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Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Committee: Planning Committee

Date: Thursday 5 December 2024

Time: 4.00 pm

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

Membership

Councillor Barry Wood (Chairman)

Councillor Rebecca Biegel
Councillor John Broad
Councillor Becky Clarke MBE
Councillor Grace Conway-Murray
Councillor Ian Harwood
Councillor Fiona Mawson
Councillor Rob Parkinson
Councillor Les Sibley

Councillor Amanda Watkins (Vice-Chairman)

Councillor Chris Brant
Councillor Phil Chapman
Councillor Jean Conway
Councillor Dr Isabel Creed
Councillor David Hingley
Councillor Lesley McLean
Councillor David Rogers
Councillor Dr Kerrie Thornhill

Substitutes

Councillor Nick Cotter
Councillor Harry Knight
Councillor Dr Chukwudi Okeke
Councillor Rob Pattenden
Councillor Dorothy Walker
Councillor Douglas Webb

Councillor Andrew Crichton
Councillor Andrew McHugh
Councillor Lynne Parsons
Councillor Edward Fraser Reeves
Councillor Linda Ward
Councillor John Willett

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 - 19)

To confirm as a correct record the Minutes of the meeting of the Committee held on 7 November 2024.

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. **Dewey Sports Centre, Barley Close, Bloxham, OX15 4NJ** (Pages 22 - 41)

24/01906/F

9. **Playground, Morton Close, Kidlington** (Pages 42 - 62)

24/02712/F

Review and Monitoring Reports

10. **Appeals Progress Report** (Pages 63 - 77)

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 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.

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Queries Regarding this Agenda

Please contact Matt Swinford / Martyn Surfleet, Democratic and Elections
democracy@cherwell-dc.gov.uk, 01295 221534

Shiraz Sheikh
Monitoring Officer

Published on Wednesday 27 November 2024

Cherwell District Council

Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, Oxon OX15 4AA, on 7 November 2024 at 4.00 pm

Present:

Councillor Barry Wood (Chairman)
Councillor Amanda Watkins (Vice-Chairman)
Councillor Rebecca Biegel
Councillor Chris Brant
Councillor John Broad
Councillor Phil Chapman
Councillor Becky Clarke MBE
Councillor Jean Conway
Councillor Grace Conway-Murray
Councillor David Hingley
Councillor Fiona Mawson
Councillor Rob Parkinson
Councillor David Rogers
Councillor Les Sibley
Councillor Dr Kerrie Thornhill

Substitute Members:

Councillor Douglas Webb (In place of Councillor Ian Harwood)
Councillor John Willett (In place of Councillor Lesley McLean)

Apologies for absence:

Councillor Dr Isabel Creed
Councillor Ian Harwood
Councillor Lesley McLean

Also Present Virtually:

Councillor Ian Middleton, (Speaking as Ward Member on application 24/02212/F- agenda item 9 / Minute 79)

Officers:

Paul Seckington, Head of Development Management
Katherine Daniels, Principal Planning Officer
Thomas Webster, Principal Planning Officer
Karen Jordan, Deputy Principal Solicitor

Matt Swinford, Democratic and Elections Officer
Martyn Surfleet, Democratic and Elections Officer

72 **Declarations of Interest**

10. 60 Castle Quay Banbury OX16 5UW

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

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

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

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

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

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

73 **Requests to Address the Meeting**

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

74 **Minutes**

The Minutes of the meeting held on 3 October were agreed as a correct record and signed by the Chairman.

75 **Chairman's Announcements**

There were no Chairman's announcements.

76 **Urgent Business**

There were no items of urgent business.

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

The Committee considered a proposed site visit to Land to the East of Stratfield Brake and West of Oxford Parkway Railway Station, Oxford Road, Kidlington, for application 24/00539/F, an outline application for the erection of a stadium (Use Class F2) with flexible commercial and community facilities and uses including for conferences, exhibitions, education, and other events, club shop, public restaurant, bar, health and wellbeing facility/clinic, and gym (Use Class E/Sui Generis), hotel (Use Class C1), external concourse/fan-zone, car and cycle parking, access and highway works, utilities, public realm, landscaping and all associated and ancillary works and structures.

Due to the scale and significance of the proposal, officers had requested the Committee consider whether they wished to carry out a formal site visit prior to their consideration of the application.

It was proposed by Councillor Wood and seconded by Councillor Watkins that a site visit take place before application 24/00539/F was considered by the Committee because there was high public interest in the application.

Resolved

- (1) That a formal site visit for application 24/00539/F take place prior to consideration of the application by Planning Committee.

78 **Os Parcels 7685 6871 8775 1582 3675 3173 1865 0250 8545 7331 1724
And Part 0006 Adjoining Stratford Road A422 Wroxton**

The Committee considered application 24/00375/F for the formation of two fishing lakes, two nursery lakes, the siting of 15 accommodation lodges, 8 pods, a management building and ancillary vehicular access, parking, and landscaping at Os Parcels 7685, 6871, 8775, 1582, 3675, 3173, 1865, 0250, 8545, 7331, 1724, And Part 0006 Adjoining Stratford Road A422 Wroxton, for ATE Farms.

John Offord, Chair of Hornton Parish Council and Dr James Hartley a Councillor on Shenington with Alkerton Parish Council, addressed the meeting in objection to the application.

Lance Wiggins, Agent, addressed the meeting in support of the application.

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

Resolved

That, in line with officers' recommendation, authority be delegated to the Assistant Director for Planning and Development to refuse planning permission for the reasons set out below (and make minor amendments if required).

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 89 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 88 and 89 of the NPPF.
2. By virtue of the significant mass of the proposed development, created by it is the engineering work involved, location of structures within the site, it is 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 footpaths running through the site. Taken altogether Officers consider the proposed development 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 134 of the NPPF.
3. Insufficient information has been submitted to demonstrate the acceptability of the proposal on highway safety, therefore it is considered to be contrary to Policies SLE4, ESD15 of the CLP 2015 and paragraph 115 of the Framework.
4. In the absence of any drainage documents, 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 protected species surveys as highlighted within the Preliminary Ecological Appraisal Report by Ramm Sanderson dated October 2023, the impact of the proposals on 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.
6. 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. As such, the proposal is contrary to Policy INF1 of the Cherwell Local Plan 2011-2031, CDC's Planning Obligations SPD 2018, Policy BL9 of the Bloxham Neighbourhood Plan 2015 - 2031 and Government guidance within the National Planning Policy Framework.

Reason for Refusal 5 and 3 may be removed/altered subject to the Local Highway Authority and Ecology removing their objection.

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

The Committee considered application 24/02212/F, for the erection of two buildings, forming eighteen apartments, and associated works at Kidlington Garage, 1 Bicester Road, Kidlington, OX5 2LA for Sweetcroft Homes.

Councillor Ian Middleton, local Ward Member, addressed the meeting in objection to the application.

Henry Venners, agent, of JPPC, addressed the meeting in support of the application.

In reaching its decision the Committee considered the officer's report and presentation, the address of the Ward Member and the written updates.

Resolved

That, in line with officers' recommendation, authority be delegated 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 an additional condition to ensure that sustainable building methods and material are used: wording to be confirmed in the decision notice, and
2. In accordance with the heads of terms (annex to the Minutes as set out in the Minute Book), the Completion of a planning obligation under section 106 of the town and country planning act 1990, as substituted by the planning and compensation act 1991, to secure the following (and any amendments as deemed necessary)
3. The amending of the sports contributions as detailed within this written update and
4. To review, discuss and determine OCC highways bus contribution
 - a) Off-site outdoor sports facilities provision at Stratfield Brake - £25,111.98
 - b) Off-site indoor sports facilities provision at Kidlington and Gosford Leisure Centre - £10,019.36
 - c) Community Hall Facilities (Exeter Hall) - £13,725.46
 - d) Waste and Recycling Facilities - £1,834
 - e) Traffic Regulation Order - £6225
 - f) Public Transport Services (for retention and/or improvement of bus services between Kidlington and the Eastern Arc (Hospitals/Brookes). - £23868
 - g) Off-site affordable housing contribution (Subject to viability review mechanism)
 - h) CDC - £1,500 towards monitoring fees

i) OCC - £730.00 towards monitoring fees

It was further resolved that if the section 106 agreement/undertaking was not completed by 12 November 2024 and the permission was not able to be issued by this date and no extension of time had been agreed between the parties, the Assistant Director for Planning and Development be 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 contrary to Policies PR2, PR4a, PR4b, PR5, PR8 and PR12 of the Cherwell Local Plan Partial Review, Policies BSC7, BSC10, BSC11, BSC12, SLE4 and INF1 Cherwell Local Plan 2015 and the aims and objectives of 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.

Approved Plans

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:
 - 18112 -LP010 -A - Location Plan dated 30.10.2023
 - 18112 0011 C – Site Layout
 - 18112-PP0010-B – Block Plan
 - 18112-PP1030-B – Block A Floor Plans
 - 18112-PP2031- Block B Floor Plans
 - 18112-PE1011-B – Block A Elevations
 - 18112-PE2012- Block B Elevations
 - 18112-PS0013-A – Site Sections
 - Biodiversity Enhancement Plan – updated October 2024

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.

Landscape Scheme

3. A scheme for landscaping the site shall be provided to and approved in writing by the Local Planning Authority which shall include: -
 - 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),
 - 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,
 - details of the hard landscaping including hard surface areas, pavements, pedestrian areas, and steps.

Such details shall be provided prior to the development progressing above slab level, other than demolition works, 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, Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Materials

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 each 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.

Doors and windows 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.

Access

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.

Car Parking

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.

Drainage

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.

Contaminated Land Risk Assessment

9. Once the site has been cleared and the existing buildings demolished, 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 "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 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.

Contaminated Land Risk Assessment

10. If contamination is found by undertaking the work carried out under condition 9, prior to the commencement of the development hereby permitted, other than demolition works, 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.

Contaminated Land Remedial Works

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

Reason: To ensure that 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.

Contaminated Land Remediation Strategy

12. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the

local planning authority. These approved schemes shall be carried out before the development [or relevant phase of development] is resumed or continued.

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 Design

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 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.

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.

Boundary Treatments

15. 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. Any close boarded fencing shall have hedgehog holes provided.

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.

Noise Levels

16. 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.

CEMP

17. The development shall be carried out in accordance with the approved Construction Environmental Management Plan, dated 30 April 2024

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

Lighting

18. 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. No additional lighting shall be added without the approval of the Local Planning Authority.

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 to Eastern Windows of Block A

19. The windows at ground floor, first floor, second floor and third floor level in the eastern side elevation that serve the habitable living areas of flats 101, 201, 301, 401 and 403, as shown on 18112-PP1030-B – Block A Floor Plans, shall be permanently retained with purpose made obscure glazing and shall only have openable parts that are above 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.

Privacy Screen

20. Prior to the commencement of development, details of a privacy screen to be installed to the northern elevation of the balcony area, which serves flat 403, shall be submitted in writing to the Local Planning Authority for its approval, and unless the approved privacy screen is constructed prior to the first occupation of the building, the use of the balcony area shall cease until such time as the approved privacy screen is constructed. Once erected, the privacy screen shall thereafter be retained.

The details of the privacy screen shall include:

- confirmation of the height of the screen, as measured from the surface on which it is mounted. It will need to be at least 1.8 metres in height for the entire length of the screen.
- confirmation of the exact length and position of the screen, by showing it on a scaled plan.
- confirmation of the construction of the screen. Obscured glass must comply with same level of Pilkington Level 3 or higher. There should be no gaps in the screen.

Reason: To safeguard the amenity of the occupiers at Mulberry Court, former 3 Bicester Road and to comply with Policy ESD15 of the Cherwell Local Plan 2011- 2031 Part 1, Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Water Usage (110 litres) – PC

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

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

1 and government guidance contained within the National Planning Policy Framework.

80 **60 Castle Quay Banbury OX16 5UW**

The Committee considered application 24/01980/F for the change of use from Class E to F1 Educational support at 60 Castle Quay Banbury OX16 5UW for Mr Mehdi Mohajeri.

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

Resolved

That, in line with the officer's recommendation, authority be delegated to the Assistant Director for Planning and Development to grant permission subject to the following conditions.

Conditions

Time Limit

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

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

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the form and following approved plans and documents: site location plan, proposed floor plan, Kumon Planning Statement and information received by email on 30/09/2024 at 15:39hrs from Louise Mohajeri.

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

81 **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.

Following questions from the Committee regarding the difference between a Public Inquiry and Informal Hearing in respect of a planning appeal, the Head of Development Management explained that at a Public Inquiry, Barristers represent the appellant and local planning authority at an Inquiry and expert witnesses are examined and cross examined by both sides. At an Informal Hearing, the parties are not cross examined, rather the discussion is more of a round table discussion between the parties.

Resolved

- (1) That the position statement be accepted.

The meeting ended at 5.53 pm

Chairman:

Date:

Agenda Annex

CHERWELL DISTRICT COUNCIL

Planning Committee – 5 December 2024

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.

Item No.	Site	Application Number	Ward	Recommendation	Contact Officer
8	Dewey Sports Centre, Barley Close, Bloxham, OX15 4NJ	24/01906/F	Adderbury, Bloxham and Bodicote	Approval*	Katherine Daniels
9	Playground, Morton Close, Kidlington	24/02712/F	Kidlington East	Approval*	Rebekah Morgan

*Subject to conditions

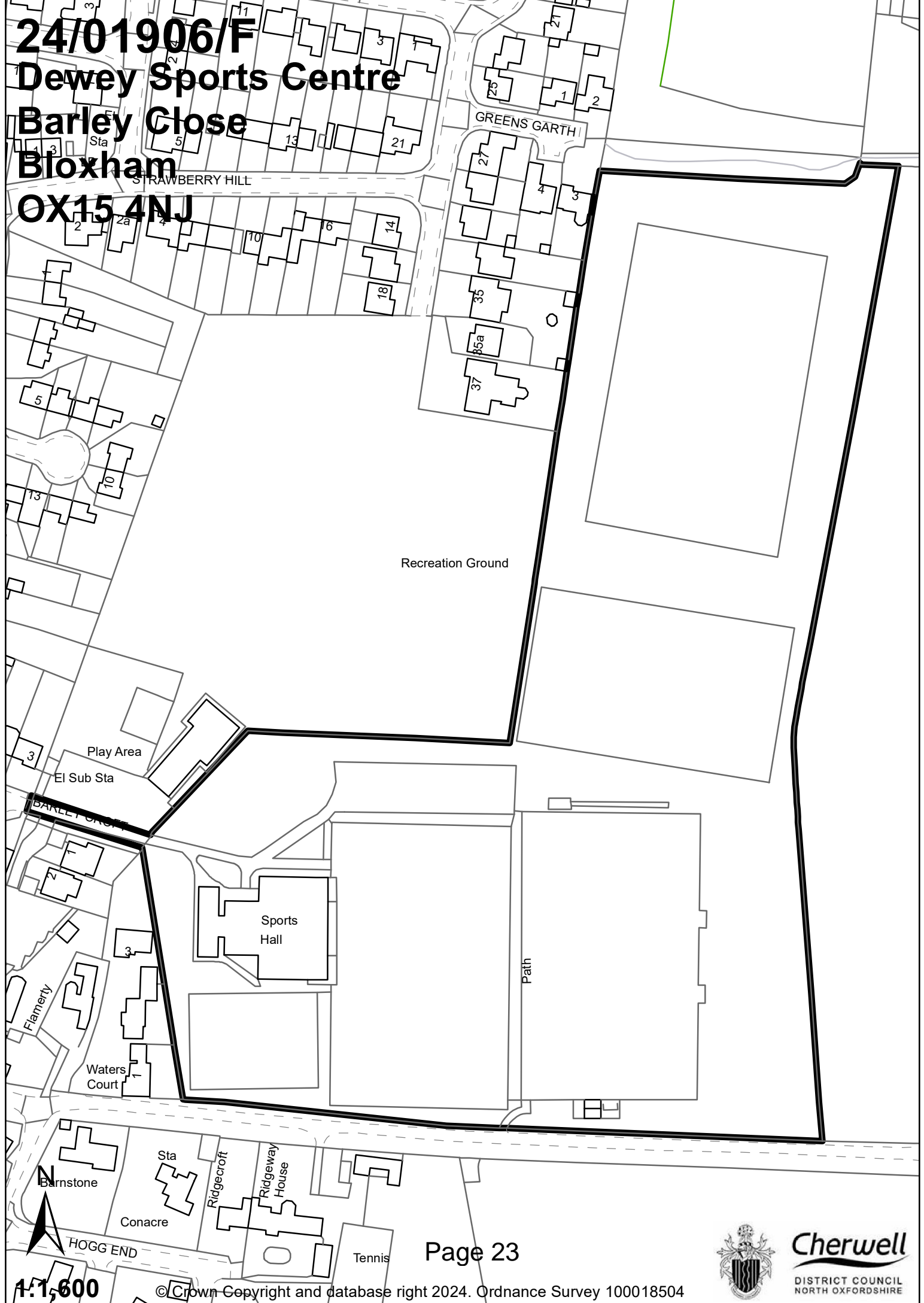
Cherwell District Council Democratic and Elections Team, Bodicote House, White Post Road, Bodicote, Banbury, OX15 4AA

Agenda Item 8
24/01906/F
Dewey Sports Centre
Barley Close
Bloxham
OX15 4NJ



1:2,600

24/01906/F
Dewey Sports Centre
Barley Close
Bloxham
OX15 4NJ



Recreation Ground

Play Area

El Sub Sta

Sports Hall

Path

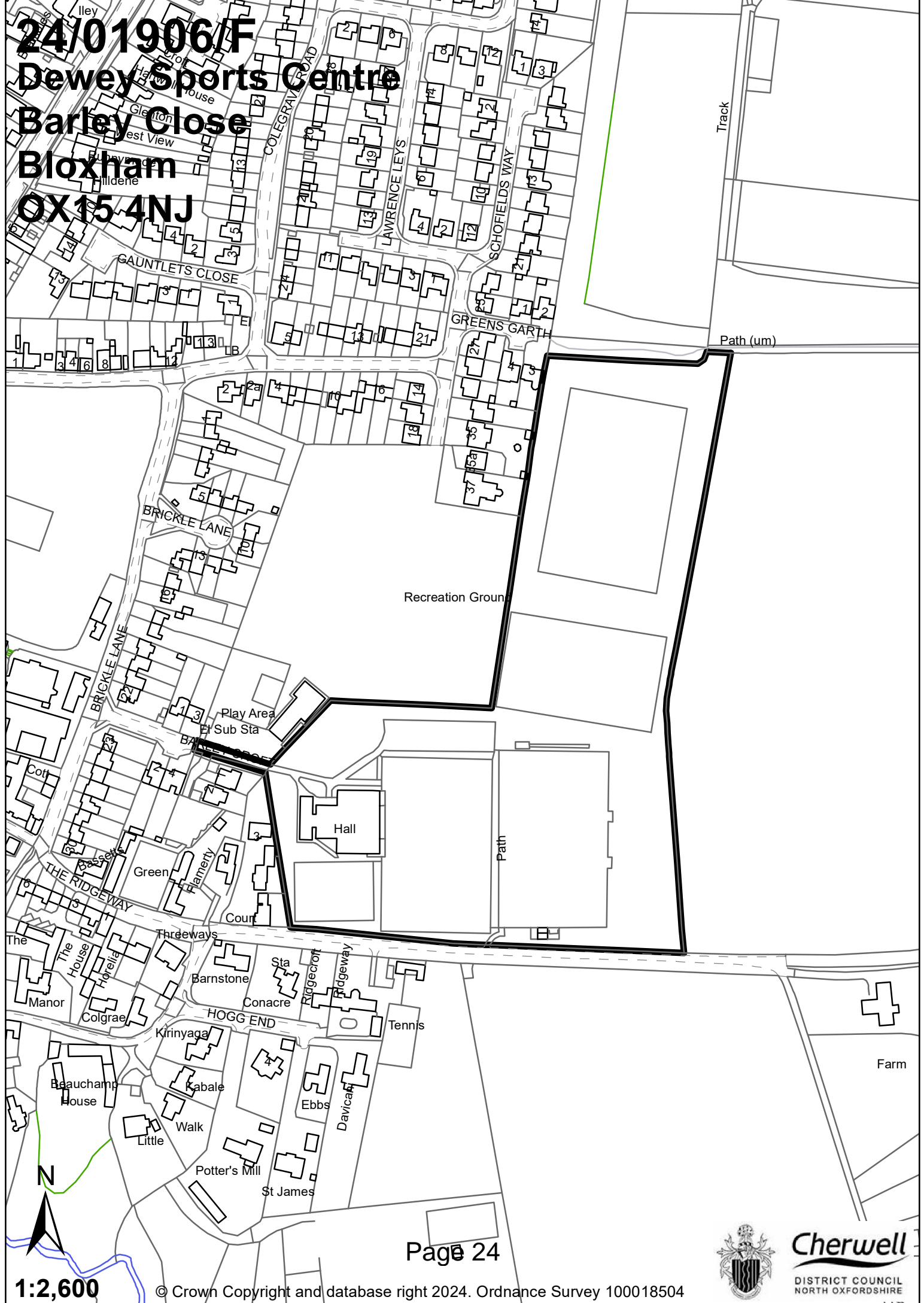
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1:1,600



24/01906/F
Dewey Sports Centre
Barley Close
Bloxham
OX15 4NJ



Case Officer: Katherine Daniels

Applicant: Bloxham School

Proposal: Front and rear extensions and alterations to the Dewey sports centre, installation of 12no sports lighting columns, 5no netball/tennis courts, 1no artificial cricket wicket, 1no replacement long jump pit, 1no storage container, improvements to existing access and car parking, provision of additional car parking, associated drainage, renewable energy and sustainability measures, hard and soft landscaping and biodiversity enhancements.

Ward: Adderbury, Bloxham And Bodicote

Councillors: Councillors Blakeway, Pattenden and Hingley

Reason for Referral: Major development of 1,000+ sq m of floor space created

Expiry Date: 21 October 2024

Committee Date: 5 December 2024

SUMMARY RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

1.1. The application site comprises a pair of sport pitches with multi-use surfaces, currently used as a hockey pitch and tennis courts that are in the ownership Bloxham School. The pitches and an area of surrounding land which are the subject of this application are situated on the edge of the built up limits of Bloxham and just outside the Bloxham Conservation Area. The northern edge of the sport pitches borders the school playing fields, The Ridgeway, a track largely gravelled, runs parallel with the southern boundary. There are residential properties surrounding the wider sports complex.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

2.1. The proposal is for the extension to the front and rear of the existing Dewey building. This seeks to provide enhance sports facilities, including four separate changing areas, staff/official changing, medical room and reception at ground floor. A larger gym, spectator gallery and a new studio space at first floor.

2.2. The proposal involves the installation of 12 floodlights each 12m in height on Bloxham School's two artificial pitches. These are required to provide sufficient illumination, when required, for ball games such as tennis and hockey until 6pm. The proposed floodlights have asymmetric lighting profiles and would be used to direct the light to only the pitches and away from areas outside of the pitch. This would allow for pupils at the school to play for longer during winter months.

- 2.3. In addition to the floodlights, it is proposed to provide further car parking, with the loss of part of the adjacent playing fields. This is sought in order to relieve the pressure on the local road network by discouraging sport centre patrons from parking on the surrounding street. The expanded area of car parking would result in 31 additional parking spaces. The extension of the car park would lead to the loss of the long jump track in its present location, the sports field layout would be altered to allow for its repositioning.
- 2.4. The proposal also includes the formation of a new astro cricket pitch; five netball/tennis courts are proposed to the east of north of the existing astro pitches.

3. RELEVANT PLANNING HISTORY

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

Application: 18/01252/F Refused 31 October 2018

Erection of 12 floodlights, extension of existing car park, relocation of long jump, and associated landscaping

Application: 18/01852/F Application 14 June 2019
Withdrawn

External security lights to the car park and building at The Dewey Sports Centre, Bloxham School, Barley Close, Bloxham, Banbury, OX15 4NJ.

Application: 19/02826/F Permitted 5 February 2020

Car park lighting and security lighting

4. PRE-APPLICATION DISCUSSIONS

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

22/02358/PREAPP: Extension of Dewey Sports Centre, 5 no Netball/Tennis courts, sports lighting, car parking and landscaping.

- 4.2 There are several positive elements to the proposal, however also several areas that require further thought.

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 **14 August 2024**, 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:

33 Letters of objection have been received for the following reasons:

- Light pollution on the edge of the village affecting the night sky

- Cause extra noise and light pollution compared to the current low levels
- Cause additional traffic congestion, which is already high
- Impact upon the nearby conservation area
- Not in-keeping with the rural nature of the location
- The height of the columns will mean that floodlights will be seen for a significant distance beyond the immediate surroundings and will affect views on public rights of way.
- Should be refused on similar grounds to before
- Impact on ecology
- Additional noise and disturbance on the local residents

52 Letters of support have been received for the following reasons:

- Supports the school provide additional and enhanced facilities
- Will open it up to further community facilities.

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

6. RESPONSE TO CONSULTATION

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

NOTE: Responses are to be recorded in the example format given for the Parish Council below. Responses should be summarised and should not be copied and pasted in full. If it is necessary to quote from a response *include the quote in italics*

6.2 BLOXHAM PARISH COUNCIL: **Objects** increased level of traffic using the facilities, and the wider implications of that, impact on the wider locality including designated heritage assets, increased noise, impact on ecology

6.3 OCC HIGHWAYS: **No objections** subject to conditions

6.4 OCC LEAD LOCAL FLOOD AUTHORITY: **No objections**

6.5 OCC ARCHAEOLOGY: **No objections** subject to planning conditions.

6.6 CDC ECOLOGY: **Comments** The BNG is acceptable, and is satisfied that the lights being turned off at 6pm will not have a negative impact on protection species. Conditions are recommended.

6.7 SPORTS ENGLAND: **No objection**

6.8 CDC SPORTS AND RECREATION: **Comments** that the proposal would provide improvements evidenced in the latest sports studies. Including additional community use of the site.

- 6.9 CDC ENVIRONMENTAL HEALTH: Have no comments on noise, contaminated land, air quality or odour. Requests condition be imposed regarding the lighting to be used only when sporting activities take place.
- 6.10 *Officer comment:- Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the 1990 Act (as amended) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.*
- 6.11 *In this particular instance, the above financial payments are not considered to be material to the decision as they would not make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority and hence the above response from the Council's Finance department is therefore provided on an information basis only.*

7. RELEVANT PLANNING POLICY AND GUIDANCE

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

CHERWELL LOCAL PLAN 2011-2031 PART 1 (CLP 2015)

- PSD1 - Presumption in Favour of Sustainable Development
- 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
- BSC7 - Meeting Educational Needs
- BSC10 - Open Space, Outdoor Sport and Recreation Provision
- Policy Villages 4 - Meeting the Need for Open Space, Sport and Recreation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 - Layout, design and external appearance of new development
- C31 - Compatibility of proposals in residential areas
- ENV1 - Development likely to cause detrimental levels of pollution

BLOXHAM NEIGHBOURHOOD DEVELOPMENT PLAN (2015-2031)

- Policy BL9 - Policy on regard for the amenity of existing residents
- Policy BL11 - Policy on contributing to the rural character of the village
- Policy BL12 - Policy on the importance of space and key street scenes

7.3 Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

8. APPRAISAL

8.1 The key issues for consideration in this case are:

- Principle of development including loss of part of the playing field
- Design, and impact on the character of the immediate area including the setting of the Conservation Area
- Residential amenity
- Highways safety
- Protected species
- Other matters

Principle of Development

Policy Context

8.2 Policy BSC10 of the Cherwell Local Plan 2011-2031 (‘CLP 2015’) states amongst other things that the Council will encourage partnership working to ensure that sufficient quantity and quality of, and convenient access to open space, sport and recreation provision. Amongst other measure this will be achieved through qualitative enhancement to existing sporting provision. Policy BSC12 continues by stating that the Council will encourage the provision of community facilities to enhance the sustainability of communities and encourage partnership working to ensure that built sports provision is maintained. However, this Policy also states that this will be in accordance with local standards of provision by the following means:

- *Protecting and enhancing the quality of existing facilities*
- *Improving access to existing facilities*
- *Ensuring that development proposals contribute towards the provision of new or improved facilities where the development would generate a need for sport, recreation and community facilities which cannot be met by existing provision.*

8.3 The NPPF seeks to ensure that places are safe and accessible and support healthy lifestyles as underlined by paragraph 96 which states, amongst other things, that planning policies and decisions should aim to achieve healthy, inclusive and safe places which: enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling. Paragraph 96 continues by stating that to ensure social, recreational and cultural facilities and services the community needs, are provided planning policies and decisions should: a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open

space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments; b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community.

Assessment

- 8.4 A previous application on the Dewey Sports centre for 12 floodlights was refused under application reference 18/01252/F for the following reason:

The site is prominent within an attractive and visually sensitive landscape which affords wide-ranging views to Bloxham village. The proposed twelve 12.5m masts with floodlights, due to their siting, scale and illumination, would create a substantial block of light beyond the built confines of the village and highly visible in the landscape. As such, the proposal would have a visually intrusive impact, harmful to the intrinsic character of the surrounding area. Therefore, and in the absence of sufficient mitigation of the visual harm, the proposed development would be contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996, Policy BL11 of the Bloxham Neighbourhood Plan 2015-2031 and Government guidance contained in the National Planning Policy Framework.

- 8.5 The principle of the additional lighting, and alterations to the existing sport field was considered to be acceptable in principle. The main difference between this application and the previous application is that this application includes an extension to the existing Dewey Centre itself.
- 8.6 The school is an existing facility within Bloxham, and it provides a sporting facility for both the school and the community. Neither Sports England or the Council's Sports and Recreation Officer objects to the proposal, as it would enhance the current facilities.

Conclusion

- 8.7 The principle of developing the site for increased sport and recreation on an existing site is considered to be acceptable. The previous application was not recommended for refusal based on the principle; therefore, the acceptability of the proposal depends on other considerations as set out below.

Design, and impact on the character of the immediate area including the setting of the Conservation Area

Policy Context

- 8.8 Paragraph 131 of the NPPF states that: 'Good design is a key aspect of sustainable development' and that it 'creates better places in which to live and work'. This is reflected in Policy ESD15 of the CLP 2015, which states that new development proposals should: *be designed to improve the quality and appearance of an area and the way it functions...contribute positively to an area's character and identity by creating or reinforcing local distinctiveness...(and) respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings.*
- 8.9 Policy ESD 13 of the CLP 2015 states that 'opportunities will be sought to secure the enhancement of the character and appearance of the landscape, particularly in urban fringe locations, through the restoration, management or enhancement of existing landscapes, features or habitats and where appropriate the creation of new

ones, including the planting of woodlands, trees and hedgerows.’ It goes on to state that ‘Development will be expected to respect and enhance local landscape character’ and that proposals will not be permitted if they would ‘harm the setting of settlements, buildings, structures or other landmark feature’ or that it would cause *visual intrusion into the open countryside*’.

- 8.10 Policy ESD15 of the CLP 2015 also states that development should ‘*Contribute positively to an area’s character and identity by creating or reinforcing local distinctiveness...and within conservation areas and their setting*’. Policy BL11 of the Bloxham Neighbourhood Plan states that development should ‘*be in keeping with local distinctiveness and characteristics of the historic form of the village*’. Saved Policy C28 of the 1996 Local Plan states ‘*in sensitive areas such as conservation areas, the area of outstanding natural beauty and areas of high landscape value, development will be required to be of a high standard*’.
- 8.11 Policy C28 of the 1996 Local Plan states that ‘*layout, design and external appearance, including the choice of external-finish materials, are sympathetic to the character of the urban or rural context of that development*’ and Policy B11 of the Bloxham Neighbourhood Plan states that the lighting of public areas should accord ‘*with the recommendations of the Institute of Lighting Engineers recommendations on reduction of obtrusive light (or its successors) so as to convey a rural feel and avoid light pollution wherever possible*’.
- 8.12 Policy B11 of the Bloxham Neighbourhood Plan states that the lighting of public areas should accord *with the recommendations of the Institute of Lighting Engineers recommendations on reduction of obtrusive light (or its successors) so as to convey a rural feel and avoid light pollution wherever possible*. Paragraph 185 of the NPPF is of particular relevance to this case when it states amongst other things that *planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should... limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation*.

Assessment

- 8.13 The proposed floodlight masts are approximately 90m from the Bloxham Conservation Area. The floodlights would be visible from some vantages within the Conservation Area and indeed the surrounding built-up area of Bloxham even when not in use. The Inspector for the 2006 application concluded that the 8 masts proposed in 2006 would detract from the setting of the village as a whole rather than the setting, character, or appearance of the Conservation Area, given that the lights and the conservation area were separated by other development.
- 8.14 Although the current application proposes an additional 4 masts they would be 3m lower and would be better screened by the proposed mature tree planting. There would be a perceived ‘glow’ on some evenings from the direction of the sports pitches which would have an impact on the Conservation Area, especially given that there is no street lighting in the area. Although the impact on the surrounding area would be lessened through improvements to the lighting and the lower slim line poles, the proposal would nonetheless cause some harm to the visual amenities of the area. In addition, the applicant has provided further details over that of the 2018 application, which indicates that the light spill would be reduced, and the impact on the surrounding area would be less than the previous application. The current proposal is for the lights to be turned off at 6pm, reducing the impact on the locality.

- 8.15 The submitted lighting Impact Assessment state the site is locality is within a E2 Environmental Sone, where there is typical background luminance within the area would be described as low. The modelling provided in the submission states that the proposal would be compliant with the criteria, and that the impact would equate to a low level. The Council's Environmental Health Officer does not object to the proposal based on lighting.
- 8.16 The extensions to the Dewey Sports, which would provide enhanced facilities for both the school and the community, are in keeping with the existing building and would not have a detrimental impact on the character and appearance of the locality. The extensions are visually contained within the site and its surroundings.
- 8.17 The extended parking area would be a continuation of the existing car parking area and would be largely screened from view by the associated landscaping. It is placed centrally on the wider site and would have little or no impact on the character of the area or the setting of the area.
- 8.18 The additional five netball/tennis courts surrounding the existing astro turf pitch, which would lead to additional facilities and open the existing astro pitches for more availability for the Banbury Hockey Club, are considered to be in keeping with the character and appearance of the site's immediate surroundings.

Conclusion

- 8.19 The proposal would impact the locality by introducing new lighting to an area that currently doesn't have any lighting. The previous scheme for lighting was refused due to the impact on the wider landscape. There have been changes to technology, which further reduces the impact on the wider locality, and given the submitted information demonstrates the development would be in accordance within the Environmental Zone, E2; therefore, the lighting scheme is considered to be acceptable. The proposal to turn the lights off at 6pm would further reduce the impact on the landscape.
- 8.20 The extension to the Dewey Sports Centre would not harm the character of the wider locality, would be seen within the context of the existing site and its surroundings, and is considered to be acceptable.
- 8.21 The proposed new netball pitches are considered to be appropriate to the locality. They would be seen within the context of a sporting facility. Similarly the new car parking area is sited adjacent to the existing parking area, thereby not having a detrimental impact on the wider locality.
- 8.22 Overall, there would be some change to the character of the locality; however, based on the information submitted with the application the impact is not considered to be so harmful as to warrant refusal of the application.

Residential amenity

Policy

- 8.23 Paragraph 135 of the NPPF includes, as a core planning principle, a requirement that planning should have *a high standard of amenity for all existing and future users*. This is reflected in Policy ESD15 of the CLP 2015, which states that new development proposals should: *consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space*. Policy C31 of the saved 1996 Local Plan states that *'in existing and proposed residential areas any development which is not compatible*

with the residential character of the area, or would cause an unacceptable level of nuisance or visual intrusion will not normally be permitted'.

- 8.24 Policy ENV1 of the saved 1996 Local Plan states '*development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution will not normally be permitted*'. Policy BL9 of the Bloxham Neighbourhood Plan states that developments should '*ensure that the living conditions of neighbouring residents are not materially harmed*'.
- 8.25 There are five dwellings within 40-70m of the proposed floodlights and which have elevations with windows which face onto the site to some degree; three are along The Ridgeway – Ridgeway house, Ridgcroft and Conacre - and two along Waters Court – No.1 and No.2.

Assessment

- 8.26 The application includes submitted a lighting impact assessment, which has demonstrated that there is no negative impact on residential amenity through any light spillage onto the nearest residential properties.
- 8.27 A number of local residents have raised concerns regarding the proposal and the impact that it will have on their amenities, through the addition of its coming and goings, as well as noise. While the concerns are noted, the 2018 application was not refused on residential amenity reasons, and therefore it would be unreasonable for officers to recommend refusal on that basis for the proposed new lighting columns.
- 8.28 This proposal is different to the previous scheme as it includes the extension to the existing Dewey Sports Hall. The Environmental Protection Officer has assessed the proposals and does not have any objection to the scheme in regards to noise, disturbance. It is therefore considered that the proposal would be acceptable in terms of impact on noise, and that it would be unreasonable for the Council to object on this basis.
- 8.29 The proposed extension would be going closer to the neighbouring properties; therefore, there is a potential that the extension could have a negative impact on the amenities of the neighbouring property through loss of light or being overbearing. However, given the distances, and the significant existing landscaping, the proposal would not have a detrimental impact on the residential amenity to the adjacent neighbours.

Conclusion

- 8.30 The proposal is considered to be acceptable in terms of residential amenity, and would be unreasonable for the Council to refuse the application based on residential amenity. If there is noise emanating from the site, then this can be controlled by Environmental Protection legislation.

Highway safety

- 8.31 The NPPF states that, '*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*'.
- 8.32 Policy BL9 of the Bloxham Neighbourhood Plan states that '*the impact of any additional traffic likely to be generated by the development has been satisfactorily mitigated and will not adversely affect the highway network*'.

- 8.33 The proposals for the extension of the car park facilities at the Dewey Centre would enable the applicant to reduce the impact of weekday parking on nearby public roads. This is considered to be a benefit to the local residents, a number of whom have raised issues in their comments about the level of parking in the streets around the Bloxham School.
- 8.34 While the proposal would result in additional traffic to and from the site which a number of residents have raised as a concern, the Local Highways Authority has not objected to the increase in the volume of traffic using the surrounding roads. It is therefore considered that the proposed development accords with Policy BL9 of the Bloxham Neighbourhood Plan and policies contained within the NPPF.

Ecology Impact

Legislative context

- 8.35 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.
- 8.36 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.
- 8.37 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.
- 8.38 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.

8.39 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, pipelines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

Policy context

8.40 Paragraph 180 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

8.41 Paragraph 186 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.

8.42 Paragraph 191 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

8.43 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.

8.44 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

8.45 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:

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

8.47 It also states that LPAs can also ask for:

- 8.48 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
- 8.49 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')
- 8.50 The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site a number of mature trees and hedgerows within and adjacent the site, and therefore has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles.
- 8.51 In order for the local planning authority to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.
- 8.52 In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.
- 8.53 The application is supported by a detailed protected species survey which concluded that there is no evidence to suggest there is any overriding ecological constraints which would prevent an application being approved.
- 8.54 Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

9. PLANNING BALANCE AND CONCLUSION

- 9.1 The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 9.2 Following the 2006 and the 2018 application the applicant has further considered the reason for refusal, and have sought to overcome this. The acceptability of the proposal comes down to whether the impact the flood lighting would have a negative impact on the surrounding built-up area and landscape. In respect of the floodlights, Officers are mindful of the 2006 appeal decision, and the 2018 application particularly. As this only sought to illuminate one of the two pitches, it is concluded that the impact of the floodlights, on the surrounding landscape, with the advances in technology, reduced height of the masts and suggested screening from existing and additional trees, would not cause harm to the character or appearance of the local area or landscape when lit in particular. The commitment to allow the local

community access to the pitches and the extension to the main sports centre weighs in favour of the development as does the increase in capacity for multiuse pitches in the local area, and the higher level of parking offered in order to allow more staff to park.

9.3 The extended car park is considered to be acceptable in the absence of an objection from the Local Highways Authority and Sport England.

9.4 Based on the appraisal above, the application is therefore recommended for approval.

10. RECOMMENDATION

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

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 form and following approved plans:

- Proposed Site Masterplan (Summer) 2104_0041_P05
- Proposed Site Masterplan (Winter) 2104_0040_P18
- Proposed Site Plan Sheet 1 of 2 2104_0045_P15
- Proposed Site Plan Sheet 2 of 2 2104_0050_P21
- Proposed Sections 2104_0065_P03
- Proposed Elevations 2104_0060_P05
- Proposed Ground Floor Plan 2104_0055_P09
- Proposed First Floor Plan 2104_0056_P08
- Proposed Detailed Site and Roof Plan 2104_0051_P21
- Landscape Mitigation and Enhancement 1205 806 F
- (Sports Centre) (1 of 2)
- Landscape Mitigation and Enhancement 1205 807 F
- (Sports Pitches) (2 of 2)
- Column Specification HL250S12 Rev A
- Lighthouse Specification Optimising LED Gen 3.5
- Bloxham School sports lights CGIs 2348-DFL-ELG-XX-DE-EO-13001
- 348-DFL-ELG-XX-DE-EO-13002
- 348-DFL-ELG-XX-DE-EO-13003

348-DFL-ELG-XX-DE-
EO-13004
348-DFL-ELG-XX-DE-
EO-13005
348-DFL-ELG-XX-DE-
EO-13006
348-DFL-ELG-XX-DE-
EO-13007

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.

Accord with Ecological Survey

3. The development hereby permitted shall be carried out in accordance with the recommendations set out in the Ecological Assessment of Bloxham School by Ecology Solutions dated May 2024 unless otherwise agreed in writing by the local planning authority.

Reason: To protect habitats and/or species of importance to nature conservation from significant harm in accordance with government guidance contained within the National Planning Policy Framework.

Schedule of Materials

4. No development shall commence above slab level unless and until a schedule of materials and finishes to be used in the external walls and roofs of the extension has been submitted to and approved in writing by the local planning authority. The development shall not be carried out other than in accordance with the approved details and shall be retained as such thereafter.

Reason: To safeguard the character and appearance of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and government guidance contained within the National Planning Policy Framework.

COMPLIANCE

Protection of Trees

5. No development shall take place until the existing tree(s) to be retained as shown on approved plan [Tree Protection Plan] have been protected in accordance with the Arboricultural Impact Assessment by Tree Frontiers dated 31st May 2024. The barriers shall be erected before any equipment, machinery or materials are brought onto the site for the purposes of development and shall be maintained until the development is completed. Nothing shall be stored or placed within the areas protected by the barriers.

Reason: To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and government guidance contained within the National Planning Policy Framework.

Flood Risk Assessment

6. The development shall not be carried out other than in accordance with the Flood Risk Assessment prepared by Cole Easdon dated September 2024 unless otherwise previously approved in writing by the local planning authority.

Reason: To protect the development and its occupants from the increased risk of flooding in accordance with Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance contained within the National Planning Policy Framework.

Floodlighting Hours

7. The external lighting/ floodlighting shall not be used after the hours of 18:00 Monday to Saturday only.

Reason: To protect the amenities of nearby residents, visual amenity, in the interest of protected species and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and government guidance contained within the National Planning Policy Framework.

PRECOMMENCEMENT CONDITIONS

HMMP Plan

8. The development shall not commence until a [Habitat Management and Monitoring Plan (the HMMP)], prepared in accordance with an approved Biodiversity Gain Plan and including:
 - (a) a non-technical summary;
 - (b) the roles and responsibilities of the people or organisation(s) delivering the [HMMP];
 - (c) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
 - (d) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
 - (e) the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority, has been submitted to, and approved in writing by, the local planning authority.

Notice in writing shall be given to the Council when the:

- (a) [HMMP] has been implemented; and
- (b) habitat creation and enhancement works as set out in the [HMMP] have been completed.

The created and/or enhanced habitat specified in the approved [HMMP] shall be managed and maintained in accordance with the approved [HMMP].

Monitoring reports shall be submitted to the local planning authority in writing in accordance with the methodology and frequency specified in the approved [HMMP].

Reason: To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990 and policy ESD10

Archaeology

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

Reason - To safeguard the recording of archaeological matters within the site in accordance with the NPPF (2023).

Archaeology

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

Reason – To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the NPPF (2023).

CONDITIONS TO BE SUBMITTED PRIOR TO CERTAIN STAGES

Landscaping Scheme

11. No development shall commence above slab level unless and until a scheme for landscaping the site has been submitted to and approved in writing by the Local planning authority. The scheme shall include:

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.),

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,

details of the hard landscaping including hard surface areas, pavements, pedestrian areas and steps,

details of the enclosures along the boundaries of the site.

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

All planting, seeding or turfing included 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. The approved hard landscaping and boundary treatments shall be completed prior to the first occupation of the development and shall be retained as such thereafter.

Reason: To ensure that a satisfactory landscape scheme is provided in the interest of visual amenity of the area and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and government guidance contained within the National Planning Policy Framework.

Cycle Parking

12. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details which shall have first been submitted to and approved in writing by the Local planning authority. The covered cycle parking facilities so provided shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.

Reason: In the interests of promoting sustainable transport modes in accordance with Policy ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Katherine Daniels

**Playground
Morton Close
Kidlington**

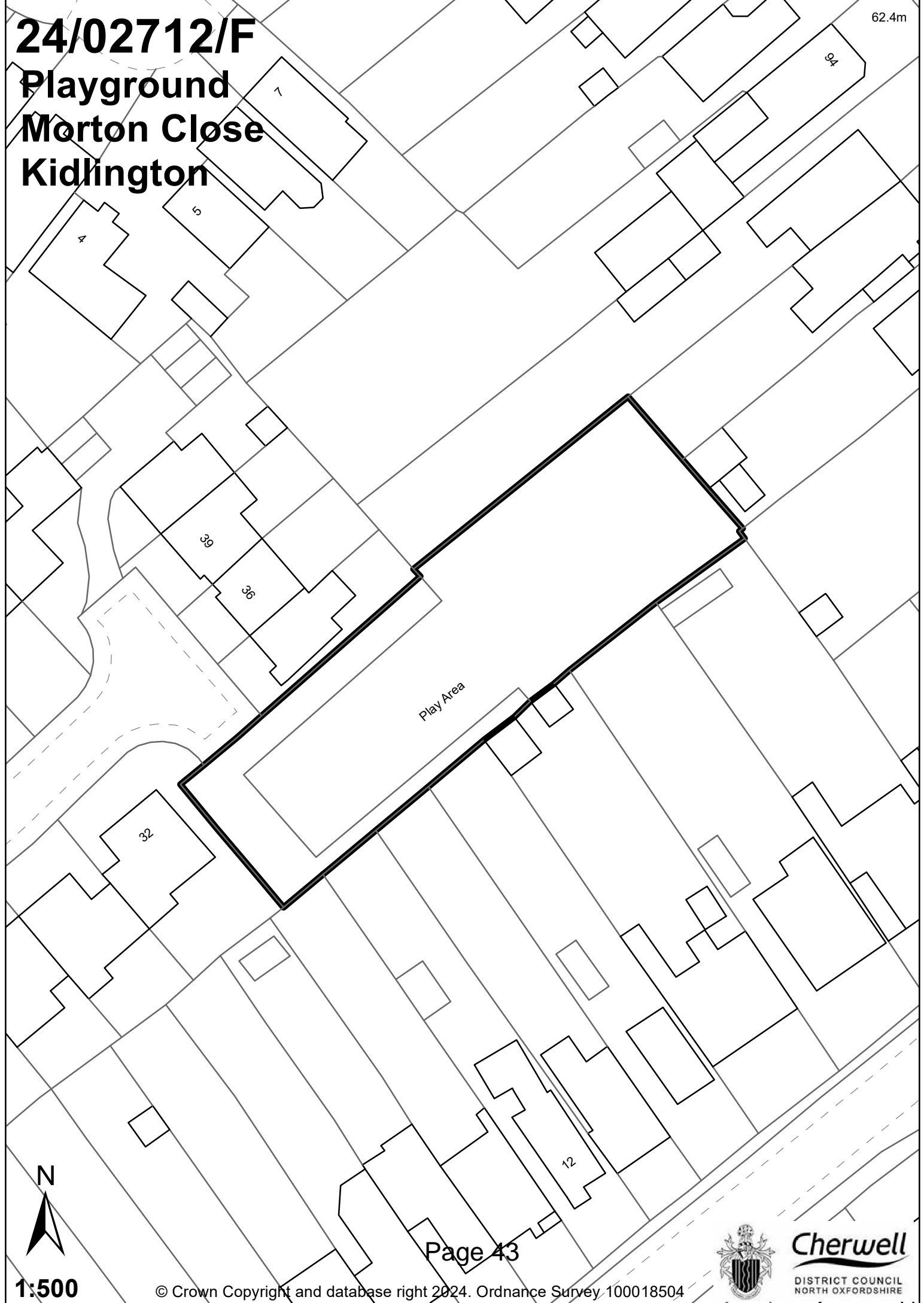


1:700

24/02712/F

62.4m

**Playground
Morton Close
Kidlington**



Play Area



1:500



24/02712/F Playground Morton Close Kidlington



Case Officer: Rebekah Morgan

Applicant: Ede Holdings Ltd

Proposal: Erection of 6 no. dwellings, with associated open space, landscaping, parking and other associated works

Ward: Kidlington East

Councillors: Councillor Fiona Mawson, Councillor Ian Middleton and Councillor Linda Ward

Reason for Referral: Called in by Councillor Ian Middleton for the following reasons: previous application resulted in a high number of third party concerns. Whilst the current application is less intensive, they do not address all the concerns previously raised.

Expiry Date: 9 December 2024

Committee Date: 5 December 2024

SUMMARY RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site comprises a small parcel of undeveloped land in the corner of Morton Close. The planning history suggests this was intended to be used as a play area and comments from local residents suggests this was used as such until 2019. The site is currently not accessible to the public and is not being managed and therefore currently overgrown.
- 1.2. The site adjoins the turning head at the end of the cul-de-sac. There is a wall to the front of the site with metal gates providing access. The site is surrounded by residential properties.
- 1.3. Morton Close is characterised by two storey, detached and semi-detached dwellings. The dwellings are finished in a mixture of reddish brown and buff bricks with hung tile elements that match the plain roof tiles. The majority of the properties have open fronts and driveways.

2. CONSTRAINTS

- 2.1. The following constraints are applicable:
 - The site is within 2km of a Site of Special Scientific Interest (SSSI): Rushy Meadows
 - The site is undeveloped and previously used to provide Public Open Space/Play Area

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks consent for 6 no., 1 bedroom dwellings with associated open space, landscaping, parking and other associated works.

- 3.2. The development would be provided as a single building; four flats provided in a two storey section to the front and a further 2 dwellings provided within a single storey section to the rear. The development includes a parking area to the front, a bin store and cycle store.
- 3.3. The two storey section of the building measures 15.5m (w) x 8.2m (d) with an eaves height of 4.9m and a ridge height of 7.2m. The single storey section of the building measures 9.8m (w) x 12.7m (d) with an eaves height of 2.3m and a ridge height of 4.8m.
- 3.4. The building would be finished in brick with some hung tile detailing and plain roof tiles.
- 3.5. The application includes outdoor amenity space in the form of some private gardens and some shared space for occupiers of the development.

4. RELEVANT PLANNING HISTORY

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

23/03351/F: Erection of 9 no. dwellings, with associated open space, landscaping and other associated works. WITHDRAWN

63/00201/NE: 7 pairs of semi-detached dwellinghouses with garages, 9 detached dwellinghouses with garages, construction of estate road, footpaths and provision of play area for children. APPROVED

62/00229/M: 7 pairs type "A" houses, 9 type "B" with road, footpaths, drainage and open space for children. APPROVED

5. PRE-APPLICATION DISCUSSIONS

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

24/01278/PREAPP: Proposed erection of 8 x dwellings with associated works - re-submission of 23/03351/F.

It is noted that during the course of the pre-application enquiry, an amended scheme for 6 dwellings was submitted and advice was provided on that basis.

The principle of development is supported because there appears to be no legal mechanism to require the play area to be made available to the public, the site is in a sustainable location and the proposed use would not conflict with the surrounding residential use.

The design of the amended scheme was considered to be generally acceptable, and guidance was provided on the use of materials. Suggestions were made regarding the layout of the proposed development and relationship with the neighbouring properties.

6. RESPONSE TO PUBLICITY

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

15 November 2024, although comments received after this date and before finalising this report have also been taken into account.

- 6.2. The comments raised by third parties are summarised as follows:
- The play area was an integral park of the local community
 - Deeds for the existing properties clearly state there is a park for residents' use
 - Loss of open space
 - The owners of the play area ceased maintaining it and allowed it to become overgrown
 - Not suitable due to the flooding and drainage issues in the area
 - The play area was required as part of the original development of Morton Close
 - Increase in traffic in this small close
 - Insufficient parking provision – OCC guidance requires 1 visitor space per 5 dwellings; this development has 6 dwellings so should include 2 visitor spaces
 - Impact on wildlife
 - No indication of what is intended in the large space at the back
 - Morton Close is unsuitable for large construction vehicles
 - Impact of construction on existing residents
 - Out of keeping – proposes 1 bedroom properties and the surrounding area is three bedroom family homes
 - Overlooking of neighbouring property
 - Impact on light to neighbouring properties
 - Bin store adjacent to neighbouring property – this will attract vermin
 - No space for bins to be put out for collection
 - Although the scheme has been reduced from 9 to 6 properties, it is still too much for this site
 - Vehicles accessing the site will shine headlights directly into the properties at the end of the close
 - Units 5 and 6 will be accessed via a pathway adjacent to the neighbour causing constant noise and disruption
 - Neighbour requests a 7ft boundary wall (if the development is approved) to provide security and privacy
 - Development not in keeping with the houses in the immediate vicinity
- 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.
- 7.2. KIDLINGTON PARISH COUNCIL: **object** to the proposal because of serious concerns about accessibility and parking on the site. The Parish Council also suggests the development could be pushed back further back into the site to allow for additional parking and amenity space. The Parish Council also has concerns about surface water drainage due to existing issues in the area.
- 7.3. THAMES VALLEY POLICE (DESIGNING OUT CRIME OFFICER): **Comment**; The only advice I can offer at this juncture is to encourage the applicant to incorporate the principles of crime prevention through environmental design as described within the Secured by Design (SBD) Guidance document.
- 7.4. OCC HIGHWAYS: **No objection**, subject to conditions.

In the current form, the proposal is unlikely to have a severe impact on the local highway network. The proposal seeks create 6 one-bedroom dwellings, all of which will be either apartments or bungalows. There is no proposal to change the current access leading onto the highway.

Parking and cycle parking facilities have been considered. The applicant has provided 7 car parking spaces, this includes 1 visitor car parking space. In addition, the applicant has proposed to provide storage for 18 cycles in line with OCC's guidance which is inclusive of 1 visitor cycle space which is required per room.

- 7.5. CDC ENVIRONMENTAL PROTECTION OFFICER: No comments regarding air quality, odour or light. Conditions are recommended with regards to noise and contaminated land.
- 7.6. CDC ECOLOGY OFFICER: Following the submission of further information, **no objection**, subject to conditions.
- 7.7. CDC ARBORICULTURAL OFFICER: In principle I have no objection to the proposal from an Arboricultural perspective. There are no protected trees within the site, nor is it within the Conservation Area. The site appears to be mostly obscured from public vision, as such proposed tree removals x 3 poor condition, internal to the site have little/no effect to the outside view.

Conditions are recommended requiring an arboricultural method statement, replacement tree planting and adherence to the submitted arboricultural details.

- 7.8. CDC LOCAL LAND DRAINAGE OFFICER: No comments on the grounds of flooding. A condition is recommended requiring a surface water drainage strategy for the development.
- 7.9. CDC BUILDING CONTROL: The proposals will require a Building Regulations 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 2015)

- PSD1: Presumption in Favour of Sustainable Development
- BSC10: Open Space, Outdoor Sport and Recreation Provision
- ESD1: Mitigating and Adapting to Climate Change
- ESD3: Sustainable Construction
- ESD5: Renewable Energy
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15: The Character of the Built and Historic Environment
- VILLAGES 1: Village Categorisation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

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

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)
- Kidlington Framework Masterplan
- Technical Housing Standards – Space Standards

9. APPRAISAL

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

- Principle of development
- Design and impact on the character of the area
- Residential amenity
- Accessibility, highway safety and parking
- Ecology and Biodiversity Net Gain
- Climate change and sustainability
- Impact on trees
- Drainage and Flooding

Principle of Development

- 9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996.
- 9.3. 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.
- 9.4. Paragraph 11 of the NPPF states that at the heart of the Framework is a presumption in favour of sustainable development. There are three dimensions to sustainable development, as defined by the NPPF, which require the planning system to perform economic, social, and environmental roles. These roles are interdependent and need to be pursued in mutually supportive ways.
- 9.5. Policy Villages 1 of the CLP 2015 identifies Kidlington as a Category A settlement meaning it is considered to be one of the more sustainable villages within the district. The policy allows for conversions, infilling and minor development. The development would constitute minor development as it would be located within a corner plot at the end of the cul-de-sac.
- 9.6. The proposed site appears to have previously been accessible to the residents as public open space and Policy BSC10 of the CLP 2015 seeks to protect existing sites. However, the planning history shows that the provision of this land as public open space was not secured via a legal agreement or planning condition, and the land was not transferred to a local authority for this purpose. Unfortunately, this means there is

no legal mechanism by which the Council could force the landowner to make the land available for public use which has been demonstrated by the land being closed off for a number of years. Whilst Policy BSC10 of the CLP 2015 seeks to protect existing public open space, with no legal mechanism to require public access, there is no realistic prospect of this becoming publicly accessible again.

- 9.7. The application would provide six 1no. bedroom dwellings which would make a small contribution to the Council's Housing Land Supply and provided, starter homes which are needed in the District.
- 9.8. The application site is considered to be a sustainable location for residential development, given the local provisions within Kidlington and its good public transport links to larger settlements and housing development would also be compatible with the surrounding land use which is predominantly residential. Therefore, the principle of development is considered to be acceptable, subject to other material planning considerations set out below.

Design and impact on the character of the area

- 9.9. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPF goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Further, Paragraph 139 of the NPPF states that 'development that is not well designed should be refused, especially where it fails to reflect local design policies and national guidance on design'.
- 9.10. Paragraph 135 of the NPPF states that planning policies and decision should ensure that developments:
 - a) Will function and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - b) Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - c) Are sympathetic to local character and history including the surrounding built environment and landscape setting, while not preventing or discouraging innovation or change (such as increased densities);
 - d) Establish or maintain a strong sense of place, using arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
 - e) Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
 - f) Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 9.11. Policy ESD15 of the CLP 2015 states that: "*New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design*

standards.” The Cherwell Residential Design Guide SPD also encourages development which is locally distinctive and the use of appropriate materials and detailing, but states that new development should avoid the creation of ‘anywhere places’ which do not respond to local context.

- 9.12. Policy C28 of the CLP 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context as well as compatible with existing buildings.
- 9.13. The Cherwell Residential Design Guide states that new development should avoid architectural focus on individual buildings rather than the overall street composition. The SPD goes on to state that individual buildings should be designed to relate well to their neighbours, creating a harmonious overall composition and work with site conditions.
- 9.14. The Kidlington Masterplan SPD, Theme 2: Creating a sustainable community, subheading ‘Securing high design standards’ states that: *“The design of the site layout, access arrangements, scale, massing and appearance will be required to demonstrate a positive relationship with the immediate surrounding context of the site and respect and enhance the townscape character of Kidlington as a whole.”*
- 9.15. The layout for the site provides access and vehicular parking to the front of the building. Amenity space is provided to the rear of the building with a mixture of shared space and private gardens. The cycle storage and bin storage are located to the front; however, they are set behind the existing boundary wall and would not be overly prominent within the street scene.
- 9.16. The immediate context to the application site is one of mainly 2 storey residential dwellings, with a mixture of detached and semi-detached properties. The front elevations of the dwellings in the locality tend to be relatively simple in articulation and appearance, with the dwellings facing on to the road.
- 9.17. The front of the proposed building appears similar to the pairs of semi-detached buildings on Morton Close. The front elevation would align with nos. 34-36 Morton Close which are positioned at the end of the cul-de-sac. It would have a similar massing to the neighbouring properties and the gap between the development and the neighbouring property would be similar to the gaps between existing properties. The rear single storey section is lower and therefore would not be clearly visible within the street scene.
- 9.18. The layout of dwellings at the end of Morton Close is not symmetrical and therefore the development of this parcel of land in the corner would not be at odds with the character of the area. The proposed materials would reflect the materials used on the existing dwellings.
- 9.19. Given the above, it is considered that when viewing the development from Morton Close, the proposed building would not appear overly prominent or out of keeping with the neighbouring residential development. It is therefore concluded that the proposal accords with Policy ESD15 of the CLP 2015, Policies C28 and C30 of the CLP 1996 and government guidance contained within the NPPF.

Residential amenity

- 9.20. Paragraph 135 of the NPPF states that planning decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

- 9.21. Policy ESD15 of the CLP 2015 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy outlook, natural lighting, ventilation, and indoor and outdoor space.
- 9.22. The properties most likely to be affected by the proposed development are those on either side of the site, these being No 32 and No 34 Morton Close.
- 9.23. No 32 Morton Close is a two storey detached dwelling that has a blank elevation facing the application site. The distance between the front of the proposed development and the side of No 32 Morton close is approximately 20m, this is in excess of the minimum required distance set out in the Cherwell Residential Design Guide (2018). Therefore adequate outlook and amenity would be provided for the future occupiers of the development when assessing the front elevation. Whilst there would be some overlooking of the rear gardens of No. 32 and other properties in the vicinity, this would not be dis-similar to the relationship between the existing residential properties which overlook neighbouring gardens, therefore this is not considered to be harmful.
- 9.24. No. 34 Morton Close sits immediately adjacent to the proposed building. There would be a gap of approximately 3.2m between the side of the development and the gable elevation of No. 34 Morton Close. The development has one first floor window facing this gable; however, it is a second window serving a living area and the room benefits from a main window with an acceptable outlook to the front.
- 9.25. The single storey section of the proposed development extends the length of the garden at No 34 Morton Close. This section of the development is set back slightly further, being approximately 3.5m away from the boundary. The single storey section has a low eaves height and a shallow roof pitch, which when viewed from the neighbouring garden would not appear overly dominant. The windows in the single storey section would be below the existing height of the boundary and therefore not result in any potential overlooking of the neighbouring properties.
- 9.26. Concerns have been raised regarding the access to the dwellings being adjacent to No. 34 Morton Close. The plans show that three of the dwellings would be accessed from this side. It is not anticipated that noise from pedestrians accessing the properties would have a significantly harmful impact on the neighbouring residents.
- 9.27. Noise and disturbance during construction has been identified as an unacceptable impact on the neighbouring residents by third parties. The Council's Environmental Protection Officer has requested a condition for a Construction Environment Management Plan to ensure working hours etc. are acceptable for a residential area.
- 9.28. With regards to the proposed bin store, it is noted that this is adjacent to an existing property. The bin store will be located behind the existing boundary wall and a condition is recommended to require full details to be submitted to ensure it is enclosed and covered. Bins are normally collected from the public domain and the Council expects them to be placed out for collection day and then returned; this is the standard practice for waste collections in this area.
- 9.29. Additional vehicle headlights shining into the window of properties at the end of the cul-de-sac when accessing the development at night has been identified by a neighbouring resident as a possible problem. The Council's Environmental Protection Officer observed that no control could be exercised and this type of disturbance is considered to be part of normal domestic life, especially where the existing layout of an area has a turning head in front of residential properties.

9.30. It is therefore considered that the proposed development would be sited so as to prevent significant or demonstrable harm to any neighbouring residents in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing impact. Therefore, the proposal is considered to be acceptable in this regard and accords with Policy ESD15 of the CLP 2015, Policy C30 of the CLP 1996 and Government guidance contained within the NPPF.

Accessibility, highway safety and parking

9.31. Policy ESD15 of the CLP 2015 states, amongst other matters, that new development proposals should: *“Be designed to deliver high quality safe...places to live and work in.” This is consistent with Paragraph 110 of the NPPF which states that: “Developments should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles.”*

9.32. Kidlington is considered to be a sustainable settlement with local facilities and good bus links close by. The proposed development would utilise the existing vehicular access to the property with the provision of 7 parking spaces provided at the front of the site and secure cycle storage. The Local Highway Officer has raised no objection and advised the proposed access and parking layout accords with their guidance.

9.33. It is acknowledged that there are concerns from third parties on the matter of parking and highways safety. Whilst it is possible the development could result in some additional pressure on on-street parking, the Local Highways Authority is of the opinion that the proposal would not have a significant detrimental impact on the highway network.

9.34. In conclusion, the access, vehicular parking and cycle parking provision are considered to be adequate for the development. The proposal is unlikely to cause significant detrimental impacts on the highway network and is considered acceptable in this regard.

Climate change and sustainability

9.35. Policies ESD1, ESD3 and ESD5 of the CLP 2015 set out the Council’s expectations in terms of climate change and sustainability requirements.

9.36. The development site is sustainably located within an existing residential area that is well served by public transport and has a range of local amenities. The submission states the proposal would be built in accordance with Building Regulations which ensure more sustainable methods of construction are utilised on developments.

9.37. Policy ESD3 of the CLP 2015 states ‘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 applicant has not provided details of water efficiency methods or rates for the development; however, it is considered that this could be appropriately secured via a planning condition.

9.38. The proposal is considered to represent a sustainable development with a sufficient provision of sustainability features. Therefore, the proposal complies with the provisions of ESD1, ESD3 and ESD5 of the CLP 2015.

Ecology and Biodiversity Net Gain

9.39. 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.

- 9.40. 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.
- 9.41. Paragraph 180 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.
- 9.42. Paragraph 186 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.
- 9.43. Policy ESD10 of the Cherwell Local Plan 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.
- 9.44. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:
- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

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

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
 - an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 9.45. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site is overgrown with vegetation and contains some trees, therefore it has the potential to be suitable for a variety of species.
- 9.46. In order for the local planning authority to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area,

local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.

- 9.47. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.
- 9.48. The application is supported by an Ecological Impact and Biodiversity Net Gain Assessment, a Biodiversity Report and a Biodiversity Metric. The Council's Ecologist has assessed the submitted information and raises no objections subject to conditions. It is advised that the reports and proposed mitigation are appropriate for the site.
- 9.49. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

Impact on trees

- 9.50. There are a number of existing trees on the site. A tree survey report has been submitted with the application which shows that three trees are recommended for removal, some works are proposed to the remaining trees and tree protection measures are recommended for the duration of construction. The three trees proposed to be removed are all Category U trees (the lowest value) and the report states that two of these trees have a limited useful life expectancy and the other tree is dead.
- 9.51. The Council's Arboricultural Officer has reviewed the submitted information and has no objection to the proposed removal of the trees. The trees are located to the rear of the site and appear to be mostly obscured from public view. The removal of the trees would have little to no effect on the street scene.
- 9.52. Conditions are recommended to require an arboricultural method statement, replacement planting, and adherence with the submitted arboricultural information.

Drainage and Flooding

- 9.53. Kidlington Parish Council and other third parties have raised concerns regarding existing surface water drainage issues in the area. The development is within a Flood Zone 1 and therefore does not require a Flood Risk Assessment.
- 9.54. The Council's Local Land Drainage Officer has raised no objections to the proposal on the grounds of flooding and drainage but has suggested a condition to ensure surface water drainage within the site is adequately dealt with. The condition has been included within the recommendation.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. For the reasons set out above in this report, the proposal complies with the relevant Development Plan policies and guidance listed at section 8 of this report. The principle of minor residential development in Kidlington is acceptable, and it is considered that the proposal would not cause detrimental harm to the character and appearance of the area and would safeguard the living conditions of neighbouring residents. In addition, the proposal would not have an adverse impact upon protected species or the safe and efficient operation of the highway network. The proposal is therefore considered to constitute sustainable development and is recommended for approval subject to conditions set out below.

11. RECOMMENDATION

DELEGATE TO THE ASSISTANT DIRECTOR OF PLANNING & DEVELOPMENT TO GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)

CONDITIONS

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

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

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

- Application form
- Planning Statement
- Drawing number K54/P/01 Rev B – [Floor plans, elevations and block and location plans]
- Tree survey report, impact appraisal and tree protection details prepared by Venners Arboriculture dated August 2024
- Ecological Impact Assessment and Biodiversity Net Gain Assessment prepared by Windrush Ecology dated November 2024
- Biodiversity Report prepared by Thames Valley Environmental Records Centre dated 10/09/2024.
- Biodiversity Metric

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. A schedule of materials and finishes to be used in the external walls and roofs of the building shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The development shall thereafter be completed in accordance with the approved details.

Reason: To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality 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.

4. Full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of those works. Such approved means of enclosure, in respect of those dwellings which are intended to be screened, shall be erected prior to the first occupation of those dwellings.

Reason: To ensure the satisfactory appearance of the completed development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. Prior to the first occupation of the development hereby approved, full details of the refuse bin storage for the site, including location and compound enclosure details, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the dwellings, the refuse bin storage area shall be provided in accordance with the approved details and retained unobstructed except for the storage of refuse bins.

Reason: In order that proper arrangements are made for the disposal of waste, and to ensure the creation of a satisfactory environment free from intrusive levels of odour/flies/vermin/litter in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

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

Reason: In the interests of promoting sustainable transport modes in accordance with Policy ESD1 of the Cherwell Local Plan 2015 and Government guidance contained within the National Planning Policy Framework.

7. Prior to the construction of the parking and manoeuvring area of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

Reason: In the interests of highway safety, to ensure the provision of adequate off-street car parking and to comply with Policies ESD7 and ESD15 of the Cherwell Local Plan 2015 and Government guidance contained within the National Planning Policy Framework.

8. The development shall not commence until a Habitat Management and Monitoring Plan (HMMP), prepared in accordance with an approved Biodiversity Gain Plan, has been submitted to and approved in writing by the local planning authority. The HMMP shall include:

- a non-technical summary
- the roles and responsibilities of the people or organisation(s) delivering the HMMP
- the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan
- the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the approved completion date of the development
- the monitoring methodology and frequency in respect of the created or enhanced habitat

Notice in writing shall be given to the local planning authority when the:

- HMMP has been implemented
- habitat creation and enhancement work as set out in the HMMP have been completed.

The created and/or enhanced habitat specified in the approved HMMP shall be managed and maintained in accordance with the approved HMMP or such amendments as agreed in writing by the local planning authority.

Monitoring reports shall be submitted to the local planning authority in writing for approval in accordance with the methodology and frequency specified in the approved HMMP.

Reason: To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990.

9. Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a mitigation strategy for badgers (and provision for fox), which shall include details of a recent survey (no older than six months), whether a development licence is required and the location and timing of the provision of any protective fencing around setts/commuting routes, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

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

- a) Location and type of habitats to be retained and enhanced;
- b) Location and type of habitats to be created;
- c) Specification, number and location of bird, bat, invertebrate and hedgehog boxes;
- d) Management measures for each habitat and species box; and
- e) Monitoring regime for ensuring compliance against the Net Gain Plan for the scheme.

Reason: To ensure that the development does not cause harm to any protected

species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1, in accordance with the Environment Act 2021 and Government guidance contained within the National Planning Policy Framework.

11. No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:
- a) Risk assessment of potentially damaging construction activities;
 - b) Identification of Biodiversity Protection Zones;
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - d) The location and timing of sensitive works to avoid harm to biodiversity features;
 - e) The times during construction when specialist ecologists need to be present on site to oversee works;
 - f) Responsible persons and lines of communication;
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; and
 - h) Use of protective fences, exclusion barriers and warning signs

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

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

12. No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved.

Reason: To prevent environmental and amenity problems arising from flooding in accordance with Policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and to comply with Government guidance contained within the National Planning Policy Framework.

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

Reason: To ensure that 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.

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

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

15. If contamination is found by undertaking the work carried out under condition 14, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

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

16. If remedial works have been identified in condition 15, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 13. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

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

17. Prior to the commencement of the development, 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 or other sensitive properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with the occupiers of those properties shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with approved CEMP.

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

18. The dwellings shall not be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres person/day and shall continue to accord with such a limit thereafter.

Reason: In the interests of sustainability in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

19. Prior commencement of the development, an arboricultural method statement (in line with BS58737:2012) setting out protective measures and working practices to ensure the retention of T7, T8 and T9 (third party trees), shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the works shall be carried out in accordance with the approved arboricultural method statement

Reason: In the interests of the visual amenities of the area and to comply with good arboricultural practice and government guidance contained within the National Planning Policy Framework.

20. The development hereby approved shall be carried out in accordance with the 'Tree Survey Report, Impact Appraisal and Tree Protection Details' report prepared by Venners Arboriculture dated August 2024.

Reason: To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

21. Prior to commencement of any works to the trees on the site, full details of replacement tree planting, including number, location, species and size at time of planting shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the replacement tree(s) shall be planted in the first planting season (mid November to end of March) following the removal of the tree(s) for which consent has been granted and any tree which, within a period of five years from being planted dies, is removed or becomes seriously damaged or diseased, shall be replaced in the current/next planting season in accordance with the approved details and the wording of this condition.

Reason: In the interests of the visual amenities of the area and to comply with good arboricultural practice and Government Guidance contained within the National Planning Policy Framework.

Planning Notes

1. Please note if works are required to be carried out within the public highway, the applicant shall not commence such work before formal approval has been granted by Oxfordshire County Council by way of legal agreement between the applicant and Oxfordshire County Council. This is separate from any planning permission that may be granted. (Contact – 0845 310 1111 or refer to <https://www.oxfordshire.gov.uk/cms/content/dropped-kerbs> for this action).
2. In accordance with mandatory Biodiversity Net Gain requirements, the application is reminded of the requirement to submit a Biodiversity Gain Plan as set out in the PPG 'Biodiversity Net Gain'.

CASE OFFICER: Rebekah Morgan

This report is Public.	
Appeals Progress Report	
Committee	Planning Committee
Date of Committee	5 December 2024
Portfolio Holder	Portfolio Holder for Planning and Development, Councillor Jean Conway.
Date Portfolio Holder agreed report.	27 November 2024
Report of	Assistant Director Planning and Development, David Peckford

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. Recommendations

The Planning Committee resolves:

- 1.1 To note the position on planning appeals as set out in the report.

2. Executive Summary

- 2.1 This report provides a monthly update regarding planning appeals, including new appeals, status reports on those in progress, and determined appeals.
- 2.2 The report sets out the main issues of the appeal and, where determined, the decision is summarised.

Implications & Impact Assessments

Implications	Commentary
Finance	<p>Whilst there are no direct implications arising from this report it should be noted that the cost of defending appeals can be costly, with additional risk of significant costs when exceeding the 10% Quality threshold.</p> <p>This has meant it has been necessary to call upon the appeals reserve to mitigate the overspend on spend to date. Any further cost incurred in defending appeals will require alternative sources of funding.</p> <p>Kelly Wheeler, Finance Business Partner, 21 November 2024</p>

Legal	As this report is purely for information there are no legal implications arising. Kim Maher, Planning Solicitor, 27 November 2024.			
Risk Management	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. Celia Prado-Teeling, Performance Team Leader, 27 November 2024.			
Impact Assessments	Positive	Neutral	Negative	Commentary
Equality Impact				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		Not applicable. This is an information report where no recommended action is proposed. As such there are no equality implications arising from accepting the recommendation. Celia Prado-Teeling, Performance Team Leader.
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		Not applicable
Climate & Environmental Impact				Not applicable
ICT & Digital Impact				Not applicable
Data Impact				Not applicable
Procurement & subsidy				Not applicable
Council Priorities	Not applicable			
Human Resources	Not applicable			
Property	Not applicable			
Consultation & Engagement	Not applicable in respect of this report			

Supporting Information

3. Background

- 3.1. When a planning application is refused, the applicant has the right to appeal within six months of the date of decision for non-householder appeals. For householder applications the time limit to appeal is 12 weeks. Appeals can also be lodged against conditions imposed on a planning approval and against the non-determination of an application that has passed the statutory time period for determination.
- 3.2. Where the Council has taken enforcement action, the applicant can lodge an appeal in relation to the served Enforcement Notice. An appeal cannot be lodged though in relation to a breach of condition notice. This is on the basis that if the individual did not agree with the condition, then they could have appealed against the condition at the time it was originally imposed.
- 3.3. Appeals are determined by Inspectors appointed by the Secretary of State and administered independently by the Planning Inspectorate.
- 3.4. Monitoring of all appeal decisions is undertaken to ensure that the Council's decisions are thoroughly defended, and that appropriate and defensible decisions are being made under delegated powers and by Planning Committee.

4. Details

Written Representations

4.1. New Appeals

Application Number	Location	Description (summary)	LPA Decision:	Start Date
24/01405/F	Quarry Farm Rattlecombe Road Shenington Oxfordshire OX15 6LZ	Conversion of barn to form a dwellinghouse - self-build	Delegated Refusal	28.10.2024.
24/01489/F	17 Read Place Ambrosden Bicester OX25 2BH	Single storey side extension, flat roof, to add a bedroom for disabled person	Delegated Refusal	29.10.2024.
24/01541/F	Cherry Tree House, 7 Evenlode, Banbury,	Dropped kerb along with tarmac from road to the access in our rear garden. The current fence height will be	Delegated Refusal	04.11.2024.

	Oxon, OX16 1PQ.	lowered to allow safe entry and exit.		
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4.2. In Progress/Awaiting Decision

Application Number	Location	Description (summary)	LPA Decision:	Start Date
23/00150/CLUE	Unit 22 Beaumont Close, Banbury	Certificate of Lawfulness for the Existing Development: Implementation of planning permission 18/01366/F subsequent to 20/00046/DISC. Erection of 10 small commercial units (B2/B8) with associated car parking and landscaping - (resubmission of 22/00193/CLUE)	Delegated Refusal	15.06.2023.
23/03078/CLUP	Manor Cottage, Middleton Park, Middleton Stoney	Certificate of Lawfulness of Proposed Development: Repositioning of existing "tarmac" driveway with a gravel driveway.	Delegated Refusal	23.04.2024.
23/01960/PIP	Barn Farm Planys Garden Centre, Thorpe Road, Wardington	To develop the site for 7-9 dwellings with associated access, parking and amenity space.	Delegated Refusal	06/06/2024.
24/00698/PIP	81 North Street, Fritwell	Permission in Principle - proposed 7-9 dwellings	Delegated Refusal	27.06.2024
21/02058/FUL	Shelswell Inn, Buckingham Road, Newton Purcell	Erection of Barns	Delegated Refusal	02.07.2024
23/01616/F	Leys Farm, Hook Norton,	Change of use of land from agricultural to residential and	Delegated Refusal	08.10.2024.

	Banbury, OX15 5BZ.	construction of swimming pool with associated landscaping.		
24/00628/Q56	Quarry Farm, Rattlecombe Road, Shenington	Change of Use and associated building operations to convert existing agricultural building to single dwellinghouse.	Delegated Refusal	09/07/2024.
24/00379/TPO	Rectory Farm, Mill Lane, Upper Heyford	T1 Walnut - overall crown reduction of approximately 1m back from branch tips. Lateral branch spread beyond boundary and into Glebe House curtilage shall not exceed 1.8m; T2 - Beech - overall crown reduction of approximately 1m back from branch tips Lateral branch spread beyond boundary and into Glebe House curtilage shall not exceed 1m. - subject to TPO 13/2019.	Delegated Refusal	06.07.2024.
23/03376/F	5 Mill Lane, Adderbury, Banbury	Natural ironstone rear extension with natural slate roof incorporating 1 No conservation rooflight, internal alterations, removal of timber shed and replacement with timber garden studio (revised scheme of 16/01819/F).	Delegated Refusal	17.07.2024.
24/00620/F	7 Launton Road, Bicester	Demolition of existing detached garage and erection of new 2-bedroom dwelling. Existing 3-bedroom dwelling to be retained.	Delegated Refusal	19.07.2024
24/00792/F	10 Chestnut Close, Chesterton, Bicester	Single storey side and rear extensions to create a 1 no. new dwelling	Delegated Refusal	30.07.2024.

23/02071/F	Land to Rear of Wheelright Cottage, Main Street, North Newington	New Build Dwelling.	Delegated Refusal	31.07.2024.
23/03109/F	Land Adj to 20 Almond Road, Bicester	Subdivision of land at 20 Almond Road to form site for 2 no. new detached dwellings with associated parking and gardens.	Committee Refusal (Overturn)	31.07.2024.
23/02865/F	Slatters Barn, Epwell Road, Shutford	RETROSPECTIVE - Installation of two shepherd's huts for use as holiday lets and construction of a driveway to the shepherd's huts - re-submission of 22/02411/F.	Delegated Refusal	01.08.2024.
24/005421/F	1 St Peters Crescent, Bicester	Proposed detached two storey dwelling and two number car spaces	Delegated Refusal	07.08.2024.
24/00466/F	15A South Street, Banbury	Alterations and extension to existing house and outbuildings.	Delegated Refusal	20.08.2024
24/00342/F	141 Bismore Road, Banbury	Erection of Single Storey Garage	Delegated Refusal	21.08.2024
24/01225/F	14 Bismore Road, Banbury	Erection of a single-storey flat roof garage at end of driveway into rear garden	Delegated Refusal	21.08.2024
23/02780/F	Land to West of Griffin Gate, Station Road, Blackthorn	Detached dwelling/holiday let and associated works.	Delegated Refusal	27.08.2024
21/02028/F	The Coach House, Hanwell	Free-standing garden room in the grounds, to	Delegated Refusal	03.09.2024

	Castle, Hanwell	serve existing household		
24/00779/F	6 Railway Cottages, Shipton on Cherwell	1m extension to existing ground floor with new first floor extension over - re-submission of 23/03177/F.	Delegated Refusal	06.09.2024
24/00753/F	40 Ardley Road, Fewcott	Removal of existing 1m height 'close boarded' timber fencing and replacement with 1.8m height, including gated vehicular entrance (Retrospective).	Delegated Refusal	09.09.2024
24/01391/F	82 High Street, Banbury	Change of use for the ground floor existing charity shop (Class E1) to a tanning salon (sui generis).	Delegated Refusal	17.09.2024
24/00298/Q56	Malthouse Farm, North Aston Road, Duns Tew	Change of Use of two agricultural buildings to form five dwellinghouses	Delegated Refusal	19.09.2024
24/01766/PIP	Former Paddocks, Land off Backside Lane, Sibford Gower, OX5 5RS.	Permission in Principle - construction of up to 5no. dwellings	Delegated Refusal	04.10.2024
24/00917/LB	Village Farm, Blackbull Lane, Fencott, Kidlington, OX5 2RD.	Single storey front, rear, end extensions and carport with associated internal/external works.	Delegated Refusal	11.10.2024.
24/01732/F	54 Dashwood Ave, Yarnton, Kidlington, OX5 1NJ	Erection of three-bedroom dwelling to the rear, accessed off Meadow Way (Self-Build).	Delegated Refusal	15.10.2024.

Informal Hearings

4.3. New Appeals

Application Number	Location	Description (summary)	LPA Decision:	Start Date
22/01293/F	Land at Manor View (West of Manor Park) Hampton Poyle, Kidlington, OX5 2PW.	Change of use of land for the creation 2 Gypsy/Traveller pitches, comprising the siting of 1 mobile home, 1 touring caravan, and the erection of 1 dayroom per pitch.	Delegated Refusal	04.11.2024.

4.4. In Progress/Awaiting Decision

Application Number	Location	Description (summary)	LPA Decision:	Start Date
23/02355/F	Waverley House, Registrar, Queens Street, Bicester	Demolition of existing building and construction of 33 No apartments together with landscaping, car parking, bin stores, secure cycle parking and associated infrastructure	Committee Refusal (Overturn)	23.08.2024

Public Inquiries

4.5. New Appeals

None

4.6. In Progress/Awaiting Decision

Application Number	Location	Description (summary)	LPA Decision:	Start Date
23/03428/OUT	Land East of J11 of the M40, (OS Parcel 5616 South West of Huscote Farm and East of Daventry Road, Banbury,	Outline planning application for the construction of up to 140,000 sqm of employment floorspace (use class B8) with ancillary offices and facilities and servicing and infrastructure including new site accesses. Internal roads and footpaths,	Officers Recommendation. Committee.	14.10.2024.

	Oxon, OX17 2FJ	landscaping including earthworks to create development platforms and bunds, drainage features and other associated works including demolition of the existing farmhouse.		
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Enforcement Appeals

4.7. **New Appeals**

None

4.8. **In Progress/Awaiting Decision**

Application Number	Location	Description (summary)	LPA Decision:	Start Date
21/00333/ENF	Fairway Cottage, Main Road, Swalcliffe	Without planning permission, the construction of a timber outbuilding and associated engineering operations, including the raising of land levels and the construction of a retaining wall, as shown edged in blue on the attached plan titled 'Location Plan'.	Enforcement Notice	10.11.2023 Written Reps
23/00001/ENF	Ashberry Cottage, Duns Tew, Bicester	Without the benefit of planning permission, the unauthorised erection of a single-storey porch, finished with timber cladding, to the principal elevation of a mid-terrace dwelling attached to a curtilage listed grade II building Owl Barn (Historic England reference 1046304)	Enforcement Notice	28.11.2023 Written Reps
20/00295/ENF	16 Almond Avenue, Kidlington	Garage/Garden building converted to residential premises	Enforcement Notice.	13.03.2024 Written Reps

Forthcoming Public Inquiries and Hearings between 5 December 2024 to 7 January 2025.

4.9.

Application Number	Location	Description (summary)	LPA Decision:	Start Date
23/02355/F	Waverley House, Registrar, Queens Street, Bicester	Demolition of existing building and construction of 33 No apartments together with landscaping, car parking, bin stores, secure cycle parking and associated infrastructure	Committee Refusal (Overturn)	23.08.2024

Appeals Results

4.10. **24/01017/F - Vine Cottage, Main Street, Hethe, Oxfordshire OX27 8HD**

Replace existing driveway gate with a cladded electric hardwood gate.

Appeal Dismissed

The Inspector stated that the main issue in this case was whether the proposed gate would preserve or enhance the character or appearance of the Hethe Conservation Area. The Inspector concluded that the gates, given their solid nature and height, would result in a loss of openness and 'would also be incongruous and overtly modern, jarring unacceptably with the traditional rurality of the area'. The Inspector was not convinced by any precedent other similar gates within the vicinity would set, arguing that they were the 'exceptions rather than the norm'. The Inspector gave only limited weight to any safety benefits arguing that there would be other schemes that could ensure the safety of the applicant's children.

On the basis of this assessment, the Inspector dismissed the appeal concluding that the proposed gates were not of a high-quality design and would fail to conserve the historic environment.

4.11. **23/01265/OUT - OS Parcel 0078 North West of Quarry Close, Bloxham.**

Outline planning application for the erection of up to 60 dwellings with public open space, landscaping, sustainable drainage system (SuDS) and vehicular access point. All matters reserved except for means of access.

Appeal was Dismissed.

The Inspector concluded that Bloxham is a sustainable settlement capable of supporting growth with the total number of housing in Category A villages not compromising the overall strategy of growth in the District. The site would be capable

of being accessed by alternative modes of transport despite concerns about the distance being well over the guidance for walking.

The appellant had failed to provide certainty or development fixes as part of the outline proposals and as such issues such as flooding and the sequential approach, noise to the neighbouring farm and the future of the current access track were not adequately dealt with. These were issues not raised in a reason for refusal but raises the importance of development fixes in the consideration of the outline applications.

The Inspector largely agreed with the LPA case that there would be harm that would be caused to the character and appearance of the area in particular viewpoints from Hob Hill. The proposal would detract from a key view of Bloxham which has been specifically identified for preservation to assist in protecting the rural character of the village. In this respect it would conflict with the Neighbourhood Plan and Development Plan in particular. It however did not conflict with Policy Villages 2 as there were not significant adverse landscape impacts.

Whilst the Inspector did not come to a conclusion on housing land supply the issue of flood risk was a significant factor which overrides the consideration of the tilted balance in accordance with the NPPF.

There were a number of positive elements weighing in favour of the development, but these were outweighed by the harm identified by the Inspector and the s106 requests sought by the LPA and County Council would have met the CIL tests. The Inspector's conclusions would be salient should planning application 24/01908/OUT (refused by Planning Committee at the meeting in October 2024) be submitted to an appeal.

4.12. **24/00633/F - 14 Sandford Green, Banbury.**

Demolition of outbuilding and erection of single storey rear extension with sliding door to the rear and 2no roof windows; external walls to be insulated and rendered.

The Appeal was a split Decision.

The Inspector considered the main issues to be the proposal's effect on the character and appearance of the local area and the living conditions of occupiers of 13 Sandford Green, with particular regard to light and outlook.

The Inspector agreed with the Council that the proposed rear extension was acceptable in visual terms but that the existing brickwork was a key characteristic of the estate and that the installation of external insulation and rendering on all outside walls would be visually incongruous and would adversely affect the character and appearance of the area.

However, in respect of the rear extension the Inspector concluded that, given the position of the neighbour's window and the size of their garden, the proposal would not adversely affect their outlook. The Inspector agreed with the Council that, given the orientation of the properties, the extension would lead to some reduction in direct sunlight entering No 13's ground floor rear windows and overshadowing of the garden in front of them, but held that this would not significantly harm the living conditions of No. 13's occupiers.

4.13. **23/02346/F - Birdhouse, 43 Lapsey Drive, Banbury.**

Demolish conservatory. Single storey rear extension on footprint of existing conservatory. New door to existing side elevation (revised scheme of 23/00257/F)

The Appeal was Allowed.

The Inspector determined the appeal on the basis of amended plans that show an extension of reduced dimensions from the one originally submitted with the application.

The Inspector considered the main issue to the proposal's effect on the living conditions of the occupiers of 45 Lapsley Drive, with particular regard to light and outlook.

The Inspector considered that, while No 45 and its garden are modest in width, the extension would extend along only part of the boundary between the properties and concluded that the proposal would not harm the living conditions of the occupiers of 45 Lapsley Drive.

4.14. **22/03245/F - Apollo Office Park, Ironstone Lane, Wroxton.**

Provision of 10 employment units (Office, Research and Development and Light Industry), associated car parking, landscaping/biodiversity enhancements/works and provision of foul water treatment plant - re-submission of 22/00928/F.

The Appeal was Dismissed.

The Inspector considered the main issues to be (a) whether the appeal site is a suitable location for the proposed development, with particular regard to the scale, character and appearance of the surrounding area and vehicle journeys; and (b) the proposal's effect on existing trees.

The Inspector noted that while adjacent to the existing office park the site forms part of the open countryside in a rural location. The Inspector found that Policy SLE1 is broadly consistent with the NPPF in that there is some flexibility for development of an appropriate scale in rural areas provided that exceptional circumstances are demonstrated.

The Inspector noted that the Council had not disputed the Appellant's evidence regarding the apparent level of demand for the proposed new units, but also noted that the Appellant had not demonstrated evidence for why the countryside location was required or that employees would come from the nearby rural area, and noted that (1) the proposed uses could be considered appropriate within established industrial areas or within or on the edge of the nearest settlement, and (2) that no comparative assessment between the transport links in established sites and the appeal site had been put forward.

The Inspector also agreed with the Council that the proposal was by definition a single major development, that unless it could be demonstrated there would be no

significant adverse impacts on the character of the area the development should be small scale, and that the proposal was not small scale.

The Inspector was not convinced that there would be sufficient room within the site to satisfactorily screen views of the proposal and that it would be an incongruous incursion into the surrounding area.

Overall, the Inspector concluded that the appeal site is not an appropriate location for the proposed development, having regard to (i) character and appearance of the surrounding area and (ii) vehicle movements, and that the proposal would conflict with Policies ESD1 and SLE1, and would conflict with paragraph 114 in not promoting sustainable transport modes and paragraph 135 in terms of landscape impact.

The Inspector also found that the removal or loss of trees would reduce the screening of the development and increase its urbanising effect and exacerbate its visual harm and concluded that in the absence of information the proposal would have a harmful effect on existing trees and failed to accord with Policy ESD10 and paragraph 136 of the NPPF.

The Inspector afforded significant weight to the identified harm, moderate weight to the suggested benefits and limited weight to the proposals' energy efficiency and biodiversity net gain, concluding overall that the cumulative harms and related policy conflict outweighed the benefits.

4.15. 19/02554/DISC / 19/02553/DISC – The Unicorn, Market Place, Banbury, OX16 5JJ.

Discharge of conditions 3, 4, 5, 7, 8, 9 and 10 of planning permission 16/01661/F and listed building consent 16/01662/LB.

Split Decision

The Inspector referred to the considerable discussion at the hearing as to the scope of the Inspector's determinations. It was clarified that condition 7 of both consents and condition 8 of the LB consent had already been discharged, that conditions 8 and 9 had been removed by a separate planning permission and condition 10 of the LB consent was a statement condition. The Inspector noted the appellant's contention at the hearing that condition should also be considered but held that it did not form part of her determinations.

The Inspector confirmed that there was nothing to prevent her from making a decision on the discharge of conditions applications irrespective of whether the permissions had expired and that she was confining her deliberations to an assessment of the details forming part of the applications, i.e. conditions 3, 4 and 5 of the planning permission and conditions 3, 4, 5 and 9 of the listed building consent.

The Inspector found that the information submitted was not sufficiently precise in respect of condition 3 and that no samples had been supplied to the Council and noted the Appellant's agreement that no samples had been by the Council on site. The Inspector concluded that the requirements of condition 3 had not been met.

Also, for reasons set out in detail in her decision, the Inspector found that the requirements of condition 9 of the LB consent had not been met.

Various details had not been seen by the Council until the hearing, the Inspector having adjourned the hearing for an hour to allow the Conservation Officers to consider these details.

In assessing the details during the hearing, the Conservation Officers were content with some elements provided in respect of condition 5, but not for the other conditions.

The Inspector concluded that the details submitted at the hearing met the requirements of Conditions 4 and 5 and were acceptable, but that the details submitted in respect of conditions 3 and 9 were inadequate and that the development would be contrary to the relevant local plan policies and sections of the NPPF as well as the requirements of the relevant legislation.

At the hearing the appellant contended that a similar level of detail in respect of the Woolpack Inn and 16 Market Place had been considered acceptable, but the Inspector found there was insufficient evidence in this respect and in any event noted that listed buildings by their nature are unique and it does not automatically follow that what may be an acceptable level of detail in relation to one listed building will be equally applicable to others.

5. Alternative Options and Reasons for Rejection

5.1 None. This report is submitted for information.

6 Conclusion and Reasons for Recommendations

6.1 The report provides the current position on planning appeals for information for Members.

Decision Information

Key Decision	Not applicable
Subject to Call in	Not applicable
If not, why not subject to call in	Not applicable
Ward(s) Affected.	Appeal dependent

Document Information

Appendices	
Appendix 1	None
Background Papers	None
Reference Papers	All documents in respect of the planning appeal
Report Author	Sarah Gevaux, Appeals Administrator Paul Seckington, Development Manager
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Corporate Director Approval (unless Corporate Director or Statutory Officer report)	Ian Boll - Corporate Director for Communities 27 November 2024