

Case Officer: Matthew Chadwick

Applicant: Mr Richard Field

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

Ward: Kidlington East

Councillors: Councillor Maurice Billington
Councillor Carmen Griffiths
Councillor Ian Middleton

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

Expiry Date: 18 November 2019

Committee Date: 18 December 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

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

Consultations

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

- Kidlington Parish Council

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

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

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

Planning Policy and Constraints

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

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

Conclusion

The key issues arising from the application details are:

- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Highway safety
- Ecology impact

- Flood risk
- Environmental Health

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable subject to conditions.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

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

2. CONSTRAINTS

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

3. DESCRIPTION OF PROPOSED DEVELOPMENT

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

4. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
19/00018/F	Demolition of an existing dwelling and the erection of 6no new build flats with	Application Permitted

commensurate ancillary facilities

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

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments will be 11th November 2019, although comments received after this report is finalised will be reported to planning committee by way of a written update.

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

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

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

7. RESPONSE TO CONSULTATION

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

PARISH COUNCIL AND NEIGHBOURHOOD FORUMS

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

CONSULTEES

- 7.3. CDC BUILDING CONTROL: A full plans Building Regulations application will be required for proposals. Commented on the previous layout that the layouts of two units did not reflect guidance with regard to protection of a communal staircase.
- 7.4. CDC ECOLOGY: No comments received.
- 7.5. CDC ENVIRONMENTAL HEALTH: **No objections**, subject to a condition relating to EV charging points.
- 7.6. OCC HIGHWAYS: **No objections**, subject to a condition relating to cycle parking provision.
- 7.7. CDC HOUSING STANDARDS: **No objections**.
- 7.8. THAMES WATER: **No objections**.
- 7.9. CDC WASTE AND RECYCLING: No comments received.

8. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

- PSD1: Presumption in Favour of Sustainable Development
- SLE4: Improved Transport and Connections
- BSC1: District Wide Housing Distribution
- BSC2: The Effective and Efficient and Efficient Use of Land
- BSC4: Housing Mix
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15: The Character of the Built and Historic Environment
- Villages 1: Village Categorisation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

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

- 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)
- Kidlington Masterplan (2016)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

9. APPRAISAL

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

- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Highway safety
- Ecology impact
- Flood risk
- Environmental health

Principle of Development

Policy Context

- 9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 and the saved policies of the Cherwell Local Plan 1996.
- 9.3. The National Planning Policy Framework (NPPF) explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs. Paragraph 7 of the NPPF sets out the Government’s view of what sustainable development means in practice for the planning system – the three strands being the economic, social and environmental roles. It is clear from this that as well as proximity to facilities, sustainability also relates to ensuring the physical and natural environment is conserved and enhanced as well as contributing to building a strong economy through the provision of new housing of the right type in the right location at the right time.
- 9.4. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that conflicts with the Local Plan should be refused unless other material considerations indicate otherwise (Para. 12). Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.
- 9.5. Cherwell District Council can demonstrate a five-year supply of deliverable housing sites. Therefore, the policies in the development plan guiding the provision of housing can be considered up to date and given significant weight in determining applications. In addition to this, the Written Ministerial Statement of 12th September

2018 now considers important policies for determining the application to be out of date only where a 3 year supply of deliverable sites cannot be demonstrated. The presumption in favour of sustainable development, as advised by the NPPF, will need to be applied in this context.

- 9.6. Policy ESD1 of the Cherwell Local Plan Part 1 states measures will be taken to mitigate the impact of development on climate change and deliver the goals of sustainable development. This includes distributing housing growth to the most sustainable locations as defined in the Local Plan and delivering development which reduces the need to travel. The local plan has a strong urban focus with large amounts of housing planned at Bicester and Banbury. The policies relating to rural housing growth are therefore more restrained.
- 9.7. Policy Villages 1 of the Cherwell Local Plan provides a framework for housing growth in the rural areas and seeks to deliver some new development to the most sustainable rural locations. It does this by categorising the villages within the district and allowing for some limited growth in the most sustainable villages based on services, facilities and size of settlements. The categorisation also takes into account clustering of villages. Kidlington is classified as a Category A village, and these villages are amongst the most sustainable rural settlements in the district where minor development, infilling and conversion may be permitted for new housing within the built up limits.
- 9.8. Theme 2 of the Kidlington Masterplan focusses on, 'creating a sustainable community' and in relation to the approach to housing development it states: "*A range of options for development within the existing built-up area should be considered including appropriate redevelopment, intensification and infill while protecting Kidlington's key assets. This may involve increasing housing densities, reconfiguring land uses and introducing mixed used development.*"

Assessment

- 9.9. The proposal involves the demolition of the existing bungalow on the site and its replacement with a single building accommodating five flats. This constitutes minor development within the built limits of the village. It is therefore considered that the proposal is acceptable in principle, with overall acceptability subject to other material considerations which shall be discussed below.

Design and impact on the character and appearance of the area

Policy context

- 9.10. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPF goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Further, Paragraph 130 of the NPPF states that permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 9.11. Paragraph 127 of the NPPF states that planning decisions should ensure that developments:
- Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

- Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change;
 - Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
 - Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 9.12. Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 states that: *“New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards.”* The Cherwell Residential Design Guide SPD also encourages development which is locally distinctive and the use of appropriate materials and detailing, but states that new development should avoid the creation of ‘anywhere places’ which do not respond to local context.
- 9.13. Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context as well as compatible with existing buildings.
- 9.14. The Cherwell Residential Design Guide SPD states that development within Kidlington should look to strengthen the character of the village. The Design Guide SPD also states that new development should avoid architectural focus on individual buildings rather than the overall street composition. The SPD goes on to state that individual buildings should be designed to relate well to their neighbours, creating a harmonious overall composition and work with site conditions.
- 9.15. Kidlington Masterplan SPD, Theme 2: Creating a sustainable community, subheading ‘Securing high design standards’ states that: *“The design of the site layout, access arrangements, scale, massing and appearance will be required to demonstrate a positive relationship with the immediate surrounding context of the site and respect and enhance the townscape character of Kidlington as a whole.”*

Assessment

- 9.16. Planning permission has been granted at the neighbouring site to the west (63 Bicester Road) for the demolition of a bungalow and its replacement with a single building accommodating six flats. The current proposal has been designed to appear the same as this approved scheme from within the street scene.
- 9.17. The layout for the site provides vehicular parking between the building and highway. Amenity space is provided to the rear of the buildings as well as bin and cycle storage. This offers an overall layout that is akin to the character of the area and protects the quiet environment to the rear of properties along this street. The area to the front of the building would mainly comprise hardstanding and this is currently the situation at 65 Bicester Road, so no harm would be caused in this regard. The building would follow a relatively similar line to the existing development on the north site of Bicester Road. The layout of the proposal is therefore considered acceptable.
- 9.18. The bin and cycle storage areas would be sited behind the building, which would be screened from the public domain and this is welcomed. However, full design details of these structures would need to be submitted and this can be conditioned.

- 9.19. The immediate context comprises a range of dwellings, but the existing dwelling on the site and the neighbouring dwellings to the side have the appearance of bungalows. The front elevations of the dwellings in the locality tend to be relatively simple in articulation and appearance. Fronting onto a straight section of highway, it is within this context that the frontage of the proposed building would be viewed. The building would have a similar height to the existing building on the site and would maintain a 1½ storey appearance, and this overall height is considered acceptable.
- 9.20. The building would clearly have a greater volume than the existing dwelling given its greater depth, and the proposed building would be of a greater volume than its neighbours to the east. However, given its relatively simple form when viewed from the highway, the building would appear broadly in keeping with the general scale and massing of the relatively modest suburban housing within the immediate vicinity of the site.
- 9.21. The proposed building would have two wide, front-facing gables, which would be identical in design to the approved dwelling at 63 Bicester Road. There is a mix of architectural designs in the area and in this context, it is considered that the dwelling would not appear incongruous. The walls of the building would be constructed from white render and given that this is the predominant construction material for walls within the locality this material is considered acceptable. Further details of this would need to be secured by condition.

Conclusion

- 9.22. It is therefore considered that the development would not cause harm to the character and appearance of the area and the proposal thus accords with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the NPPF.

Residential amenity

Policy context

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

Assessment

- 9.26. The properties most likely to be affected by the proposed development are those on either side of the application site, these being No's.63 and 67 Bicester Road. The proposed building would be set back slightly from the existing bungalow on the site but would extend significantly further to the rear as the result of the proposals, at a distance of approximately 10m.

- 9.27. Concerns were raised with the applicant regarding the impact that the proposed development would have on the neighbouring property to the east, 67 Bicester Road. The application initially sought consent for six flats on the site, with an identical design to the approved scheme at 63 Bicester Road. Officers considered that those original proposals would have had an unacceptable impact upon 67 Bicester Road through loss of privacy, light and outlook. As a result, the proposals were reduced in scale (particularly the rear section), dropping from six units to five, while the rooflights facing towards 67 Bicester Road were removed and the rear part of the proposed building was reduced in scale and pulled away from the boundary with the neighbour to ensure that it did not result in a significant loss of light to the neighbour's rear habitable rooms.
- 9.28. The main 1½ storey element is in line with the rear wall of 67 Bicester Road and the element that extends to the rear is set a significant distance away from this neighbouring dwelling. It is thus considered that the proposed development would not cause harm to the amenities of the neighbour to the east. Some overlooking of the neighbour's garden would be possible by the dormers in the rear of the development. However, this impact is common in a suburban context such as this and as a result is deemed to be acceptable.
- 9.29. As stated earlier in this report, the other dwelling that would be impacted upon is 63 Bicester Road. It is important to consider both the impact that this proposed development would have on the amenities of the existing dwelling at 63 Bicester Road *and* that of the future occupiers of the building approved under 19/00018/F.
- 9.30. This existing dwelling at 63 Bicester Road is anomalous in terms of its siting relative to other dwellings in the vicinity in that it is set further back than the other dwellings in the area, at a distance of approximately 11m from the existing dwelling at 65 Bicester Road. On the front elevation of 63 Bicester Road are a living room (situated on west of the building furthest away from the proposed development) and a dining room (situated on the east of the building).
- 9.31. The front façade of the proposed development would be set back approximately 3.8m from the existing bungalow on the site; however, the side elevation of the proposed development would be 2m closer to the existing dwelling at 63 Bicester Road. 65 Bicester Road at present does have a minor overbearing impact upon 63 Bicester Road, given how far it protrudes to the front of the neighbouring dwelling and the front façade of the proposed development being set back 3.8m is a significant benefit in this regard. However, the side elevation of the development moving 2m closer to 63 Bicester Road would cause some harm to the amenities of the occupiers of this dwelling with regard to an overdominating impact and loss of light, and this harm needs to be weighed into the planning balance.
- 9.32. With regards to the impact on the development approved at 63 Bicester Road, the two dwellings would be built on a broadly similar building line and therefore there would be no harm to the front of the properties.
- 9.33. Both the proposed development and the approved development at 63 Bicester Road have windows serving habitable rooms in the side elevations at ground floor level. Given the set back of both properties from the side boundaries, in particular the approved scheme at 63 Bicester Road, the height of both buildings, the pitching away of the roof of the proposed building from the shared boundary and the fencing between these properties already, and the fact that the proposed development is to the north of this neighbour, it is considered that a lack of light to these rooms would not be significantly detrimental.

- 9.34. Rooflights serving first floor rooms are proposed at the side, but these are proposed to be 1.7 metres above first floor level so as to prevent clear views of the neighbouring properties. It is considered that windows at ground floor levels would not cause materially greater levels of overlooking than currently exist.
- 9.35. Concerns have been raised regarding noise from the proposed development during its construction phase. Issues arising from the construction phase of development are not material planning considerations and would only be a temporary issue during the construction phase itself.

Conclusion

- 9.36. It is considered that the proposals would have some adverse effect on both the existing and approved development at 63 Bicester Road. However, there would also be some benefits to the amenity on 63 Bicester Road through the proposed development being set back further into the site. On balance, it is considered that the development would not cause significant harm to the amenities of existing and proposed occupiers and is therefore acceptable in this regard.

Highway safety

Policy context

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

Assessment

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

Ecology Impact

Policy and legislative context

- 9.42. Section 40 of the Natural Environment and Rural Communities Act 2006 (as amended) places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making. Paragraph 99 of Circular 06/2005: Biodiversity and Geological Conservation states that: *"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."*
- 9.43. Paragraph 170 of the NPPF states that: *"The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity."*
- 9.44. Policy ESD10 of the Cherwell Local Plan Part 1 reflects the requirements of the Framework to ensure protection and enhancement of biodiversity. The Authority also has a legal duty set out in the Natural Environment and Rural Communities Act 2006 (NERC 2006) which states that: *"Every public authority must in exercising its functions, must have regard... to the purpose of conserving (including restoring / enhancing) biodiversity."*

Assessment

- 9.45. Comments from the Council's Ecologist have not been received and there are no records of protected species within the vicinity of the site. Given the modern construction of the dwelling and the urban location of the site it is considered that the proposal is unlikely to cause adverse harm to ecology.

Flood Risk

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

Environmental health

- 9.50. Policy ESD1 of the Cherwell Local Plan Part 1 states that measures will be taken to mitigate the impact of development within the District on climate change. The

incorporation of suitable measures in new development to ensure that development is more resilient to climate change impacts will include consideration of the following:

- Taking into account the known physical and environmental constraints when identifying locations for development
- Demonstration of design approaches that are resilient to climate change impacts including the use of passive solar design for heating and cooling
- Minimising the risk of flooding and making use of sustainable drainage methods; and
- Reducing the effects of development on the microclimate.

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

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

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

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

- 9.53. The Council's Environmental Protection Officer has no objections to the development, subject to a condition that EV charging infrastructure be provided on the site. Concerns have been raised during the consultation process that the development has not considered climate change, with no charging points, solar panels or heat pumps being shown as part of the proposals.
- 9.54. Paragraph 110 of the NPPF states that development 'should be designed to enable the charging of plug-in and other ultra-low emission vehicles'. Furthermore, Cherwell District Council declared a Climate Change Emergency at the full Council meeting in July 2019 and the site is located in close proximity to an Air Quality Management Area on the eastern end of Bicester Road. Giving weight to all of these factors, it is considered that a condition relating to EV charging infrastructure is considered to meet the tests set out in Paragraph 55 of the NPPF and shall therefore be recommended.

Human Rights and Equalities

- 9.55. The Human Rights Act 1998 ("HRA") sets out fundamental freedoms which have been laid out by the European Convention on Human Rights ("ECHR"). In making any decisions, Cherwell District Council ("the Council") should have due regard to and take into account any implications that may arise under the HRA. As a public authority, it is unlawful for the Council to act in a manner which is incompatible with the ECHR.
- 9.56. The rights under the ECHR which the Council views as being the most likely to affect planning matters are: Article 6 (the right to a fair trial); Article 8 (right to respect for private and family life); Article 14 (prohibition of discrimination); and Article 1 of the First Protocol (protection of property).

Article 6

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

Article 8 and Article 1 of the First Protocol

- 9.58. Officers have considered the duties under both Article 8 and Article 1 of the First Protocol and have resolved that the application does respect the private and family life of neighbours and does not fail to protect the neighbours' property.
- 9.59. Officers have considered that, in the event that the application is granted planning permission, there will not be any discrimination (or potential discrimination) on neighbours.

Duty under The Equalities Act 2010

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

10. PLANNING BALANCE AND CONCLUSION

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

11. RECOMMENDATION

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

CONDITIONS

Time Limit

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

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

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Existing Block Plan (190265-A-Ex-80 Revision A); Proposed Block Plan (190265-A-Pr-80 Revision B); Proposed Site Plan (190265-A-Pr-90 Revision B); Proposed Floor Plans (190265-A-Pr-100 Revision B); Proposed Roof Plan (190265-A-Pr-100 Revision B); Proposed Main Elevations (190265-A-Pr-200 Revision B) and Proposed Side Elevations (190265-A-Pr-210 Revision B).

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

Material samples

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

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

Landscaping plan

4. Prior to the commencement of the development hereby approved above slab level, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-
 - a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
 - b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
 - c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps, and
 - d) full details of the design and appearance of the bin storage area.

Thereafter, the development shall be carried out in accordance with the approved details. The hard landscape elements shall be carried out prior to the first occupation of the development and shall be retained as such thereafter.

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development, and to comply with Policies ESD1 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Landscaping in accordance with British Standard

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

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development, to encourage the use of sustainable modes of transport and to comply with Policies ESD1 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policy C28 of the Cherwell

Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Details of access and turning areas

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

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

Cycle parking details

7. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

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

EV charging infrastructure

8. No development shall commence above slab level until a scheme for a system of ducting to allow for the future installation of electrical vehicle charging infrastructure to serve the dwelling has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details prior to the first occupation of the dwelling.

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

PLANNING NOTES

1. On the basis of information provided, Thames Water would advise that with regard to water network and water treatment infrastructure capacity, we would not have any objection to the above planning application. Thames Water recommends the following informative be attached to this planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

2. With regard to surface water drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website. <https://developers.thameswater.co.uk/Developing-a-large-site/Apply-and-pay-for-services/Wastewater-services>.
3. There are public sewers crossing or close to your development. If you're planning significant work near our sewers, it's important that you minimize the risk of damage. We'll need to check that your development doesn't reduce capacity, limit repair or maintenance activities, or inhibit the services we provide in any other way. The applicant is advised to read our guide working near or diverting our pipes. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>.
4. Should the existing access to the site need altering, a Section 184 agreement will be required. Please note this cannot be the full length of the frontage of the site. Further at no point can any vehicle be parked on land that is not within the applicants control or that is adopted highway including footway, this includes for manoeuvring purposes. Further details on a Section 184 agreement can be found via the following link; <https://www.oxfordshire.gov.uk/business/licences-and-permits/dropped-kerbs>.
5. Bats are a highly mobile species which move between a number of roosts throughout the year. Therefore all works must proceed with caution and should any bats be found during the course of works all activity in that area must cease until a bat consultant has been contacted for advice on how to proceed. Under the Wildlife & Countryside Act 1981 (as amended) and the Habitat and Species Regulations 2010 it is illegal to intentionally or recklessly disturb, harm or kill bats or destroy their resting places.
6. Birds and their nests are fully protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds can be avoided by carrying out vegetation removal or building work outside the breeding season, which is March to August inclusive.