playground

6.5. Support 1:

- If traffic to and from venue is directed down northerly Cropredy Road there should be little traffic impact on Claydon
- Potential employment opportunities

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

## 7. RESPONSE TO CONSULTATION

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

### PARISH COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. CROPREDY PARISH COUNCIL: **Supports**. Proposal appears to be beneficial to the local economy, is sustainable, sensitive to the setting, have no impact on sewage, and a modest impact on traffic. It is also noted that it is intended to provide sufficient mitigation of any noise from events.

7.3. CLAYDON WITH CLATTERCOTE PARISH COUNCIL: **Objects**: Claydon will be more impacted by the noise than Cropredy due to the topography and surrounding vegetation. Unclear how noise from music in the open will be controlled and whether fireworks will be included in the proceedings. The previous business use of the site has been overstated; there was no livery business on the site and instead the site was used for private horse breeding and a condition was imposed on application 11/00046/F preventing commercial riding lessons, tuition, livery or competitions. The justification for this decision is relevant to the current application.

### OTHER CONSULTEES

7.4. HISTORIC ENGLAND: Historic England provides advice when our engagement can add most value. In this case we are **not offering advice**. This should not be

interpreted as comment on the merits of the application. We suggest that you seek the views of your specialist conservation and archaeological advisers.

- 7.5. CANAL AND RIVER TRUST: **No objection** but seeks improvements to the landscaping to include enhancement to the hedge alongside the lock and wildflowers added to the grassland seed mix. Also suggests adding sections of large hedge, native trees along the canal, at least 10m from the water edge. Also requests the Council ensures the owner of the adjacent moorings has been consulted and asked that the Council's Environmental Officer considers the impact of the proposal on canal users and the canal corridor.
- 7.6. OCC HIGHWAYS: **No objection** subject to planning conditions
- 7.7. *Comments:* The proposals seek the change of use of an existing equestrian barn into mixed use leisure/tourism comprising 8 overnight cabins, associated infrastructure including a new priority junction access, car park, reception building and swimming pond. The proposals are to comprise an event space and host weddings.
- 7.8. *Access arrangements:* The applicant has conducted an RTC to calculate 85th percentile vehicle speeds in front of the proposed site access. The 8th percentile observed speeds have been used to calculate a required SSD of 99m. The proposed access can accommodate visibility splays measuring 2.4m x 99m in either direction. Based on these visibility splays the new vehicle access is not considered a highway safety risk.
- 7.9. *Sustainable transport connectivity/transport sustainability:* The site does not have any credible sustainable transport links. The nearest bus stops and train station are outside of acceptable walking distance. The site also has no pedestrian footpaths in its vicinity. Cycle access to the proposals is possible but unlikely to happen in any meaningful quantity.
- 7.10. *Public rights of way:* The nearest Public Right of Way to the site is the Oxford Canal Walk. The proposals will not have a major impact on this footpath.
- 7.11. *Site layout:* Further information on the refuse strategy at the site are required. A 6m long van will be able to access and egress from the site in a forward gear. The applicant hasn't laid out the details of a refuse disposal strategy. It is therefore assumed that a bin lorry will need to enter the site to collect refuse. A swept path analysis must be produced that demonstrates a refuse vehicle can turn within the site boundary before exiting the site.
- 7.12. *Car and cycle parking:* The proposals provide 38 permanent car parking spaces, including 3 disabled and 3 electric. There is an area that can be used for overflow parking in the event of large events like weddings being hosted on site. The justification used to calculate the required number of parking spaces on site is considered sound and reasonable.
- 7.13. *Traffic impact:* The traffic impact of the proposals will likely be modest. Due to the nature of the events hosted at the space, the majority of additional trips will likely take place outside of the am and pm peak periods. During these events, there will be a moderate increase in trips on the local network. The impact of the additional trips will be mitigated by the time they take place.
- 7.14. *Travel Plan:* A Travel Plan Statement will be requested via planning condition.
- 7.15. *S278 Highway Works:* An obligation to enter into a S278 Agreement will be required to secure the new priority junction on Claydon Road



- 7.16. *Conditions to cover*: Full details of access; details of turning for service vehicles; cycle parking provision; travel plan statement; Construction Traffic Management Plan;
- 7.17. OCC LEAD LOCAL FLOOD AUTHORITY: **Objection** - Infiltration testing is done in a particular area of the site however SuDS features are proposed in different areas. Infiltration testing needs to be conducted where SuDS is proposed, for instance the southern part of the site has not record of infiltration testing conducted.
- 7.18. The drainage documents have been submitted and reviewed as part of an outline strategy as the final design is yet to be confirmed.
- 7.19. Confirmation is required from the relevant body to discharge surface water at the existing watercourse.
- 7.20. Clarify if the detailed design will consist of one phase, should it consist of more than one phase then a phasing plan needs to be submitted.
- 7.21. OFFICER NOTE: The LLFA has been reconsulted and has until 4/4/23 to provide a response to the applicant's comments on their objection.
- 7.22. CDC LICENSING: **No comments** from licensing
- 7.23. CDC LAND DRAINAGE: **No objections in principle**. There is some surface water flood risk shown at the site. A drainage scheme should be designed and installed to mitigate residual risk to the proposed development.
- 7.24. CDC BUILDING CONTROL: A Building Regulations application will be required. Adequate B5 Fire Rescue Service vehicle access should be provided to within 45 metres of each of the proposed cabins.
- 7.25. CDC PLANNING POLICY: **No comments**
- 7.26. THAMES VALLEY POLICE: Thank you for consulting me on the above planning application. I have concerns that this application does not adequately consider the risk of crime, particularly regarding the rural location of this development, with permeability/access introduced by the canal footpaths.
- 7.27. In order to ensure all opportunities are taken to design out crime from the outset, and to ensure all areas of the development are sufficiently secured to reduce the opportunities for crime and disorder to occur, I ask that the following or similarly worded condition be placed upon any approval;
- 7.28. Condition 1: Prior to commencement of development, an application shall be made for Secured by Design Silver accreditation on the development hereby approved. The development shall be 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 authority.
- 7.29. OCC ARCHAEOLOGY: The proposals outlined would not appear to have an invasive impact upon any known archaeological sites or features. As such there are **no archaeological constraints** to this scheme.
- 7.30. CDC ENVIRONMENTAL PROTECTION:
- 7.31. *Noise*: Noise Assessment Report submitted by Inacoustics has been reviewed.
- 7.32. Section 4.2 Proposed Operation of the report outlines the type of events that may be held at the venue and estimates between 15 and 30 events a year involving full site

hire, and between 15 and 30 events involving informal indoor/outdoor events that could include the barn and/or the surrounding fields. Both types of event could include amplified and/or live music. It gives the maximum occupancy of the barn as 150 people.

- 7.33. Section 6.2 Site Layout and Mitigation by Design states that doors along the north-eastern façade must be kept closed while music is playing in the Main Hall, however this hasn't been carried forward into the proposed noise management plan in section 8. I'm assuming reference to the Main Hall and Events Barn in the report are the same building.
- 7.34. Section 7 Façade Sound Insulation Criteria Mitigation specifies the minimum Weighted Sound Insulation Index criteria in Table 6 for the façade elements of the Events Barn. The specification of the façade elements will therefore need to be submitted for prior approval.
- 7.35. **Conditions recommended** on sound proofing and a Noise Management Plan.
- 7.36. *Land Contamination*: The comments on the pre-application were that given the previous use of the site a contaminated land assessment would be required, should an application be submitted, to demonstrate the site is suitable for the proposed end use. No assessment has been submitted with this application. As a minimum a desk study and site walk over report will be required. There would be **no objections to the application subject to the normal suite of land contamination conditions**.
- 7.37. THAMES WATER: **No comments** on the application
- 7.38. CDC ECOLOGY: **Comments** – Proposals if managed well could result in good net gain for biodiversity however no activity surveys have been carried out for bats therefore bat interest on site remains unknown and we cannot agree any mitigation. If a mitigation plan is submitted it would need to cover all possible eventualities and there would need to be sufficient flexibility in the building plans to accommodate this. Ideally the applicant would submit the relevant surveys.
- 7.39. A CEMP for biodiversity and a full LEMP would be required. A lighting strategy is also necessary.
- 7.40. CDC CONSERVATION: **No objections**:
- 7.41. *Events Barn*: No objections in principle, but concerned over extent of glazing to north-east elevation and potential light spillage. No objection to timber cladding and no objection to reception building or parking but minor concern about timber fence connecting reception and barn, suggests hedge would be more appropriate.
- 7.42. *Cabins*: Welcomes changes in layout compared to pre-app scheme. Cabins will still be visible but on the whole are not considered to detract from the character of the Conservation Area. Notes that cabins will have the appearance of an unbroken mass, potentially because of uniform materials, suggests subtly varied materials may assist. No objections to swimming pond but care needed to avoid additional structures or equipment. Landscaping proposed appears to provide substantial screening once established and should be encouraged. Noise and light spill should be controlled and conditions required for materials, lighting, swimming pond equipment/structures, hardstanding material.
- 7.43. OFFICER NOTE: Responses have not been received from: CDC Arboriculture; Campaign to Protect Rural England; CDC Economic Development; Environment

Agency; CDC Landscape Services; CDC Recreation and Leisure; CDC Waste and Recycling.

## **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 (CLP 2015) was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The CLP 2015 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 2015)

- Policy PSD1: Presumption in Favour of Sustainable Development
- Policy SLE 3: Supporting Tourism Growth
- Policy SLE 4: Improved Transport and Connections
- Policy ESD 1: Mitigating and Adapting to Climate Change
- Policy ESD 2: Energy Hierarchy and Allowable Solutions
- Policy ESD 3: Sustainable Construction
- Policy ESD 5: Renewable Energy
- Policy ESD 6: Sustainable Flood Risk Management
- Policy ESD 7: Sustainable Drainage Systems (SuDS)
- Policy ESD 8: Water Resources
- Policy ESD 10: Protection and Enhancement of Biodiversity and the Natural Environment
- Policy ESD 13: Local Landscape Protection and Enhancement
- Policy ESD 15: The Character of the Built and Historic Environment
- Policy ESD 16: The Oxford Canal
- Policy ESD 17: Green Infrastructure
- Policy Villages 1: Village Categorisation

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

- Policy H19: Conversion of buildings in the countryside
- Policy H20: Conversion of farmstead buildings
- Policy TR7: Development attracting traffic on minor roads
- Policy T5: Proposals for new hotels, motels, guesthouses and restaurants in the countryside
- Policy C5: Protection of ecological value and rural character of specified features of value in the District
- Policy C8: Sporadic development in the open countryside
- Policy C14: Countryside Management Projects
- Policy C18: Development retained – proposals affecting a listed building
- Policy C23: Retention of features contributing to character or appearance of a conservation area
- Policy C28: Layout, design and external appearance of new development
- Policy C29: Appearance of development adjacent to the Oxford Canal
- Policy C33: Protection of important gaps of undeveloped 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 (“EA”)
- Cherwell Tourism Study August 2008
- Oxfordshire County Council and Cherwell District Council COVID 19 Recovery Strategy Restart Recover Renew
- Oxford Local Enterprise Partnership: Creating The Environment for Growth - A strategic Investment Plan for Oxfordshire Dec 2015

## 9. APPRAISAL

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

- Principle of development
- Design, and impact on the character of the area
- Heritage impact
- Residential amenity
- Highway impact
- Flooding and drainage
- Climate change
- Arboriculture
- Ecology impact

9.2. *Officer note:* As described above the proposals can be split into two parts; the events barn (including ancillary buildings and car parking) and the holiday cabins. The policy considerations for each differ slightly and therefore where appropriate the assessment section has been split for clarity.

### Principle of Development

#### *Policy Context*

9.3. The development plan for the district comprises the Cherwell Local Plan Part 1 adopted 2015 (CLP 2015) and the saved policies of the Cherwell Local Plan 1996 (CLP 1996). The National Planning Policy Framework is a material consideration.

9.4. A new Cherwell Local Plan 2040 is being prepared; however, in January 2023 the Council’s Executive resolved to defer consultation on the Regulation 18 version of the new plan to allow comments from Overview and Scrutiny Committee and Executive to be considered by Officers. The draft CLP 2040 does not therefore carry any weight at the time of writing this report.

9.5. Policy SLE3 of the CLP 2015 explains that, ‘*the Council will support proposals for new or improved tourist facilities in sustainable locations, where they accord with other policies in the plan, to increase overnight stays and visitor numbers within the District*’. The policy preamble notes that the Council ‘*will support new tourism provision that can demonstrate direct benefit for the local ‘visitor’ economy and which will sustain the rural economy*’ (B.62). The preamble also offers support to an increase in high quality tourist accommodation in Cherwell’s towns (B.63) and notes that the Part 2

Local Plan will include policies encouraging new accommodation and the allocation of smaller sites for tourism related development (B.67). The Part 2 Local Plan has not been produced and instead a new Cherwell Local Plan 2040 (CLP 2040) is being prepared. Therefore, smaller sites for tourism related development have not been allocated.

- 9.6. Policy SLE4 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'*.
- 9.7. Policy ESD1 seeks to distribute growth to the most sustainable locations and to deliver development that seeks to reduce the need to travel and which encourages sustainable travel options.
- 9.8. Policy ESD16 seeks to protect and enhance the Oxford Canal corridor and offers support for proposals to promote transport, recreation, leisure and tourism related uses of the canal where appropriate. The policy also notes that other than appropriate small scale car parks and picnic facilities, new facilities for canal users should be located within or immediately adjacent to settlements.
- 9.9. The NPPF seeks to support economic growth throughout the country with paragraph 84 providing specific support to the rural economy, noting that planning decisions should enable the *'sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings'* along with *'sustainable rural tourism and leisure developments which respect the character of the countryside'*.
- 9.10. Paragraph 85 acknowledges that *'sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist'*.
- 9.11. Paragraph 105 notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and this should be taken into account in decision making.
- 9.12. The Supporting Statement references policy T1 from the CLP 1996; however, this policy expired on 27 September 2007, as instructed by the Secretary of State on 25 September 2007, and is therefore no longer relevant. The Statement also references policy EMP4 from the CLP 1996; this policy was replaced by policy SLE1 of the CLP 2015 as detailed in Appendix 7 of the 2015 Local Plan, but Policy SLE1 is not considered relevant to this application.
- 9.13. The applicant has sought Counsel advice on the relevance of saved policy T5 of the CLP 1996 to the proposal. Counsel's view is that the policy is relevant to four types of development (hotels, motels, guest houses and restaurants) and, as the proposal does not fall within the categories, the policy is not applicable. Officers have not referred to saved policy T5 in this report.
- 9.14. In respect of other material considerations, the Cherwell Tourism Study (August 2008) notes that towns will be the main focus for development but some will take place in rural areas (page 12). The Study also highlights that tourism is an important element

in the local economy (page 13) and that the Oxford Canal is potentially an extremely valuable tourism resource (page 15). Section 7.2 of the Study notes that the rural environment is one of Cherwell's most important assets, encourages accommodation providers to be walker/cyclist friendly and encourage provision of cycle hire via accommodation providers. However, it is also recommended that the character of the countryside continues to be protected and enhanced.

- 9.15. Section 7.3 highlights measures that could be taken to make more use of the Oxford Canal as a tourism resource, including improving access in the rural areas and developing land-based activities such as walking, cycling and restaurants/cafes. Section 7.4 identifies the importance of providing quality accommodation and notes that there may be scope for additional small scale, self-catering developments in the countryside.
- 9.16. OxLEPs plan titled 'Strategic Environmental and Economic Investment Plan for Oxfordshire' (SEEIPO) highlights the importance of economic factor in driving the recovery from the pandemic. The plan notes that a thriving local economic will underpin renewal, provide opportunities for people and ensure Oxfordshire retains and enhances its status as a world class economic force.

#### *Assessment – Events Barn*

- 9.17. The primary policy relevant to the proposal is SLE3 of the CLP 2015. This supports tourism and visitor facilities in sustainable locations. Whether a site is in a sustainable location requires an assessment of the proposed use, the likely needs of visitors, and the accessibility of the site.
- 9.18. In respect of visitors to the events barn, as they would be attending for an event the availability of nearby services, such as pubs or shops, is less important. Whilst there may be some overnight stays in the local area because of events, given the variety of events it is considered likely that the majority of visitors would travel for an event and then leave. As such transport links are central to the assessment of sustainability. The considerations for the cabin accommodation are slightly different and these are considered separately below.
- 9.19. In respect of transport links there are no buses serving the site and only very limited services to Cropredy. Contrary to the Transport Statement, bus 502 does a single return trip from Leamington to Banbury via Cropredy on a Saturday only (depart 11:04, return 13:59). Bus 497 only runs on a Thursday offering a single return journey to Banbury (depart 10:21, return 13:44). The bus stop in Cropredy is approximately 2km from the application site.
- 9.20. The nearest bus stops with more regular services are on Southam Road (Mollington) 4.1km to the west (by road) and the A361 (Williamscot) 4.0km to the south-east. A closer bus stop (3km away) exists in Wardington; however, this would necessitate walking along footpaths crossing cultivated fields rather than along roads. The nearest train station is Banbury, approximately 9.2km to the south.
- 9.21. The surrounding road network comprises unlit country lanes with no footways and whilst there is a towpath along the canal which walkers and cyclists can use, this is also unlit, in places narrow (especially around lock gates), and the surface is uneven. This reduces the desirability of walking or cycling to the site. Further, guests for more formal events such as conferences, weddings and parties, are likely to be smartly dressed and therefore less inclined to walk or cycle to the site given the nature of the available routes and the distances likely to be involved. It is noted that bike storage, including electric bike charging will nevertheless be provided.

- 9.22. In light of this transport context Officers consider it most likely that visitors will reach the site by either car or taxi. This is consistent with the submitted Transport Statement (para 5.1) which notes that *'The nature of the location and destination is such that the majority of guests will arrive to the venue by car'* though the Statement notes there will be a high proportion of car sharing. Nonetheless this is considered to be contrary to the aim of policy SLE3 to direct tourist facilities to sustainable locations along with policy ESD1 which seeks to distribute growth to the most sustainable locations and reduce the need to travel, in addition to paragraph 84(c) of the NPPF. This policy conflict weighs significantly against the proposal.
- 9.23. The applicant is of the view that policy SLE3 must be read in the context of paragraph 85 of the NPPF which acknowledges that sites to meet local business and community needs may have to be found adjacent to or beyond existing settlements and in locations that aren't well served by public transport. Officers do not consider policy SLE3 and paragraph 85 are incompatible; policy SLE3 doesn't require proposals to be located in existing settlements, only that they should be in sustainable locations. This does not preclude sites coming forward outside existing settlements and is consistent with paragraph 84(c) of the NPPF which supports sustainable rural tourism and leisure development. Further, as noted at paragraph 9.17, the question of the sustainability of a site is dependent on several factors and must be assessed on a case by case basis.
- 9.24. In respect of the reference to *'meet local business and community needs'* in Paragraph 85, the question of need is also relevant to the issue of sustainability. The proposed events barn would create a new business and it is reasonable to expect that this business will require services and supplies from local businesses such as caterers and event suppliers. Local businesses may also wish to rent the space for an event and guests may also stay overnight in the local area which would benefit local business. The local community could also rent the space though there is already a village hall in Cropredy available for hire. There is also broad support for tourism proposals and schemes that support the rural economy in both the development plan and material considerations identified above. The economic benefits of the scheme therefore attract significant weight in favour of the proposal.
- 9.25. Officers note that one letter of support has been received from a resident in Claydon highlighting employment opportunities and that Cropredy Parish Council considers the proposal would be beneficial to the local economy. However, whilst there are broad economic benefits from the scheme, no explicit local business need has been identified, no local businesses have come forward in support of the proposal and this is a new business venture rather than expansion of an existing business. There is also no identified specific community need for the facility. As such the proposal does not gain significant support from paragraph 85.
- 9.26. This matter also links with the issue of functional need, in other words the need for a development to be in a particular place. In this respect whilst it is acknowledged that the barn is currently vacant and this would put the building back into use, no reasons have been given for why an events space is required in this location. Some uses are inherently reliant on an open countryside location; however, whilst it may be desirable to host events in the countryside, no functional need for such a facility in this location has been demonstrated.

#### *Assessment – Cabin Accommodation*

- 9.27. In respect of the in principle acceptability of the cabin accommodation, policy SLE3 remains the most relevant policy. This offers support to tourist facilities but requires these to be in sustainable locations. The accessibility of the site by public or sustainable transport options remains largely as described above for the events barn,

though the Planning Statement references provision of a shuttle bus to take guests to and from Banbury Station. However, no details of this service have been provided (frequency, availability, cost).

- 9.28. In terms of guests travelling to and from the site at the beginning and end of their stay, as they would likely have luggage (and possibly food) Officers consider they may be less inclined to travel by public transport and more likely to use a private car. The offer of a shuttle service from Banbury Station may assist some guests who could travel by train, but without details of the offer, the benefit it brings cannot be assessed. Guests could also use taxis instead. The likely reliance on the private car to reach the site presents a conflict with policies SLE3 and ESD1 along with paragraph 84(c) of the NPPF.
- 9.29. In addition to arriving and departing the site, the availability of local services such as shops and restaurants is also relevant to the sustainability of the accommodation. For example, guests may wish to eat out or buy food and drinks if self-catering. The site lies approximately 1.6km from the edge of Cropredy via Claydon Road, and it is a further 0.4km to either public house or 0.6km to the village shop. Via the towpath, it is approximately 2.0km to the closest pub and 2.2km to the shop. There is no footway or lighting along Claydon Road until the road enters Cropredy and the speed limit is 60mph until the edge of the village. The towpath is also unlit, in places narrow, especially around lock gates, and the surface is uneven.
- 9.30. A recent appeal decision (APP/C3105/W/21/3280416) for a canal marina east of Claydon considered the issue of the sustainability of that site and, whilst it was noted that Cropredy has some local facilities, the Inspector reasoned that the village was not in easy walking distance (the marina site is 2.5km further from Cropredy than the current site) and *'the narrowness, and the uneven nature of the towpath, together with the lack of lighting on this or the local roads, also limits the ability to use bicycles for such trips too'*. The Inspector concluded that opportunities to access local facilities by means other than the car would be minimal and, despite acknowledging that the accessibility of the site was less important than if people were staying on the site, found that the site was unsuitable for a marina.
- 9.31. The application site is closer to Cropredy than the marina proposal but remains a significant distance from the village. Though it is lawful to cycle on the towpath, given its nature, Officers do not consider that to be a realistic option. Instead, cyclists are more likely to prefer the road; however, the rural nature of the road to Claydon limits the ability to use bicycles for trips. Walkers would probably prefer to use the towpath but the distance to Cropredy and lack of lighting reduce the desirability of this route especially at night or in poor weather. Overall, Officers accept that some guests will be happy to walk or cycle to Cropredy; however, given the challenges identified, consider that the private car would be the preferred option. This conflicts with policies SLE3 and ESD1.
- 9.32. To improve the sustainability of the site the applicant proposes to make electric bikes available to guests, to provide basic amenities such as milk and tea and allow supermarket deliveries to be made to the site prior to guests arriving. These measures would improve the sustainability of the site but only to a small degree and Officers do not consider these overcome the issues identified.
- 9.33. In respect of the economic benefits of the proposal, the cabins would bring investment to the rural area and provide 8 additional units of accommodation which would accord with the general thrust of the Local Plan and NPPF to increase the availability of tourist accommodation. This could also benefit local attractions and businesses such as pubs along with providing accommodation to support local events such as the Cropredy Festival. However, as with the events barn these are broad benefits and no



specific local business or community need for the facilities have been identified to engage the flexibility offered by paragraph 85 of the NPPF.

- 9.34. In addition, Officers consider the support given for economic growth, including a prosperous rural economy, set out in the Local Plan and NPPF is clearly framed with considerations of sustainability and therefore Officers do not think that the economic benefits of a proposal automatically override the general principles of sustainable patterns of development, instead a balance is necessary.

#### *Conclusion*

- 9.35. In respect of the events barn the proposal would bring a disused building back into a productive use and there are potential benefits for the rural and visitor economies. The proposal is however in a location that is reliant on the private car for access and no specific need for the facility has been identified to meet the requirement of paragraph 85 of the NPPF. Further, there is no identified functional need for the proposal to be located in such an inaccessible rural position. On balance, Officers do not consider that the identified benefits of the scheme outweigh the identified harm and therefore, in principle, consider the proposal to represent an unsustainable form of development in the open countryside that is contrary to policies SLE3 and ESD1 of the CLP 2015 and paragraphs 84 and 85 of the NPPF.
- 9.36. Turning to the cabin accommodation, this would bring additional tourist accommodation to the area, which would bring broad economic benefits and help to address an identified need for more tourist accommodation. Whilst it is likely many guests would travel by car to the site, this is more inevitable given the luggage guests would require. However, when on site, the distance to local services and attractions and the lack of public transport means that guests are also likely to be reliant on the car whilst staying. Further, no specific local business or community need for the facility in this location has been identified. Officers do not consider the broad support for tourist accommodation nullifies the need to promote sustainable patterns of development and on balance, Officers are of the view that the harm of the proposal outweighs the benefits. The proposal would therefore, in principle, be contrary to policies SLE3 and ESD1 of the CLP 2015 and paragraphs 84 and 85 of the NPPF.
- 9.37. Whilst the events barn and cabin accommodation have been considered individually, there is also potentially a symbiotic relationship between the two when the site is hired as one and some event guests would stay on site. However, given full site hires are anticipated to make up around half of events and the accommodation could only accommodate a small proportion of event guests, this consideration does not change Officers conclusions as to the sustainability of the proposals.

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

##### *Policy Context*

- 9.38. Policy ESD13 of the CLP 2015 seeks to enhance the character and appearance of the landscape through restoration, management or enhancement of existing landscapes, features or habitats and where appropriate create new ones. Development is expected to respect and enhance local landscape character and development that causes undue visual intrusion into the open countryside, is inconsistent with local character or impacts on areas of high tranquillity, amongst other considerations, will not be permitted.
- 9.39. Policy ESD15 seeks to control new development to ensure it complements and enhances the character of the area through sensitive siting, layout and high quality

design. The policy also aims to control the impact of development on heritage assets, residential amenity and sustainability.

- 9.40. From the 1996 Local Plan, saved policy C28 aims to ensure new development has sympathetic standards of layout, design and external appearance whilst saved policy C29 requires development adjacent to the canal to be of a high standard. Saved policy C8 resists sporadic development in the open countryside.
- 9.41. Within the NPPF, paragraph 130 requires new development to add to the overall quality of the area in both the short and long term, be visually attractive and be sympathetic to local character. Paragraph 134 states that poor design should be refused. Paragraph 185 requires new development to be appropriate to its location including protecting tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

#### *Assessment – Events Barn*

- 9.42. The events barn is a modern agricultural building finished in blockwork, timber cladding and corrugated metal sheeting. The adjacent tack room is similarly constructed. Neither building has any architectural merit; however, both are typical of 20<sup>th</sup> century agricultural buildings. These buildings are set to the north-west of a red brick farmhouse (Oathill Farm). Though the buildings were most recently in equestrian use, the appearance of the site is of a small agricultural farmstead.
- 9.43. The Oxford Canal, with Elkington Lock and bridge 148, lie immediately to the east of the site and create a cluster of structures with the farm buildings. To the north is a separate collection of buildings known as Forge Farm, centred on its canal frontage. The site is set within a rolling agricultural landscape comprising a mix of pastures and arable fields intersected by hedges and trees. The surrounding agricultural landscape and the appearance of the existing buildings gives the locality a strong rural character, clearly detached from any settlement, with the canal and Forge Farm adding an element of industrial heritage.
- 9.44. Views into this part of the site principally come from the canal to the east, through the existing hedge. These views are more limited in summer months with leaves on the hedge. Views from Claydon Road to the south are restricted by a large existing roadside hedgerow, with glimpses available through existing gaps.
- 9.45. In respect of the events barn itself, it is proposed to infill the north-western corner of the building to create a covered seating/storage area. This infill continues the existing form of the building and is therefore acceptable in design terms. It is also proposed to reclad the building in timber with a corrugated metal roof. These materials are consistent with the agricultural character of the building and would improve the outward appearance of the building.
- 9.46. It is also proposed to add a significant number of new windows and doors to the building. On the south-western elevation these replace the existing large sliding doors; however, on other elevations the openings are new. Cumulatively Officers consider the number and variety of new openings contrast with the simple functional agricultural character of the building and this would be particularly evident in winter views from the canal. The new openings would also permit significant amounts of light spillage which would be inconsistent with the rural character of the area. The new openings therefore conflict with policy ESD15 of the CLP 2015 and saved policy C28 of the CLP 1996. Concern is also raised against the proposed porch on the south-western elevation which, as a result of its roof form, appears as an incongruous addition to the building.

- 9.47. Officers note the concerns of the Conservation Officer in respect of the timber fence joining the proposed reception to the events barn; however, this feature would be mostly screened by the existing farmhouse in views from the canal and by the reception building in view from the road. Therefore, whilst the concerns are understandable, Officers do not consider the fence to be harmful to the character of the area.
- 9.48. With regard to the new reception building, this has a simple linear form consistent with agricultural buildings, is positioned close to the events barn, is modest in scale and is finished in materials to match the barn. The reception would therefore appear as part of the farmstead and would not be a strident addition to the wider landscape. Officers are, though, concerned over the wide and shallow shape of the proposed reception windows which break the simple form of the building. However, these wouldn't be visible from the canal and would only be seen at distance from the highway. As such the degree of harm is not significant.
- 9.49. The proposals for the tack room are modest and primarily entail recladding it to match the barn. No concerns are raised against this work.
- 9.50. In respect of the parking, this occupies the existing maneges and, though close to the road, would be screened by the existing hedge, which would be enhanced with additional planting. The parking would appear closely associated with the buildings and therefore whilst potentially some visual harm may occur, particularly in winter, Officers do not consider this would be significant. The use of hoggin surfacing is considered appropriate for the rural setting and the additional tree planting around and within the car park would reduce its visual impact.
- 9.51. Occasional parking would also be provided on a grass paddock adjacent to road, with heavy duty matting laid to reinforce the ground. Whilst not in use it would appear as a paddock. The existing roadside hedge would screen the cars particularly during summer and, given the occasional nature of the use, Officers do not consider any resulting visual harm would be significant.
- 9.52. The new access would result in the loss of a section of hedge and grass verge which will cause a small degree of visual harm along the road; however, accesses are common in the rural area, and subject to details of the access, Officers do not consider the degree of harm would be unacceptable.
- 9.53. A lighting plan has been submitted showing the use of down-lit bollards and wall mounted down lights; however, no specification for the lights has been provided, there are a significant number of lights and some seem to be positioned within parking spaces. The principle of using down facing lights is positive; however, the level of detail is insufficient, and the distribution of the lights is of concern. Given inappropriate lighting could have a significant adverse effect on the rural character of the area further details would be required. However, Officers consider this matter could be appropriately addressed by a condition.
- 9.54. In addition to the physical changes to the site, it is also necessary to consider how the activities on site may affect the character of the area. Of particular note are the potential noise emissions from the activities on site and how these compare to the existing noise characteristics of the site.
- 9.55. At present the site is relatively quiet and tranquil. There is occasional road noise from passing cars and some background noise from the nearby railway line along with noise from passing narrowboats, particularly using the lock. The site is not silent but the noises apparent are fairly typical of a rural setting adjacent to a canal and lack the intensity and regularity of a more urban environment. This contributes to the pleasant

environment and will be appreciated by members of the public enjoying the countryside, particularly along the towpath or canal.

- 9.56. The submitted Noise Assessment considers the impact of music played inside the barn on nearby residential receptors but doesn't consider the impact of noise from the proposed activities on site on the character of the area. The Assessment also does not consider the nature of the noise emissions from the proposed activities and how these compare to the existing noises apparent on the site and surrounding area.
- 9.57. The noise modelling indicates that the music from the events barn would be audible on the section of the canal immediately adjacent to the barn (Figures 5 and 6 in the Noise Assessment). In Officers view the sound of music would contrast with the typical sounds currently apparent in the area. It should be noted that canal users, whether on the water or towpath, would typically be passing along the canal and any music would be localised around the events barn. However, events with music could occur between 30-60 times a year and the canal is a popular recreation route therefore the impact would be experienced by a significant number of people. Overall, Officers are of the view that the noise emissions from the site would adversely affect the rural tranquillity of the area.

*Assessment – Cabin Accommodation*

- 9.58. The proposed cabins are sited approximately 200m north-west of the events barn within the southern corner of an existing field of pasture. Along the north/north-east boundary of the pasture is the Oxford Canal, between 150m-200m from the cabins. The cabins would sit on the highest part of the pasture with the land falling down by around 3m towards the canal.
- 9.59. The pasture is currently open to the canal with extensive views into the site available from the canal and towpath. From the towpath the land is seen to rise slightly and to the east of the pasture the buildings of Forge Farm can be seen, adjacent to the canal.
- 9.60. The Planning Statement argues explains that the cabins have been designed in the style of agricultural barns and have been clustered together to have the appearance of an extended farmstead associated with Forge Farm.
- 9.61. The application is supported by a Landscape and Visual Appraisal (LVIA) which concludes the majority of the surrounding landscape would be unaffected by the proposals. The LVIA notes that the view of the site from the canal is the key view and that initially the change in the view caused by the cabins would be minor adverse (para 6.25). However, by year 15, once the proposed landscaping has established, the report's author considers the view would look better than the existing and the overall effect would be minor beneficial.
- 9.62. In respect of the design of the cabins, the low form and use of timber cladding and corrugated metal roofing is consistent with rural buildings. The walls of the cabins, particularly no.1 and no.5, use walls arranged at diagonal angles to the perimeter of the roof which is not typical of rural buildings; however, given the simple roof form and materials Officers do not consider this is inherently harmful to the character of the area. The extent of window openings is a concern as this is an inherently residential feature not typical of functional rural buildings.
- 9.63. Officers agree with the findings of the LVIA that the key view of the site is that from the canal, however, are concerned about the overall effect of the cabins on the landscape. Though the materials and basic form of the cabins are consistent with rural buildings, the position and number of cabins creates a significant low but wide mass of development. The uniformity of the materials also contributes to the mass of the

cabins. This mass would be readily visible from the canal with the effect exacerbated by the rise in the land from the canal and the position of the cabins on the highest point of the site. This is apparent in the visualisations of the development provided in the LVIA. There would also be harm at night caused by light spill from the windows and the proposed external lighting.

- 9.64. Officers do not consider the cabins would be seen as an extension of the group of buildings at Forge Farm. Those buildings are clustered around the canal, the designs are very different and there is clear separation between Forge Farm and the proposed cabins. In Officers' opinion, the buildings appear quite isolated in the landscape.
- 9.65. Taken altogether Officers are of the view that the proposed cabins would introduce a significant new development into the open countryside. Whilst elements of the design are consistent with rural buildings, the cumulative effect of the cabins would have an urbanising effect on the landscape and appear as sporadic development in the countryside.
- 9.66. The proposed landscaping would soften the impact of the cabins over time; however, Officers do not consider that landscaping can overcome the fundamental incompatibility of the proposals in the landscape. Further, any landscaping would be less effective in the winter months.
- 9.67. With regard to the swimming pond and adjacent pond, given the rise in land form from the canal, it is unlikely the ponds would be visible and even if they were, ponds are a normal feature of the natural environment. Subject to further details of the proposed levels to ensure a natural appearing landform, which could be secured by condition, Officers do not consider the ponds would be harmful to the character or appearance of the area.
- 9.68. As with the events barn, there are likely to be some noise emissions from the cabins; however, these would be much less significant. Officers do not consider the likely noises from the cabins would harm the rural tranquillity of the area, though appropriate management of the site would be necessary and this is discussed later in this report.
- 9.69. The proposed hoggin track connecting the events barn and cabins along with the hoggin frontage to the cabins is considered acceptable as this would not be an incongruous addition to the landscape.

### *Conclusion*

- 9.70. The proposed extension to the northern corner of the events barn is considered acceptable and the exterior recladding of the building has the potential to improve its outward appearance. No significant concerns have been raised against the new parking area. Officers are, however, concerned about the extent and design of the new window and door openings proposed to the existing barn and the impact this would have on the agricultural character of the building. These windows would also cause further harm to the rural character of the area through light spillage. In addition, Officers consider the proposal would result in a loss of tranquillity within the rural area. Taken altogether Officers consider the proposed events barn would therefore unacceptably harm the rural agricultural character of the area and this would be contrary to policies ESD13 and 15 of the CLP 2015, saved policy C28 of the CLP 1996 and paragraphs 130 and 185 of the NPPF.
- 9.71. With regard to the proposed cabin accommodation, the simple form and materials are consistent with rural buildings however the significant mass created by the grouping and extent of the cabins is considered to have an unacceptable urbanising effect on the rural landscape and would appear as an isolated addition to the area. The harm

is exacerbated by the elevation of the site from the key public viewpoint along the canal. Taken altogether Officers consider the proposed cabins would therefore unacceptably harm the rural agricultural character of the area and this would be contrary to policies ESD13 and 15 of the CLP 2015, saved policies C8 and C28 of the CLP 1996 and paragraph 130 of the NPPF.

### Heritage Impact

#### *Policy Context*

- 9.72. The site is close to the Oxford Canal Conservation Area and both Elkington Lock to the east of the farmhouse and Bridge 148 immediately south of the lock are Grade II listed structures.
- 9.73. 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.*
- 9.74. 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.
- 9.75. The NPPF describes heritage assets as an '*irreplaceable resource*' and sets out how they should be conserved so future generations can enjoy them. Paragraph 194 requires applicants to describe the significant of any affected heritage assets and paragraph 199 requires great weight to be given to the asset's conservation, with that weight increasing with the importance of the asset. Substantial harm to heritage assets should be avoided unless there are substantial public benefits that outweigh the harm whilst proposals causing less than substantial harm should be weighed against the public benefits of the scheme (paragraph 202).
- 9.76. Policy ESD15 of the CLP 2015 seeks to conserve, sustain and enhance designated and non-designated heritage assets, in line with the NPPF, whilst Policy ESD16 specifically considers the Oxford Canal and seeks to protect and enhance its corridor. Saved policy C18 of the CLP 1996 aims to preserve listed buildings and their setting whilst saved policy C23 aims to retain positive features within a Conservation Area. Saved policy C29 seeks to ensure that all new buildings adjacent to the canal are designed to a high standard.
- 9.77. The Oxford Canal Conservation Area Appraisal 2012 (CAA) explains that, aside from passing through Banbury, the canal '*is almost entirely rural, and indeed, quite isolated, until it meets the outer suburbs of Oxford. For much of the route, the general character of the canal and its setting is very similar, with just some subtle variations; this consistency and calm within the landscape of the route forms a very important part of its distinctiveness*'. The CAA also notes that there is little in the setting that harms the current rural setting of the canal and that the rural sections of the canal are relatively tranquil.

#### *Assessment – Events Barn*

- 9.78. This element of the proposal lies within the setting of the adjacent listed lock and bridge and affects the setting of the Oxford Canal Conservation Area.

- 9.79. A Heritage Assessment has been submitted with the application however this only considers the proposed cabin accommodation and does not reference the proposals around the events barn.
- 9.80. The Council's Conservation Officer has not objected to the scheme but has made several comments. In respect of the events barn this covers the extent of glazing and potential for light spill along with the need to respect the tranquillity of the area. No concerns are raised over the reception building, tack room works or parking, though it is suggested that the timber fence between the reception and barn is rethought.
- 9.81. As explained above, Officers hold concerns over the impact of the physical changes to the barn and the proposed use on the character of the area. These concerns are centred on the extent of glazing changing the agricultural character of the barn along with the resulting light spill. There is also concern over the impact of the proposed use on the tranquillity of the area.
- 9.82. The Conservation Area Appraisal explains that rural sections of the canal are relatively tranquil and the consistency and calmness of the rural landscape is important to the distinctness of the canal. Given the identified harm to the rural character of the area and the importance of this to the significance of the canal, Officers take a slightly different view from the Conservation Officer and consider that the proposal does cause harm to the significance of the Conservation Area.
- 9.83. However, this harm would only be apparent from a short section of the canal around the lock and the degree of harm would vary. When there is no music and no light spill, the harm would be confined the impact of the glazing on the character of the barn. Further, in the context of the whole Conservation Area, this only affects a very small part of it. As such the harm would be *less than substantial* and at the lower end of less than substantial. The NPPF requires the harm to be balanced against any public benefit and in this regard, the scheme would bring economic benefits to the area as described in an earlier part of this report. Officers are of the view that given the limited harm identified to the significance of the Conservation Area, this is balanced by the public benefits.
- 9.84. In respect of the impact of the events barn and associated works on the two listed structures, Officers consider their setting is principally confined to the canal and towpath given their function. Therefore, whilst concerns exist in respect of the impact on the significance of the Conservation Area, Officers do not consider these would adversely affect the significance of the listed structures.
- 9.85. In respect of archaeology, OCC has advised that the scheme does not appear to affect any known archaeological features or sites.

*Assessment – Cabin Accommodation*

- 9.86. This element of the proposal lies within the setting of the Oxford Canal Conservation Area. The Heritage Assessment questions whether the cabins affect the setting of the listed lock and bridge given the separation distance and the intervening structures and vegetation. Officers are satisfied that the proposals would not affect the setting of the listed structures and note the Conservation Officer has not raised any concern in this regard.
- 9.87. In respect of the impact on the Conservation Area, the Heritage Assessment acknowledges that the cabins would be visible from the Conservation Area however explains that change is only harmful where it erodes the significance of the heritage asset. Visibility alone is not necessarily harmful. The Assessment concludes that the

change within the setting of the Conservation Area would be small and there would be no harm to significance.

- 9.88. The Conservation Officer has not objected to the scheme but notes that the visualisations submitted in the LVIA indicate that the cabins would appear as an unbroken form of buildings, possibly because of the uniform materials and the layout of the cabins.
- 9.89. As described in the preceding section of this report, Officers consider the proposed cabin would harm the rural landscape because of its mass and uniformity creating an urbanising effect on the landscape. This rural landscape contributes to the setting of the canal with the consistency and calm of the landscape forming an important part of its distinctiveness. As such Officers take a different view from the Conservation Officer and consider the cabin accommodation does result in harm to the significance of the Conservation Area through erosion of its rural setting.
- 9.90. However, this harm is only apparent from a short section of the canal and in the context of the whole Conservation Area, only affects a very small part of it. As above, the level of harm is considered to be *less than substantial* and at the lower end of less than substantial. In these circumstances the NPPF requires the harm to be balanced against any public benefit and in this regard, the scheme would bring economic benefits to the area as described in an earlier part of this report. Officers are of the view that given the limited harm identified to the significance these are balanced by the public benefits.
- 9.91. In respect of archaeology, OCC has advised that the scheme does not appear to affect any known archaeological features or sites.

### *Conclusion*

- 9.92. The works around the events barn and the proposed cabin accommodation are considered to cause less than substantial harm to the significance of the Oxford Canal Conservation Area. However, the level of harm is considered to be at the bottom end of less than substantial and in accordance with paragraph 202 of the NPPF this is balanced by the economic benefits of the scheme. As such Officers do not consider it would be reasonable to refuse the scheme on heritage impact grounds.
- 9.93. No harm has been found to the significance of the two listed structures from the proposals and no archaeological constraints have been identified.

### Residential Amenity

#### *Policy Context*

- 9.94. Policy ESD15 of the CLP 2015 requires new development to deliver '*high quality safe, attractive, durable and healthy places to live and work in*' and to '*Consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space*'.
- 9.95. Paragraph 185 of the NPPF requires development to be appropriate to its location taking into account the likely effects of pollution on health, living conditions and the natural environment and advises that development should '*mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life*'.

#### *Assessment – Events Barn*



- 9.96. Residential amenity can be affected by physical changes on site along with the proposed activities. The closest neighbour to the property is Forge Farm, approximately 160m to the north. There are also residential moorings at the Farm and mooring is available along the canal for up to 14 days.
- 9.97. Given the nature of the physical changes to the events barn and tack room, and the position and scale of the new reception building, Officers are satisfied that these would not cause unacceptable harm to the amenities of any neighbouring resident. The key matter for consideration is the likely noise output from the proposed use.
- 9.98. In this regard the application is supported by a Noise Assessment. This estimates that between 15 and 30 events a year involving full site hire, and between 15 and 30 events involving informal indoor/outdoor events that could include the barn and/or the surrounding fields. Both types of event could include amplified and/or live music. It gives the maximum occupancy of the barn as 150 people. No hours of operation have been given or the total duration for the events. It is noted that events may take place on weekends or during the week.
- 9.99. This Assessment has measured the baseline noise levels on site and compared this to the likely sound generation from music being played inside the venue. The Assessment has only considered music noise as the consultant considered that this was likely to be the most significant noise generating activity. The assessment has focused on two noise receptors, Forge Farm and the canal moorings between Forge Farm and the barn.
- 9.100. The Assessment notes that any openings on the north-eastern façade of the events barn should be kept closed while music is playing in the barn. Modelling has been undertaken on the basis of music being played at 90dB in the barn during the day and 86dB during the evening and night. On this basis the prevailing ambient sound levels at the mooring south of Forge Farm increase between 0.7dB and 1.0dB whilst at the Farm itself the increase is between 2.1dB and 2.9dB. The report states that there would be a minor impact on the Farm though to achieve these figures requires the doors on the barn to be kept closed in the evening period.
- 9.101. Separate calculations have been presented for the night time period and the Assessment concludes that music noise levels would be mostly inaudible.
- 9.102. Mitigation measures for a Noise Management Plan have been proposed and include:
- Internal music noise levels to not exceed a level of 90 dB(A) during the daytime and 86dB(A) during the evening and night time periods, while French doors are held open for ventilation. Music noise levels should be controlled via an installed limiter. Such a device would incorporate an audio compression system to manage frequency contributions and would cut power to the vocals should any exceedance be detected.
  - French doors to the events space to be maintained in the closed position (as far as is practicable) after 23:00 hours.
  - No outdoor music, except for acoustic instruments such as guitars and vocals through a PA system. No Drums to be allowed outside.
  - Live bands to cease by 23:00. Pre-recorded music can be played from 23:00 onwards.

- Immediate site neighbours and the licensing authority to be provided with site contact details for event management and provision of feedback, should issues be raised with regard to the level of noise generated by events. Details should also be publicly posted on the Mooring Site.
- Noise levels when measured at 10m away from the opened French Doors to the northwest of the property, should not exceed a music noise level of LAeq,5-minutes 68 dB.
- Areas near to the residential properties should be closed off and Patrons should be contained to areas away from these properties within the evening and night time periods.
- Signage should be installed around the site and especially near to the off site residential areas, to reduce noise when outside due to the neighbours to the site.

9.103. Having reviewed the Noise Assessment the Council's Environmental Protection Officer has not objected to the proposal however he has requested two conditions; the first requiring a Noise Management Plan and the second requiring details of the sound proofing measures for the building.

9.104. Officers consider that both of these conditions would be essential if the proposal is granted permission. The Noise Management Plan would ensure that windows and doors are kept shut as per the modelling and control the volume of the music played. It can also include the hours during which music may be played and contact details for neighbours to report concerns to site management.

9.105. However, Officers note that the Noise Assessment has only considered the effect of music played within the barn and has not modelled the impact of music played externally. As such, if the application were approved, Officers consider it would be reasonable to impose a condition preventing any amplified or recorded music being played outside as the impact of this has not been assessed by the applicant.

9.106. Concern has been raised by members of the public over fireworks being set off from the site. Officers consider this concern justified given the celebratory nature of events that could be held on site and the potential noise impacts of fireworks. A condition could be used to prevent this, though exceptions around 5<sup>th</sup> November and the new year would be reasonable.

9.107. With regard to noise from vehicles leaving the site, as the proposal would increase the number of vehicles on local roads there would be an increase in traffic noise. Some of the increased noise would occur late into the evening/night when guests leave. However, the Transport Statement notes that guests tend to leave over a longer period than they arrive and based on Officers and guests could leave via Claydon or Cropredy. In this context Officers do not consider the likely traffic noise would be unacceptable.

#### *Assessment – Cabin Accommodation*

9.108. At the closest point, the proposed cabin accommodation is located approximately 77m from the dwelling at Forge Farm. Given this separation and the scale of the cabins Officers are satisfied that their physical form won't cause any harm to the amenities of the residents of Forge Farm.

9.109. In respect of the proposed use, the key issue is noise. Potential noise emissions come from external activities around the cabins such as arrivals and departures, along

with guests enjoying the open space around the cabins, including the swimming pond. There is the potential for guests to play music and if the site is rented as one, a group of circa 20 guests could be staying in the cabins. The submitted Noise Assessment focuses on noise emissions from the events barn and not the cabins.

9.110. The noise generated from the cabins is, however, likely to be notably less significant than that from the events barn. Officers do not consider that normal day to day comings and goings, guests sitting outside or using the swimming pond are likely to unacceptably harm the amenities of residents of Forge Farm. There is the potential for guests to congregate at the cabins, particularly during whole site hires, and if music is played this could be disruptive. However, this is an issue of site management and Officers consider this matter could be handled as part of the Noise Management Plan recommended above.

9.111. Third party comments have raised concern over helicopters using the site, particularly in connection with events at Silverstone. This concern is understandable; however, the likelihood of this happening is considered low and if it did happen, it is likely to be rare. Officers do not therefore consider it is proportionate to impose a condition to prevent helicopters taking off or landing on site.

#### *Conclusion*

9.112. Subject to conditions relating to a Noise Management Plan, soundproofing, no external amplified music and no fireworks (with exceptions), Officers are satisfied that the proposals would not unacceptably harm the amenities of neighbouring residents.

#### Highway Impact

#### *Policy Context*

9.113. Saved policy TR7 of the CLP 1996 resists development that would regularly attract large commercial vehicles or large numbers of cars onto unsuitable minor roads. Paragraph 111 of the NPPF notes that development should only be prevented on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impact on the road network would be severe.

#### *Assessment*

9.114. The application is supported by a Transport Statement. This explains that access to the site, for both the events barn and cabin accommodation would be by a new priority junction from Claydon Road. This leads into a new access drive extending to a parking area with overflow parking available on an adjacent paddock.

9.115. The Statement explains that peak times for events will typically be on a weekend with a maximum of 150 guests attending an event. Based on occupancy assumptions this could give rise to 54 cars and 5 taxis attending the site. Including staff, this increases to 69 cars. The Statement explains that guest arrivals are likely to be grouped around the start and end of events and due to the typical timings of events, are unlikely to coincide with peak periods. It is anticipated that for larger events the rate of arrivals could reach 30-35 cars per hour. Departures are likely to be more spread out.

9.116. The Statement notes that the nature of the location and destination is such that the majority of guests will arrive by car. However, the Statement caveats that there will be a high proportion of car sharing and guests will be encouraged to travel by sustainable modes.

- 9.117. OCC as local highway authority ('the LHA') raises no objection against the new highway access, subject to details being secured by condition. Officers have no reason to question this assessment.
- 9.118. The LHA has raised concern about access for refuse vehicles and have recommended that a swept path analysis is secured by condition to show refuse vehicles can turn on site. Given the space available on site, Officers are satisfied that a condition is appropriate and this information is not required prior to determination.
- 9.119. The LHA is satisfied that the parking provision is sufficient however details of the cycle parking facilities have been requested by condition. Officers are satisfied this is reasonable. A Travel Plan Statement and a Construction Traffic management Plan are also recommended to be conditioned and again Officers consider these reasonable requests.
- 9.120. In respect of the impact on the highway network, OCC consider the traffic impact of the proposals would be modest and agree with the applicant that the nature of events means that the majority of additional trips would take place outside the peak morning and afternoon periods. During events OCC consider there would be a moderate increase in trips on the local network but that this is mitigated by the time they take place. Officers consider the conclusions of the Transport Statement and the LHA to be justified.

#### *Conclusion*

- 9.121. The proposals would generate additional trips on the local highway network however as these would mostly be outside the peak periods, it is not considered that the scheme would have an adverse effect on the local highway network, subject to conditions relating to; details of the new junction, refuse vehicle turning, cycle parking provision, provision of a Travel Plan Statement and a Construction Traffic Management Plan.

#### Flooding and Drainage

##### *Policy Context*

- 9.122. Policies ESD6 and ESD7 set out the Council's approach to sustainable flood risk management and sustainable urban drainage systems (SUDS) respectively. Paragraph 167 of the NPPF requires local planning authorities to ensure that development does not increase flood risk elsewhere and requires certain planning applications to be accompanied by a Flood Risk Assessment.

##### *Assessment*

- 9.123. The application is supported by a Flood Risk Assessment which concludes that the site is in Flood Zone 1 and is generally at a low risk of flooding. A SUDS scheme is proposed to handle surface water run off and the rate of run off will be restricted to the greenfield run off rate. Foul water is to be discharged via a package treatment plant before discharging into a drainage field.
- 9.124. The Lead Local Flood Authority (LLFA) has reviewed the submitted information and have objected to the scheme. Their first concern is that the infiltration testing has been undertaken on a different area of the site to that which is proposed for the SUDS features and it should be undertaken on the same area as the SUDS are proposed. The LLFA also requires confirmation from the relevant body to discharge surface water to the existing watercourse and if phasing is proposed, a phasing plan is required.

9.125. The applicant's agent has advised that the whole site is believed to be on a impermeable mudstone and therefore infiltration techniques will be unfeasible anywhere on the site. Further, the watercourses adjacent to the land owned by the client are subject to riparian land rights and can therefore be used by the client. Ordinary watercourse consent will be sought post planning. Finally, the works are proposed in a single phase.

9.126. Officers have put the applicant's case to the LLFA and at the time of writing are awaiting a response. Members will be updated at planning committee if the LLFA have responded.

#### *Conclusion*

9.127. The application is supported by a detailed Flood Risk Assessment which includes a proposed drainage strategy. However, as the LLFA has objected to the scheme, it is considered that, at the time of writing, the applicant has not demonstrated that the site can be adequately drained and therefore compliance with policies ESD6 and ESD7 has not been proven.

#### Climate Change

##### *Policy Context*

9.128. Policies ESD1-5 of the CLP 2015 set out the Council's approach to mitigating and adapting to climate change, sustainable construction and renewable energy amongst other factors. The policies explain that the Council will distribute growth to the most sustainable locations, deliver development that reduces the need to travel and encourages sustainable travel options, promote sustainable construction methods and reduction in energy uses, and support renewable energy provision subject to adverse impacts being addressed.

##### *Assessment and Conclusion*

9.129. The Design and Access Statement sets out the measures that could be included in the scheme to improve the sustainability of the development. For the cabins these include rainwater harvesting and grey water harvesting, passive ventilation, high performance thermal insulation and potentially air or ground source heat pumps.

9.130. It is positive to see consideration of so many different ways to improve the sustainability of the site. Including suitable energy efficiency measures at the point of construction is easier and more effective than retrofitting buildings.

9.131. However, the submitted information only details measures that are being considered and does not guarantee that these measures will be included. Given the proposals are only at planning stage and detailed design would take place following the grant of planning permission, this is to be expected. Officers consider it would be appropriate to require details of the measures to be implemented to satisfy policies ESD1-5 by way of condition.

9.132. It should also be noted that the sustainability of the site forms part of the considerations around climate change. It is however felt that this has been adequately discussed in the principle section above.

#### Arboriculture

##### *Policy Context*

9.133. Policy ESD10 of the CLP 2015 aims to achieve protection and enhancement of biodiversity and the natural environment through a series of measures. These include protecting existing trees and aiming to increase the number of trees in the District. Policy ESD13 seeks to enhance the character and appearance of the landscape and supports the planting of woodlands, trees and hedgerows. These policies are consistent with paragraph 174 of the NPPF which requires planning decisions to recognise the benefits of trees.

#### *Assessment*

9.134. The application is supported by an Arboricultural Assessment which notes that no tree works are required to facilitate the proposals. Based on the nature of the works, position of the new access and car parking, along with the new cabins, Officers are satisfied this is accurate.

9.135. The Assessment acknowledges that several sections of hedgerow will be removed but notes that these could be removed without permission regardless of any planning application. Officers are satisfied that the removals proposed are reasonable in connection with the proposals and are no more than necessary.

9.136. The Assessment includes a Tree Protection Plan and protection measures to ensure the trees and hedges to be retained are protected. Officers have no objections to the measures proposed. These could be secured by planning condition.

9.137. With regard to the proposed landscaping, 45 new trees are proposed along with extensive native scrub planting, wetland planting, new hedgerows and new woodland. This will result in a net gain in planting on the site and accords with the above references policies.

#### *Conclusion*

9.138. Officers are satisfied that due regard has been given to retention and protection of existing trees and planting on the site. Further, the proposals result in significant additional planting on site which is positive and accords with the aim of the Local Plan and NPPF to secure additional tree planting.

#### Ecology Impact

##### *Legislative context*

9.139. 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.

9.140. 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.

9.141. 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.

9.142. 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.

9.143. 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*

9.144. Paragraph 174 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.

9.145. Paragraph 180 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.

9.146. Paragraph 185 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.

- 9.147. Policy ESD10 of the CLP 2015 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.
- 9.148. 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.
- 9.149. The Planning Practice Guidance on Protected Species and Development 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*

- 9.150. The application is supported by an Ecological Appraisal from Aspect Ecology. This explains that an extended phase 1 survey was conducted on the site in April 2022. No ecological designations were recorded on the site. The predominant habitat on site is improved grassland with areas of scrub and tall ruderal present. Features of ecological importance include trees, hedgerows, woodland, wet ditches and orchard. There are also three buildings on site.
- 9.151. In respect of protected species, the Appraisal explains that the site has potential for bats, badgers, water vole and otters. Birds are noted to nest within the site and reptiles may pass through the site. The main barn and associated tack room are noted to offer potential roosting features though no evidence of bat occupation was recorded and overall the Appraisal concludes the buildings provide low suitability for bats. However, given the scope of works to the main barn, it is recommended that, to accord with best practice guidance, the building is subject to further survey work in the form of a single dusk emergence or dawn re-entry survey. This survey work has not been done.
- 9.152. In addition to the Ecological Appraisal, a Biodiversity Net Gain Assessment has been submitted. Proposed ecological enhancement works include planting of native scrub, new woodland, wildflower grassland, new hedges and a new reedbed. Overall the proposals are considered to represent a 116.16% gain in habitats and a 9.24% gain in hedgerows.
- 9.153. The Council's Ecologist has reviewed both the Ecological Appraisal and Biodiversity Net Gain Assessment. Overall, the Council's Ecologist considers the proposals could result in a good level of overall net gain however raises concern over the absence of the second stage bat activity surveys on the building, noting that the bat interest on site remains unknown at this stage.
- 9.154. In the absence of these surveys, the Council's Ecologist explains that either the applicant should submit a full mitigation plan or, preferably undertake the required surveys. There would need to be sufficient flexibility in any plans to accommodate the mitigation strategy. The Ecologist notes that bats are a material planning consideration, and we need to be certain a licence from Nature England could be obtained if necessary.
- 9.155. Neither a full mitigation strategy or the relevant surveys have been provided and therefore at this stage Officers cannot advise whether a licence is required or would be likely to be granted. Further, the Ecologist notes that sufficient flexibility would have to exist in the plans to accommodate the mitigation strategy, however the nature of a



planning consent is that it approves a particular set of plans, not a range of possibilities therefore Officers are not satisfied that this approach, whilst suggested pragmatically, would be possible.

- 9.156. The Council's Ecologist has also recommended a CEMP for biodiversity and a LEMP which demonstrates how the proposed habitats on site will be managed to achieve the proposed conditions for a minimum of 30 years are required. Lighting details are also necessary. Officers are satisfied that these matters can be handled by planning condition.

#### *Conclusion*

- 9.157. The proposals bring significant biodiversity net gain which is positive and accords with the relevant policies within the Local Plan and NPPF. However, in the absence of further bat surveys recommended by the applicant's Ecologist, Officers are not satisfied that the potential impact on bats has been fully understood and therefore cannot determine whether it is likely or not that Natural England would grant a licence.
- 9.158. Having regard to the LPA's duty under the Conservation of Habitats and Species Regulations 2017, the lack of a suitable bat emergence or re-entry survey and proposed mitigation strategy means that it has not been demonstrated that the proposal will not cause harm to any protected species or its habitat which is reasonably likely to be present and affected by the development. The proposal is therefore contrary to Policy ESD10 of the CLP 2015, advice contained in the PPG and Natural England's Standing Advice, and section 15 of the NPPF.

#### Other Matters

- 9.159. Concern has been raised that this application may lead to further pressure to develop the site if approved. It is, however, a well established matter of planning law that only the development that is subject to this application can be considered. What may or may not come forward in the future is not relevant to determination of this application.
- 9.160. In respect of third party concerns about the safety of the swimming pond, this is a site management issue and is not relevant to consideration of this application. Whether the site has adequate electrical supply is not a material planning consideration.

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

- 10.1. The proposed events barn and cabin accommodation would bring benefits to the rural and visitor economies and help to meet a need for more visitor accommodation in the area. These benefits attract significant weight.
- 10.2. The proposals are, however, located in an inherently unsustainable location and guests would be reliant on the private car to access the site and to access local services and attractions once on site. It is acknowledged that the applicant proposes measures to improve the sustainability of the site however these are not considered to overcome the fundamental unsustainability of the site. Further, no evidence of a specific need for these facilities in this location has been identified. These matters weigh heavily against the proposals.
- 10.3. The need to promote sustainable patterns of development runs through both the development plan and the NPPF. This requires a balanced view and on this occasion, on the matter of principle, Officers do not consider the benefits outweigh the identified harm.

- 10.4. Officers have also concluded that both parts of the proposal would cause harm to the rural character of the area. This harm would be readily apparent from the popular canal route and therefore attracts significant weight against the proposal. However, whilst it has also been found there would be a small degree of harm to the significance of the Conservation Area, this is considered to be balanced by the economic benefits of the scheme. There are though no heritage benefits to weigh into the planning balance.
- 10.5. Subject to planning conditions, there are no highways, residential amenity or arboricultural matters to weigh against the proposal.
- 10.6. The proposal brings significant biodiversity net gains however the absence of a bat emergence survey weighs against this. It has also not been satisfactorily demonstrated that the site will be adequately drained. This also weighs against the proposal.
- 10.7. Overall, the proposal has merit; however, on balance it is recommended that the application is refused for the following reasons.

## **11. RECOMMENDATION**

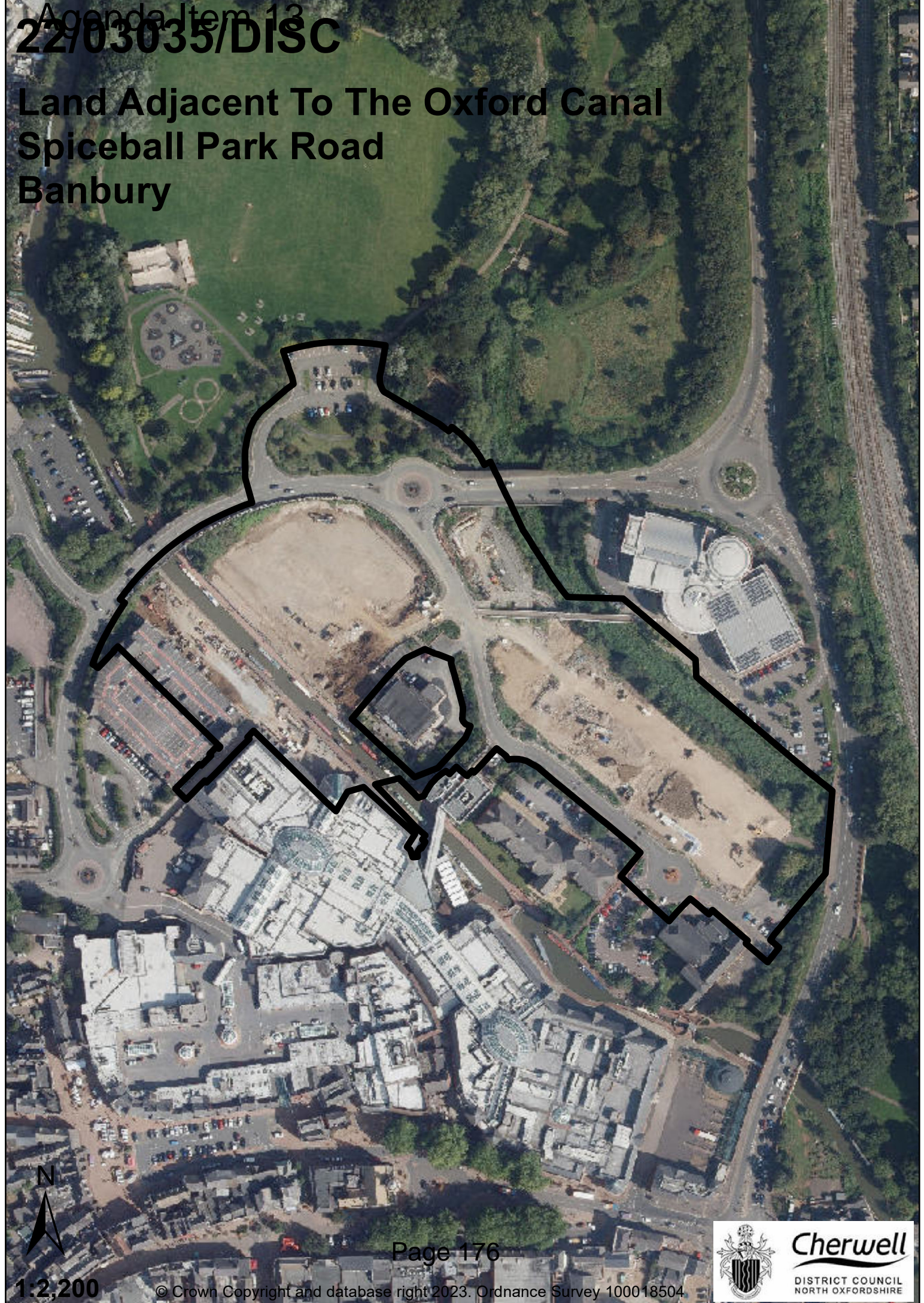
### **RECOMMENDATION - DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO REFUSE PERMISSION FOR THE REASONS SET OUT BELOW AND ANY AMENDMENTS TO THESE REASONS DEEMED NECESSARY:**

1. The proposal is in a location that is reliant on the private car for access and no specific need for the facility has been identified to meet the requirement of paragraph 85 of the NPPF. Further, there is no identified functional need for the proposal to be located in such an inaccessible rural position. Therefore, the proposal represents an unsustainable form of development in the open countryside that is contrary to policies SLE3 and ESD1 of the Local Plan and paragraphs 84 and 85 of the NPPF.
2. The proposed changes to the events barn are considered to harm its agricultural appearance and will result in significant light spillage into the local area. Further, the proposed use will result in a loss of tranquillity in the local area. Combined, these issues are considered to harm the rural character of the area and therefore the proposal is contrary to policies ESD13 and 15 of the CLP 2015, saved policy C28 of the CLP 1996 and paragraphs 130 and 185 of the NPPF.
3. By virtue of the significant mass of the proposed cabin accommodation, created by its grouping and extent, the cabins are considered to have an unacceptable urbanising effect on the rural landscape and would appear as an isolated addition to the landscape. The harm is exacerbated by the elevation of the site from the key public viewpoint along the canal and the potential light spillage from the glazing. Taken altogether Officers consider the proposed cabins would therefore unacceptably harm the rural agricultural character of the area and this would be contrary to policies ESD13 and 15 of the CLP 2015, saved policies C8 and C28 of the CLP 1996 and paragraph 130 of the NPPF.
4. In the absence of appropriate infiltration testing and details of permission to discharge to the relevant watercourse, it has not been demonstrated that the proposal would be adequately drained and therefore it is contrary to policies ESD6 and ESD7 of the CLP 2015.
5. Due to the absence of an appropriate second stage bat activity surveys the impact

of the proposals on bats as a protected species cannot be assessed. Therefore, the Local Planning Authority cannot be certain that the proposals would not harm any protected species. As such the scheme is contrary Policy ESD10 of the CLP 2031 Part 1, advice contained in the PPG and Natural England's Standing Advice, and section 15 of the National Planning Policy Framework.



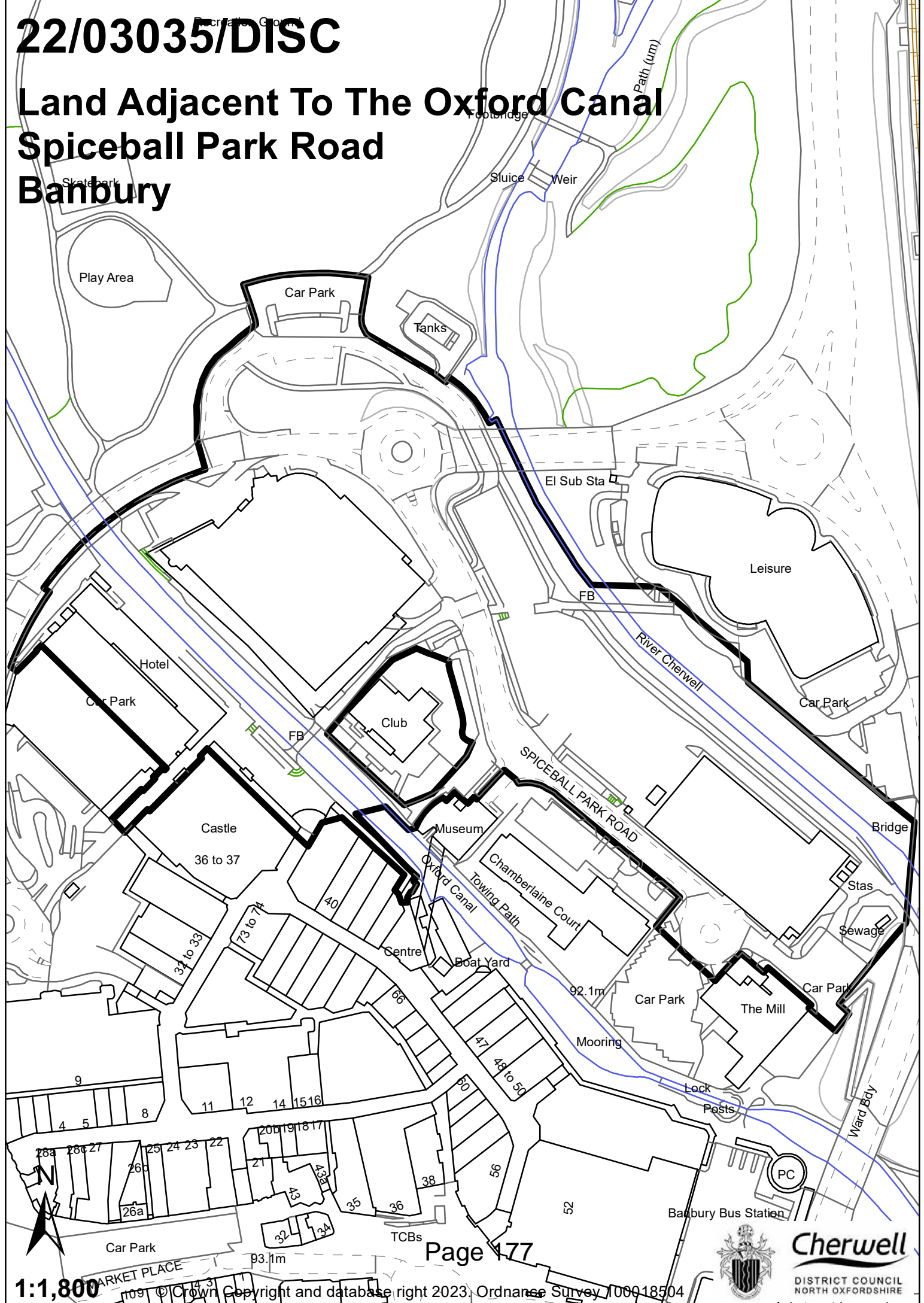
**Land Adjacent To The Oxford Canal  
Spiceball Park Road  
Banbury**





# 22/03035/DISC

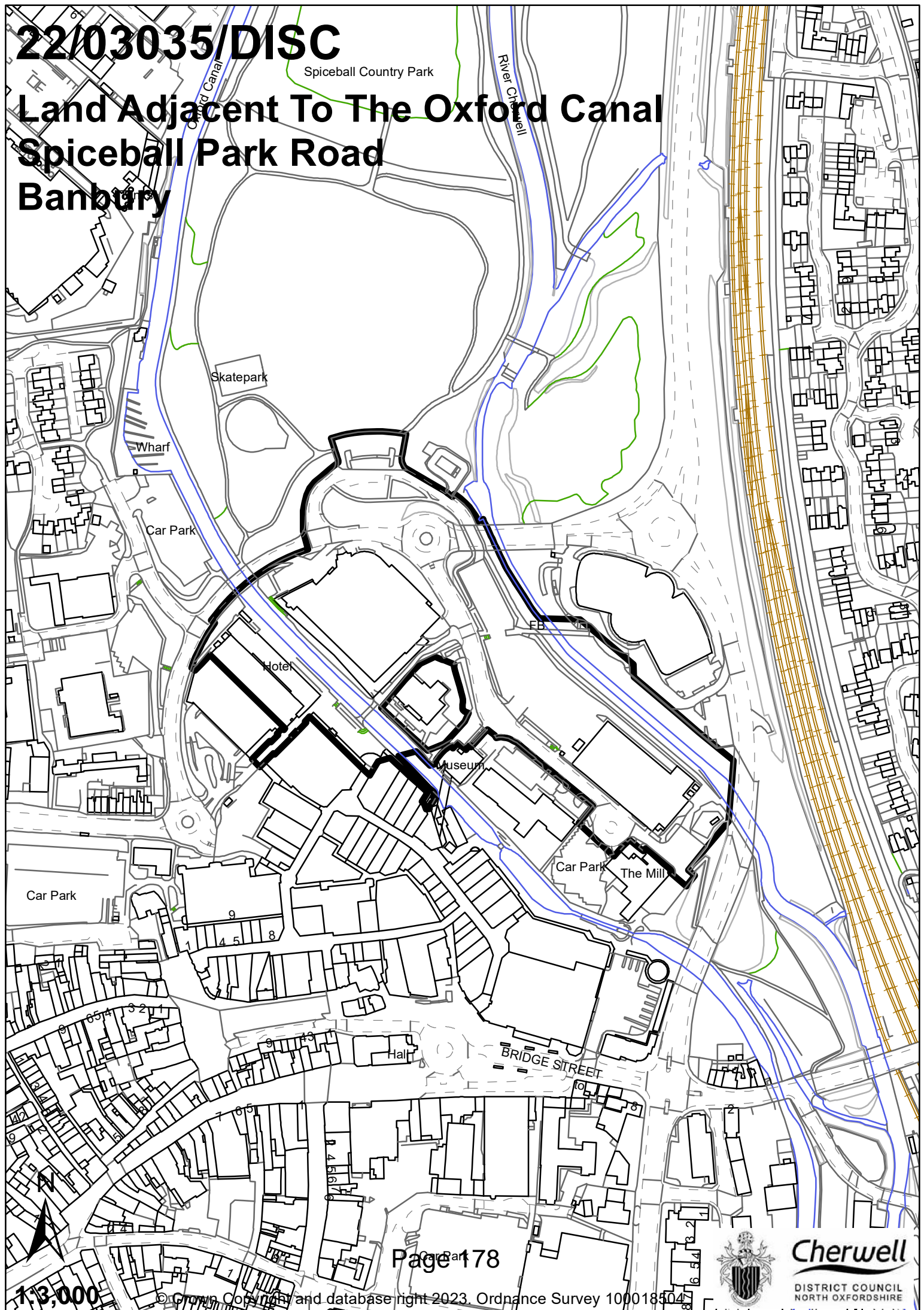
## Land Adjacent To The Oxford Canal Spiceball Park Road Banbury



# 22/03035/DISC

Spiceball Country Park

## Land Adjacent To The Oxford Canal Spiceball Park Road Banbury



**Case Officer:** Andy Bateson

**Applicant:** Ian Wallace

**Proposal:** Discharge of Condition 5 (servicing and waste) of 17/00284/REM  
Land Adjacent to the Oxford Canal, Spiceball Park Road, Banbury

**Ward:** Banbury Cross And Neithrop

**Councillors:** Cllr Banfield, Cllr Hodgson & Cllr Dr Okeke

**Reason for Referral:** Application affects Council's own land, and the Council is the applicant

**Expiry Date:** 29 November 2022

**Committee Date:** 13 April 2023

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## RECOMMENDATION: APPROVE

### 1. APPLICATION SITE AND DESCRIPTION OF APPROVED DEVELOPMENT

- 1.1. The application site relates to the Castle Quay 2 Block B (the Cinema block) service yard in Spiceball Park Road, on the edge of Banbury town centre.

### 2. CONDITIONS PROPOSED TO BE DISCHARGED

- 2.1. Condition 5 to reserved matters approval 17/00284/REM (reserved matters to outline approval 16/02366/OUT) – states: ***“Arrangements for the servicing and waste disposal from the Blocks shall be in accordance with the Servicing and Waste Strategy document prepared by Leslie Jones Architecture, dated July 2018. Thereafter and prior to the first use of the buildings, the refuse bin storage areas shall be provided in accordance with the approved details and retained unobstructed except for the storage of refuse bins. Details of the compactor proposed in Block B service yard shall be submitted to and approved by the Local Planning Authority prior to its installation.”***

### 3. RELEVANT PLANNING HISTORY

22/01150/ADV

Advertisement consent for 1No Logo Sign & 2No Fasci Signs – Approved.

21/04089/F

CQ2 Block B Terrace Area - Erection of enclosure area including full height glazed windows and retractable fabric roof and two green wall features – Approved.

17/00284/REM

Reserved Matters Application to 16/02366/OUT across the whole development site for scale, layout, appearance and landscaping – Approved.

16/02366/OUT

Removal/Variation of conditions 4 (list of approved drawings) and 9 (enhancement of River Cherwell) to 13/01601/OUT - Condition 4 varied to reflect alterations in the access and servicing strategy for Block C, with variations to maximum deviations in block; and Condition 9 removed, as no longer justified – Approved.

13/01601/OUT

Outline planning permission for redevelopment of land adjacent to the Oxford Canal comprising; demolition of the Castle Quay Shopping Centre northern car park and the General Foods Sports and Social Club; change of use of part of the ground floor of the Castle Quay Shopping Centre southern car park and associated works; erection of a retail foodstore (Use Class A1), hotel (Use Class C3), cinema (Use Class D2), restaurants and cafés (Use Class A3 and A4) and altered vehicular and pedestrian accesses, landscaping, construction of infrastructure, car parking and associated works, including glazed canopy over the Oxford Canal and construction of pedestrian/cycle bridges over the Oxford Canal and River Cherwell. Plus, details of new vehicular access off Cherwell Drive and alterations to Spiceball Park Road – Approved.

#### **4. PRE-APPLICATION DISCUSSIONS**

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

#### **5. RESPONSE TO PUBLICITY**

5.1. This application has been publicised by way of a site notice displayed near the site, 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 **26 October 2022**.

5.2. No comments have been raised by third parties.

#### **6. RESPONSE TO CONSULTATION**

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

6.2. BANBURY TOWN COUNCIL – No Comments received.

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

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

7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies re 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 2015)

- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

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

7.3. Other Material Planning Considerations:

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

## 8. APPRAISAL

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

Principle of development

Design, and impact on the character of the area

Heritage impact

### Principle of Development

- 8.2. Similar proposals for rear servicing yards with waste storage facilities have been previously approved throughout the Castle Quay 2 development at Blocks A and C and this proposal at Block B is not substantively different other than its visibility onto Cherwell Drive beside the canal bridge. As such, the principle of providing this Service Yard containing the Waste Compactor within the Castle Quay 2 Block B development area has been established.

### Design and Impact on the Character of the Area

- 8.3. Policy ESD15 of the Cherwell Local Plan seeks to ensure that developments are of an appropriate design, which is compatible with the local context in which they are situated.
- 8.4. The development, which is now retrospective, seeks to provide an area of enclosed service yard to the rear of the Block B Cinema building, fronting onto and directly served from the south side of Cherwell Drive, immediately to the west side of the canal bridge. Save for the vehicular access, the Service Yard is surrounded by tall brick walls of matching form and material construction to the rest of Block B. The waste compactor unit is located in the west side of the yard, close to the front boundary wall, which largely screens it in views from Cherwell Drive.
- 8.5. Overall, Officers consider the form, layout and design of the service yard and the positioning of the waste compactor acceptable within the context of the Castle Quay 2 development and wider area. The proposal accords with policy ESD15 of the Cherwell Local Plan 2031 and saved policy C29 of the 1996 Local Plan.

### Heritage Impact

- 8.6. The application site lies within the Oxford Canal Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of

development in a conservation area: special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

- 8.7. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.
- 8.8. The application site forms part of the Block B Cinema outdoor service yard, which has recently completed construction at the Castle Quay 2 development. The earlier grant of consents for a large-scale mixed-use development was considered to result in less than substantial harm to the significance of the Conservation Area that was outweighed by the public benefits of the scheme.
- 8.9. It is acknowledged that there has been substantial change within the Oxford Canal Conservation Area as a result of the Castle Quay 2 development. However, this has also increased the public usage of this area, which is considered to be of public benefit, increasing the understanding of the history of the wider site.
- 8.10. The application proposed a small service yard area for the delivery of goods and the storage of waste materials to be contained in a waste compactor, accessed from and fronting Cherwell Drive but surrounded by tall brick walling of matching design and material finish to the rest of the Block B Cinema that it serves. Overall, the design of the yard and positioning of the waste compactor accord with the previous outline and reserved matters approvals and is considered to be in-keeping with the Castle Quay 2 development and the Conservation Area.
- 8.11. Whilst there may be some less than substantial harm arising from the visibility of the yard from Cherwell Drive, this is considered to be limited given the context in which the development sits, as part of the wider Castle Quay development. The public benefits of providing the additional leisure attraction in the form of the Cinema that the service yard serves is considered to outweigh any less than substantial harm caused to the significance of the Conservation Area.
- 8.12. Overall, the proposal is considered to accord with both National and Local Planning Policies in respect of the impact the proposal would have on the significance of the Oxford Canal Conservation Area.

## **9. RECOMMENDATION**

- 9.1. That Planning Condition 5 of 17/00284/REM be discharged based upon the following:  
Condition 5:  
Approved drawings Compactor Location Plan - Centre Wide Plan Ref: CQ2-LJA-XX-00-DR-A-03309; and Waste Compactor Detailed Plan Ref: N 22 SHA.

## Cherwell District Council

### Planning Committee

13 April 2023

### Appeals Progress Report

### Report of Assistant Director Planning and Development

This report is public

#### Purpose of report

To keep Members informed about planning appeal progress including decisions received and the scheduling of public inquiries and hearings for new and current appeals.

#### 1.0 Recommendations

The meeting is recommended:

- 1.1 To note the position on planning appeals contained within the report.

#### 2.0 Introduction

- 2.1 This report provides a monthly update regarding planning appeals, including new appeals, status reports on those in progress, and determined appeals.

#### 3.0 Report Details

##### New appeals

- 3.1 **21/03066/OUT – Land North of Banbury Road, Finmere, MK18 4BW**  
OUTLINE application for up to 30 Dwellings and detailed access from Banbury Road, with all other matters reserved.

Officers Recommendations: Refusal (Committee)

Method of Determination: Hearing.

Start Date: 09/03/2023

- 3.2 **22/01354/OUT – 6 Goldsmith Close, Bicester, Oxon, OX26 2XT**  
OUTLINE application - Proposed new single dwelling to side garden of the existing property (Resubmission of 21/01041/OUT)

Officers Recommendation: Refusal (Delegated)  
Method of Determination: Written Representation.  
Start Date: 13/03/2023.

- 3.3 **22/01772/PIP – Land to Rear of Bridge House, Wendlebury, Oxon, OX25 2PW.**  
Residential development of 2-3 dwellings.

Officers Recommendation: Refusal (Delegated)  
Method of Determination: Written Representation  
Start Date: 13/03/2023.  
Appeal reference: 23/00067/REF

### **New Enforcement Appeals**

- 3.4 None

### **Appeals in Progress**

- 3.5 **20/01122/F - OS Parcel 9635 North East of HMP Bullingdon Prison, Piddington**  
Material Change of Use of land to use as a residential caravan site for 12no. gypsy/traveller families, each with two caravans, including improvement of access, laying of hardstanding and installation of package sewage treatment plant.

Officer recommendation: Refused (Committee)  
Method of determination: Hearing  
Hearing Date: Tuesday 22 November 2022  
Hearing Venue: River Cherwell Meeting Room, Bodicote House  
Start Date: 08.10.2021.  
Appeal reference: 21/00033/REF

- 3.6 **20/02192/LB - Manor Farm, Station Road, Hook Norton, OX15 5LS**  
Repairs, alterations and extension to dwellinghouse. Alterations to agricultural buildings to facilitate their conversion to ancillary residential use and erection of new buildings to be used ancillary to the dwellinghouse. Associated landscaping.

Officer Recommendation: Refused (Delegated)  
Method of determination: Hearing – 18/19 May 2022  
Start Date: 30.11.2021.  
Appeal reference: 21/00037/REF

- 3.7 **20/02193/F – Manor Farm, Station Road, Hook Norton, OX15 5LS**  
Repairs, alterations and extension to dwellinghouse. Alterations to agricultural buildings to facilitate their conversion to ancillary residential use and erection of new buildings to be used ancillary to the dwellinghouse. Associated landscaping.

Officer Recommendation: Refused (Delegated)  
Method of determination: Hearing – 18/19 May 2022  
Start Date: 30.11.2021.  
Appeal reference: 21/00036/REF

- 3.8 **21/02986/F – 2 The Orchard, Horton Cum Studley, OX33 1BW**  
Two storey rear/side extension and associated internal alterations.

Officer recommendation: Refused (Delegated)  
Method of determination: Householder (Fast Track)  
Start Date: 20.04.2022.  
Appeal reference: 22/00020/REF

3.9 **21/03190/F - Land North of Camp Road, East of Holly Trees and 1 Jalna Lodge, Camp Road, Upper Heyford**

Erection of dwelling, detached garage, widening of vehicular access and all associated works.

Officer recommendation: Application not determined.  
Method of determination: Written Representations  
Start Date: 21.06.2022.  
Appeal reference: 22/00034/NON

3.10 **21/03445/F – 41 Fernhill Road, Begbroke, OX5 1RR**

Extension and subdivision into two houses

Officer recommendation: Refused (Delegated)  
Method of determination: Written Representations  
Start Date: 10.08.2022.  
Appeal reference: 22/00038/REF

3.11 **21/04271/F - Land South of Faraday House, Woodway Road, Sibford Ferris**

Erection of 6 one storey age restricted dwellings (55 years) for older people with access, landscaping and associated infrastructure

Officer recommendation: Approval (Committee)  
Method of determination: Written Representations  
Start Date: 02.09.2022.  
Appeal reference: 22/00040/REF

3.12 **22/00173/CLUP – 15 Arncott Road, Piddington, OX25 1PS**

Certificate of Lawfulness of Proposed Development for the erection of a wooden workshop to be use for dog grooming services.

Officer recommendation: Refused (Delegated)  
Method of determination: Written Representations  
Start Date: 05.05.2022.  
Appeal reference: 22/00023/REF

3.13 **21/02573/F – Waverley House, Queens Avenue, Bicester, OX26 2PY**

Demolition of existing building and erection of building to form 48 numbered apartments together with landscaping, car parking, bin stores, secure cycle parking and associated infrastructure.

Officer Recommendation: Refusal  
Method of Determination: Hearing  
Hearing Date: 18 April 2023  
Hearing Venue: John Paul II Centre, Bicester  
Start Date: 24.01.2023.  
Appeal Reference: 23/00054/REF

3.14 **22/02210/F – 2 Cottage View, Great Close Road, Yarnton, Kidlington, OX5 1QW**

Remove existing garage and rear extension; erection of new single and two storey extensions to provide new garage and additional living space - re-submission of 21/04246/F.

Officer Recommendation: Refusal

Method of determination: Written Representation

Start Date: 26.01.2023.

Appeal Reference: 23/00056/REF

3.15 **2/02534/F – 46 Dashwood Avenue, Yarnton, Kidlington, OX5 1NJ**

Render existing house and retrospective application for front boundary treatment including dwarf wall, pillars, posts, and metal railings.

Officer Recommendation: Refused

Method of Determination: Written Representation (Fast Track)

Start Date: 26.01.2023.

Appeal Reference Number: 23/00055/REF

3.16 **22/02121/F – 10 Austin Way, Ambrosden, Bicester, OX25 2DA**

RETROSPECTIVE - Driveway Fence - To restore the property to the intended specification as agreed at the planning stage with the developer. This would take the form of a fence adjacent to the driveway. Side Fence - to replace the existing side fence with a fence of same or lower height, plus a gate to allow a degree of privacy and safety near the highway.

Officer Recommendation: Refusal

Method of Determination: Written Representation

Start Date: 02.02.2023.

Appeal Reference Number: 23/00057/REF

3.17 **22/01908/TEL56 - Street Record, Lucerne Avenue, Bicester**

Proposed 5G telecoms installation: H3G street pole and additional equipment cabinets.

Officer Recommendation: Refusal

Method of Determination: Written Representation

Start Date: 13.02.2023.

Appeal Reference Number: 23/00059/REF

3.18 **21/00078/ENF – Cherwell Concrete – Bagnalls Haulage Ltd, Bagnalls Coal Yard, Station Road, Enslow, Kidlington, OX5 3AX**

Without planning permission, the material change of use of the land to a concrete batching plant and the erection of associated apparatus including a conveyor, corrugated enclosure, hoppers, and storage tanks.

Officers Recommendation: Enforcement Notice

Method of Determination: Written Representation

Start Date: 09.002.2023.

Appeal Reference Number: 23/00061/ENF

3.19 **21/00078/ENF – Mr & Mrs Murphy – Bagnalls Haulage Ltd, Bagnalls Coal Yard,**

### **Station Road, Enslow, Kidlington, OX5 3AX**

Without planning permission, the material change of use of the land to a concrete batching plant and the erection of associated apparatus including a conveyor, corrugated enclosure, hoppers and storage tanks.

Officers Recommendation: Enforcement Notice

Method of Determination: Written Representation

Start Date: 09.02.2023.

Appeal Reference Number: 23/00060/ENF

### **Forthcoming Public Inquiries and Hearings between 9 March 2023 and 12 April 2023**

3.20 None

### **Appeal Results**

3.21 **21/04271/F – The Planning Inspector dismissed the appeal by Blue Cedar Homes**

**Limited for Erection of 6 one storey age restricted dwellings (55 years) for older people with access, landscaping and associated infrastructure.**

Officer recommendation: Approval (Committee)

Method of determination: Written Representations

Start Date: 02.09.2022.

Appeal reference: 22/00040/REF

Although the decision on the appeal was made on 9 March, the decision was arrived at in the context of a 3.5 years housing land supply.

The Inspector identified that the main issues are whether the housing would be appropriately located, having regard to the character and appearance of the area, and future residents' accessibility to services and facilities.

On the matter of planning policy, the Inspector agreed with the view of the Inspector on the neighbouring site, i.e. that this scale of development at the Sibfords was acceptable in principle.

The Inspector held that the development would boost housing supply in a district with an acute need because of a deteriorating 5 Year Housing Land Supply position. It would meet a demand for a specialised group in need whilst also adding to the variety of housing within the district and that residents would have reasonable access to services and facilities for a rural area and they would support them in Sibford Ferris and neighbouring villages. There would therefore be an economic and social benefit arising from the development.

The Inspector highlighted that the lack of 5 Year Housing Land Supply meant that the tilted test within paragraph 11 d) ii of the Framework applied and reduced the weight to be given to policy conflicts, Policies BSC 1 and ESD 15 of the Local Plan and Saved Policy C28 of the Local Plan 1996.

However, the Inspector considered that in terms of design and appearance of the development there would be significant harm to be rural character and appearance of the area, and given 6 dwellings are proposed, the benefits would be modest. Paragraph 126 of the NPPF states that the creation of a high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. The Inspector held that the proposal would fall considerably short of this requirement by failing to be sympathetic to local character and history, including the surrounding built environment and landscape setting. As such, the Inspector found the policy conflicts based on design to be significant and overriding and that there would be conflict with the development plan taken as a whole.

The Inspector concluded that the harm to the character and appearance would be significant, demonstrably outweighing the modest benefits. Consequently, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. The Inspector held that there were no material considerations of sufficient weight or importance that determine that the decision should be taken other than in accordance with the development plan, and dismissed the appeal.

The Inspector also refused the appellant's associated application for costs against the Council.

### 3.22 **22/01488/OUT - OS Parcel 5616 South West Of Huscote Farm And East Of Daventry Road, Banbury.**

Construction of up to 140,000 sq m of employment floorspace (use class B8 with ancillary offices and facilities) and servicing and infrastructure including new site accesses, internal roads and footpaths, landscaping including earthworks to create development platforms and bunds, drainage features and other associated works including demolition of the existing farmhouse.

Officers Recommendation: Application not yet determined.

Method of determination: Public Inquiry.

Hearing Date: 11 April – 20 April 2023

Start Date: 21.12.2022.

Appeal Reference: 22/00053/NON

### **Appeals Withdrawn by Appellant**

- 3.23 A non-determination appeal submitted by Greystoke CB on 25 November 2022 (Ref: **APP/C3105/W/22/3296229**) against the failure of Cherwell District Council to determine an outline planning application (Ref: **22/01488/OUT** ) at Huscote Farm near M40 Junction 11 with the A361 and A422 on the eastern edge of Banbury for the construction of up to 140,000sqm of B8 warehouse/distribution floorspace (with ancillary offices and facilities) and associated infrastructure including new site accesses, internal roads and footpaths, landscaping including earthworks, drainage features and other associated works and including demolition of the existing farmhouse was belatedly withdrawn by the Appellant on 15 March 2023.

The withdrawal occurred less than four weeks before a Public Inquiry was scheduled to start on 11 April at Banbury Town Hall and followed a failure by the



Appellant to submit any Proofs of Evidence to support its appeal and an earlier failure to submit Statements of Common Ground.

Those failures and the belated withdrawal of the appeal, Cherwell District Council as LPA, National Highways and Oxfordshire County Council as Local Highway Authority and Local Lead Flood Authority have all separately applied to the Planning Inspectorate for a full award of costs to be made against the Appellant for their unreasonable behaviour in respect to the appeal. A further update will be reported in due course when we know the result of those costs applications.

#### **4.0 Conclusion and Reasons for Recommendations**

4.1 The report provides the current position on planning appeals which Members are invited to note.

#### **5.0 Consultation**

None.

#### **6.0 Alternative Options and Reasons for Rejection**

6.1 None. This report is submitted for information.

#### **7.0 Implications**

##### **Financial and Resource Implications**

7.1 There are no financial implications arising from this report. The report is for information only. The cost of defending appeals is met from existing budgets other than in extraordinary circumstances.

Comments checked by:  
Kimberley Digweed, Service Accountant  
[kimberley.digweed@cherwell-dc.gov.uk](mailto:kimberley.digweed@cherwell-dc.gov.uk)

##### **Legal Implications**

7.2 As this report is purely for information there are no legal implications arising from it.

Comments checked by:  
Shahin Ismail, Interim Monitoring Officer,  
[shahin.ismail@cherwell-dc.gov.uk](mailto:shahin.ismail@cherwell-dc.gov.uk)

##### **Risk Implications**

7.3 This is an information report where no recommended action is proposed. As such there are no risks arising from accepting the recommendation. Any arising risk will

be managed through the service operational risk and escalated to the Leadership Risk Register as and when necessary.

Comments checked by:

Celia Prado-Teeling, Performance & Insight Team Leader, 01295 221556

[Celia.Prado-Teeling@Cherwell-dc.gov.uk](mailto:Celia.Prado-Teeling@Cherwell-dc.gov.uk)

### **Equalities and Inclusion Implications**

- 7.4 This is an information report where no recommended action is proposed. As such there are no equality implications arising from accepting the recommendation.

Comments checked by:

Celia Prado-Teeling, Performance & Insight Team Leader, 01295 221556

[Celia.Prado-Teeling@Cherwell-dc.gov.uk](mailto:Celia.Prado-Teeling@Cherwell-dc.gov.uk)

## **8.0 Decision Information**

### **Key Decision**

**Financial Threshold Met:** N/A

**Community Impact Threshold Met:** N/A

### **Wards Affected**

Various, depending on appeal

### **Links to Corporate Plan and Policy Framework**

N/A

### **Lead Councillor**

Councillor Colin Clarke, Portfolio Holder for Planning

### **Document Information**

#### **Appendix number and title**

None

#### **Background papers**

None

### **Report Author and contact details**

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