

Case Officer: James Kirkham

Applicant: Mr Jamie Pyper

Proposal: Conversion of existing building from Magistrates Court (Use Class D1) to 23 No
apartments incorporating extension and selective demolition

Ward: Banbury Cross and Neithrop

Councillors: Councillor Banfield, Councillor Dhesi, and Councillor Perry

Reason for Referral: Major development

Expiry Date: 12 October 2020

Committee Date: 8 October 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

The application seeks permission to demolish the existing range of flat roof extensions to the rear of the former magistrates court building, and extend and convert the building into 23 flats (14 no. 2-bed and 9 no. 1-bed units), with associated parking, cycle and bin stores and landscaping.

Consultations

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

- Banbury Town Council, CDC Well-Being

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

- CDC Ecology, OCC Highways (Local Highway Authority), CDC Environmental Protection, Council's Viability Consultant (Bidwells), OCC Drainage (Lead Local Flood Authority), TVP Crime Prevention Design Advisor and Thames Water

3no letters of objection and 1no of comment have been received. No letters of support have been received.

Planning Policy and Constraints

In terms of site constraints, the application site is located in Banbury Conservation Area and is also registered as a locally listed building (non-designated heritage asset). The application site is also located in an area of potentially contaminated land as shown on the Councils mapping systems.

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

- Heritage, design, and impact on the character and appearance of the area
- Residential amenity
- Ecology impact
- Viability, affordable housing and infrastructure
- Highways

The report considers 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 the former Magistrates Court located on Warwick Road in Banbury. It is currently vacant following the closure of the Magistrates Court. The building is a large attractive stone building with stone mullion windows and is set back from the main road behind a small parking area. A limestone wall exists to the northern and part of the eastern boundary of the site. Residential properties exist to the north of the site in Arran Grove and flats exist to the east and south of the site on Warwick Road. The site is also located immediately adjacent to the police station which is situated to the west of the site.

2. CONSTRAINTS

2.1. The application site is located within the Banbury Conservation Area and is also registered as a locally listed building (non-designated heritage asset). The application site is also located in an area of potentially contaminated land as shown on the Councils mapping systems.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. The current application seeks permission to extend and convert the former Magistrates Court into 23no flats (14no 2-bed and 9no 1-bed units).

3.2. It is proposed to demolish the existing range of flat roof extensions to the rear of the building and replace them with two flat roof two storey extensions to the rear of the building which would accommodate several flats. A gable ended extension is also proposed centrally to the rear elevation of the main building to provide a circulation space. These extensions would be constructed of stone and the central gable would have a tiled roof to match the existing roof.

3.3. Flat roof single storey extensions are also proposed to the both sides of the rear of the building, which would be similar in appearance to the existing flat roof extensions to the sides of the building.

3.4. It is also proposed to convert the roof space of the existing principal building into living accommodation. This would include the provision of 2no roof lights in the side elevations of the existing front gable element of the building and the lowering of the cill of the existing window in this gable at second floor level. To the rear a number of dormer windows and roof lights are proposed.

- 3.5. Parking for 35 cars would be provided to the front and side of the building along with cycle parking and bin stores in the north west corner of the site. A small area of amenity space would be provided to the rear of the site between the proposed two storey rear extensions.
- 3.6. The application has been amended significantly during the course of the application following feedback from officers on heritage, design and amenity issues, which has also resulted in the number of flats being reduced from 29 to 23 and the scale and form of the extensions being significantly altered.

4. RELEVANT PLANNING HISTORY

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

02/02128/OCC – Alterations and extensions to existing magistrates court, demolition of existing garage and alterations to existing car park layout OCC ref.: C.17/02 - Approved

11/00032/F – Retrospective - Galvanised barriers on roof – Approved

5. PRE-APPLICATION DISCUSSIONS

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

19/00033/PREAPP – Change of use and alterations/additions to create 37 new residential units

- 5.2. This pre-app was not undertaken by the current applicant but by the public body that previously owned the site. The scheme was materially different to the one now presented. It was stated that there would be unlikely to be any objection to the principle of the change of use to residential and some extensions to the rear of the building may be supported. The scheme presented at that time was unacceptable for a number of reasons.

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records (amend as appropriate). The final date for comments was **31st August 2020**, although comments received after this date and before finalising this report have also been taken into account.

- 6.2. 3 letters of objection have been received and 1 letter of comment. The comments raised by third parties are summarised as follows:

- Residential amenity: Loss of light, outlook (i.e. overbearing) and privacy to gardens and dwellings in Arran Grove which are located on lower ground than the application site. Proposal does not accord with the distances in the New Residential Design Guide SPD. Amount of amenity space for future residents very limited.
- Detrimental impact on Conservation Area and locality: Inappropriate use of materials with metal roof. The extensions are not subservient to the main building. Dry stone wall should be preserved
- Overdevelopment of the site: Extensions too large and not sufficient amenity space for number of residents.

- Traffic – Increase in traffic leaving to severe congestion
- Noise, disturbance and air and light pollution as a result of the change of use to residential and also the building works.
- The building is known as a traditional swift site and appropriate mitigation and enhancement should be provided. Requires the provision of a bat roost within the structure.
- A restriction should be placed on construction working hours
- Concerns regarding approval by amendment.
- Loss of value to neighbouring properties.

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. BANBURY TOWN COUNCIL: **Objects.** Supports the principle of the development, but object as the proposal does not provide affordable housing in accordance with the Development Plan. It is suggested that a development with less new build may be more viable. The proposal does not ensure provision for essential off-site infrastructure, especially sports and education contributions. The relocation of the of the bin store is welcomed.

CONSULTEES

7.3. HISTORIC ENGLAND: **No comments.**

7.4. CDC CONSERVATION: **No objections.** A number of changes have been made to the proposed scheme, which are more respectful of the non-designated heritage asset and the character and appearance of the conservation area. Happy to support the proposed development, which has the public benefit of bringing this historic building into a beneficial use.

7.5. OCC HIGHWAYS: **No objection** subject to conditions. Details of the proposed access will need to be considered as will a Construction Traffic Management Plan (CTMP). The site is well located to public transport and travel information packs should be provided to residents. The proposal would have a negligible impact on the traffic on the local highway network. Parking is in accordance with the standards. The site would benefit from the removal of the island to the frontage.

7.6. CDC ECOLOGY: **No objection** subject to conditions. A bat roost has been found during the surveys and licence will be required. There appears to be sufficient scope within the building for mitigation. Swifts are also known to be nesting at the site and these will need to be protected with conditions. The Biodiversity calculator shows a very small gain biodiversity and would request further enhancement to show a clear gain. Further swift nesting opportunities should be explored.

7.7. CDC ENVIRONMENTAL PROTECTION: **No objection subject to conditions.** A Construction Environmental Management Plan (CEMP) should be conditioned. The land is identified as potentially contaminated therefore conditions are required in this respect. Request provision of electric charging points for vehicles in the car park.

Agree with the findings of the Air Quality Report and agree the recommendations within it should be followed during construction.

- 7.8. CDC STRATEGIC HOUSING: Comments: Vacant Building Credit (VBC) not applicable at site. A commuted sum in lieu of any affordable housing may be required depending on the outcome of any assessment of the financial viability appraisal.
- 7.9. COUNCILS VIABILITY CONSULTANT (BIDWELLS): **No objections.** The Financial Viability Appraisal (FVA) comprises a residual land appraisal of the Proposed Scheme, factoring in anticipated costs, revenues and a profit margin to calculate the land price that a developer would be capable of paying to acquire the site for development. This residual land value is then compared with a benchmark value, which represents the minimum price at which a rational landowner would be incentivised to sell the site.
- 7.10. Under the principles of development viability, a scheme can be considered viable if it generates a residual land value in excess of the benchmark value. The logic behind this is that development will only proceed if it can meet the developer's required profit margin as well as the landowner's minimum price expectations.
- 7.11. The applicant appraisal demonstrates a residual land value of £102,838 for the Proposed Scheme. This is shown to be £852,262 below the agreed Benchmark Land Value for the application site. The applicant therefore concludes that the Proposed Scheme is unable to sustain any level of contribution towards CDC's adopted Affordable Housing policy target whilst remaining viable.
- 7.12. Bidwells have considered each of the assumptions and sources of information which have been relied upon by the applicant in arriving at the stated position on scheme viability. We have also undertaken our own appraisal of the Proposed Scheme, making adjustments to the cost and value inputs as appropriate, to verify the applicant's findings.
- 7.13. Bidwells' appraisal of the Proposed Scheme generates a Residual Land Value of £619,140, which is £335,960 below the Benchmark Land Value. Whilst this indicates a reduced deficit in comparison to the submitted position, it nevertheless validates the conclusion of the applicant's consultant that the Proposed Scheme cannot viably provide any Affordable Housing contributions
- 7.14. CDC WELL-BEING: Request contributions in accordance with BSC10, 11 and 12 and the Developer Contributions SPD. £17,225 community hall (to Ruscote community centre), £30,368 to outdoor sports (North Oxfordshire Academy), £12,571 indoor sports provision (Banbury indoor tennis club or improvements at Spiceball Leisure Centre) and £5152 to public art.
- 7.15. OCC DRAINAGE (LEAD LOCAL FLOOD AUTHORITY): **No objections** subject to conditions.
- 7.16. CRIME PREVENTION DESIGN ADVISOR: **No objection** subject to condition for Secured by Design accreditation. Advises windows and door meet certain standards and adequate lighting is provided across the site. The new railing around the site should be at least 1.8 metre high and provide a private space. The cycle and bin stores should be secure enclosures. All suggests use of fob activated access control system, secure post system, use of smart metres and internal lighting.
- 7.17. THAMES VALLEY POLICE: **Comment.** The site is immediately adjacent to the operational police station which is a 24/7 functioning operation including custody

suite and blue light movements throughout. There will potentially be disruptive activity at unsociable hours. Future occupiers should be aware of the impact and complaints about noise and disturbance will not be given any weight. Construction vehicles need to be aware of the operational needs and requirements of the police.

- 7.18. THAMES WATER: **No objection** subject to conditions on piling statement. There is a strategic sewer near the site and therefore if piling is proposed a method statement is required. Any ground water discharges to the public sewer will require a permit. The wastewater network and sewage treatment works infrastructure and the water infrastructure have capacity to accommodate the development.
- 7.19. BANBURY CIVIC SOCIETY: **Comment.** The building has a history of public use and it is unfortunate another public use cannot be found for it. It is in an accessible location and contains a good mix of room sizes which may be appropriate for uses such as doctors surgeries/ health centre which are stretched at the current time. It could replace the Cope Road site which could then be redeveloped for housing.
- 7.20. CDC BUILDING CONTROL: **Comment.** The proposals will require a Building Regulations application.
- 7.21. *Officer comment:- Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the 1990 Act (as amended) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.*
- 7.22. *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.*

8. RELEVANT PLANNING POLICY AND GUIDANCE

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

Cherwell Local Plan 2011-2031 Part 1 (CLP 2031)

- PSD1: Presumption in Favour of Sustainable Development
- SLE4: Improved Transport and Connections
- BSC1: District Wide Housing Distribution
- BSC2: The Effective and Efficient Use of Land - Brownfield Land and Housing Density

- BSC3: Affordable Housing
- BSC4: Housing Mix
- BSC10: Open Space, Outdoor Sport and Recreation Provision
- BSC11: Local Standards of Provision – Outdoor Recreation
- BSC12: Indoor Sport, Recreation and Community Facilities
- ESD1: Mitigation and Adapting to Climate Change
- ESD3: Sustainable Construction
- ESD7: Sustainable Drainage Systems (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15: The Character of the Built and Historic Environment
- INF1: Infrastructure

Cherwell Local Plan 1996 (Saved Policies) (CLP 1996)

- C23: Retention of features contributing to the character of a conservation area
- C28: Layout, design and external appearance of new development
- C30: Design control
- ENV1: Environmental pollution
- ENV12: Contaminated land

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide Supplementary Planning Document (SPD) (July 2018)
- Developer Contributions SPD 2019

9. APPRAISAL

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

- Principle of development
- Heritage, design, and impact on the character and appearance of the area
- Residential amenity
- Ecology impact
- Viability, affordable housing and infrastructure
- Highways

Principle of Development

Policy Context

9.2. There are no adopted Local Plan policies relating specifically to housing development within Banbury. However, the Cherwell Local Plan (2011-2031) Part 1 states that housing growth will be directed towards the urban areas of Banbury and Bicester. Paragraph B.88 states: *“By focussing development in and around the towns of Bicester and Banbury we aim to ensure that the housing growth which the District needs only takes place in the locations that are most sustainable and most capable of absorbing this new growth.”*

- 9.3. In addition to this, Policy ESD1 of the Cherwell Local Plan (2011-2031) Part 1 (CLP Part 1) states that: *“Measures will be taken to mitigate the impact of development within the District on climate change. At a strategic level, this will include:*
- *Distributing growth to the most sustainable locations as defined in this Local Plan.*
 - *Delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars.”*
- 9.4. Furthermore, Policy BSC2 of the CLP 2031 also states that the Council will encourage the re-use of previously developed land in sustainable locations and they will be expected to make efficient and effective use of land.

Assessment

- 9.5. The site is located within the built up limits of Banbury and within proximity to the Town Centre, which is a sustainable urban location with good access to public transport links, local shops and amenities and which in principle is suitable for residential development and in accordance with Policy ESD1 of the Local Plan. The proposal is also previously developed land which Policy BSC2 encourages the use of in delivering new housing in sustainable locations.
- 9.6. Officers have considered whether the magistrates court should be considered as a community facility. Paragraph 92 of the NPFF states that to provide social recreational and cultural facilities and services the community needs, planning decisions should plan positively for local services to enhance the sustainability of communities and guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the ability to meet its day to day needs. On balance officers do not consider that a magistrates court is a facility which would be covered by this policy protection and, even were it to be concluded that it was, there would be no prospect of the building being used for a facility which serves the same purpose as a magistrates court given these are operated by public bodies. The same day to day need would therefore not be met by an alternative use of the site. The Banbury Civic Society comments that it is unfortunate that a new public use such as a health centre cannot be found for the building given its central location and history. Officers have sympathy with that position. However, there is no planning policy requirement to consider alternative community uses for the building. Therefore, the loss of the use as a magistrates court is not considered to warrant refusal of the application.
- 9.7. Overall, therefore the principle of residential use on the site is considered to be acceptable subject to other material considerations discussed below

Heritage, design, and impact on the character and appearance of the area

Legislative and policy context

- 9.8. The site is within Banbury Conservation Area and the Magistrate’s Court is a locally listed building (non-Designated Heritage Asset).
- 9.9. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention is given to the preservation or enhancement of designated conservation areas.

- 9.10. Paragraph 189 of the NPPF states that: *“In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance.”*
- 9.11. Paragraph 193 of the NPPF states that: *“When considering the impacts of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”* Paragraph 194 of the NPPF goes on to state that: *“Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification”*. The NPPF goes on to state that where harm is caused to the significance of a heritage asset it should be weighed against the public benefits arising from the scheme.
- 9.12. Paragraph 197 of the NPPF states that: *“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”*
- 9.13. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. The NPPG goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Further, Paragraph 130 of the NPPF states that permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 9.14. 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.
- 9.15. Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 states that new development proposals should: *“Conserve, sustain and enhance designated ‘heritage assets’ (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG.”* Policy ESD15 also 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.”*
- 9.16. 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.

Assessment

- 9.17. The site is identified as being within the Main Route Corridor character area of the Banbury Conservation Area within the Banbury Conservation Area Appraisal (BCAA). The BCAA states that: "*Banbury Court House is one on its own in terms of buildings within the town. It was built as a new County Police Station in 1935, following the Borough losing control of its police force to the County in 1925. The building is constructed in stone thereby following the 19th Century architectural tradition that equates stone with civic pride; the architectural style is paired-down and the building appears severe but not to the point of brutality.*" It is noted as a building that positively contributes to the Conservation Area and the Conservation Area was recently extended to include this building.
- 9.18. It is considered that the building is of significance as a representative example of the development of the police and legal systems in the 20th Century. The building demonstrates a national phenomenon in a local context and provides a further understanding of the evolution of the town. It is therefore considered that the building is of communal and illustrative historical value, and of high significance within the context of Banbury.
- 9.19. The building was specifically designed to convey civic pride and authority and continues to do so due to its institutional formal appearance and its prominence within the street scene. The architectural features and fabric of the exterior of the building are well preserved. The set back from the general building line of the street is a particular characteristic of civic buildings and contributes to its prominence within the streetscape. It is therefore considered that the building is of aesthetic design value and architectural interest.
- 9.20. The plans have been amended during the course of the application due to concerns raised by Officers on a number of matters including heritage. The alterations now proposed to the external appearance of the principle and side elevations of the original building are much less significant than originally sought as these elements are key to the significance of the building. The changes to the front elevation (i.e. roof lights and alteration to window on front projecting gable) are now considered to be modest and would not significantly detract from the character and appearance of the Conservation Area, the character of the existing building or the positive contribution the building makes to the street scene.
- 9.21. The Conservation Officer also sought that the two existing two storey hipped roof out-riggers to either end of the rear elevation of the main building be retained as they form part of the original building and ensure that the front elevation of the building remains the prominent element in the street scene which is important to the significance of the heritage asset. Whilst it is noted that part of one of these elements would be demolished it would be replaced with a similar form and this is considered to be acceptable given the limited scale of the replacement.
- 9.22. The proposed single storey extensions either side of the building would be externally faced in matching materials (stone) to the main building and would have similar fenestration and detailing. They would be set back from the front elevation of the building and the one to the east would replace an existing structure and the one to the west would be located behind a similar extension. These additions are clearly subservient to the main building. These elements are therefore considered to be in character and scale with the existing building and not harmful to the Conservation Area.
- 9.23. However, the main changes now proposed would be to the rear of the building. Whilst public views of these would be limited, which tempers the impact on the wider

character and appearance of the Conservation Area, it must be borne in mind that the site is located in the Conservation Area and also is a non-designated heritage asset which is a material consideration in its own right. The rear elevation is therefore important, and these additions would have an impact on the Conservation Area.

- 9.24. During the course of the application the scale, form and design of the rear projections has been significantly altered. Officers, including the Conservation Officer, are strongly of the view that the extensions should remain subservient to the existing building in order to preserve its significance. The proposed extensions are therefore now designed as flat roofed extensions, which means they do not extend above the eaves of the main building. Whilst this approach may not normally be endorsed, in this case there are already significant areas of flat roof elements to the rear of the building which would be removed as part of the current proposal and some of the single storey elements have flat roofs. Therefore, in this case, the form of the proposed extensions is considered broadly acceptable and the Conservation Officer raises no objection to this. Public views of these elements would also be limited and largely screened by the existing building.
- 9.25. The proposed extensions are now proposed to be constructed of stone to match the existing building (rather than the render walls and metal roofs which were originally proposed). This is in keeping with the simple palette of materials on the existing building and is considered important in terms of the significance of the building. The applicant has sought to amend the fenestration of the extensions to better reflect that of the existing building and whilst it is still not ideal, given it is located to the rear of the building and would not be visually prominent in public views it is not considered to justify refusal. Full details of the windows, recesses and surrounds can be controlled by condition and this will be very important to the final quality of the scheme.
- 9.26. The rear dormers have also been amended during the course of the application and their scale and form is now more sympathetic to the building. In order to provide accommodation in the roof space it is necessary to provide light and officers have worked with the applicant to ensure that the front elevation of the building, which is part of its core significance, is retained relatively unaltered by the proposal. On balance, the dormers and roof lights in the rear elevation of the building are considered to strike an acceptable compromise to allow more efficient use of this brownfield site particularly given the viability issues around the development (outline elsewhere in this report
- 9.27. An attractive and what appears historic drystone wall exists to the northern and part of the eastern boundaries of the site. The submitted plans show this to be retained and in order to protect it a condition is proposed to rear a method statement for the protection of this.
- 9.28. Overall, the proposed development is considered to result in some harm to the heritage assets (i.e. the Conservation Area and building itself). This harm is considered to be 'less than substantial' in the context of the NPPF but would be limited and relatively minor and therefore at the lower end of the spectrum. In such cases the NPPF advises that the harm be weighed against the public benefits of the scheme. In this case the proposal would provide a new use for the building and utilise previously developed land. It would also provide for new housing to meet the Council's housing requirement in a sustainable location which reduces the need to travel. Overall, these benefits are considered to outweigh the limited harm to the heritage asset and the proposal is considered acceptable in heritage and design terms.

Residential amenity

Policy

- 9.29. Policy ESD15 of the CLP 2031 requires new development to consider the amenity of both existing and future occupants, including matters of privacy, outlook, natural light, ventilation, and indoor and outdoor space.
- 9.30. Saved Policy ENV1 of the CLP 1996 states that development which is likely to cause materially detrimental levels of noise, smell, fumes or other types of environmental pollution will not normally be permitted.

Assessment

- 9.31. The properties that would be most affected by the proposal would be those to the north of the site in Arran Grove. These are two-storey, semi-detached properties with rear gardens adjacent to the northern boundary of the application site. An attractive drystone limestone wall a limestone wall is on the boundary with these properties. The gardens of these properties are located on approx. 0.8 to 1 metre lower ground than the rear of the application site.
- 9.32. In terms of outlook the existing flat roof extensions to the rear of the building, including the van dock, already impacts on the amenity of the neighbouring properties, particularly 7 Arran Grove, to a considerable degree given its overall height, length, proximity and massing. The current proposal would remove these existing flat roof extensions. The Council's new Residential Design Guide SPD generally seeks to provide a minimum of 14 metres distance from the rear elevation of one property to the blank two storey side elevation of another to ensure developments do not appear overbearing or unacceptably impact on outlook. This is a starting point for consideration. Whilst it is accepted that the proposal would clearly change the outlook from the rear of the properties in Arran Grove, this in itself is not a reason to refuse consent and a judgement has to be made as to whether this impact would unduly impact on the outlook from these properties.
- 9.33. In this case the fact that the side elevations of the flat roof extension would be approximately 8 metres deep and 6.5m tall needs to be considered alongside the fact the application site is on higher level than the gardens in Arran Grove. This would all result in the building having a bulk and massing more like a 3-storey building when viewed from these neighbouring properties. Overall, in officers' opinion the outlook from the rear of 7 Arran Grove would be improved as the existing flat roof extension (van dock), which covers a significant proportion of its rear boundary, would be removed and the proposed outriggers would be further off-set from the rear of this property. 6 and 9 Arran Grove are orientated slightly away from the application site and given the distance of the two-storey extensions from the rear of these properties, and the single storey scale of the closest elements, the proposal is not considered to unacceptably impact on the outlook to these properties. The two storey rear western extension would be located to the rear of 8 Arran Grove; however, it would be located approximately 19 metres from the rear elevation of this property and based on this, and having regard to all circumstances including the distances set out in the SPD it is not considered to unacceptably impact on their outlook.
- 9.34. In terms of privacy the gardens in Arran Grove are currently relatively private with limited overlooking. However, they are located in an urban location where some level of overlooking is common. The Council's New Residential Development Design Guide SPD advises a 22 metre distance should be provided between first floor windows when the rear of properties directly face one another.

- 9.35. The change of use of the property would have some impact on privacy as it would be occupied over the course of the whole day. However, this is not considered to be especially significant. The new dormer windows and roof lights would also result in an increase in overlooking to the neighbouring properties and gardens but these would be approximately 30 metres from the rear of the properties in Arran Grove (17 metres from the boundary), which officers consider would result in the level of overlooking not being significant in an urban context. A window is proposed in the end of the end of the existing western outrigger which would face these properties, but this serves a bathroom and could be conditioned to be obscurely glazed.
- 9.36. It is proposed to provide small outdoor amenity spaces to the ground floor flats facing onto the northern boundary along with ground floor windows in the northern elevations of the extensions. Given the levels difference between the sites the existing limestone boundary wall would only be approximately 1.5 metres high from the finished floor level of the proposed flats which would mean that residents in the flats and using these amenity spaces would be able to view directly into the gardens in Arran Grove at close proximity. This would have a significant impact on residential amenity and weighs against the development.
- 9.37. However, in order to screen these views, the applicant has proposed to provide screening panels (fence panels) above the wall. These are likely to be between 0.3-0.5 metres above the existing wall to provide an effective 1.8 - 2.0 metre high screen with the neighbours. Whilst this is not ideal in design terms, or amenity terms, as they would increase the height of the boundary wall which is already approximately 2.8 metres from the properties in Arran Grove, it is noted a 2 metre high screen from the existing ground level of the application site could be put up on the application site without the need for planning permission and it would overcome the issues on loss of privacy. Therefore, on balance, it is considered acceptable and full details of the appearance and height of this can be secured by condition.
- 9.38. The two-storey extension does not include any first floor windows in the northern elevation directly facing the properties in Arran Grove, although some recessed panels have been included in order to try and soften the bulk and mass of the elevation. However, there are several first floor windows proposed in the eastern and western facing elevations of both of the two storey rear extensions. Whilst it is acknowledged that overlooking from these windows is not direct officers had raised concerns regarding the level of overlooking from these windows particularly to the garden of 7 Arran Grove given the number of windows and the overlooking from multiple directions.
- 9.39. The plans have been amended to remove the first-floor windows in the ends of the two-storey extension facing into the proposed shared amenity space closest to the boundary facing with 7 Arran Grove. This means that the closest first floor window is now further from the boundary with the properties in Arran Grove and has a more oblique angle of overlooking and is considered to overcome this issue.
- 9.40. First-floor windows are still proposed in the outer elevations of the proposed two storey rear extensions facing east and west which would overlook the gardens of 9 and 6 Arran Grove, and would have a significant impact in this respect, which counts against the development. However, the angle of overlooking from these windows, distance to boundaries and properties, and the offset relationship of the windows from the adjoining properties is considered to mean the level of overlooking would not be so great as to warrant refusing the application.
- 9.41. Overall, in terms of outlook and privacy, whilst officers accept that there would be a relatively large degree of change to the outlook and levels of overlooking to the properties in Arran Grove, this is not considered to be to an extent which would

warrant refusal particularly given the urban context of the site and the guidance in the Councils New Residential Development Design Guide SPD.

- 9.42. Concerns have been raised regarding the loss of light to the properties in Arran Grove. Given the distance to the neighbouring properties and the fact that extensions are now set lower than the existing main part of the building it is not considered that the loss of light would be significant.
- 9.43. The proposal would also include a number of new and ground floor windows serving flats facing towards Town Centre House to the east of the site. Given the detailed relationship, the separation distance and the fact that many of the windows which would be impacted on Town Centre House already face into a shared parking area the impact on the amenity of these windows is not considered to be significant.
- 9.44. Planning policies also require a high standard of amenity is secured for proposed occupants of land and building. All the flats would be of a good size and would provide adequate levels of living space to provide a good level of amenity. There are some concerns regarding the outlook of the ground floor flat to the east of the site (unit 8) as the only windows serving this property's main living space face onto the boundary at close proximity. The applicant argues that the living space is served by multiple openings and also a large rooflight is proposed over the living space which will make the space light and spacious. Officers still have some reservations regarding the amenity of this flat and this weighs against the development.
- 9.45. In terms of noise and disturbance the site is located next to the Police Station and also a busy main road which is a source of noise. The application has been accompanied by a noise report which included a series of noise surveys at the site. This recommends that with the standard thermal double glazing (which exists in the building) an acceptable noise environment would be achieved; however, a number of the flats would require an alternative means of ventilation to ensure windows can be closed to achieve internal noise levels. The Council's Environmental Protection Officer has assessed this and considers it to be acceptable. The police station is in 24/7 operation and is likely to lead to some noise and disturbance, but it is noted that it is already located in an area with a number of residential properties.
- 9.46. Whilst this is not ideal given the sustainable location of the site, the fact that other housing is very nearby and there is no objection by the Councils Environmental Protection Officer this is considered to be acceptable. Full details of the noise mitigation measures can be secured through condition to ensure they are not harmful to the historic significance of the building.
- 9.47. Concerns have been raised by residents over noise, disruption and other pollution during construction. These impacts are a product of any new development and are temporary in nature whilst building works are being undertaken. They are not considered to be a reason to refuse the application; however, in order to reduce these impacts as far as possible the Council's Environmental Protection Officer has requested a Construction Environmental Management Plan which can be secured by planning condition. Given the scale of the development and its proximity to neighbours this is considered reasonable and necessary and to meet the tests for conditions.

Ecology Impact

Legislative context

- 9.48. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent

amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.

- 9.49. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.50. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.
- 9.51. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
 - (2) That there is no satisfactory alternative.
 - (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
- 9.52. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

Policy Context

- 9.53. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.54. Paragraph 175 states that when determining planning applications, local planning authorities (LPAs) should apply the following principles: a) if significant harm to

biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

- 9.55. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 9.56. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.57. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.58. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.59. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that LPAs should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

- 9.60. The site is largely laid to hard standing with little landscaping on site. The main constraint is the building. The application is accompanied by a Protected Species Survey. This included emergence surveys for bats and found a small number of brown long eared bats entering the roof space. Swifts were also noted to be nesting in the eaves of the building.
- 9.61. The Council's Ecologist (CE) has reviewed the submitted information and is satisfied that adequate mitigation can be provided for bats within the building and that a licence from Natural England (NE) will be required. In respect of Swifts the CE has requested the provision of further swift nesting opportunities on the building to show a clear biodiversity enhancement across the site and this can be secured by condition.
- 9.62. Officers are satisfied, on the basis of the advice from the CE and the absence of any objection from NE, 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.

Viability, affordable housing and infrastructure

Policy context

- 9.63. Policy BSC3 of the Cherwell Local Plan Part 1 states that all developments within Banbury and Bicester that include 11 or more dwellings (gross) will be expected to provide at least 30% of new housing as affordable homes on the site. This provision expects 70% of the affordable housing as affordable/social rented dwellings and 30% as other forms such as shared ownership.
- 9.64. Policy BSC10 and BSC11 of the Cherwell Local Plan Part 1 states that all development proposals will be required to contribute to the provision of open space, sport and recreation, together with securing arrangements for its management and maintenance.
- 9.65. Policies BSC3 and BSC11 both acknowledge viability can be an issue and state where an applicant considers that this would make a scheme unviable and open book financial viability assessment will be required to be undertaken. Viability assessments are a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it allowing for a developer profit.
- 9.66. Policy BSC12 states that development should 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. The Council's Developer Contributions SPD 2018 builds on this and details how each contribution will be calculated.
- 9.67. Paragraph 57 of the NPPF states it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case. It states that all viability assessments, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.
- 9.68. The PPG also provides guidance on defining the key inputs into viability assessments. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return.

Assessment

- 9.69. When the application was originally submitted the applicant sought to argue that Vacant Building Credit applied to the development, which would have significantly reduced the amount of affordable housing required by the scheme as it off-sets the existing floor space of a building against the affordable housing requirement. However, officers did not agree that Vacant Building Credit (VBC) was appropriate to apply to this scheme in light of the guidance in the Planning Practice Guidance and considered that the site was vacant for the purposes of redevelopment and would therefore not qualify for VBC.
- 9.70. However, the applicant has also argued that the site would not be financially viable with the provision of affordable housing on the site or other planning obligations

towards open space, community halls, and outdoor and indoor sports. The applicant has submitted a viability assessment to support their case, which is publicly available and has been amended to reflect the revised scheme. The Council instructed an independent external consultant (Bidwells) to provide specialist advice to determine whether the key inputs and conclusions are reasonable and robust, having regard to the particular nature of the development and the site. A full copy of the applicant's viability assessment and Bidwells' review of viability on behalf of the Council is available to view on the Council's website.

- 9.71. The submitted viability report comprises a residual land appraisal of the Proposed Scheme, factoring in anticipated costs, revenues and a profit margin to calculate the land price that a developer would be capable of paying to acquire the site for development. This residual land value (RLV) is then compared with a benchmark value (BMLV), which represents the minimum price at which a rational landowner would be incentivised to sell the site. Under the principles of development viability, a scheme can be considered viable if it generates a residual land value in excess of the benchmark value. The logic behind this is that development will only proceed if it can meet the developer's required profit margin as well as the landowner's minimum price expectations.
- 9.72. It is important to note that for a development to be viable the value generated by a development must be more than the cost of its delivery and provide a developer return. Without a developer return and landowners' premium, development is unlikely to come forward.
- 9.73. The Council's Viability Consultant ("VC") and the applicant have agreed on a benchmark land value of the site (i.e. what is it worth now). The existing use is very specialised but logically the land and buildings cannot have zero value, and it is therefore appropriate to consider alternative land value benchmarks in line with the PPG. They have agreed an alternative use value of the site being used as an office (as this use is likely to gain planning permission), giving the site a benchmark land value of £955,100.
- 9.74. The applicants had submitted a viability appraisal which gave the site a residual land value of £102,838 factoring all costs and revenues and a 20% developer profit. This is significantly below the benchmark value of the site £955,100.
- 9.75. The Council's VC has reviewed the inputs to the appraisal and have challenged a number of the assumptions. E.g. the Council's VC considers the building costs outlined by the applicant are too high and some of the sales values of some of the 1 bed flats are too low. In terms of the developer profit the Planning Practice Guidance on Viability states that a return to the developer of 15 – 20% on Gross Development Value (GDV) may be considered appropriate for plan-making purposes. When considering the viability of individual development schemes, the level of profit allowed for in the appraisal should reflect the particular risks of the project, both in terms of prevailing market conditions and site-specific factors. The 'Community Infrastructure Levy: Viability Study Update' (2016) undertaken by Montagu Evans on behalf of the Council also suggests a developer return of 20%-25% for viable development. In this case the applicant has adopted a 20% profit margin for their assessment. The Council's VC advised that the current market uncertainty resulting from the Covid-19 pandemic, together with the sales risk presented by a flatted scheme where revenue cannot be received until completion of construction, supports the inclusion of a minimum return of 20% on GDV.
- 9.76. The Council's VC undertook its own appraisal based on its own assumptions and whilst this improves the residual land value it still shows the scheme would result in a residual land value of £619,140. When this is compared to the benchmark land

value of £955,100 there would be -£335,960 land value deficit. This would reduce the developer profit on the scheme below the 20%, which the Council's VC considers to be appropriate in this case in accordance with the Planning Practice Guidance. Officers did request that the Council's VC also provide sensitivity testing to understand if the scheme would be viable with a 15% developer return as this is the lower end of the developer return outlined within the Planning Practice Guidance. However, even with the developer profit at the lowest end of the PPG profit margin the residual land value would still be approx. £100k below the Benchmark Land Value. The Council's VC states that if the Benchmark Land Value was paid for the site based on their assessment it would provide approximately a 12.9% return with the applicant's appraisal indicating a 4.4% return.

- 9.77. Overall, the Council's VC considers that the viability exercise demonstrates that the Proposed Scheme is unviable, because it is unable to provide an acceptable level of return to the landowner as required by Planning Practice Guidance. Officers agree with this and therefore in light of the guidance in Policy BSC3 and BSC12 which both allow for the consideration of viability in seeking these requirements it is not considered the affordable housing or contributions to outdoor open space can be pursued in this case.
- 9.78. As noted above the proposed development could also not viably support the provision of open space. However, it is noted that the scheme would provide a shared amenity to the rear of the building for residents and small amenity areas for some the ground floor flats.
- 9.79. The Town Council suggests that a development with less new build may be more viable; however, this is not the case and would actually worsen the viability of the scheme as this would achieve fewer residential units and therefore the Benchmark Land Value would need to be shared between fewer units.
- 9.80. Policy BSC12 of the CLP 2031 and the Developer Contributions SPD also require contribution be made towards community halls, off-site indoor sport and off-site outdoor sports. The Well-Being Team has requested several contributions in this respect. However, given the viability of the scheme as outlined above the proposal is not able to provide these and this would conflict with Policy BSC12. The scheme is relatively small and when assessed against the likely number of occupants in appendix 1 of the Developer Contributions SPD is likely to generate approximately 37 residents. This would have a relatively modest impact on such provision and given the evidenced viability issues with the development, and when balanced against the benefits of providing new flats in a sustainable location and a new use for the building on this conflict is not considered to justify refusing the application.
- 9.81. The Local Education Authority have not requested any contributions and consider there is sufficient capacity to accommodate the proposed development.

Highways

- 9.82. Policy SLE4 of the CLP 2031 states that development which is not suitable for the roads that serve the development, and which have a severe traffic impact will not be supported. The NPPF has a similar thrust and also requires that safe and suitable access is achieved for all. Policy SLE4 also seeks to ensure that new development is accessible by a variety of sustainable transport modes and that the use of such modes as walking and cycling is maximised.
- 9.83. The application site is in a sustainable location close to services and facilities and a range of public transport. Residential Travel Information Packs for future residents can be secured by condition and this is requested by the Local Highway Authority

(LHA) in order to encourage the uptake of sustainable transport options. The application has been accompanied by a Transport Statement which demonstrates that the increase in trip generation from the proposed development would be negligible compared to the existing use of the site and given the scale of the development it is not considered that it could be regarded to have a severe impact on the local highway network. The LHA has raised no objection on traffic grounds and officers agree with this assessment.

- 9.84. The access to the site will be from the existing barrier-controlled access from Warwick Road. It is indicated that this would be altered and full details of this can be secured by condition. The LHA has raised no objection to the use of this access.
- 9.85. The car and cycle parking comply with the County Council's Standards and are considered adequate to meet the needs of the future occupants of the site particularly in this location near the Town Centre and the provision of these will be secured through condition.
- 9.86. The LHA has requested a Construction Traffic Management Plan given the busy location of the site in order to minimise disruption to the surrounding road network and this can be secured by condition.

Other matters

- 9.87. The land is identified as potentially contaminated and therefore in order to ensure that it is suitable for residential accommodation and in accordance with Saved Policy ENV12 the ground investigation and remediation are recommended as conditions.
- 9.88. A condition in regard to the installation of Electric Vehicle (EV) charging infrastructure in order to make resident parking places EV ready for future demand is also proposed. The NPPF and Policies SLE4 and ESD1 of the CLP 2031 encourage and support the incorporation of measures into new development that promote more sustainable forms of transport and to reduce carbon emissions. It is considered reasonable and necessary for this to be secured through a condition of any permission given.
- 9.89. The Crime Prevention Design Advisor has commented on the application and has made a number of suggestions in regard to designing out opportunities for crime and anti-social behaviour. Policy ESD15 of the CLP 2031 encourages that development achieves of Secure by Design accreditation and It is recommended that a condition be imposed consider these detailed issues further.
- 9.90. Policy ESD7 of the CLP 2031 requires the use of SUDS in new development to manage surface water runoff. The application is accompanied by a Flood Risk and Drainage Statement. The site is located in Flood Zone 1 which has the lowest risk of flooding and where residential development is considered to be appropriate. The site is currently occupied by buildings and laid to hard standing. It is proposed to reduce the surface water run-off by from the site to a discharge rate 1 l/s which provides a 74% reduction on the existing 1 in 1 year brownfield run off rate. It is proposed to provide attenuation storage on the site to achieve this which would discharge into the public sewer as infiltration and discharge to a watercourse has been shown not to be feasible. The outline drainage strategy proposes to use permeable block paving and the attenuation within the lined sub-grade for the parking areas. Full details of the drainage scheme would need to be required by condition; however, it is noted that the Lead Local Flood Authority raises no objections to the proposed concept scheme.

9.91. Thames Water has not objected to the application and considers there to be adequate water and wastewater capacity in the existing network. However, it has noted that the site lies within 15 metres of a strategic sewer and has therefore requested a condition for a piling method statement is attached to any consent. TW has also requested an informative note be included in respect of any discharge of ground water to the public sewer requiring a separate licence.

10. PLANNING BALANCE AND CONCLUSION

10.1. The planning system seeks to secure sustainable outcomes which means achieving the economic, social and environmental objectives in mutually supportive ways. This requires the undertaking of the planning balance. The Development Plan remains the starting point for decision making.

10.2. In this case there would be modest economic benefits stemming from the proposal in terms of providing jobs during construction. There would also be social and economic benefits in providing new homes in a sustainable location, close to services and facilities, and also through the re-use of previously developed land and finding a new use for the building of heritage value. On balance, the environmental objective of securing a good standard of amenity for existing and proposed residents is also achieved.

10.3. Weighing against the proposal there would be some limited harm to the building which is a non-designated heritage asset and also the character and appearance of the Conservation. This is only limited harm at the lower end of the spectrum but it carries significant weight against the scheme. The proposal would also not deliver the social benefit of affordable housing or provide other financial contributions to delivery health and wellbeing facilities to support new development. However, it has been demonstrated through a viability exercise that the proposal cannot viably provide these and furthermore the scheme is relatively modest in scale and in population terms.

10.4. Also weighing against the development is the adverse effects that would be incurred to the living conditions of Nos. 6, 8 and 9 Arran Grove and to the future occupier of Flat 8 in the proposed development. To some extent these impacts can be ameliorated through planning conditions.

10.5. When viewed as a whole the benefits of the scheme as outlined above are considered to outweigh the less than substantial harm to the heritage asset and the impact on local infrastructure. The absence of affordable housing contribution is extremely unfortunate but it has been demonstrated not to be viable with the provision of such contributions for which Policy BSC3 of the CLP 2031 allows.

10.6. Overall, therefore, on balance, it is considered that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the Development Plan and the NPPF, and it is therefore recommended that planning permission be granted, subject to conditions.

11. 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: Protected Species Survey (prepared by 'Philip Irving', dated August 2019), Noise Impact Assessment (ref. AC108753-1r1, dated 16/04/2020), Energy Statement (ref. PA-ES-TH-BMC-20-01, dated April 2020), Flood Risk Assessment & Drainage Strategy (prepared by 'Waterco', dated August 2020), and drawings numbered: AA042/2.0/000-E, AA042/2.0/100-I, AA042/2.0/101-J, AA042/2.0/102-I, AA042/2.0/103-H, AA042/2.0/104-E, AA042/2.0/105-E, AA042/2.0/106-F, AA042/2.0/108-C, AA042/2.0/109-C, AA042/2.0/110-G, AA042/2.0/111-A, AA042/2.0/114-D and AA042/2.0/118-A.

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

Contaminated land investigation

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

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

4. If a potential risk from contamination is identified as a result of the work carried out under condition 3, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason: To ensure that any ground and water contamination is adequately

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

5. If contamination is found by undertaking the work carried out under condition 4, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

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

6. If remedial works have been identified in condition 5, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 5. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

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

Transport

7. No development shall commence unless and until full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the means of access shall be constructed and retained in accordance with the approved details.

Reason: In order to provide safe and suitable access to the site in accordance with Policies SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.

8. No development shall commence on site until a Construction Traffic Management Plan (CTMP) addressing all phases of the development has been submitted to and approved in writing by the local planning authority in consultation with the local highway authority. The CTMP shall be prepared in accordance with OCC guidelines. The approved Plan shall be implemented in full during the entire construction phase.

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

9. The proposed access and parking, turning areas shall be provided in accordance with the approved plans before first use of the development hereby permitted. The access parking, turning areas shall thereafter be retained for use in connection with the development for those purposes only.

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

10. Prior to first occupation a Residential Travel Information Pack shall be submitted to and approved by the Local Planning Authority. Thereafter the Travel Information Pack shall be issued to all residents on first occupation.

Reason: To encourage the use of sustainable transport options in accordance with Policies SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.

Drainage

11. No development shall commence until a Detailed Design, Surface Water Management Strategy and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved Detailed Design prior to the use of the building commencing. The Detailed Design shall be based on the Outline Design as demonstrated in the Flood Risk Assessment reference;

- Flood Risk Assessment & Drainage Strategy, Revision 02 dated 26th August 2020.
- The detailed drainage design will discharge at a maximum 1l/s and attenuate up to and including the 1 in 100 year event plus climate change.
- Attenuation volumes to be described in Detailed Design.

No dwelling hereby permitted shall be occupied until the sustainable drainage scheme for this site has been completed in accordance with the approved details. The sustainable drainage scheme shall be managed and maintained thereafter in perpetuity in accordance with the agreed management and maintenance plan.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal in accordance with Policy ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.

12. Prior to the first occupation of the development hereby approved, a record of the approved SuDS details shall be submitted to and approved in writing by the Local Planning Authority for deposit in the Lead Local Flood Authority Asset Register. The details shall include:

- As built plans in both .pdf and .shp file format;
- Photographs to document each key stage of the drainage system when installed on site;
- Photographs to document the completed installation of the drainage structures on site.

Reason: In accordance with section 21 of the Flood and Water Management Act

13. If piling is to take place, no piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure.

Construction and materials

14. Prior to any works above slab level, a Crime Prevention Design Strategy following the principles of Secured by Design shall be submitted and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details prior to its first occupation.

Reason: To reduce the opportunity for crime and anti-social behaviour in the development in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.

15. No development shall commence unless and until details of all finished floor levels in relation to existing and proposed site levels and to the adjacent buildings have 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 levels.

Reason: In order to safeguard the visual amenities of the area and to protect the amenity of the neighbouring properties in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

16. Full detailed scale drawings of the dormer window include external facing materials to be used in the construction of the dormer windows hereby approved shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The development shall not be carried out other than in accordance with the approved details.

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

17. Notwithstanding the details shown on the approved plans, no development shall commence above slab level unless and until further details (including scale plans) of the architectural detailing of the exterior of the buildings, including the windows and doors (and their surrounds and recesses), together with the eaves and verge treatment, the parapet roofs, coping, the blank window panels on the extensions, banding or any other decorative architectural features have 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: In order to safeguard the character and appearance of the conservation area and the significance of the heritage asset 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 in the National Planning Policy Framework.

18. Notwithstanding the details on the approved plans the roof tiles to the proposed pitched roof extensions shall be stone slates to match the tiles on the existing building. Samples of the tiles and ridge tiles to be used in the covering of the roof of the building(s) shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The development shall not be carried out other than in accordance with the samples so approved and shall be retained as such thereafter.

Reason: In order to safeguard the character and appearance of the conservation area and the significance of the heritage asset 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 in the National Planning Policy Framework.

19. The external walls of the development hereby approved shall be constructed in stone which shall be laid, dressed, coursed and pointed in accordance with a sample panel (minimum 1 metre squared in size) which shall be constructed on site to be inspected and approved in writing by the Local Planning Authority before the stonework is commenced. The sample panel shall be constructed in a position that is protected and readily accessible for viewing in good natural daylight. The panel shall be retained on site for the duration of the construction contract.

Reason: In order to safeguard the character and appearance of the conservation area and the significance of the heritage asset 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 in the National Planning Policy Framework.

20. 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. This shall include details of the proposed railings to the front of the site and the screen fencing to the northern boundary with the properties in Arran Grove to ensure adequate screening from the ground floor windows in northern elevation. The development shall be carried out in strict accordance with the approved details prior to the first occupation of the development and shall be retained as such thereafter.

Reason: In order to safeguard the character and appearance of the Conservation Area and setting of the building and 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.

21. Notwithstanding the details submitted, no development shall commence unless and until a detailed Method Statement for the protection of the dry-stone wall to the northern boundary has been submitted to and approved in writing by the

Local Planning Authority. The development shall not be carried out other than in strict accordance with the approved method statement.

Reason: In order to safeguard the character and appearance of the conservation area and the significance of the heritage asset 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 in the National Planning Policy Framework.

22. Notwithstanding the details submitted, full details of appearance and materials of the bin store hereby approved shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The development shall not be carried out other than in accordance with the approved details.

Reason: In order to safeguard the character and appearance of the conservation area and the significance of the heritage asset 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 in the National Planning Policy Framework.

23. All rainwater gutters and downpipes, etc. shall be cast iron or aluminium manufacture and painted black unless alternative details are otherwise first approved in writing by the Local Planning Authority.

Reason: In order to safeguard the character and appearance of the conservation area and the significance of the heritage asset 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 in the National Planning Policy Framework.

24. All rooflights in the development shall be conservation grade and of a design which, when installed, fit flush with the plane of the roof and do not project forward of the general roof surface.

Reason: It is considered to be acceptable to provide daylight in the manner proposed provided the works do not detract from the character of the building in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

25. The first-floor window in the northern elevation serving the bathroom in unit 12 shall be obscure glazed, using manufactured obscure glass, before the dwelling is first occupied and shall be permanently retained as such thereafter.

Reason: To ensure that the amenities of the adjoining occupier(s) are not adversely affected by loss of privacy in accordance 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.

26. Prior to the first occupation of any dwelling hereby permitted, the bin and cycle stores shall be provided on site and made available to use in strict accordance with the approved details. Thereafter they shall be retained for the occupants of the development and used for no other purpose whatsoever.

Reason: To ensure adequate bin and cycle parking provision for the residents of the development in accordance with the Cherwell Local Plan 2011-2031 Part 1

and Government guidance contained within the National Planning Policy Framework.

Ecology and Biodiversity

27. No development shall commence above slab level unless and until a scheme for landscaping the site has been provided to and approved in writing by the Local Planning Authority which shall include:-

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

(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, including written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch etc),

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

(d) details of boundary treatments.

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/use of the development and shall be retained as such thereafter.

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

28. 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 character and appearance of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

29. All external works to the building should be timed so as to avoid the bird nesting season, this being during the months of march until August inclusive, unless the Local Planning Authority has confirmed in writing that such works can proceed, based on submission of a survey (no more than 48hrs before works commence) undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site

as required.

Reason: To ensure that the development will conserve and enhance the natural environment and will not cause significant harm to any protected species or its habitat in accordance with Government guidance contained within the National Planning Policy Framework.

30. Full details of a scheme for the location of at least 9 swift bricks shall be submitted to and approved in writing by the Local Planning Authority. The approved swift provisions shall be installed on the site in accordance with the approved details prior to the occupation of any building and shall be retained as such thereafter.

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

31. Where an offence under Regulation 43 of the Habitat and Species Regulations 2017 (as amended) is likely to occur in respect of the development hereby approved, no works of site clearance, demolition or construction shall take place which are likely to impact on bats until a licence to affect such species has been granted in accordance with the aforementioned Regulations and a copy thereof has been submitted to the Local Planning Authority.

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

Environment

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

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

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

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.

34. No development shall commence above slab level unless and until full details of

the proposed mitigation measures as outlined in the submitted Noise Impact Assessment (ref. AC108753-1r1) including their visual appearance and impact on the fabric of the building have been submitted and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details.

Reason: To ensure that an acceptable internal noise environment is provided for all residents whilst protecting the significance of the heritage asset in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and advice in the National Planning Policy Framework.

35. Prior to the first occupation of the development hereby permitted, written confirmation that the development achieves a water efficiency limit of 110 litres/person/day under Part G of the Building Regulations shall be submitted to and approved in writing by the Local Planning Authority.

Reason: Cherwell District is in an area of water stress, to mitigate the impacts of climate change and in the interests of sustainability, to comply with Policies ESD1 and ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.

INFORMATIVE

A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 3577 9483 or by emailing trade.effluent@thameswater.co.uk. Application forms should be completed on line via www.thameswater.co.uk. Please refer to the Wholesale; Business customers; Groundwater discharges section.

Prior to commencement of development, a separate consent must be obtained from the County's Road Agreements Team for the altered highway vehicular access under S278 of the Highway Act. Contact: 01865 815700; RoadAgreements@oxfordshire.gov.uk.

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