

**Case Officer:** Linda Griffiths

**Applicant:** PHL Ltd & Countryside Properties (Bicester) Ltd

**Proposal:** In FULL, the construction of an 82-apartment affordable extra care home (C2 use class) with associated open space / green infrastructure, landscaping, car / cycle parking, service infrastructure (drainage, highways, lighting), engineering operations, creation of new vehicular access and re-instatement of existing access to footpath, and in OUTLINE, the construction of up to 14 residential (C3 use class) dwellings with associated landscaping, service infrastructure (highways, drainage, lighting)

**Ward:** Bicester South And Ambrosden

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

**Reason for Referral:** Major development

**Expiry Date:** 6 May 2024

**Committee Date:** 21<sup>st</sup> March 2024

---

**SUMMARY RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO COMPLETION OF AN ACCEPTABLE S106**

**MAIN REPORT**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is located on Phase 2 of the Kingsmere development. The site is located at the northern end of the central square and abuts the greenway which provides a shared footway and cycle path connecting through the development from Vendee Drive and through to Kingsmere phase 1 development. The central square comprises a multi-functional park with LEAP serving the phase 2 residents, with a primary school on its eastern side. Residential development of 2-3 storeys in height lies to the north of the greenway and immediately to the west of the application site.
- 1.2. The site, which was formerly agricultural land, is currently used as a construction compound and site storage for the phase 2 development and includes a soil bund.
- 1.3. Existing vehicular access to the site is via an access road from Ludlow Road which extends between Middleton Stoney Road at the north of the Kingsmere development and Whitelands Way east of the Kingsmere development.

**2. CONSTRAINTS**

- 2.1. The application site is within the Kingsmere development site, an urban extension to Bicester. There are no statutory nature conservation designations covering any part of the site although two national statutory designations, Ardley Cutting and Quarry SSSI and Ardley Trackways SSSI are within 3km of the site. Bure Park Local Nature

Reserve is also a local statutory designation, approximately 1.6km north-east of the site.

2.2. The site is within an archaeological alert area and is a minor aquifer.

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

3.1. The application proposes the erection of a part 3 storey, part 4 storey flat roofed building to provide 82 extra care apartments as a full application. Outline consent is also sought for the erection of up to 14 additional market dwellings on the remainder of this parcel identified as not being required for the extra care facility.

3.2. A new side street is proposed to the side of the proposed extra care building which will serve both the extra care facility and the proposed new dwellings. A car park to serve the extra care facility will be accessed from the new side street and will have separate in and out movements. Amenity space to serve the extra care is proposed between the building and the greenway.

3.3. *Timescales for Delivery:* The applicant/agent has advised that, in the event that planning permission is granted, they anticipate development commencing as soon as possible as the timetable for the current funding support of Homes England effectively expires in March 2026.

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

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

4.2. 13/00847/OUT – outline consent subject to section 106 granted for up to 709 dwellings, school and associated infrastructure.

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

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

5.2. 21/03645/PREAPP – Erection of 80 bed extra care home with associated open space, landscaping and cycle/car parking and provision of 16 new residential units.

5.3. 22/00371/PREAPP – erection of 80 bed Extra care Home with associated open space, landscaping, and car/cycle parking and provision of 16 new residential dwellings.

5.4. The first pre-app submission in 2021 provided only an illustrative site layout plan, planning statement and indicative scheme document. Concerns were raised at that time regarding the scale and massing of the extra care building in relation to the surrounding development and the adjacent greenway. The scale of the building in comparison to surrounding development was also compounded by the fact that it was a flat roof building compared to the more traditional style dwellings with pitched roofs on the Kingsmere development. Whilst the principle of the development was considered acceptable, the applicant was requested to consider moving the building away from the boundary with the green way and reducing the overall scale and massing of the building. Concern was also expressed regarding the nature of the subsequent application, considering that a single detailed application would allow a full assessment of the proposed extra care and proposed additional dwellings to be considered holistically rather than through a hybrid application being part detailed application and part outline submission.

- 5.5. The second pre-application submission which also proposed an 80-bed extra care home and up to 16 new residential market dwellings was accompanied by a site layout plan, tracking plans, landscape strategy plan and 'massing development document'. The applicant sought to address previous concerns regarding the massing of the building alongside the greenway by lowering the rear wing and introducing a large mansard roof. The applicant was advised that mansard roofs were not a traditional element of the locality and was not considered acceptable. The 4-storey building to the frontage remained. Following the detailed written advice, discussions continued in respect of the proposed development, however, the main concern regarding the scale and massing of the extra care building and hybrid nature of a future application remained unresolved.

## 6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, and by advertisement in the local newspaper. The final date for comments was **21 December 2023**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. No comments have been raised by third parties at the time of writing the report.
- 6.3. Any 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: **No Comments received** at the time of writing the report.

### CONSULTEES

- 7.3. CDC Environmental Health: **No objection** subject to conditions relating to CEMP and contaminated land.
- 7.4. CDC Landscape Services: **Comments** regarding the garden design and generally landscaping proposals are acceptable.
- 7.5. CDC Planning Policy: No comments received.
- 7.6. CDC Bicester Delivery Team: No comments received.
- 7.7. CDC Ecology: **Objection**. No evidence submitted that shows at least 10% net gain will be achieved in line with the Cherwell Local Plan and Community Nature Plan 2020-2022. This should be demonstrated using the Biodiversity Net Gain (BNG) metric 4.0 which should be submitted along with a BNG plan/assessment.

Update 16<sup>th</sup> February 2024: The Biodiversity Net Gain Assessment outlines the habitats that will be created on site to achieve a net gain. The baseline of the site is entirely bare ground, as such even though there will be a removal of habitat units, which shows up as a net loss on the metric, the habitat being removed is not of any ecological value and the location of the site means that there is not much scope for

adding habitat units, instead the BNG strategy is to add hedgerow units which will provide greatest benefits to wildlife for this site. This strategy is accepted, and the addition of trees, hedgerows, scrub, shrubs and grassland will provide a clear net gain. However, the BNG metric has not been submitted. I would like to review the details of the created habitats in the excel metric before providing final comments.

Update 4<sup>th</sup> March 2024: **Objection withdrawn** following receipt of the full metric, which is accepted, a further condition relating to the provision of a LEMP is recommended.

- 7.8. CDC Recreation and Leisure: Section 106 infrastructure requests – Outdoor sport towards facilities at Whitelands Farm of £193,648.88; Indoor sport towards enhancements at Bicester Leisure Centre of £77,257.73 and public art contribution of £21,504.00.
- 7.9. CDC Strategic Housing: **Support** this proposal in principle as there is a recognised need for affordable Extra Care Housing. However, full support is subject to the units being C3 class and County Council support for the additional 22 units based on the emerging needs analysis.
- 7.10. CDC Waste and Recycling: No comments received.
- 7.11. CDC Drainage: **No objection**, the applicant has proposed acceptable foul and surface water drainage solutions.

Update 21.01.2024: No comments on foul drainage strategy but drainage consultant requested to contact CDC regarding the surface water drainage strategy in order to clarify the philosophy and proposed discharge rates.

Update 13.02.2024: Agent clarifies that following discussions as requested which relate to restrictions into the existing Kingsmere drainage strategy. These restrictions were requested by Countryside's drainage consultants.

- 7.12. OCC HIGHWAYS: **Objection** in respect of cycle parking, plans are not dimensioned in respect of parking bays, aisle widths and servicing facilities, appear to be obstructions to visibility splays. A long section has not been provided and will be required to ensure compliance with the Equalities Act 2010 and include details of the vertical alignment to determine appropriate carriageway and footway gradients which will need to be DDA compliant. Contributions will be sought through a sec 106 for Middleton Stoney Cycle Network Improvements (£1000 per residential C3 dwelling) and Travel Plan Monitoring (£3,110). Admin and Monitoring fee tbc.

Update 30<sup>th</sup> Jan 2024: **Objection maintained** as above in respect of cycle parking provision, site dimensions too narrow in some areas and vision splays obstructed by planting.

Update 26<sup>th</sup> February 2024: **Objection maintained** (further information required)

Update 4<sup>th</sup> March 2024: **No objection** subject to the imposition of conditions relating to cycle parking, no obstructions within visibility splays, pedestrian/cycle link to the northwest of the site, electric vehicle charging points to OCC's standards, car park management plan, servicing and delivery management plan and travel plan.

- 7.13. OCC Drainage: **No Objection** subject to a number of conditions requiring drainage to be implemented in accordance with the approved detailed drainage design prior to the use of the building commencing and conditions relating to the submission and

approval of drainage prior to approval of first reserved matters; surface water management scheme and SuDS as built and maintenance details.

- 7.14. OCC Archaeology: **No Objection**, the site lies in an area of archaeological interest, and has been subject to an archaeological evaluation. The evaluation recorded no archaeological features in the proposal area, and so, there are no archaeological constraints to this scheme.
- 7.15. OCC Education: Section 106 contributions for C3 dwellings if in addition to original outline.
- 7.16. OCC Waste and Recycling Centre: Section 106 contribution of £1,315
- 7.17. Clinical Commissioning Group: **Section 106 request** of £56,448 to support local plans to surgery alterations or capital projects to support patient services within the vicinity of the development and the Bicester Health Centre.
- 7.18. Bicester Bike User Group: **Objection** – many cycle paths around Kingsmere have access barriers and pose an obstacle to disabled and vulnerable users; location of parking seems inaccessible; bike parking seems small given size of the development and double stacking would not be appropriate for this type of development; permeable access should be included in the design and access statement.

Update 13<sup>th</sup> Feb 2024: **Objection maintained**. The surprisingly low figures for users and visitors for the applicant's other locations may say more about the facilities at those locations and the poor historical cycling infrastructure in those locations and therefore an unlikely appropriate basis for comparison. Furthermore, it rejects an outdated 'predict and provide' approach that has now been replaced by a 'decide and provide' approach within Oxfordshire. In particular, OCC has set out ambitious plans for increasing cycling levels in and around Bicester by 300% in the Bicester LCWIP and is correspondingly investing heavily in cycling infrastructure. It is thus likely that these commitments will facilitate cycling and significantly increase the proportion of residents, employees and visitors choosing to cycle. As such, the applicant should not be exempted from the standards set by OCC as this would directly undermine active travel policies and aspirations. Furthermore, the location of the cycling facilities within the plan is not ideal in that it is located cross a car park rather than near to the residential units. Orienting these closer to the residential units would be more convenient and secure. LTN1/20 and other standards also note that not all cycle users will be using standard 2-wheeled bikes. A significant proportion of the provision should therefore be for non-standard cycles such as tricycles, cargo bikes and other atypical cycles. Provision to charge electric bikes should also be provided.

- 7.19. Kingsmere Residents Association: No comments received at the time of writing the report.
- 7.20. Thames Valley Police: **Holding Objection**. Contrary to advice in NPPF regarding safe and accessible communities. Concerns have been raised in respect of the building layout and design and residential security.
- 7.21. Thames Water: **No objection** in respect of waste and surface water, but in terms of water network, a **condition is recommended as** Thames Water have identified an inability of the existing water infrastructure network to accommodate the needs of the proposal. There are water mains crossing or close to the development. Thames Water does not permit the building over or construction within 3m of water mains.

7.22. Active Travel England: Proposal should be considered under the standing advice issued by Active Travel England.

## **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 several of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

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

- PSD1 – Presumption in favour of sustainable development
- BSC1 – District Wide Housing Distribution
- 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 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD4 – Decentralised Energy Systems
- ESD5 – Renewable Energy
- ESD7 – SUDS
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15 – Character of the Built and Historic Environment
- ESD17- Green Infrastructure
- Bicester 3 – Kingsmere Phase 2 Strategic allocation
- INF1 - Infrastructure

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

- C28 – Layout, design and external appearance of new development
- C30 – Design Control over New Development

8.3. Other Material Planning Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- CDC Residential Design Guide SPD 2018
- CDC Planning Obligations SPD 2018

- Kingsmere Phase 2 Design Code 2018
- OCC Residential Streets Design Guide

## 9. APPRAISAL

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

- Principle of development and Planning History
- Quantum of Development and Uses
- Design, and impact on the character of the area
- Highways
- Affordable Housing
- Flood Risk and Drainage
- Residential amenity
- Ecology impact
- Sustainability
- Health and Well-Being
- Planning Obligation

### Principle of Development and Planning History

- 9.2. Both planning legislation and the NPPF state that the starting point for decision making is the development plan. The Development Plan for Cherwell comprises the saved policies in the adopted Cherwell Local Plan 1996 and adopted Cherwell Local Plan 2011-2031 plus a Partial Review relating to Oxford's Unmet Housing Needs and a number of Neighbourhood Plans.
- 9.3. Policy PSD1 'Presumption in favour of sustainable development' of the adopted Cherwell Local Plan 2011-2031 states that the Council will take a proactive approach in seeking to deliver sustainable development across the district without delay. New development across the district is focussed primarily upon the towns of Bicester and Banbury whilst limiting development elsewhere in order to provide for the most sustainable growth over the plan period. Policy BSC1 states that Cherwell will deliver a wide choice of high-quality homes. The Cherwell Local Plan Partial Review – Oxford's Unmet Housing Need provides a vision, objectives and specific policies for delivering additional development to help meet Oxford's housing needs which can be viably delivered by 2031 in accordance with cross-boundary strategic priorities so that the vision and objectives are achieved without undermining the existing Cherwell Local Plan 2011-2031.
- 9.4. A key material consideration is the National Planning Policy Framework (NPPF) which sets out the Government's planning policy for England and is supported by Planning Practice Guidance (PPG). The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own need and advising at paragraph 10, a presumption in favour of sustainable development.
- 9.5. Paragraph 12 of the NPPF also advises as follows in respect of sustainable development and the status of the Development Plan:

*'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including neighbourhood plans that form part of the development plan), permission should not usually be granted. Local Planning Authorities may take decisions that*

*depart from an up-to-date development plan, but only if material consideration in a particular case indicate that the plan should not be followed'.*

- 9.6. Section 5 of the NPPF focusses on the delivery of a sufficient supply of homes advising that it is '*important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet as much of an area's identified housing need as possible, including with an appropriate mix of housing types for the local community*'.
- 9.7. The NPPF sets out the economic, social and environmental roles of planning in seeking to achieve sustainable development; contributing to building a strong, responsive and competitive economy; supporting strong, vibrant and healthy communities; and contributing to protecting and enhancing our natural built and historic environment.
- 9.8. The site forms part of a larger allocated site in the adopted Cherwell Local Plan 2011-2031 under Policy Bicester 3: Southwest Bicester Phase 2. Policy Bicester 3 relates to a residential development of approximately 726 homes with associated infrastructure and facilities, including the provision of extra care housing. The application proposal is located at the centre of the site occupying a prominent position around the main square and close to the primary school.
- 9.9. Outline planning permission was granted in May 2017 under application number 13/00847/OUT for this Phase 2 development at Kingsmere for residential development of up to 709 dwellings within use class C3 and extra care facility (C2), primary school, retail, primary school and associated infrastructure. The reserved matters consents granted to date permit a total of 649 dwellings leaving 60 extra care units to be delivered on Parcel R (the application site). Parcel R is the last parcel within Phase 2 to come forward for development.
- 9.10. The Section 106 Agreement attached to the outline consent seeks to secure the reservation of a site for extra care on a 0.885ha site for up to 60 beds and the latest Market Position Statement for Extra Care Housing produced by Oxfordshire County Council already includes this site within the forecast of delivery of 60 extra care units up to 2026.
- 9.11. In terms of the proposed development, the NPPF supports the need to boost significantly the supply of housing. The site is within a highly sustainable location and forms part of an approved strategic allocation. The erection of the extra care units and additional 14 residential dwellings on the site, subject to other policies in the plan and discussed below, is acceptable in principle.
- 9.12. This application is termed a 'drop in' application to the original outline consent and therefore very careful consideration must be given to the implications of the Hillside case on the original consent of this planning permission if granted. Consequently, Countryside have also submitted a Section 73 application to run concurrently with this application to amend condition 4 of the outline consent relating to the approved plans and therefore to amend the parameter plans attached to the original consent to remove reference to the extra care facility (albeit it is also referred to within the Description of Development). A draft deed of release relating to Parcel R and the original outline planning consent has also been included (23/03086/F) refers, this application has not yet been determined. If Members resolve to grant planning permission for this development, a decision cannot be issued until the sec 73 application has been determined and granted. Legal advice has been sought on the appropriate mechanism to facilitate the proposals on this site so that the



implementation of this development, if approved, would not preclude the rest of the site from being developed.

### *Conclusion*

- 9.13. Having regard to the above, it is considered that the principle of the development proposed is in accordance with the development plan and Government guidance within the NPPF and is therefore in principle considered acceptable, subject to consideration of the matters below.

### Quantum of Development and Uses

- 9.14. Paragraph 123 of the NPPF - Making Effective use of land, advises that policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 9.15. Paragraph 128 further advises that decisions should support development that makes efficient use of land taking into account matters such as 'the importance of securing well-designed and beautiful, attractive and healthy places'.
- 9.16. Policy Bicester 3 envisages that approximately 726 dwellings will be delivered, of which some will be Extra Care. The outline consent which excluded Whitelands Farm permitted up to 709 new dwellings (13/00847/OUT refers). The site was divided into parcels which have been subsequently sold to individual house builders who are now on site. Bellway have now completed all the dwellings on the parcels they took. A significant number of dwellings on site are now occupied. The last remaining parcel to be brought forward is Parcel R which is the subject of this application.
- 9.17. The application proposals set out that the scheme includes 82 extra care units made up of 68 one bed units and 14 two bed units, all of which are affordable rented accommodation for persons aged 55+ with some element of care need on the main part of this retained site. The erection of an additional 14 market dwellings by another developer, yet to be finalised, on the remainder of the site is proposed to be brought forward independently of the extra care units. In terms of the extra care units proposed, Cherwell has an increasingly aging population and therefore the additional extra care units proposed will contribute towards meeting the shortfall in extra care provision.
- 9.18. Having regard to the above, it is considered that the erection of additional residential units on this sustainable site within the built-up area of Kingsmere is acceptable in principle subject to the consideration of other matters discussed below.

### Ecology Impact

#### *Legislative context*

- 9.19. 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.

- 9.20. 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.
- 9.21. 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.
- 9.22. 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.
- 9.23. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipelines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

#### *Policy Context*

- 9.24. Paragraph 180 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.25. Paragraph 186 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

- 9.26. Paragraph 191 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 9.27. 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.
- 9.28. 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.
- 9.29. 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.
- 9.30. 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 Local Planning Authorities 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*

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

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

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
  - an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 9.32. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site currently consists of land that has been previously cleared for development, with temporary structure located centrally and hardstanding, including a bund of soil, with colonising vegetation and other neutral grassland. Prior to be cleared for development the site comprised agricultural land. The site is bounded to the east by the greenway with planting, new hedgerow and trees.

- 9.33. The application is also accompanied by a preliminary ecological appraisal produced following an ecological desk study and field survey carried out in fine and dry weather conditions on 24<sup>th</sup> May 2023 which encompassed the site and immediately adjacent habitats that could be viewed. Confirmed ecological constraints to development at the site have been identified as the presence of nesting birds and other neutral grassland. The report therefore recommends that ecological enhancements to be implemented at the site include the provision of bat and bird boxes, low level lighting around new vegetated boundaries and native shrub and hedgerow planting.
- 9.34. The submission has been assessed by the Council's Ecology Officer who is satisfied that it demonstrates that the site is not overly suitable for protected species and suggests conditions relating to avoiding clearance of the site during the bird nesting season and that the external lighting is designed sensitively for bats and proposed habitat boxes and features. Further comments are made however regarding a 10% Biodiversity Net Gain (BNG) which should be demonstrated using the Biodiversity Net Gain metric 4.0 which should be submitted along with a BNG plan/assessment.
- 9.35. The applicant was requested to consider the comments relating to the comments above. An updated lighting plan has been submitted to reflect the lower kelvin levels, although if this lighting is not acceptable to OCC along the access road, lighting to reflect that already installed on Bishop Road is agreed. In terms of BNG, the agent advises that they are not required to provide a 10% Biodiversity Net gain as the application was submitted prior to the requirement formally coming into effect, neither is it adopted policy and the Community Nature Plan 2020-2022 referred to by the Ecology Officer is not adopted SPD and only requires a net gain (not 10%). Further the site was planned as part of the wider Kingsmere development with green space and infrastructure designed and considered as a whole.
- 9.36. Following the above, revised comments have been received from the Ecology Officer advising that having reviewed the Biodiversity Net Gain assessment submitted that the proposals to add hedgerow to achieve a net gain are acceptable as the application was submitted prior to the BNG mandate coming into effect. The excel version of the BNG metric which was requested by the ecology officer has been submitted and assessed. The ecology officer further comments that the condition targets for most of the habitats are 'poor', with 'moderate' scrub and rain gardens. These are achievable conditions which is good, however, there is a good opportunity here to provide a great benefit to biodiversity – with a good management scheme, the hedgerows may be able to achieve 'moderate' condition and therefore a management plan should be provided which provides opportunities for enhancing the site as much as possible. A further condition is therefore recommended for a LEMP which should provide a management scheme for the landscaping proposed in the BNG report and metric. The plan should include species specific enhancements, such as integrated bat/bird bricks which can be clustered, hibernacula piles and insect bricks.
- 9.37. Officers are satisfied, on the basis of the advice from the Council's Ecologist and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

#### Layout Design, Open Space and Landscaping

- 9.38. Section 12 of the NPPF 'Achieving well designed and beautiful places' attaches great importance to the design of the built environment and advises at paragraph

131 that 'the creation of high quality, beautiful and sustainable buildings and places is **fundamental** to what the planning and development process should achieve, 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'.

- 9.39. Paragraph 135 gives further advice about the need to ensure that developments function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and create a strong sense of place.
- 9.40. The Cherwell Residential Design Guide SPD 2018 seeks to ensure that the quality of design across the district is raised, ensuring a legacy of successful places for future generations to enjoy. The design guide is a material consideration, and the proposals should therefore accord with the requirements and advice of the Design Guide and the submission has therefore been assessed against it accordingly.
- 9.41. Policy Bicester 3 of the Cherwell Local Plan 2011-2031 sets out a number of site-specific design and place shaping principles relating to the development of the site. One of these is that the development should comply with Policy ESD15. Policy ESD15 advises that design standards for new development, whether housing or commercial development are equally important, and seeks to provide a framework for considering the quality of the built environment, to ensure we achieve locally distinctive design which reflects and respects the urban or rural landscape within which it sits, that is that new development should build on the character of Cherwell. The policy also advises that the design of all new developments will need to be informed by an analysis of the context, together with an explanation and justification of the design principles that have informed the design rationale which should be demonstrated within a design and access statement.
- 9.42. The Cherwell Local Plan 1996 contains saved Policy C28, which states that '*control will be exercised over all new development to ensure the standard of layout, design and external materials are sympathetic to the character of the urban or rural context of the development*'. Saved Policy C30 states 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 and (iii) that new housing development or any proposal for the extension (in cases where planning permission is required) or conversion of an existing dwelling provides standards of amenity and privacy acceptable to the Local Planning Authority*'.
- 9.43. The application is accompanied by a design and access statement which sets out that an analysis of the immediate area context as well as the surrounding environment has been undertaken to inform the design proposals. The design and access statement focusses on the extra care element which is a detailed proposal rather than the additional market dwellings which are proposed in outline. The statement also advises that it has had regard to the approved Phase 2 Design Code in designing the proposed extra care building. The submission proposes a 4-storey flat roof building to the frontage to the square with a lower 3 storey wing to the rear. This wing was originally pitch roofed but has since been amended to a flat roof to match the frontage block. The amenity space for the extra care building is provided between the rear wing and the adjacent greenway and the car park is proposed to the rear of the building accessed from the new side street. A bistro, which will serve residents but will also be open to the public and Kingsmere residents is located on the corner of the building where the greenway meets the square. An external seating area is also proposed here. The proposed additional dwellings are indicated to follow a ribbon of development along the other side of the new side street.

- 9.44. The phase 2 Kingsmere development was subject to an approved design code which also included the extra care Parcel R. It is considered that whilst this is coming forward independent of the original outline consent due to the increased number of extra care units and the additional 14 market dwellings, the approved design code remains a material consideration. The design code divides the development into different character areas, this part of the development being within the Core Character Area. The urban development principles within the document indicate the primary and secondary frontages and position of marker buildings. The development is located in a prime position on the central square with a marker building suggested at the north-eastern corner of the square. Building heights are also higher fronting this main square, with dwellings up to 3 or 4 storey and a maximum height of 14.5m, but this only relates to the primary frontage, the remainder of the development is only 2-2.5 storey. It should be noted that the site also abuts the greenway along its northern boundary, and this is identified as a 'broken frontage' within the code with lower building heights and a more informal, looser knit development form. This greenway is one of the key pedestrian/recreation routes through the development.
- 9.45. The design and form of the building have been revised through pre-application discussions by moving the rear projection from directly adjacent to the greenway, to provide a set back and to enable the existing trees and hedges along this boundary to be appropriately retained and maintained and to reduce the overall impact of the building along this key route which is considered to be an improvement. This original submission proposed a 3-storey pitched roof over the rear wing, which was not considered acceptable, as the pitched roof design did not relate well to the main block and appeared at odds. Due to its scale, neither was it considered that this rear wing related well to the adjacent more traditional design dwellings. The scheme has been amended to provide a flat roof in keeping with the main block which is considered to be an improvement.
- 9.46. In terms of the extra care building, which is proposed in two flat roof blocks, the frontage block is 4 story and the rear 3 storey, the applicant has been advised through the pre-application submissions that there is concern regarding the scale and massing of this building having regard to the adjacent and surrounding development and its relationship with the adjacent greenway which is one of the key pedestrian/recreation routes through the development. Whilst the building does not exceed 14.5m in height and the applicant has sought to break up the building with the use of different materials, the fact remains that this is a large single, flat roofed building which is quite different in its scale and design compared with the surrounding dwellings which are of more traditional design under pitched roofs and therefore lower eaves than the proposed. Whilst it is not considered that the design of this building should necessarily mimic those within the Kingsmere development as a whole, it is vital that, in the interests of creating a well-designed and beautiful place as stated in the NPPF, that this building sits comfortably with its surroundings and does not dominate or appear at odds.
- 9.47. The applicant has sought to address the above concerns through the submission of cross sections to show the height and relationship of the proposed with that existing and by the introduction of a series of materials to help break up the visual bulk of the building. In terms of the cross sections submitted whilst they do show that the difference in overall heights between the residential to the main square and the extra care building are not significant, due to the scale and massing of the extra care building compared to the smaller, narrower gable span pitched roof dwellings, it is considered that these cross sections do clarify the concerns raised above.
- 9.48. The scale and massing of this building has been discussed at length both during the pre-application discussions and through the consideration of this application. In

response the applicant has advised that the building has been designed around the 'HAPPI' principles which are national guidance for extra care housing. This advises that apartments are provided either side of a central corridor so that each apartment has access to daylight and either direct outside space or balcony area which results in the overall width of the building as proposed. The applicant also provided further information regarding similar developments which are currently being brought forward by Preferred Homes elsewhere. These proposals are not dissimilar to this scheme but are not directly comparable as they are located within urban town centre brownfield areas rather than an urban residential extension such as Kingsmere.

- 9.49. In terms of materials, the approved design code requires the use of natural limestone around the main central square, although the code does recognise that the extra care building may not necessarily be constructed wholly in stone. The design code also requires landmark buildings, of which this is part, to be constructed in natural stone. During pre-application discussions the applicant was therefore asked to consider constructing the whole of the corner element adjacent to the greenway in natural stone with a light red muti brick used in conjunction with the stone to match the red brick used elsewhere on Kingsmere. The latest revised plans propose the use of a mix of both traditional and contemporary materials; a traditional brick with natural limestone cladding, render and profiled terracotta cladding panels. Samples and colours of bricks, natural stone, cladding etc will need to be conditioned for consideration and approval, but the applicant has been advised that the terracotta cladding is not an appropriate colour for Kingsmere and an alternative is being considered. Due to the prominent position of this building to one side of the square it is considered that there should be a greater use of limestone or similar material to help mitigate its visual impact and integrate the building with the existing development.
- 9.50. A carpark to serve the extra care facility is proposed to the rear of the building and fronting the proposed new side street from which it will be accessed. Concern was expressed during the pre-application submissions regarding the stark and open car park and its expanse of hard surface and their visual impact on the street scene and relationship with the proposed new market dwellings opposite. The applicant has sought to address this through planting and whilst the car park remains open and visible to the public domain, some screening is proposed between the car park and adjacent street to try to mitigate its visual impact. All deliveries and servicing are also taken from this car park.
- 9.51. The above concerns regarding the scale, massing and appearance of the extra care building and the car park within the public domain is compounded by the fact that a larger development than originally proposed (additional 22 units) and that a smaller area of land is also being utilised for this development, with the remainder proposed for additional market dwellings and therefore the consequence is that a new side street is to be provided to serve the two proposals. The splitting of the site as proposed and the introduction of the additional side street to serve the new development has resulted in the building being exposed on all sides to the public domain with little scope to mitigate its impact through landscaping or other buildings/development. The splitting of the site in this way and seeking additional development has resulted in a much more compact development with little scope for significant green space around the building and any significant landscaping to help mitigate the visual impact of the building and the open car park.
- 9.52. There was much discussion at pre-application regarding the amenity space, landscaping proposals and the relationship of the new development with the adjacent green infrastructure corridor. Section 12 of the NPPF – Achieving well-designed places advises at paragraph 136 that *'trees make an important contribution to the character and quality of urban environments and can also help*

*mitigate and adapt to climate change. Planning Policies and decisions should ensure that new streets are tree-lined.* The submission includes a detailed landscaping scheme for the extra care site which does provide a single line of trees to the boundary of the car park with the adjacent access road, some tree planting to the external seating area to the proposed bistro and within the extra care site itself which despite the concerns raised above about the nature of the site, are welcomed. The scope for tree planting within the outline area appears less having regard to the indicative layout included. The Landscape Officer has not raised any concerns with the planting proposals themselves and the species chosen.

- 9.53. Having regard to the comments above, the requirements of Policy ESD15 and Government guidance within the NPPF the applicant has been requested to provide further justification in respect of compliance with this policy and achieving a 'well-designed and beautiful' place. This has not been specifically addressed although the agent advises that the building has been designed around HAPPI principles, one of the key factors which relates to internal corridor widths which have been kept to a minimum to provide reduced and safer walking distances to lifts and the central communal facilities. This has resulted in the main frontage building being proposed as four storeys rather than three and the T-shaped building gives the most appropriate design solution to achieve the economies of scale. The applicant further considers that this provides a 'gateway' building of contemporary well-designed scheme, and which incorporates materials and colours identified within the approved Phase 2 Design Code, reflecting its requirements as far as is practicable.
- 9.54. Turning now to the outline part of the submission for the 14 additional residential units, the illustrative layout provided indicates a ribbon of semi-detached and short terraces fronting the new side street and the proposed car park ending in an open cul-de-sac and footpath link to the adjacent to the greenway. Throughout the pre-application discussions and the consideration of this application the applicant has been advised that the development should be considered as a whole and not piecemeal and that the additional dwellings should also be a full application so that a comprehensive development can be delivered, and that the submission should not therefore be a hybrid but a single detailed submission.
- 9.55. The submission of the hybrid application does not provide a fully integrated scheme and due to the shape of the land 'left over' from the extra care development it will result in a ribbon of dwellings looking out over the car park to serve the extra care facility which will not create a particularly good sense of place or public/private realm and a side street ending in a small cul-de-sac. Design is not only about the physical appearance of a development, but how it works, functions and fits together ensuring a quality of life for all those who live there. It is considered that the illustrative layout fails to demonstrate a well thought out scheme and in the absence of a fully integrated detailed scheme, it is difficult to envisage how else the remainder of the site can come forward any differently which is regretful. However, when considering the proposal as a whole, and the delivery of affordable extra care on the site, it is considered that an objection based on piecemeal and the lack of a fully integrated development cannot be justified in this instance.
- 9.56. Having regard to the above, whilst it is considered that the scheme proposed, and in particular the extra care scheme is unfortunate in terms of its scale, massing and design and therefore relationship with the remainder of the Kingsmere development, the delivery of housing, and in particular affordable housing is high on both the Government's and District Council's agenda. The application as submitted is therefore on balance considered acceptable and therefore considered to be in accordance with the saved policies of the adopted Cherwell Local Plan 1996, the adopted Cherwell local Plan 2011-2031 and Government guidance within the National Planning Policy Framework in respect of its design and layout.



## Access and Transport

9.57. Section 9 of the NPPF – Promoting sustainable transport states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed. The application is accompanied by a Transport Statement and Travel Plan accordingly which were assessed by OCC as local highway authority. The original submission lacked sufficient information regarding the differences between the traffic generation between the extant and proposed developments and the travel plan also lacked sufficient information. 2 Transport Notes dated 9<sup>th</sup> January and 9<sup>th</sup> February 2024 were subsequently submitted to respond to the comments made. OCC were subsequently able to remove the objection and recommended a number of conditions be attached to any planning permission which included the submission and approval of a travel plan.

9.58. The National Design Guide states:

*75. Patterns of movement for people are integral to well-designed places. They include walking and cycling, access to facilities, employment and servicing, parking and convenience of public transport. They contribute to making high quality places for people to enjoy. They also form a crucial component of urban character. Their success is measured by how they contribute to the quality and character of the place, not only how well they function.*

*76. Successful development depends upon a movement network that makes connections to destinations, places and communities, both within the site and beyond its boundaries.*

9.59. NPPF paragraph 116 also advises that applications for development should amongst other matters, address the needs of people with disabilities and reduced mobility in relation to all modes of transport and create places that are safe, secure and attractive – which minimises the scope for conflicts between pedestrians, cyclists and vehicles, and allow for the efficient delivery of goods and access by service and emergency vehicles. The site in question is located within the centre of Kingsmere close to bus stops and a footpath/cycle network through Kingsmere and beyond. A public footpath is also proposed alongside the proposed new access road and there is an existing footpath to the main square frontage. It is considered therefore that the development proposed is in accordance with the NPPF in this respect.

9.60. Policy SLE4 of the adopted Cherwell Local Plan 2011-2031 also states that all development where reasonable to do so should facilitate the use of sustainable transport to make fullest possible use of public transport, walking and cycling. Encouragement will be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Development which is not suitable for the roads that serve the development, and which have a severe traffic impact will not be supported.

9.61. The proposed development will be served via a new side street from the secondary street which runs along the northern boundary of the central square that would form a single priority junction. The site access configuration comprises a carriageway width of 5.5m widening at the junction incorporating corner radii of 6m on both sides of the junction. A swept path analysis for an 11.6m length refuse vehicle manoeuvring in and out of the proposed access junction has been provided.

- 9.62. The internal road network within Kingsmere connects to Middleton Stoney Road to the north, Whitelands Way to the east and Vendee Drive to the south. There are a number of footpath cycle routes through Kingsmere into the surrounding area and the closest bus stop which has a shelter and seating is located on Ludlow Road approximately 30m south of the application site. A footpath link from the development site onto the greenway is also proposed.
- 9.63. The proposed layout of the extra care development includes 28 on-site car parking spaces, 3 of which are designed for use by disabled users. An ambulance and deliveries bay is also provided within the car park. The submitted transport statement also advises that the proposed residential units are provided with a communal parking area as well as individual garages and dedicated driveways for the larger units.
- 9.64. The submission was assessed by Oxfordshire County Council Transport Development management who raised an objection on a number of grounds. Additional information was requested to show any net change in development scale a breakdown and direct comparison between the extant permission and the proposed scheme for the development as a whole; cycle parking levels were not policy compliant and should comply with LTN 1/20 standards; active charging points for electric vehicles should accord with OCC's Parking Standards for New Development; site layout plans must be fully dimensioned, annotated and compliant with OCC's current design standards in terms of parking bays, aisle widths and servicing facilities and obstructions to visibility splays. A long section was also requested to ensure compliance with the Equalities Act 2010 and must include details of vertical alignment to determine appropriate carriageway and footway gradients and must be DDA compliant with a maximum 1:21 or 5% gradient.
- 9.65. Following a number of revised submissions, OCC were able to confirm on 4<sup>th</sup> March that the objection had been removed and subject to the imposition of a number of conditions which are included at the end of the report within the recommendation, the proposals were now acceptable from a Transport perspective.
- 9.66. It should be noted that objections have been received from Bicester Bike Users Group (Bicester BUG) relating to cycle parking and appropriate cycle links, some of which relate to the provision of cycle racks for less mobile residents such a three-wheel cycles and cycle storage of an appropriate type and location. It should be noted that whilst OCC in their latest response now raise no objections, it is acknowledged by OCC that the proposed cycle parking levels do not comply with policy, the application of the OCC minimum cycle parking standards to the proposed development results in a minimum requirement of 41 cycle parking spaces for the extra care home units. A total of 18 cycle spaces are proposed and in addition to this, an internal storage area has been allocated for between 6 to 12 cycle parking space should expansion be required due to demand. It is suggested by OCC that this is suitably conditioned and monitored through the care home travel plan. The applicant has submitted further information regarding the planning precedent set out in previous planning application approvals and therefore the proposed levels including the proposed expansion based on actual demand are now accepted by OCC.
- 9.67. Having regard to the above, whilst the concerns raised by Bicester BUG are noted, in the absence of an objection from OCC regarding this matter it is not considered that a refusal based on insufficient cycle parking cannot be justified.
- 9.68. Having regard to the above, subject to appropriate section 106 and conditions the proposals have appropriately assessed the highway impacts of the development and comments made by Bicester BUG have been carefully considered, the

proposals have been found to be acceptable and in accordance with the Development Plan and NPPF in this respect.

### Affordable Housing

- 9.69. The proposed development provides for 82 affordable extra care units and up to 14 new market dwellings on the remainder of the site. Preferred Homes who are leading on this submission and in particular in respect of the extra care facility have worked from the outset to design an extra care scheme using best practice and will be the landlord responsible for letting, managing and commissioning care services to support residents of the development.
- 9.70. The application submission has been assessed by Strategic Housing who advise that CDC's housing register does not provide evidence of need for Extra Care Housing as we rely on data provided by Oxfordshire County Council. The Housing and Economic Needs Assessment for Cherwell District and Oxfordshire County Councils completed in December 2022, highlights Oxfordshire County Council's support for Extra Care as a model, as it is preferable to residential care. As stated above, the Market Position Statement for Extra Care Housing produced by Oxfordshire County Council for the period up to 2026 includes this site for 60 units based on the Housing LIN Assessment. Strategic Housing further advise that the County Commissioner has recently advised that they are awaiting the results of a study which was carried out in 2023 which will provide an up-to-date picture of the needs and will provide evidence to demonstrate whether an 82-bed scheme is justified. This study identifies that there is a trend in the draft analysis towards shared ownership so they have indicated that the tenure mix may need to be altered to reflect this if this is highlighted in the final report. It should be noted that this report has not yet been finalised and published and therefore the application must be determined as submitted and it would not be appropriate to change the tenure mix at this stage.
- 9.71. Strategic Housing have been supportive of the scheme through the pre-application discussions and received confirmation from the County Council that a 60-bed affordable Extra Care scheme would meet the needs identified in the Market Position Statement. In respect of this application, Strategic Housing advise that they remain supportive of an affordable Extra Care Housing Scheme, however, (i) the County Commissioner has expressed a concern that due to the increased number of units now proposed that there may be an over-provision of Extra Care units; (ii) the Extra Care units are proposed as C2 rather than C3 and do not agree with the rationale put forward by the applicant and advise that Extra Care is an entirely different provision than a C2 residential care home. Strategic Housing further consider that it is clear from planning policy and Sec 106 extracts that the Extra Care Housing will be self-contained, provide independent living and are therefore a C3 use rather than C2.
- 9.72. Having regard to the above it is considered that the additional provision of 22 Extra Care units as proposed will contribute to the overall housing requirement within the district and the affordable housing provision which is a key need and the increased number of units which is not significant is therefore acceptable in principle. In respect of the C2/C3 issue, this has been raised with the applicant at both pre-application and submission stages. The residential units proposed all have their own facilities, including kitchen area, living area, bathroom and separate bedroom, and whilst the complex will provide dining facilities and living room for all residents on site, each unit is an independent unit of accommodation and therefore it is considered that this should be C3 rather than a C2 use. The applicant however considers this to be a C2 use due to the level of care and the communal facilities

provided on site and has provided additional information to support this matter which is accepted in this case.

- 9.73. In terms of the outline site which seeks consent for up to 14 market dwellings, an affordable request is not being required here as the Extra Care facility will be 100% affordable and therefore the 30% affordable housing requirement for Kingsmere Phase 2 will be met by this site and the affordable housing provision on the other development parcels. It is considered that the provision of the affordable extra care units are retained through a section 106 agreement.
- 9.74. Having regard to the above, it is considered that the proposals are acceptable in terms of the provision of affordable housing and are in accordance with Policies BSC3 and BSC4 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

#### Flood Risk and Drainage

- 9.75. Section 14 of the NPPF considers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 173 states that when determining any 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*'.
- 9.76. Policy ESD7 of the Cherwell Local Plan 2011-2031 relates to sustainable drainage systems and advises that all development will be required to use sustainable drainage systems (SuDS) for the management of surface water run-off. Where site specific Flood Risk Assessments are required in association with development proposals, they should be used to determine how SuDS can be used on particular sites and to design appropriate systems. In considering SuDS solutions, the need to protect ground water quality must be taken into account, especially where infiltration techniques are proposed. Where possible, SuDS should seek to reduce flood risk, reduce pollution and provide landscape and wildlife benefits. SuDS will require the approval of Oxfordshire County Council as Lead Local Flood Authority (LLFA). Proposals must also include an agreement for the future management, maintenance and replacement of the SuDS features.
- 9.77. The site is located in Flood Zone 1 (low probability) and as such, the development itself is at low (less than 1 in 1000 year) risk of flooding from rivers or the sea. The existing flood risk assessment for the Phase 2 Kingsmere development was prepared by WSP on behalf of Countryside (Bicester) Ltd. The drainage strategy for this development will continue to use the drainage principles set out in the Kingsmere Design Code, developed during Phase 1 and sets out the hierarchy of SUDS measures to be utilised on site.
- 9.78. A Section 104 adoptable drainage layout has been included in the application documentation. Adopted foul and surface water drainage is to be included within the adopted road. Connections have been provided for both the proposed extra care development site and the proposed C3 market dwellings. A private surface water drainage network has also been provided for the extra care development. The outline scheme area will be provided by others once the site comes forward for development.
- 9.79. The submission has been assessed by OCC as Lead Local Flood Authority who raise no objection to the submission subject to a condition requiring the approved drainage system is implemented in accordance with the approved detailed design prior to the use of the building commencing.

### Residential Amenity

- 9.80. The application site, being located within the central area of Kingsmere is surrounded by residential development. Whilst the proposed extra care building as discussed above is considered to be of some scale when compared to the surrounding residential properties, due to its position on the site and the presence of the green corridor, the building will be some distance from existing residential properties and is unlikely to result in significant overshadowing, over domination or overlooking to the extent that a refusal could be justified. Further no objections have been received from nearby residents to the proposals.
- 9.81. In terms of the residential amenity for residents of the extra care facility, the moving of the rear wing away from the boundary of the green way has resulted in the private garden area being north facing and somewhat overshadowed by the proposed building itself and the proposed planting along the greenway. A number of units to the square also have small areas to the square frontage. Following pre-application discussions, the building has been set back slightly from the main square and adjacent public footpath to provide a little protection to these residents which is welcomed. Whilst the outside space to serve these residents is relatively small due to the reduced site size and increased number of units, the applicant has advised that since the initial outline consent, the introduction of HAPPI principles has evolved and developed into a distinctly different model, buildings are more compact, garden areas and overall plot sizes are notably smaller. The applicant's approach is wholly aligned with the current sector thinking to enable viable and sustainable design. One of the requirements of the Homes England grant funding is the adherence to the aforementioned HAPPI principles and Housing LIN Design guidance which have a profound effect on the eventual building type for residents.
- 9.82. Having regard to the above, whilst it is a little disappointing that the usable private outdoor areas provided for residents are relatively small, it is considered that on balance the proposals are acceptable in terms of residential amenity for residents.

### Sustainability

- 9.83. Policies ESD1-5 of the adopted Cherwell Local Plan 2011-2031 require the consideration of sustainable construction through the submission of planning applications and seek to achieve a development in excess of Part L of the Building Regulations and also development which is water efficient.
- 9.84. Section 14 of the NPPF – Meeting the challenge of climate change, flooding and coastal change advises at paragraph 157 that *'the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure'*.
- 9.85. The application is accompanied by an Energy and Sustainability Statement which advises that Photovoltaic (PV) modules which convert sunlight directly to DC electricity will be installed on the roof of the extra care block. In terms of the dwellings, it is intended that all heating and hot water will be electric. The submitted planning statement also advises that sustainable design and construction technology is being applied to achieve reductions in carbon through a combination of fabric efficiency, carbon compliance to achieve at least BREEAM 'very good' for the extra care. Similar principles of fabric efficiency, carbon compliance will also be applied to the C3 dwellings.

- 9.86. The Energy and Sustainability Statement demonstrates that the provision of district heating and combined heat and power systems are not feasible, practicable or viable for the proposed development given its small size and limited available space within the site and Kingsmere as a whole does not include such systems.
- 9.87. The Statement similarly advises that the use of renewable technologies such as biofuel boilers, wind turbines, ground source heat pumps, solar water heating, air source heat pumps and photovoltaics have also been explored. The outcome of this indicates that the most appropriate technologies for the extra care element of the proposed development are the use of air source heat pumps and photovoltaics. The air source heat pumps are to be located within an attenuation enclosure adjacent to the electricity substation to the north of the car park where it can be more appropriately into the site and screened.
- 9.88. Having regard to the above comments, it is considered that sustainability has been adequately covered through the Energy Statement and is therefore in accordance with Policies ESD1-5 of the adopted Cherwell Local Plan and Government guidance within the NPPF in this respect.

#### Health and Well-Being

- 9.89. Health and Well-being is high on both the Government's and Council's agenda, particularly in the light of the recent pandemic and the impact it has had on the population, emphasising the need for access to good quality open space as well as the benefit of private outdoor space. The applicants were therefore advised through the pre-application that a Health Impact Assessment (HIA) should be carried out and included with any subsequent planning application for the development proposed. A Health Impact Assessment is a tool used to identify the health impacts of a development and how best to prevent ill-health and reduce health inequalities.
- 9.90. No HIA has been submitted with the application as the agent considers that this is not necessary in this instance as this is part of an existing development which has been designed appropriately in terms of open space, comprehensive pedestrian and cycle networks, access to public transport, retail and community needs and a high quality of design. The agent goes on to state that the *'pre-planned urban extension within which the specific extra care home sits, together with the very specific requirements to which the facility is designed, has considered the effects and impacts on the health and well-being of its intended residents. Both have sought to maximise positive health impacts'*.
- 9.91. Whilst it is regrettable that no HIA has been submitted, this has not been raised as an issue by OCC and these are not currently a legal or policy requirement of the planning system, and although they are recognised as good practice in the Planning Practice Guidance, it is considered that having regard to the above, an objection or reason for refusal on this matter could not be sustained at appeal.

#### Planning Obligation

- 9.92. In order to ensure that the development is acceptable in planning terms, a number of the impacts of the development need to be mitigated and/or controlled through covenants in a legal agreement. All section 106 requirements are subject to statutory tests which are to be taken into account in deciding to grant planning permission, they need to be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind. Officers have had regard to the requirements of relevant development plan policies and considered the planning obligation requirements against the above provisions. Having done so, officers are of the view that a number

of items need to be secured through a planning obligation before development can be considered acceptable and, in turn, planning permission granted. It should be noted that the applicant is currently disputing an education contribution and BOBICB contribution so these will need to be discussed in more detail. These items are as follows:

#### 9.93. CDC Obligations:

- Extra care affordable housing provision
- Provision and maintenance of a LAP (market dwellings only)
- Outdoor sport provision - £193,634.88 for both extra care and market units
- Indoor sport provision - £77,257.73 for both extra care and market units
- Public Art contribution - £21,504.00 towards enhancement within the area/site
- Rubbish and Recycling bins for each residential property at £111 per dwelling.
- Monitoring Fee - £5,000

#### 9.94. OCC Obligations:

- Transport: £1,000 per C3 dwelling towards the Middleton Stoney Cycle Network Improvements.
- Travel Plan Monitoring Fee: £3,110 RPI index linked) for 5 years.
- Education: TBC
- Waste and Recycling: £1,315 towards the expansion and efficiency of household waste recycling centres.
- Monitoring fee: TBC

#### 9.95. Other Obligations:

- BOBICB: £56,448.00 to support local plans to surgery alteration or capital projects to support patient services within Bicester.

## **8. 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 that do not be normally refused unless outweighed by other material consideration.

10.2. In respect of this application weighing in favour of this proposal is the provision and delivery of housing and in particular older persons affordable housing in a highly sustainable location within an existing development site attract substantial weight.

## 9. RECOMMENDATION

**RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):**

- Extra care affordable housing provision
- Provision and maintenance of a LAP (market dwellings only)
- Outdoor sport provision - £193,634.88 for both extra care and market units
- Indoor sport provision - £77,257.73 for both extra care and market units
- Public Art contribution - £21,504.00 towards enhancement within the area/site
- Rubbish and Recycling bins for each residential property at £111 per dwelling.
- Monitoring Fee - £5,000
- Transport: £1,000 per C3 dwelling towards the Middleton Stoney Cycle Network Improvements.
- Travel Plan Monitoring Fee: £3,110 RPI index linked) for 5 years.
- Education: TBC
- Waste and Recycling: £1,315 towards the expansion and efficiency of household waste recycling centres.
- Monitoring fee: TBC
- BOBICB: £56,448.00 to support local plans to surgery alteration or capital projects to support patient services within Bicester.

**FURTHER RECOMMENDATION: THE PPA DETERMINATION PERIOD FOR THIS APPLICATION EXPIRES ON 6<sup>th</sup> May 2024. IF THE SECTION 106 AGREEMENT/UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED BY THIS DATE AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:**

1. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and contrary to Policy INF1 of the adopted Cherwell Local Plan 2011-2031, CDC Planning Obligations SPD 2018 and Government guidance within the NPPF.

### CONDITIONS

### FULL APPLICATION

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.

2. That prior to first occupation of the extra care facility hereby approved, a Car parking management Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the scheme approved.

Reason: In the interest of highway and pedestrian safety and to accord with Government guidance within the National Planning Policy Framework.

3. Prior to the first occupation of the extra care facility hereby approved, a Delivery and Servicing Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

Reason: In the interest of highway and pedestrian safety and to accord with Government guidance within the National Planning Policy Framework.

4. That prior to the first occupation of the extra care, a detailed plan showing the cycle parking provision and facilities shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained and maintained as such.

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

5. Prior to the commencement of any development above slab level and notwithstanding the details submitted, A schedule of materials and finishes, including the submission of samples and sample panels of bricks and limestone to be constructed on site (minimum 1 squared metre in size) to be used in the construction of the external walls of the extra care building shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be completed in accordance with the approved details and samples.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the adopted Cherwell Local Plan 2011-2031, the approved Kingsmere Phase 2 Design code 2028 and Government guidance within the National Planning Policy Framework.

6. Notwithstanding the details shown on the approved plans, further details of the architectural detailing of the exterior of the building, including the windows and doors (and their surrounds), guttering etc shall be submitted to and approved in writing by the local planning authority prior to any construction above slab level. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that the details are appropriate to the locality and are locally distinctive and ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the adopted Cherwell Local

Plan 2011-2031 and Government guidance within the national Planning Policy Framework.

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

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

8. A scheme for the suitable treatment of the sub-station and air source heat pumps against the transmission of sound and/or vibration on the proposed or existing residential units shall be submitted to and approved in writing by the Local Planning Authority and the measures implemented in accordance with the approved scheme at all times.

#### HYBRID

#### **Compliance with Plans**

9. 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: [...] TBC

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.

10. No development shall be occupied until confirmation has been provided that either: (i) all network upgrades required to accommodate the additional demand to serve the development have been completed; or (ii) a development and infrastructure phasing plan has been agreed with Thames Water to allow development to be occupied. Where a development and infrastructure phasing plan has been agreed with Thames Water, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.

Reason: The development may lead to no/low water pressure and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional demand anticipated from the new development.

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

approved in writing by the local planning authority. These approved schemes shall be carried out before the development (or relevant phase of development) is resumed or continued.

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

12. The approved drainage system shall be implemented in accordance with the approved Detailed Design as shown on the following drawings: Land Parcel R drainage layout reference 02/801 Rev E; 23047-ARC-XX-XX-DR-C-5000-P5-DRAINAGE GA; Impermeable Area Plan 5500-P4; Section 104 adopted Drainage GA 5200-P4 and Appendix E – Surface Water Drainage Calculation, prior to the use of the building commencing.

Reason: To ensure satisfactory drainage of the site in the interests of achieving sustainable development, public health, to avoid flooding of adjacent land and property to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice in the National Planning Policy Framework.

13. Construction shall not begin until/prior to the approval of reserved matters; a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be subsequently implemented in accordance with the approved details before the development is completed. The scheme shall include: (i) a compliance report to demonstrate how the scheme complies with the 'Local Standards and Guidance for Surface Water Drainage on major development in Oxfordshire'; (ii) Full drainage calculation for all events up to and including the 1 in 100 year plus 40% climate change; (iii) A Flood Exceedance Conveyance Plan; (iv) Comprehensive infiltration testing across the site to BRE DG 365 (if applicable); (v) Detailed design and drainage layout drawings of the SUDS proposals including cross-section details; (vi) Detailed maintenance management plan in accordance with Section 32 of the CIRA C753 \including maintenance schedules for each drainage element; (vii) Details of how water quality will be managed during construction and post development in perpetuity; (xvi) Confirmation of any outfall details and (xi) Consent for any connections into third party drainage systems.

Reason: To ensure satisfactory drainage of the site in the interests of achieving sustainable development, public health, to avoid flooding of adjacent land and property to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice in the National Planning Policy Framework.

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

Reason: To ensure satisfactory drainage of the site in the interests of achieving sustainable development, public health, to avoid flooding of adjacent land and property to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice in the National Planning Policy Framework.

15. Prior to the commencement of development on any part or phase of the development site, details of a lighting scheme for the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed sensitively for bats in accordance with the BCT lighting guidance (ILP Bat Conservation Trust Guidance Note 08/23) with a colour temperature of 2700 degrees kelvin or under. The lighting plan should also take into account any trees, landscaping and bat box location. The development shall be carried out in accordance with the approved details.

Reason: In the interests of protection of ecology and biodiversity to accord with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance within the national Planning Policy Framework.

16. Prior to the first occupation of any part of the development hereby approved, a Landscape and Ecological Management Plan (LEMP) for the whole site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the LEMP shall be carried out in accordance with the approved details.

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

17. Full details of a scheme for the location of bat, bird, owl and invertebrate boxes (which may be integral to the building construction) (on that phase/part of development) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of any building on that phase or part of the development, the bat, bird, owl and invertebrate boxes shall be installed on the site in accordance with the approved details.

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

18. Prior to the first occupation a Full Travel Plan for the care home and a Residential Travel Information Pack for the housing development should be submitted to the Local Planning Authority. The Travel Plan for the care home and the Residential Travel Information Pack for the housing development shall be independent submissions.

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

19. Construction Environmental and Traffic Management Plan - TBC

#### OUTLINE

20. Application for the approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this

permission and the development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last reserved matters to be approved whichever is the later.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

21. Details of the layout, scale, appearance, access and landscaping (hereafter referred to as 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

22. Prior to the approval of any related reserved matters, a detailed Surface Water management Scheme for each phase or sub-phase of development, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be in accordance with the details approved as part of the strategic scheme (Strategic Surface Water Management Scheme) and include all supporting information listed in the condition.

Reason: Reason: To ensure satisfactory drainage of the site in the interests of achieving sustainable development, public health, to avoid flooding of adjacent land and property to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice in the National Planning Policy Framework.