

**Case Officer:** Wayne Campbell

**Applicant:** W E Black Ltd

**Proposal:** Demolition of the existing building containing two shops and the erection of two 4 storey blocks containing 28 small flats

**Ward:** Bicester East

**Councillors:** Councillor Dallimore, Councillor Mould, Councillor Wallis

**Reason for Referral:** Major development

**Expiry Date:** 24 March 2021

**Committee Date:** 20 May 2021

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

- 1.1. The application site is two adjoined retail units located fronting onto the pedestrian area of Sheep Street in the centre of Bicester Town Centre. The rear of the site backs onto the cul-de-sac known as Backway Road which serves a limited number of residential properties but mainly the rear service yards of the retail units numbered 4 – 22 Sheep Street.
- 1.2. The buildings are two storey in height and maintain a retail frontage on the ground floor with a pale brick first floor accommodation and a flat roof design. Both units are vacant and had previously been occupied by Dorothy Perkins for unit number 16 Sheep Street and Clinton Cards for unit number 18 Sheep Street.
- 1.3. This part of Sheep Street is a primary retail area and the surrounding uses are all in commercial use of a mix of retail and business uses normally found in a Town centre location.

## **2. CONSTRAINTS**

- 2.1. The application site is within the Bicester Conservation Area, as well being located within an Archaeological Alert Area. The site is located within the Bicester Town Centre as well as an area of Primary Shopping Frontage.

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

- 3.1. This application seeks planning permission for the demolition of the existing two storey retail buildings in the site and the redevelopment of the site with two separate four storey blocks. The re-development of the site would provide a total of 28 residential apartments in the form of 4 x 1 bed studio apartments, 21 x 1 bed apartments and 5 x 2 bedroom apartments.
- 3.2. One block would front onto Sheep Street with a small set back at ground floor to allow a small area of private space while the second block would front onto Backway Road. The second block would also allow for the provision of 3 parking spaces all of which would be allocated as disabled parking spaces. The area between the two blocks in the centre of the site would be allocated as private / communal amenity

space for the residents of the apartments and an area of soft landscaping. This area would also provide an area of cycle storage.

- 3.3. *Timescales for Delivery*: No indication from the applicant has been provided in terms of timescale to provide the development as proposed.

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

- 4.1. The following planning history is considered relevant to the current proposal:
- 00/01789/ADV - Part illuminated fascia sign (18 Sheep Street) Permitted
  - 01/00824/F - Installation of new shopfront (18 Sheep Street), Permitted
  - 14/00881/ADV - 1.no illuminated fascia sign and 1.no hanging sign (18 Sheep Street) Permitted

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

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

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

- 6.1. This application has 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 **22 March 2021**, although comments received after this date and before finalising this report have also been taken into account.

- 6.2. Ten letters of objection have been received from local residents. The comments raised by third parties are summarised as follows:

- Parking congestion in Victoria Road, and Backway Road;
- Will result in the loss of a reasonable sized retail/leisure area in the town centre further decline in retail units in Sheep Street
- Development contrary to adopted Policy to protect retail;
- Should only consider residential above and behind retail units with artisan retails on the ground floor;
- Backway Road is a private road which requires maintenance therefore any permission should be conditioned that new residents contribute;
- Concern over pedestrian safety along Sheep Street during construction phase, plus poor dangerous access for commercial vehicles along Victoria Road during build phase;
- Congestion of delivery and service vehicles serving 28 flats;
- Highly unlikely residents will only have a bicycle and therefore would block the private road known as Backway Road causing considerable trouble for the businesses which need rear access to their premises for deliveries;
- How will the 'no-car' ownership of the new residents be policed?
- Impact of design and size, would have a detrimental effect on the neighbouring period buildings and on the Conservation Area;
- Loss of trees on the site;

- No information on how development will to the highest available energy efficiency standards;
- The height of the development would impact on afternoon sun to neighbouring residential properties and allow unrestricted view in and down through the front bedroom window, especially from the proposed balcony;

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. BICESTER TOWN COUNCIL: **Comments** that is in favour of increasing habitation into the town centre but request the ground floor is retained for retail, specifically for the provision of smaller units suitable for retail in accordance with NPPF 7 Ensuring the Viability of Town Centres being as this application is in Bicester's primary shopping area.

### OTHER CONSULTEES

7.3. OCC HIGHWAYS: **No objections** subject to standard conditions in respect of cycle parking, parking permits, Construction Traffic Management Plan, Fire Tender Plan, and a Delivery and Service Management Plan.

7.4. OCC Drainage: **Objection**. As the site lies within Groundwater Vulnerability zone and includes parking spaces, water quality standards must be met. Proposed development needs a water quality assessment in accordance with Section 4 and Section 26 of SuDS Manual.

7.5. CDC Planning Policy: **Objection**. Proposed development resulting in a loss of retail in the Bicester town centre and conflicting Policy Bicester 5. Evidence is needed to demonstrate if the proposal contributes significantly to the regeneration of the town centre. Residential on the ground floor in the primary shopping frontage will not be supported. Provision of affordable housing should also be sought unless evidence demonstrate otherwise.

7.6. CDC Conservation Officer: **Objection**. Although the existing building is not of any historic merit and therefore there is no objection in principle to the demolition of the building its replacement is significantly out of scale with the streetscape on Sheep Street where the buildings tend to be of two or three storeys. The Sheep Street frontage should be re-designed to show greater sympathy to its immediate, historic context. This will need to involve a significant reduction in scale.

7.7. CDC Housing Strategy & Development Team: **No objection** subject to provision of affordable housing provision as part of the scheme.

7.8. CDC Housing Standards: **No objections**

7.9. CDC Building Control: **No objections**.

7.10. CDC Recreation & Leisure Officer: **No objections** subject to S106 agreement

- 7.11. CDC Environmental Protection Officer: **No objections** subject to conditions
- 7.12. Thames Water: **No objections** subject to conditions.
- 7.13. Crime Prevention Design Advisor, Thames Valley Police: **No objection** subject to minor design changes and conditions
- 7.14. Bicester Local History Society: No comments received
- 7.15. CDC Ecology: No comments received
- 7.16. CDC Economic Development: No comments received
- 7.17. CDC Health protection: No comments received
- 7.18. CDC Landscape Officer: No comments received
- 7.19. CDC Urban Design Officer: No comments received
- 7.20. CDC Public Art Officer: No comments received
- 7.21. CDC Waste & Recycling Officer: No comments received
- 7.22. Bicester Bike Users Group: No comments received

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

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

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

- Policy PSD1: Presumption in Favour of Sustainable Development
- Policy SLE2: Securing Dynamic Town Centres
- Policy SLE4: Improving Transport and Connections
- Policy BSC1: District Wide Housing Distribution
- Policy BSC2: The Effective and Efficient Use of Land – Brownfield Land and Housing Density
- Policy BSC3: Affordable Housing
- Policy BSC4: Housing Mix
- Policy BSC10: Open Space, Outdoor Sport and Recreation Provision
- Policy BSC11: Local Standards of Provision – Outdoor Recreation
- Policy BSC12: Indoor Sport, Recreation and Community Facilities
- Policy ESD1: Mitigating and Adapting to Climate Change
- Policy ESD2: Energy Hierarchy and Allowable Solutions
- Policy ESD3: Sustainable Construction
- Policy ESD6: Sustainable Flood Risk Management
- Policy ESD7: Sustainable Drainage Systems (SuDS)

- Policy ESD10: Protection and Enhancement of Biodiversity and Natural Environment.
- Policy ESD15: The Character of the Built and Historic Environment
- Policy Bicester 5: Strengthening Bicester Town Centre

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

- Policy C23: Features in conservation areas
- Policy C28: Layout, design and external appearance of new development
- Policy C30: Design of new residential development
- Policy ENV1: Environmental pollution
- Policy S12: Development proposals in Bicester town centre
- Policy S13: Primary shopping frontages, Bicester

#### 8.3. Other Material Planning Considerations

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

### 9. APPRAISAL

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

- Principle of development
- Design, and impact on the character of the area including Heritage impact
- Highway / Parking implications
- Drainage implications
- Residential amenity
- Sustainable construction / measures
- Infrastructure / S106

#### Principle of Development

9.2 The application site is located within Bicester Town Centre within an area allocated as primary retail frontage. The proposal seeks to re-development of the site from retail / commercial to residential use.

#### *Policy Context*

#### *National Planning Policy Framework*

9.3 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Also, of a material consideration is the guidance provided in the recently revised National Planning Policy Framework (NPPF) which sets out the Governments planning policy for England and how these should be applied.

9.4 The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having three dimensions: economic, social and environmental. Paragraph 10 states that so *sustainable development is pursued in a positive way, at the heart of the Framework is a*

***presumption in favour of sustainable development.*** Paragraph 11 continues by stating that planning decisions should apply a presumption in favour of sustainable development which for decision making means *approving development proposals that accord with up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

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

9.6 Section 7 of the NPPF highlights the importance of ensuring the vitality of town centres. Paragraph 85 states, amongst other things, that *planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.* This paragraph continues by stating that *planning policies should:*

a) *define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters;*

b) *define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre;* (my emphasis)

c) *retain and enhance existing markets and, where appropriate, re-introduce or create new ones;*

d) *allocate a range of suitable sites in town centres to meet the scale and type of development likely to be needed, looking at least ten years ahead. Meeting anticipated needs for retail, leisure, office and other main town centre uses over this period should not be compromised by limited site availability, so town centre boundaries should be kept under review where necessary;*

e) *where suitable and viable town centre sites are not available for main town centre uses, allocate appropriate edge of centre sites that are well connected to the town centre. If sufficient edge of centre sites cannot be identified, policies should explain how identified needs can be met in other accessible locations that are well connected to the town centre; and*

f) *recognise that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites.* (my emphasis).

9.7 Section 5 covers the issue of delivering a sufficient supply of housing and paragraph 64 of which states, amongst other things that *where major development involving*

*the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership.*

9.8 Paragraph 73 highlights the need for *Local Planning Authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period).* Paragraph 74 continues by stating that *a five year supply of deliverable housing sites, with the appropriate buffer, can be demonstrated where it has been established in a recently adopted plan, or in a subsequent annual position statement which:*

*a) has been produced through engagement with developers and others who have an impact on delivery, and been considered by the Secretary of State; and*

*b) incorporates the recommendation of the Secretary of State, where the position on specific sites could not be agreed during the engagement process.*

#### *Development Plan*

9.9 Saved Policy S12 of CLP 2015 covers the issue of development in Bicester Town Centre and states that *proposals for new developments in the town centre as defined on the proposals map will normally be approved provided they do not conflict with the other policies in the plan.* Policy S13 continues by stating that *within the primary shopping frontages of the town centre, as defined on the proposals map, changes of use at ground-floor level to non-retail uses will not normally be permitted.*

9.10 Policy BCS2 of the CLP 2015 covers the issue of new housing and highlights the need to ensure that proposals make the most effective and efficient use of land – with reference to brownfield land and housing density. For new housing development in Cherwell will be expected to make effective and efficient use of land. The Council will *encourage the re-use of previously developed land in sustainable locations. New housing should be provided on net developable areas at a density of at least 30 dwellings per hectare unless there are justifiable planning reasons for lower density development.* It is estimated that this development of 28 dwellings on a 0.09 hectare site which equates to 311 dwellings per hectare. This density will need to be considered in relation to the surrounding properties and densities.

9.11 BSC3 of the CLP 2015 states that sites of 11 or more dwellings will be required to provide affordable housing. In Bicester, the policy requirement is that 30% of the new housing should be for affordable housing. The proposed development does not include provision for affordable housing.

9.12 On 12 September 2018 the Secretary of State for Ministry of Housing, Communities and Local Government issued a written statement containing a 'temporary change to housing land supply policies as they apply in Oxfordshire'. It set out that the Oxfordshire authorities will only need to demonstrate a 3 year housing land supply and not 5 years so that the authorities can focus their efforts on the Joint Statutory Spatial Plan. In March this year it was confirmed that this temporary change to housing land supply would not be continuing in 2021.

9.13 The 2020 AMR demonstrates that the District presently has a 4.7 year supply. The requirement under the NPPF is for Local Planning Authorities to demonstrate a 5 year land supply and as such the Council is just under this requirement. Notwithstanding this point Paragraph 11(d) of the NPPF tilts the decision making balance towards granting planning permission for sustainable development (subject

to other environmental, social and economic considerations) where Development Plan policies are out-of-date provided the balance of benefits derived from boosting the supply of housing is not materially outweighed by identifiable harmful impact(s). As such in the consideration of any application for new housing other Policies will need to be taken into account and whether or not the harm would outweigh the benefits of the addition a housing.

- 9.14 Policy Bicester 5 'Strengthening Bicester Town Centres' highlights that *Shopping, leisure and other 'Main Town Centre Uses' will be supported within Bicester town centre. Residential development will be supported in appropriate locations in Bicester town centre except where it will lead to a loss of retail or other main town centre uses. The Policy continues by stating that the change of use of sites used for main town centre uses in the town centre for residential development will normally be permitted if proposals contribute significantly to the regeneration of the town centre. Mixed use schemes will be encouraged.* However, the Policy further advises that *only A1 and A3 uses will be permitted on the ground floor in the primary shopping frontage. Residential development will be encouraged within the primary shopping frontage above ground floor level.* This site is located within the primary shopping frontage of Bicester Town centre.

#### *Assessment*

- 9.15 This application seeks planning permission for the re-development of these two vacant retail units to form two separate residential blocks to provide 28 apartments. The existing / current use of the units is for retail / commercial use although it is accepted that the two units are currently vacant. It is not clear how long these units have been vacant as no information history of the trading of these units has been provided with this application.
- 9.16 As highlighted in paragraph 9.14 Policy Bicester 5 seeks to protect main town centre uses within the Bicester town centre and does not support a proposal which results in a loss of retail or other main town centre uses. However, it is also accepted that consideration will be given if the proposal contributes significantly to the regeneration of the town centre. In addition, the policy states that only A1 and A3 uses will be permitted on the ground floor in the primary shopping frontage, and that residential will be encouraged above ground floor.
- 9.17 The proposal is for the use of the site for residential use only and, although the provision of residential accommodation on the upper floors would be considered appropriate, the loss of the retail on the ground floor would conflict with Development Policy that seeks to retain the A1 retail use on the ground floor.
- 9.18 The applicant is of the view *that in the 10 years since the Local Plan was adopted far from being strengthened the town centre retail in Bicester has all but collapsed.* The applicant continues by stating that *the idea that policies dating back to 2011 and even 1996 can have any relevance is nonsense as the retail world is fast-moving and the market changes on a monthly basis.*
- 9.19 Officers note that Bicester Town Centre benefits from numerous retail and commercial units providing a vast array of shopping facilities for visitors to the town centre. It is accepted that there are some vacant units in the town centre, but this is normal and when compared to the overall number of retail / commercial units in the town centre the vacant number are of a few and limited number. This would not therefore suggest that the town centre has collapsed as suggested by the applicant as justification to redevelop the site.

- 9.20 Discussions with the applicant over the vacant nature of the site included a request for the applicant to demonstrate the marketing of the vacant units in this application. The purpose of this request is to establish what interest had been generated in the units to assess the continued retail use of the site.
- 9.21 The applicant responded by stating that their *Bicester units have been marketed through local agents and two London specialist retail agents KLM and Colliers who are in touch with the market on a daily basis*. It was also suggested that *the fact is that there are currently no retail enquires for Bicester and approaching individual companies has been unsuccessful and this dates back to long before the present pandemic*. The applicant continued by suggesting that *there is no demand for retail units in Bicester as we can prove by the fact that we have a number on the market without any interest. Number 24 has been fully refurbished since 2015 and we have others that have been empty for a very long time*. The applicant was requested to demonstrate the marketing of the units and provide evidence of the marketing exercise, but this has not been provided.
- 9.22 Notwithstanding the lack of evidence being provided, officers checked online to establish whether the details of the applicant units were being listed for sale / rent and also to see what other units were being advertised. From this exercise it was found that neither of the units were being advertised including on the two agents suggested by the applicant. It was also found that in Bicester Town centre there were only 9 retail units being advertised and hence the reason why it is suggested by officers that the retail market in Bicester has not collapsed. It is suggested by the applicant that *providing details of marketing of a property is not the way the retail world works and that agents will in turn make contact with other retail agents, who will be retained by prospective tenants who will have given them a list of their requirements*.
- 9.23 It is disappointing that the applicant has failed to address the issue of retail need on the ground floor of these two units. The lack of marketing information does not assist in assessing whether or not there is any retail need in these units and as such the Policy Bicester 5 is the current Policy to consider this type of development.

#### *Conclusion*

- 9.24 As highlighted above the policy states that A1 and A3 are the only uses permitted on the ground floor in the primary shopping frontage. The re-development of the site with all residential would therefore result in the loss of the retail use on the ground floor to the detriment of the retail function of this part of the primary retail frontage.
- 9.25 Section 7 of the NPPF underlines the importance of the High Street in terms of ensuring the vitality of town centres with paragraph 85 highlighting that *planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation*. This proposal would simply reduce the primary frontage in this section of Sheep Street to reduce the role of this part of the Town Centre. It is accepted that there is a need to provide residential accommodation within the Town Centre however, this should not be on the ground floor which should be retained for retail use to allow the Town Centre to function as a retail / commercial centre of the Town.
- 9.26 The proposal is therefore contrary to policy Bicester 5 and section 7 of the NPPF and with no information to warrant an exception the principle of the development is not considered acceptable.

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

- 9.27 The application site is located in a prominent position within Bicester Town Centre in the heart of the retail / commercial area of the town. The site is also located within the Bicester Conservation Area and although of a post war / modern style of building the site makes a contribution towards the character of the area.

### *Policy Context*

#### *National Planning Policy Framework*

- 9.28 Section 12 of the NPPF covers the issue of design, paragraph 127 states that planning policies and decisions should *ensure that developments: a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); d) 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; e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks.*
- 9.29 Paragraph 130 continues by stating, amongst other things, that *permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.*
- 9.30 Due to the Conservation Area designation of the site of further relevance is Section 16 within which paragraph 200 states that *local planning authorities should look for opportunities for new development within Conservation Areas, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.* In addition to this Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that, *the Local Planning Authority has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.*

### *Development Plan*

- 9.31 Saved Policy C28 states that *control will be exercised over all new development, including conversions and extensions, to ensure that the standards of layout, design and external appearance, including the choice of external-finish materials, are sympathetic to the character of the urban or rural context of that development. in sensitive areas such as conservation areas, the area of outstanding natural beauty and areas of high landscape value, development will be required to be of a high standard and the use of traditional local building materials will normally be required.* Saved Policy C30 continues by stating that *design control will be exercised to ensure: (i) that new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.*
- 9.32 Particular regard to enhancing the character of the Conservation Area and the surrounding listed should be given and the application needs to be assessed against

the criteria set out in Policy ESD15 of the CLP 2015. Policy ESD15 highlights, amongst other things, that new development proposals should:

- *Be designed to deliver high quality safe, attractive, durable and healthy places to live and work in. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions*
- *Support the efficient use of land and infrastructure, through appropriate land uses, mix and density/development intensity*
- *Contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views, in particular within designated landscapes, within the Cherwell Valley and within conservation areas and their setting*
- *Conserve, sustain and enhance designated and non 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.....*
- *Respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages*
- *Reflect or, in a contemporary design response, re-interpret local distinctiveness, including elements of construction, elevational detailing, windows and doors, building and surfacing materials, mass, scale and colour palette*
- *Be compatible with up to date urban design principles, including Building for Life, and achieve Secured by Design accreditation*
- *Consider sustainable design and layout at the master planning stage of design, where building orientation and the impact of microclimate can be considered within the layout*
- *Incorporate energy efficient design and sustainable construction techniques, whilst ensuring that the aesthetic implications of green technology are appropriate to the context (also see Policies ESD 1 - 5 on climate change and renewable energy)*

#### *Assessment*

- 9.33 The application site contains a pair of two-storey buildings with flat roof design. The ground floor is occupied with two retail units with modern shop fronts while the first floor is constructed from buff brick with a stepped relief and a pair of metal framed windows in each unit. The application property adjoins a further post war / modern flat roofed retail building on one side with a height of three storeys and a more traditional three storey building with a restaurant on the ground floor and a pitched slate roof on the other side.
- 9.34 It is considered that the current building, although not of any historic significance, has been built to respect the scale and building line of the surrounding townscape.

As such it is considered that although the existing building is of no significant historic merit in this part of the Conservation Area. The principle of its demolition and replacement with a new building is considered acceptable.

- 9.35 In terms of design the proposal is for a pair of all brick-built four storey blocks with one fronting onto Sheep Street and the second to front Backway Road. On the ground floor elevations to Sheep Street would be maintained with patio doors set back by approximately 1.5m to provide a small front amenity space behind a low railing fence with the first and second floors in line with the main building and the upper floor set back a similar depth to that on the ground floor. The design would emphasise the long fenestration details on the front elevation some of which would be doors with Juliet balconies. A similar design on the second block although on the ground floor the elevation treatment would not contain the patio doors, nor any amenity space / set back.
- 9.36 In considering the overall design officers are concerned over the impact of the block on the character and appearance of the Conservation Area and that the proposal fails to enhance or make a positive contribution towards this part of Sheep Street. The Bicester Conservation Area Appraisal states '*Bicester is remarkable in that its central area retains intact the medieval street pattern and the relationship of urban spaces associated with a small market town despite its extensive 20th century growth. The Conservation Area covers the centre of Bicester where the postmediaeval development of the settlement is still discernible. The building lines within the town centre are continuous and very strongly define the public realm contrasting with the jagged irregular form of the rear, generally private areas. This is particularly noticeable on the eastern side of Sheep Street.*'
- 9.37 Due to the height of the development the proposal is out of scale with the streetscape on Sheep Street where the buildings tend to be of two or three storeys. The Sheep Street frontage fails to show a sympathetic design to its immediate neighbouring properties and to the historic context of the site resulting in a substantial level of harm to the character of this part of the Conservation area.
- 9.38 The use of the ground floor element as residential on Sheep Street with the patio doors set back behind a domestic style railing would create a semi-private area for the residents of these ground floor apartments. The applicant is of the view that this use would add vibrancy to the town centre as the re-development of the ground floor for retail would remain empty. However, in considering this approach it also has to be accepted that the residents of these apartments are likely to want some form of privacy in the rooms fronting onto Sheep Street particularly as 2 of the rooms are bedrooms and although it is accept that the ground floor element is set back slightly these windows are likely to be screened with blinds / curtains etc. and as such the appearance could still be viewed as a dead frontage on a primary retail area in the town centre. Although it is acknowledged that residential the upper floors would be acceptable and to a degree encouraged, the loss of the retail on the ground floor to residential would do little to add to the vibrancy of the town centre but would appear more as a dead frontage within this row of retail / commercial units.
- 9.39 With regards to the Backway Road frontage the Bicester Conservation Area Appraisal also refers to the significance of the rear lanes and yards '*Service buildings such as stables, privies and barns remain, for example, in rear yards off Sheep Street, Causeway and Market Square. Other building types such as slaughterhouses and dairies also survive to the rear of Sheep Street. However, often, these ancillary structures have been swept away by more modern development*' and '*Rear courts and yards, accessed through archways off Sheep Street (e.g. Wesley Lane, Evans Yard, Deans Court), have been brought back into productive use and add significantly to the special character of the town*' The

Backway Road area of the town has a mixture of modern developments (attached to the rear of the Sheep Street frontage and set back from the Backway Road building line) and reasonably proportioned developments set along the building. The proposed four storey development would be significantly out of character and proportion with the surrounding streetscape and would do nothing to enhance the historic character of the area.

### *Conclusion*

- 9.40 It is accepted that the existing units on this site are of little historic interest but the scale of the buildings is in keeping with the surrounding area. Whereas, the design of the replacement buildings at four storeys high would appear out of place and character within this part of the Conservation Area resulting in significant and demonstrable harm to the character and appearance of the area.
- 9.41 The change in use on the ground floor to residential would result in a significant change in character on this part of Sheep Street. This primary retail frontage is retained as an area of retail use as outlined in the Policy and the change to the domestic character / appearance would be out of place and character to the detriment of the Conservation area.
- 9.42 With regards to Backway Road the character is of the rear of the commercial buildings and service yards. There are some limited residential uses on this part of Backway Road, but the scale of existing development is limited to either 2 or 3 storeys. The proposed four storey development would appear as an over dominant feature in the street scene to the detriment of the character of this part of the Conservation Area.
- 9.43 For these reasons the design and character of the proposal is considered to conflict with Policy ESD15 of the CLP 2015, Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) as well as the advice contained in Sections 12 and 16 of the NPPF.

### Highway / Parking implications

- 9.44 This application is located within the heart of Bicester Town Centre with access to footpaths, cycle routes and public transport links. The proposal to redevelop the site with 28 apartments includes the provision of 3 parking spaces allocated as disabled use and located on the second block fronting onto Backway road. In addition to this the proposal also includes the provision of 28 cycle parking spaces split between the centre of the site and the two blocks and within the one of the blocks.

### *Policy Context*

#### *National Planning Policy Framework*

- 9.45 Paragraph 102 of the NPPF states, amongst other things, that *transport issues should be considered from the earliest stages of plan-making and development proposals, so that: a) the potential impacts of development on transport networks can be addressed; b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated; c) opportunities to promote walking, cycling and public transport use are identified and pursued; and e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.*

9.46 Paragraph 109 highlights that *development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.* In addition, paragraph 110 outlines that within this context, applications for development should: *a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use; b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport; c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards; d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.*

#### *Development Plan*

9.47 Policy ESD 15 states amongst other things that New development proposals should:

- *Be designed to deliver high quality safe, attractive, durable and healthy places to live and work in. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions*
- *Support the efficient use of land and infrastructure, through appropriate land uses, mix and density/development intensity*
- *Respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages,*
- *Promote permeable, accessible and easily understandable places by creating spaces that connect with each other, are easy to move through and have recognisable landmark features*
- *Demonstrate a holistic approach to the design of the public realm to create high quality and multi-functional streets and places that promotes pedestrian movement and integrates different modes of transport, parking and servicing. The principles set out in The Manual for Streets should be followed.*

#### *Assessment*

9.48 This application seeks the re-development of this vacant retail site to provide two blocks of 14no apartments in each to provide an overall development of 28no apartments comprising 4no studio Flats, 21no one bedroom Flats. and 3no two bedroom Flats. In terms of parking the proposal allocates 3no disabled parking spaces to the rear block fronting into Backway Road. In addition to these three parking spaces the development will also be provided with 28 cycle parking spaces with 14 No. provided in the amenity space between the two blocks and the remaining 14 shown within a space within the ground floor area of the block fronting onto Backway Road.

9.49 It is accepted that the application site lies in the heart of the commercial / retail area of Bicester Town Centre with excellent links via footpaths, cycleways and public transport within easy walking distance of community amenities such as shops, offices, bars and restaurants, places of worship etc. and the main transport hubs in

the town. The main frontage of the block onto Sheep Street is pedestrianised between Market Square and Bell Lane and as such vehicle access to the frontage of this block would not be possible. Given its highly sustainable location, the applicant proposes to make the development essentially a car-free development other than the 3 No. proposed residents disabled parking bays with access off Backway Road.

- 9.50 It is noted that concerns and objections to the proposal have been raised by some residents expressing a concern over the lack of parking allocated to the site and that this would result in an increased vehicle congestion along Backway Road with residents looking for a place to park. Although these concerns are understood the local highway authority is content with this approach and has no objections from a highway safety point of view. Concern is, however, raised over the level of cycle parking allocated at the development in that the 28 spaces would fail to comply with the Council's Standards, for example no visitor cycle spaces have been proposed.

#### *Conclusion*

- 9.51 The site is located within the heart of the commercial / retail area of Bicester Town Centre which with its easy access to public transport links and town centre facilities would make it a very sustainable location. Furthermore, it is also accepted that the position of the site is an ideal location for either a car-free development or a development with a significant reduction in parking provision. Occupiers of the apartment would move in with the knowledge that there was no allocated parking on the site and no opportunity to parking close by and as such an informed decision to move to the site would be made.
- 9.52 Paragraph 109 of the NPPF makes it clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. With no objections being received from the local highway authority it is considered that although only 3no disabled parking bays are allocated in this development the lack of parking is justified as an exception to Policy.

#### Drainage implications

- 9.53 The application site is not located within a flood risk area. However, as the site lies within Groundwater Vulnerability zone and includes parking spaces, water quality standards must be met. Proposed development needs a water quality assessment in accordance with Section 4 and Section 26 of SuDS Manual.

#### *Policy Context*

##### *National Planning Policy Framework*

- 9.54 Paragraph 155 states; *Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 163 states that, when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.*
- 9.55 From a local point of view paragraph 165 states that *major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should: a) take account of advice from the lead local flood authority; b) have appropriate proposed minimum operational*

standards; c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and d) where possible, provide multifunctional benefits.

#### *Development Plans*

- 9.56 Policy ESD 1 of the CLP 2015 states, amongst other things that *the incorporation of suitable adaptation measures in new development to ensure that development is more resilient to climate change impacts will include consideration of the following: Minimising the risk of flooding and making use of sustainable drainage methods.*
- 9.57 Policy ESD3 also adds that *all development proposals will be encouraged to reflect high quality design and high environmental standards, demonstrating sustainable construction methods including but not limited to: Making use of sustainable drainage methods.*
- 9.58 The issue of sustainable flood risk management is covered under Policy ESD 6 which states that *site specific flood risk assessments will be required to accompany development proposals in the following situations: All development proposals located in flood zones 2 or 3.* The Policy continues by stating that *flood risk assessments should assess all sources of flood risk and demonstrate that:*
- *There will be no increase in surface water discharge rates or volumes during storm events up to and including the 1 in 100 year storm event with an allowance for climate change (the design storm event).*
  - *Developments will not flood from surface water up to and including the design storm event or any surface water flooding beyond the 1 in 30 year storm event, up to and including the design storm event will be safely contained on site.*

#### *Assessment*

- 9.59 This application seeks the redevelopment of this town centre site to form 28no residential apartments. As highlight in paragraph 9.48 above as the site lies within Groundwater Vulnerability zone and includes parking spaces, water quality standards must be met. Proposed development needs a water quality assessment in accordance with Section 4 and Section 26 of SuDS Manual. The proposed development must meet local standards, L19, *“At least one surface feature should be deployed within the drainage system for water quality purposes, or more features for runoff which may contain higher levels of pollutants in accordance with the CIRIA SuDS Manual C753. Only if surface features are demonstrated as not viable, then approved proprietary engineered pollution control features such as vortex separators, serviceable/ replaceable filter screens, or pollution interceptors may be used”.*
- 9.60 The applicant has not provided any information in relation to SuDs of the site once completed. In line with the SuDs guidance manual, surface water management must be considered from the beginning of the development planning process and throughout – influencing site layout and design. The proposed drainage solution should not be limited by the proposed site layout and design. The lack of this information fails to allow assessment as to whether or not the runoff would be managed at source (i.e. close to where it falls) with residual flows then conveyed downstream to further storage or treatment components, where required. As such it's not clear how / whether the development will address the issue of SuDs and therefore it is not clear whether the development will lead to a risk of flooding to the adjoining sites. Members will see that due to the failure to provide this information

an objection to the proposal is raised by the Lead Local Flood Authority. It may be that a suitable SuDs scheme could or would be provided however, with a lack of information it's not clear how or if this would work on the site.

### *Conclusion*

- 9.61 There is no information within the application submission in relation to the issue of surface water drainage. For this reason, the application fails to comply with Policies ESD1, ESD3 and ESD6 of the CLP 2015 as well as paragraphs 163 and 165 of the NPPF.

### Residential amenity

- 9.62 This development would result in the intensive use of this site with additional areas of windows facing towards existing residential properties as well as an increase in terms of bulk in the built form. As such the impact of the development upon these existing residential properties will need to be considered. In addition to this it is also considered that the living environments of the occupiers of these apartments also needs to be considered.

### *Policy Context*

#### *National Planning Policy Framework*

- 9.63 Paragraph 180 of the NPPF advises of the need for planning policies and decisions should to *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.*

#### *Development Plan*

- 9.64 Saved Policy C31 requires that in existing residential areas any development which is not compatible with the residential character of the area, *should not cause an unacceptable level of nuisance or visual intrusion.* These provisions are echoed in Policy ESD15 of the CLP 2015 which states that, *new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.*
- 9.65. Saved Policy ENV1 of the CLP 1996 seeks to ensure that the amenities of the environment, and in particular the amenities of residential properties, are *not unduly affected by development proposals which may cause environmental pollution including noise and light pollution and traffic generation.*

### *Assessment*

- 9.66 The application is located in the heart of Bicester Town Centre with one block fronting onto the pedestrian area of Sheep Street and the second block fronting Backway Road which contains a limited number of existing residential properties.
- 9.67 In considering the impact of the development upon Sheep Street there is no existing residential properties in Sheep Street which would be adversely impacted by the development in terms of any loss of light, outlook or privacy. However, with regards to Backway Road the block would be positioned approximately 18m from the boundary with the existing residential property known as White House as well as the property known as Waybec. The elevation details of this block maintain a series of windows on all floors which serve lounge and bedrooms in the rear facing

apartments. The upper floor apartments at a height of 10m would allow direct views into the rear garden of the White House property as well as the front garden and rooms of Waybec. The result of which would be a significant loss of privacy to the occupiers of the White House which is also a concern / objection raised by local residents.

- 9.68 With regards to the amenity of the occupiers of these apartments it is accepted that the development includes an area of private amenity space located between and to the rear of the two blocks. The idea of such a space is considered acceptable in that the residents are provided with a private space in the heart of the Town Centre. However, it is also the case that due to the distance between the two blocks and the height of the blocks that this area of amenity space would become a very over shadowed area which would be less inviting than if the blocks were further apart and / or of a lower height. The result of this is that then amenity space, although welcomed, would become an area of little use.
- 9.69 In addition to the amenity aspect, the proposal is for all the block to be used as residential including the ground floor area fronting onto Sheep Street. The proposal includes a single 2 x bedroom apartment on the Sheep Street frontage with an area of set back by approximately 1.5m and the provision of an enclosed space with patio doors leading into the ground floor accommodation including both bedrooms. As highlighted throughout this report the site is located within then heart of Bicester Town Centre close to Town Centre facilities such as retail and restaurants. The result of this is that the potential for noise disturbance to the occupiers of this apartment is likely to be significant. Furthermore, due to the position of the patio doors and all main rooms being served from the front of the block would result in the occupiers having alack of privacy from pedestrians using Sheep Street during both daytime and night-time. The result of which is that the occupiers of this ground floor apartment would have a poor aspect in terms of privacy and possible noise disturbance.

#### *Conclusion*

- 9.70 The position of the site from the nearest residential properties is in the region of 20m. Due to the height of the block fronting Backway Road and the array of main windows facing towards the existing residential properties the development is likely to result in a significant loss privacy to these existing properties.
- 9.71 Due to the scale and close position of the proposed blocks the private amenity space provided for the occupiers of these apartments the level of over shadowing is likely to result in a poor environment and a less inviting place to use. The amenity space would therefore become a dead space with limited use.
- 9.72 The position of the ground floor apartment fronting Sheep Street is likely to suffer poor amenities in terms of a lack of privacy and potential noise disturbance.
- 9.73 For the above reasons it is considered that the proposed development would be contrary to Saved Policies C31 and ENV1, Policy ESD15 and the advice contained in paragraph 180 NPPF.

#### Sustainable construction / measures

- 9.74 The proposal is for the redevelopment of the site from a retail use to a residential use. The development would create a development of 28 apartments all of which would have a significant impact on the environment in terms of both construction and on-going use by the occupiers of the apartments. The details of the build and use of the building in terms of sustainable construction needs to be assessed.

## National Policy Context

### National Planning Policy Framework

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

### Development Plan

9.76 Policy ESD1 in the CLP 2015 covers the issue of Mitigating and Adapting to Climate Change and includes a criteria under which application for new development will be considered. Included in the criteria is the requirement that *development will incorporate suitable adaptation measures to ensure that development is more resilient to climate change impacts. These requirements will include the consideration of, taking into account the known physical and environmental constraints when identifying locations for development. Demonstration of design approaches that are resilient to climate change impacts including the use of passive solar design for heating and cooling. Minimising the risk of flooding and making use of sustainable drainage methods and reducing the effects of development on the microclimate (through the provision of green infrastructure including open space and water, planting, and green roofs).*

9.77 With regards to Policy ESD 2, this covers the area of Energy Hierarchy and Allowable Solutions. This policy seeks to *achieve carbon emissions reductions, where the Council will promote an 'energy hierarchy' as follows: Reducing energy use, in particular by the use of sustainable design and construction measures. Supplying energy efficiently and giving priority to decentralised energy supply. Making use of renewable energy Making use of allowable solutions. Any new development will be expected to take these points into account and address the energy needs of the development.*

9.78 Policy ESD 3 covers the issue of Sustainable Construction and states, amongst other things, that *new residential development will be expected to incorporate sustainable design and construction technology to achieve zero carbon development through a combination of fabric energy efficiency, carbon compliance and allowable solutions in line with Government policy.* The Policy continues by stating that *all development proposals will be encouraged to reflect high quality design and high environmental standards, demonstrating sustainable construction methods including but not limited to:*

- *Minimising both energy demands and energy loss*
- *Maximising passive solar lighting and natural ventilation*
- *Maximising resource efficiency*

- *Incorporating the use of recycled and energy efficient materials Incorporating the use of locally sourced building materials*
- *Reducing waste and pollution and making adequate provision for the recycling of waste*
- *Reducing the impact on the external environment and maximising opportunities for cooling and shading (by the provision of open space and water, planting, and green roofs, for example); and*
- *Making use of the embodied energy within buildings wherever possible and re-using materials where proposals involve demolition or redevelopment.*

*Should the promoters of development consider that individual proposals would be unviable with the above requirements, 'open-book' financial analysis of proposed developments will be expected so that an independent economic viability assessment can be undertaken. Where it is agreed that an economic viability assessment is required, the cost shall be met by the promoter.*

#### *Assessment*

- 9.79 This application seeks full planning permission for the redevelopment of the site for 28no apartments of a mix of sizes. As highlighted above Policy ESD1 requires that all new development should incorporate suitable adaptation measures to ensure that development is more resilient to climate change impacts. Furthermore, Policy ESD 2 highlights that the Council expect that all new development will make use of renewable energy Making use of allowable solutions. Any new development will be expected to take these points into account and address the energy needs of the development.
- 9.80 The applicant has failed to provide any information relating to sustainable construction nor any evidence of the use of renewable energy or other measures to be incorporated into the built form. As such it is not clear how the development will aim to reduce its impact on the environment.

#### *Conclusion*

- 9.81 The applicant has not provided any information to demonstrate the use of sustainable construction nor details of any mitigation measure to reduce the impact of the development upon the environment. As such the development fails to comply with Policies ESD1, ESD2 and ESD3 of the CLP 2015 as well as paragraphs 150 and 151 of the NPPF.

#### Infrastructure / S106

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

## *National Policy Context*

### *National Planning Policy Framework*

9.83 Paragraph 54 of the NPPF states that *local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.* Paragraph 56 continues by stating that *planning obligations must only be sought where they meet all of the following tests:*

- a) necessary to make the development acceptable in planning terms;*
- b) directly related to the development; and*
- c) fairly and reasonably related in scale and kind to the development.*

### *Development Plan*

9.84 Policy INF 1 of the CLP 2015 covers the issue of Infrastructure. This Policy states, amongst other things that the *Council's approach to infrastructure planning in the District will identify the infrastructure required to meet the District's growth, to support the strategic site allocations and to ensure delivery by:*

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

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

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

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

### *Assessment*

9.86 Due to the level of development on the site the issue of affordable housing should be taken into account. Paragraph 64 of the NPPF states that *where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.* This application is for 28 apartments which would represent a major application in terms of definition. As such the application should provide an element of affordable housing as part of the proposal. In addition, this it is also considered that the development should contribute towards community hall facilities, Indoor and outdoor sports provision and a contribution towards Public Art.

- 9.87 In considering the issue of affordable housing the advice from the Strategic Housing Officer is that the total number of affordable dwellings, calculated to be at least 30%, is therefore 9 units. Saved Policy H5 highlights that where *there is a demonstrable lack of affordable housing to meet local needs, the district council will negotiate with developers to secure an element of affordable housing in substantial new residential development schemes*. In terms of this proposal the view is that an element of affordable housing should be provided with tenure proportions split 70/30 between rented units/shared ownership units with 6 rented units and 3 shared ownership units. It is also highlighted that there is an identified need for 1 and 2 bed properties although it is accepted that 2-bed flats for rented accommodation is not suitable for families. Notwithstanding this point it is considered that 2 bed flats for shared ownership are acceptable. The studio flats are not a property type this Council would request, although there are affordable rented properties of this type in the district and as such in the event that permission were to be granted the provision of affordable housing should be 6 x 1-bed flats for rent and 3 x 2-bed flats for shared ownership.
- 9.88 The applicant has failed to provide any heads of terms and made no reference to the need for any contributions as part of the application. In discussions with the applicant in the issue of a S106 agreement it has been suggested that the whole scheme could be provided as social housing and it could be that the front block could be used as a form of hostel as developed elsewhere in Oxford City. In considering this suggestion it is clear that this would conflict with the details of the application as initially submitted and is a completely different type of application than considered under the current details. The initial application was for 100% market housing with no social units or any off-site contribution. The applicant in suggesting the social use of the site provided no detail to this suggestion. On further pressure to provide details on the social housing the applicant failed to submit further information on the provision of this type of housing. No information nor commitment on the other S106 requires was provided by the applicant.

### *Conclusion*

- 9.89 The application is not supported by any draft heads of terms for a S106 nor is there any commitment that any contributions would be offered. As noted above this approach is not considered appropriate and that the details of any S106 need to be agreed as part of this application and therefore this application is contrary to Policy INF1 of the CLP 2015 as well as guidance outlined in paragraph 54 of the NPPF.

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

- 10.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise. The NPPF supports this position and adds that proposals that accord with an up-to-date development plan should be approved and those which do not should normally be refused unless outweighed by other material considerations.
- 10.2 The loss of the retail units in this primary retail frontage area of Sheep Street would result in a decline in the retail function of this the Bicester Town Centre to the detriment of the town and contrary to Policy Bicester 5 of the CLP 2015 as well as Saved Policy S13 and guidance in the NPPF.
- 10.3 In terms of design and appearance the increase in height over and above that of the neighbouring properties would appear out of place to the detriment of the street scene and character of this part of the Conservation Area. Although it is accepted that the design of the existing building is not of a high quality, the proposed design

of the replacement residential blocks is not of a design / style which makes the most of enhancing the appearance and character of this part of the Conservation Area. For this reason, the design of the residential block particularly along Sheep Street is considered to conflict with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 as well as the advice contained in Sections 12 and 16 of the NPPF.

- 10.4 It is recognised that the proposed development would provide investment and increase the supply of housing. However, these benefits are not considered to outweigh the harmful impacts represented by the proposals.

## 11. RECOMMENDATION

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

1. The application site is located within the primary retail frontage of Bicester Town Centre and surrounded by other retail and commercial properties. The conversion of the ground floor element from retail to residential would result in the loss of retail floor space in this town centre location to the detriment of the main function of the town centre. No retail marketing assessment has been provided to demonstrate that the retail / commercial use of the ground floor is not suitable or viable for commercial use to warrant an exception to the Policy. The application therefore fails to comply with the requirements of Policy Bicester 5 of the Cherwell Local Plan 2011 – 2031 Part1, Saved Policy S13 of the Cherwell Local Plan 1996 and guidance in paragraph 85 of the National Planning Policy Framework.
2. The development proposed, by virtue of its considerable size, scale and massing along with its incongruous design, will cause significant and unacceptable harm to the character and appearance of the Conservation Area. The proposal is therefore contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) as well as the advice contained in paragraphs 127, 130 and 200 of the National Planning Policy Framework.
3. All major applications should be supported by a sustainable drainage system unless there is clear evidence that this would be inappropriate. No information has been provided with the application to demonstrate any such system nor any evidence shown to demonstrate that the proposal will not result in any surface water flooding to the neighbouring properties or the surrounding area. The proposal is therefore contrary to Policies ESD1, ESD3 and ESD6 of the Cherwell Local Plan 2011-2031 Part 1 as well as paragraphs 163 and 165 of the National Planning Policy Framework.
4. Due to the overall height, scale and position of windows along the eastern elevation of the block fronting Backway Road will result in a loss of privacy to the rear garden area and rooms of the existing residential property known as White House. The development is therefore contrary to For the above reasons it is considered that the proposed development would be contrary to Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C31 and ENV1 of the Cherwell Local Plan 1996 and paragraph 180 of the National Planning Policy Framework.
5. No information is provided to demonstrate that the construction and future use of

the new apartment blocks will incorporate suitable adaptation measures to ensure that the development is resilient to climate change impacts. The development is therefore contrary to Policies ESD1, ESD2 and ESD3 of the Cherwell Local Plan 2011-2031 Part 1 as well as paragraphs 150 and 151 of the National Planning Policy Framework.

6. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure, including Affordable housing, directly required as a result of the development and necessary to make the impacts of the development acceptable in planning terms. The development proposed is therefore contrary to Policy INF1, of the Cherwell Local Plan 2011-2031 Part 1, Developers Contribution SPD 2018 and Government Guidance contained within paragraph 54 the National Planning Policy Framework.

CASE

OFFICER:

Wayne

Campbell